



**MOOSONEE DISTRICT
SCHOOL AREA BOARD**

ADMINISTRATIVE PROCEDURE HUMAN RESOURCES: NO. 410	
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CRIMINAL BACKGROUND CHECKS

PURPOSE

The Moosonee District School Area Board recognizes the need and the responsibility to ensure the safety and welfare of the students and staff of Moosonee Public School.

The Moosonee District School Area Board will not employ, continue to employ, or use the services of persons who have criminal records and/or patterns of behaviour that may place students or staff members at risk. This administrative procedure has been developed to describe the requirement for every prospective and current employee of the Board and for anyone who has direct and regular contact with students to provide a satisfactory criminal background check.

DEFINITIONS

Criminal Background Check (*with vulnerable sector screening*): In respect of a school board, this means a document concerning an individual that was prepared by a police force or service from national data on the Canadian Police Information Centre (CPIC) database within six (6) months before the day the Board collects the document. The background check contains information concerning the individual’s personal criminal history, including Criminal Code (Canada) convictions, pardoned sexual offences, records of convictions under the Controlled Drugs and Substances Act, Narcotic Control Act, and Food and Drugs Act, and all outstanding warrants and charges.

Offence Declaration: Offence declaration means an annual written declaration signed by an individual, listing all the individual’s convictions, warrants, and charges for offences under the Criminal Code (Canada) up to the date of the declaration that are not included in a criminal background check or the last offence declaration collected on behalf of the Board, and for which a pardon under Section 4.1 of the Criminal Records Act (Canada) has not been issued to the individual.

Service Provider: A service provider is an individual who is not an employee of the Board who comes into direct and regular contact with students at a school site of the Board in the normal course of:

- a) providing goods or services under contract with the Board;
- b) carrying out his or her employment functions as an employee of a person who provides goods or services under contract with the Board; or
- c) providing services to a person who provides goods or services under contract with the Minister of Education.

Direct and Regular Contact: Direct contact typically, but not always, involves interaction with students as a part of the responsibility of the individual. It may include interaction with different groups of students on a regular basis; e.g.; a school photographer. The contact with students will occur within the hours that students are normally on school property, or engaged in school-organized co-curricular activities on or off school property.

PROCEDURES**1. Board Expectations**

- 1.1 In accordance with Ontario Regulation 521/01 Collection of Personal Information made under the Education Act, the Moosonee District School Area Board requires all employees, volunteers, and others who normally come into direct contact on a regular basis with students to have a criminal background check with vulnerable sector screening.
- 1.2 The criminal background check will consist of information regarding outstanding charges and/or convictions under the Criminal Code (Canada) for which a pardon has not been granted or for which a pardon has subsequently been revoked.

2. Prospective and Current Employees

- 2.1 The Board will collect a criminal background check in respect of an individual before the day the individual commences employment with the Board. Providing an acceptable criminal background check to the Finance and HR Administrator of the Board is a condition of employment.
- 2.2 The Board will then collect an offence declaration from the individual by September 1 of each year in which the individual is employed by the Board after that day.
- 2.3 Employees identified by the Board as having regular contact with students will provide a signed offence declaration on an annual basis listing all of the individual's convictions of offenses under the Criminal Code (Canada) for which a pardon has not been issued or granted and that were not declared to the Board on a previous criminal background check or offence declaration. Employees who fail to provide a signed offence declaration form by the date prescribed will be suspended without pay until the form is submitted.
- 2.4 A former employee who returns to the employ of the Board after one year of broken service is considered to be a new employee for the purpose of this procedure.
- 2.5 All costs related to the criminal background check are the responsibility of the prospective employee.

3. Emergency Provision

- 3.1 Notwithstanding the directives in this administrative procedure, in exceptional circumstances it may be necessary for an individual to begin employment with the Board before an acceptable criminal background check is collected.
- 3.2 In such circumstances, the Board will require the individual to submit an offence declaration, pending submission of the acceptable criminal background check.
- 3.3 Before any exception is made, a binding agreement shall be entered into between the employee and the Board to ensure that the verification will be provided without delay.
- 3.4 The Board will have the right to revoke the offer of employment and dismiss the employee should the criminal background check be unacceptable, or the information provided by the employee on the declaration prove false or misleading in any respect once the criminal background check is received.

4. Record Retention

- 4.1 The Board shall retain an original or a true copy taken from the original criminal background check.
- 4.2 Completed criminal background checks and offence declarations will be filed in the human resources file for that employee. Where there is a positive record, the document shall be filed in a manner to ensure confidentiality.

5. Adjudication

- 5.1 Subject to subsection 5.2 below, the Board will not knowingly offer employment to any person with a record of a criminal conviction for which a pardon has not been granted.
 - 5.2 While any conviction that would pose a threat to the safety of students and the staff is an absolute bar to employment, the Board does recognize the principle of rehabilitation. Persons with records of criminal convictions for which a pardon has not been granted for other types of offences may be hired, after a full assessment based upon consideration of the following factors:
 - a) the specific duties and responsibilities of the position in question and the relevance of the police records, criminal charge(s), and/or conviction(s) to that position;
 - b) the length of time since the police record was established; and
 - c) the risk posed to the safety and security of students, the staff, volunteers, and/or Board property.
 - 5.3 If the Board learns of pending charges or convictions under the Criminal Code or related federal legislation for which a pardon has been granted, and if the Board believes that the nature and circumstances of the pending charges or pardoned convictions pose a threat to students, the staff, or volunteers, the Board may revoke the offer of employment to the candidate without liability.
 - 5.4 Unless approved by the Finance and HR Administrator, the employee may not commence employment with the Board until the criminal background check has been received by the Board and deemed acceptable.
- 6. Checks and Declarations for Service Providers**
- 6.1 It is the responsibility of a service provider contracted by the Board whose employees come into direct contact on a regular basis with students to:
 - a) collect a criminal background check for such employees;
 - b) collect an offence declaration from each employee that comes into direct contact on a regular basis with students no later than September 1st of each year in which the service provider employs the individual following the year that the original criminal background check was collected; and
 - c) keep these records on file.
 - 6.2 Any contract with the Moosonee District School Area Board will be conditional upon the fulfillment of this requirement.

6.3 Failure to comply with this condition may result in dissolution of the contract without liability to the Board.

7. **Self-Employed Individuals**

It is the responsibility of the principal, in the case of individuals who are self-employed and who are not contracted for services through a service provider to:

- a) ensure that a criminal background check has been collected and that there is no evidence of a criminal record;
- b) ensure that procedures outlined in Section 5 above are followed where there is evidence of a criminal conviction; and
- c) collect an annual offence declaration no later than September 1st of each year following the year that the original criminal background check was collected.

8. **Volunteers**

The process for the collection of criminal background checks for volunteers is outlined in Administrative Procedure 495 Volunteers in the School. This procedure also provides information about levels of risk and levels of supervision related to volunteer assignments.

9. **Others in the School**

- 9.1 It is the responsibility of the principal to ensure that any individual working in the school or in a school-sponsored program has been approved to be in direct contact with students on a regular basis. The original or verified copy of the criminal background check must be kept on file at the school in a secure location.
- 9.2 Individuals who fail to submit verification before their designated start date will not be permitted to work in the school or in school-sponsored programs.

REFERENCE DOCUMENTS

Legal:

Education Act, Section 265 Duties of Principal: Care of Pupils
 Ontario Regulation 298 Operation of Schools, Section 20 Duties of Teachers: Ensure Safety Procedures are Carried Out
 Ontario Regulation 521/01 Collection of Personal Information: Criminal Background Check
 Occupational Health and Safety Act 1990 Criminal Code (Canada)
 Criminal Records Act (Canada)

Board:

Board Policy GOV-03 Role of the Corporate Board
 Board Policy GOV-04 Role of the Supervisory Officer
 Board Policy GOV-08 Safe Schools
 Board Policy GOV-18 Health and Safety: Working Environment
 Board Policy GOV-21 Access to School Premises
 Administrative Procedure 323 Reporting Child Abuse
 Administrative Procedure 470 Assaults on / Threats to Staff
 Administrative Procedure 495 Volunteers in the School