

ADMINISTRATIVE PROCEDURES

**SUBJECT: CRIMINAL BACKGROUND CHECKS FOR EMPLOYEES,
VOLUNTEERS, TRUSTEES, SERVICE PROVIDERS AND OTHERS**

A. CRIMINAL BACKGROUND CHECKS FOR EMPLOYEES

All new employees will be required to provide, at their own expense, an original Vulnerable Sector Criminal Background Check. The date of the Vulnerable Sector Criminal Background Check must be no more than six (6) months prior to the date of commencement of employment.

All current employees will provide an annual Offence Declaration in accordance with Regulation 521/01, as amended by Regulation 323/03.

Definitions

“Criminal Background Check” means a document concerning an individual which:

- a) 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 date the Board collects the document; and
- b) provides information concerning the individual’s police record 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” means, in respect of a Board, a written or electronic declaration signed by an individual listing all of the individual’s convictions for offences under the Criminal Records Act (Canada) up to the date of the declaration:

- a) that are not included in a Criminal Background Check collected by the Ontario College of Teachers (OCT) after December 31, 1998 or in the last criminal background check collected by the Board under this regulation; and,
- b) for which a pardon under Section 4.1 of the Criminal Records Act (Canada) has not been issued or granted.

Requirements

The Collection of Personal Information Regulation (521/01) requires the Board to do the following:

Current employees

Are required to provide to the Board an Offence Declaration by September 1 of each year in which the individual is employed by the Board.

New Employees

The Board shall collect an acceptable Vulnerable Sector Criminal Background Check in respect of the individual before the individual commences employment with the Board. All offers of employment with the Board shall be conditional upon the applicant supplying the required Vulnerable Sector Criminal Background Check. The Board shall collect an Offence Declaration from the individual by September 1 of each year in which the Board employs the individual after the year employment commenced.

Rehiring Employees

If an individual terminates their employment with the Board and is then rehired within 1 year of their original termination, the Board shall obtain an Offence Declaration upon the date of rehire. If the date of rehire occurs beyond 1 year from the date of termination, the Board shall collect an acceptable Vulnerable Sector Criminal Background Check before the day the individual commences employment with the Board.

Emergency Provision

Normally, a candidate shall not commence employment with the Board until a current verification of their Vulnerable Sector Criminal Background Check has been supplied. Only in an exceptional circumstance will a person be permitted to commence employment with the Board before the Board has received the background check. In such a case, the candidate will be required to provide an Offence Declaration which may, at the Board's sole discretion permit the candidate to commence employment prior to the submission of the Vulnerable Sector Criminal Background Check.

Before any such exception is made, a binding agreement (Appendix 1) shall be entered into between the employee, or any authorized representative of the employee, and the Board, ensuring that the verification be provided without delay and in a timely manner. This agreement will preserve the Board's right to revoke the offer of employment, and dismiss the employee, should the information provided by the employee prove to be false or misleading in any respect, or if the background check is determined to be unacceptable.

Retention

The Board shall retain an original or a true copy taken from the original criminal background check. Completed criminal reference checks and offence declarations will be filed in a separate and secure location.

Adjudication

Where evidence is received of a criminal conviction or other relevant conviction, the designated Board contact will consider at least the following factors in determining an appropriate course of action:

- a) the length of time since offence(s);
- b) any involvement of children and/or sexual activity and/or violence and/or acts of dishonesty in the offence(s);
- c) the employment history;
- d) the employee's attitude towards offence(s);
- e) any treatment, counselling or other services received since the offence(s);
- f) other steps taken to rehabilitate;
- g) any likelihood offence(s) will be repeated;
- h) if alcohol or illegal drugs were a factor in commission of offence(s);
- i) the degree of co-operation with this investigation;
- j) if the offence(s) committed while employed by the Board;
- k) if the employee is a teacher, relevance of offence(s) to teacher duties as set out in the Education Act and Regulations;
- l) if employee is not a teacher, relevance of offence(s) to their employment duties; and
- m) whether the offence(s) require any action pursuant to The Student Protection Act (including notification of the Ontario College of Teachers)

The course of action may include disciplinary action up to and including dismissal, and/or withdrawal of offer, and shall be in compliance with other Board policies, collective agreements and legislation.

Consequences of Non-compliance

Employees who fail to provide a signed Offence Declaration form by the date prescribed by the Board may be suspended without pay until the form is received. Continued failure to submit a signed Offence Declaration will result in termination of employment.

B. CRIMINAL BACKGROUND CHECKS FOR TRUSTEES

All trustees will be required to provide an original Vulnerable Sector Criminal Background Check at the start of each term. The date of the Vulnerable Sector Criminal Background Check must be no more than six (6) months prior to the date of commencement of being sworn in as a trustee.

Trustees will provide an annual Offence Declaration in accordance with Regulation 521/01, as amended by Regulation 323/03.

C. CRIMINAL BACKGROUND CHECKS FOR VOLUNTEERS

All volunteers are required to comply with LKDSB Regulation R-PR-219 *Volunteers*.

D. POLICE RECORD CHECKS FOR SERVICE PROVIDERS

Definition

“Service Provider” means an individual who is not an employee of the Board and who comes into direct contact with pupils on a regular basis at a school site of the Board in the normal course of:

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

Requirements

Board staff will include language similar to that in Appendix 2 in any new Proposal/Tender/Quotation of Contract and:

- a) ensure that all Service Providers are in compliance with Regulation 521/01 before providing services to the Board.
- b) develop a procedure for regularly, as required updating the Service Provider list, Photo-identification of Service Providers is maintained through the LKDSB’s Contract Service Program.

Consequences of Non-compliance

A Service Provider who fails to comply with the Criminal Background Check requirements of the Board will be barred from providing goods and/or services to the Board.

E. CRIMINAL BACKGROUND CHECKS FOR OTHERS HAVING DIRECT AND REGULAR CONTACT WITH STUDENTS

Included in this category are the following:

- a) provincial organizations that provide services to schools but who are not Service Providers as defined in the regulation (including but not limited to) and **who are not exempt from these requirements** as the organization has standards and practice in place.
 - 1. Public Health Departments
 - 2. Children’s Mental Health Centres
 - 3. Day Nurseries
 - 4. Children’s Aid Societies
 - 5. Big Brothers and Big Sisters of Canada
 - 6. St. John Ambulance

The Board will request a valid organization issued photo-identification card which clearly identifies them as an employee of the organization.

- b) students attending colleges and university which require practicum placements in schools will be required to obtain a Vulnerable Sector Criminal Background Checks from their local police services and submit it to their respective institution. The colleges and universities will provide proof on a Vulnerable Sector Criminal Background Check upon request.

Implementation Date: March 9, 2005

Reviewed: June 2008

Revised: November 9, 2015

Revised January 26, 2016

Reference: Policy

Education Act – Regulation 521/01, as amended by Regulation 323/03



INTERIM OFFENCE DECLARATION FOR NEW HIRES AND STUDENTS WITH THE LAMBTON KENT DISTRICT SCHOOL BOARD

PLEASE PRINT IN INK USING BLOCK CAPITAL LETTERS (No Pencil Please)

| | |
|---|--|
| LAST NAME: | FIRST NAME (S): |
| DATE OF BIRTH (YYYY/MM/DD): | GENDER: MALE <input type="checkbox"/> FEMALE <input type="checkbox"/> |
| HOME ADDRESS: | |
| REASON FOR OFFENCE DECLARATION: (e.g. NEW HIRE) | |
| SCHOOL/LOCATION: | |

I have NO convictions under the *Criminal Code of Canada* up to and including the date of this declaration for which a pardon has not been issued or granted under the *Criminal Records Act*. I have NO charges that are ongoing or have been withdrawn. I have NOT been convicted or been granted a pardon for any of the sexual offences that are listed in the schedule to the *Criminal Records Act* and to my knowledge I have never been nor am I currently being investigated for any of the sexual offences that are listed in the schedule to the *Criminal Records Act*. (If you have checked this box, please date and sign this form and return it to the appropriate school board official);
OR

I have the following convictions for offences under the *Criminal Code of Canada* for which a pardon under the *Criminal Records Act* has not been issued or granted **OR** I have the following charges that are ongoing or have been withdrawn **OR** I have been convicted or been granted a pardon for the following sexual offences that are listed in the schedule to the *Criminal Records Act* **OR** I am aware that I am currently being investigated for the following sexual offences that are listed in the schedule to the *Criminal Records Act*. (If you have ever been charged or convicted of any criminal offence(s) for which you have not been pardoned or if you have been granted a pardon for any of the sexual offences that are listed in the *Criminal Records Act* you must provide ALL details below).

1. Date of Offence: (YYYY/MM/DD) _____

Charge/Offence: _____

Location: _____

Penalty/Conviction: _____

(Use additional pages if necessary)

Personal information on this form is collected pursuant to: (i) the *Freedom of Information and Protection of Privacy Act*, or the *Municipal Freedom of Information and Protection of Privacy Act*; and (ii) the *Personal Information Protection and Electronic Documents Act*, if applicable, for the pursuit of providing services to or for placement with the Lambton Kent District School Board.

I understand that failing to provide information or omission of facts may disqualify me from consideration for providing services to or placement with the Lambton Kent District School Board. I acknowledge that as soon as I am able I will provide the school board with a valid Vulnerable Sector Police Record Check.

DATED at _____ this _____ day of _____ 2_____.

Signature: _____ Full Name: _____
Please Print

PLEASE RETURN COMPLETED FORM TO: _____

APPENDIX 2**Proposal/Tender/Quotation of Contract Language for Service Providers:**

The Proponent covenants and agrees to retain on file at its head office a criminal background check covering convictions, charges, and occurrences under the Criminal Code, the Narcotics Control Act, and any other convictions, charges, and occurrences which would be revealed by the long version Vulnerable Persons search of the automated Criminal Records Retrieval System maintained by the RCMP at the Canadian Police Information Centre ("Criminal Background Check"), together with an Offence Declaration in a Purchaser-approved form for every Personnel of the Proponent who may come into direct contact with students on a regular basis, or who may have access to student information prior to the occurrence of such possible direct contact or prior to having access to student information and on or before September 1st each year thereafter with respect to Offence Declarations.

The Proponent agrees to indemnify and save harmless the Purchaser from all claims, liabilities, expenses, and penalties to which it may be subjected on account of: the Proponent engaging an employee in contravention of this section; or the Proponent's failure to retain a Criminal Background Check or an Offence Declaration on file, as aforesaid. This indemnity shall survive the expiration or sooner termination of this Agreement. In addition to and notwithstanding anything else herein contained, if the Proponent: engages a Personnel in contravention of this section, or fails to retain a Criminal Background Check and an Offence Declaration for Personnel of the Proponent who may come into direct contact with students on a regular basis, or who may otherwise have access to student information prior to the occurrence of such possible direct contact, or prior to having access to student information and on or before September 1st each year thereafter with respect to Offence Declarations, then the Purchaser will have the right to immediately terminate this Agreement without prejudice to any other rights which it may have in this Agreement, in law or in equity.

The Purchaser shall be entitled, on forty-eight (48) hours' prior written notice to attend at the head office of the Proponent for the purposes of reviewing the Criminal Background Checks and Offence Declarations. The parties acknowledge and agree that it is contemplated that the Purchaser may attend to such reviews at least twice per annum during the Term, and any renewal thereof.

In the event that either the Criminal Background Check or an Offence Declaration reveals a charge or a criminal conviction which is not acceptable to the Purchaser in the circumstances and in its sole and unfettered discretion, then the Purchaser will have the right to request that the Proponent prohibit the Personnel of the Proponent from supplying the Services to the Purchaser hereunder. Upon such request, the Proponent will forthwith effect such removal, without prejudice to any other rights which the Purchaser may have in this Agreement, in law or in equity.