



KENORA CATHOLIC DISTRICT SCHOOL BOARD

400 Personnel and Staff Relations Procedures

AP 402: Collection of Personal Information

The Director of Education has the responsibility, as delegated by the board under *Board Policy 4: Delegation of Authority* and the *Education Act* to provide a safe and secure working and learning environment for students and employees. The director is in a position of trust with regard to students and must strive to protect their intellectual, physical, mental and emotional well being.

The Director of Education will not hire or recommend for hire or continue to employ any person, who will have direct and regular contact with students, who has a police records and/or patterns of behaviour which place students or staff at risk.

The Director of Education will not allow school access to service providers or others who have direct and regular contact with students:

- who have not provided a Police Record Check
- who have provided a Police Record Check which has been adjudicated and found to present an unacceptable risk to students and / or staff
- who have not provided proof of a recent TB test.

1. Police Record Checks for Employees

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

1.2 All new employees will be required to provide at their own expense, an original Police Record Check.

1.3 Definitions

1.3.1 **Police Record Check** means a document concerning an individual which:

- 1.3.1.1 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 OESC collects the document on behalf of the Board; and

1.3.1.2 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.

1.3.2 **Offence Declaration** means, in respect of a Board, a written 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:

1.3.2.1 that are not included in a Police Record Check collected by the Ontario College of Teachers after December 31, 1998 or in the last criminal background check collected by the Board under this regulation; and,

1.3.2.2 for which a pardon under Section 4.1 of the Criminal Records Act (Canada) has not been issued or granted.

1.4 Requirements current employees

Current Employees are required to provide to the human resources department an *Offence Declaration* by September 1 of each year in which the individual is employed by the Board.

1.5 Requirements new employees

1.5.1 Condition of Employment

1.5.1.1 The Manager of Human Resources shall collect a *Police Record Check* in respect of the individual before the day the individual commences employment with the board.

1.5.1.2 All offers of employment with the Board shall be conditional upon the applicant supplying the required *Police Record Check*.

1.5.2 Emergency Provision

1.5.2.1 Normally, a candidate shall not commence employment with the Board until a current verification of their *Police Record Check* has been supplied. Only in an exceptional case will a person be permitted to commence employment with the Board before the Board has received the verification.

1.5.2.2 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 *Police Record Check*.

- 1.5.2.3 Before any such exception is made, a binding agreement shall be entered into between the employees, 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 power to revoke the offer of employment, and dismiss the employee, should the *Offence Declaration* provided by the employee prove to be false or misleading in any respect.

1.6 Retention

- 1.6.1 The Board shall retain an original or a true copy taken from the original by the Board designated contact or designate.
- 1.6.2 Completed criminal reference checks and offence declarations will be filed in a separate and secure location.

1.7 Adjudication

- 1.7.1 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:
- 1.7.1.1 the length of time since offence(s);
 - 1.7.1.2 any involvement of children and/or sexual activity and/or violence and/or acts of dishonesty in the offence(s);
 - 1.7.1.3 the employment history;
 - 1.7.1.4 the employee's attitude towards offence(s);
 - 1.7.1.5 any treatment, counseling or other services received since offence;
 - 1.7.1.6 other steps taken to rehabilitate;
 - 1.7.1.7 any likelihood offence(s) will be repeated;
 - 1.7.1.8 if alcohol or illegal drugs were a factor in commission of offence(s);
 - 1.7.1.9 the degree of co-operation with this investigation;
 - 1.7.1.10 if the offence(s) committed while employed by the Board;

1.7.1.11 if the employee is a teacher, relevance of offence(s) to teacher duties as set out in the Education Act and Regulations;

1.7.1.12 if employee is not a teacher, relevance of offence(s) to their employment duties; and

1.7.1.13 whether the offence(s) require any action pursuant to the acts and regulations, including notification of the Ontario College of Teachers.

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

1.8 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.

2. Police Record Checks for Service Providers

2.1 The Board will contract with the Ontario Education Services Corporation (OESC), a non-profit company established by the four School Boards' Associations in Ontario and the Council of Directors of Education, to collect and adjudicate police record checks on all Service Providers and employees of Service Providers who are identified by the Board as potentially coming into direct and regular contact with students.

2.2 Definitions

2.2.1 **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:

2.2.1.1 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,

2.2.1.2 providing services to a person who provides goods or services under contract with the Minister.

2.2.2 **Identification Card** means a wallet sized card, issued by OESC for a three (3) year period to an individual service provider who has been determined to present no unacceptable risk to students who may attend school property and come in direct and regular contact with students.

2.3 Action Required

Under the direction of the Director of Education, Board staff will: include language similar to the following in any new Request for Proposal / Tender / Quotation of Contract:

"The Bidder acknowledges receipt of a copy of Regulation 322/03 (Collection of Personal Information) to the Education Act (Ontario) with respect to Police Record Checks and offence declarations. If required by the Board, the successful Bidder covenants and agrees to assist the Board in complying with same by providing the Board or such other entity as the Board may designate with a criminal background check covering offences under the Criminal Code, the Controlled Drugs and Substances Act and any other offences which would be revealed by a search of the automated Criminal Records Retrieval System maintained by the RCMP ("Police Record Check"), together with an Offence Declaration in a Board-approved form for every individual or employee of the successful Bidder who may come into direct contact with pupils on a regular basis at a school site of the Board, prior to the occurrence of such possible direct contact and on or before September 1 of each year thereafter with respect to the Offence Declarations.

For the purpose of this Request for Proposal / Tender / Quotation, the Board shall determine in its sole and unfettered discretion whether an individual or employee of the successful Bidder may come into direct contact with pupils on a regular basis.

The successful Bidder further acknowledges and agrees that the contract between the Board and the successful Bidder to be entered into pursuant to the terms hereof shall contain provisions of indemnification and provisions allowing the Board to terminate same in the event the successful Bidder fails to provide the Board with a Police Record Check and an Offence Declaration for every individual or employee who may come into direct contact with pupils on a regular basis at a school site of the Board, prior to the occurrence of such possible direct contact and on or before September 1 each year thereafter with respect to the Offence Declaration.

In addition, the contract will contain provisions that will allow the Board, or such other entity as the Board may designate, upon review of the Police Record Check provided to determine that an individual or employee will not be permitted on a school site in circumstances where direct contact with students is probable."

- 2.3.1 Ensure that all service providers are in compliance with the acts and regulations before providing services to the Board.
- 2.3.2 Develop a procedure for regularly, as required updating the service provider list, communicating this information to OESC and informing new Service Providers about the requirements.
- 2.3.3 Develop a procedure for checking *Identification Cards* (and photo-identification) of service providers by school officials on a regular basis.

2.4 Adjudication

- 2.4.1 OESC will use a panel of experts to screen service provider employees who have police records.
- 2.4.2 OESC will use published screening criteria and adjudication procedures which will strive to ensure provincial consistency in adjudication.
- 2.4.3 All decisions of OESC will be final.

2.5 Consequences of Non-Compliance

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

3. Police Record Checks for Others Having Direct Regular Contact With Students

In order to apply a consistent standard to all individuals who have direct and regular contact with students, meet regulatory requirements, further the effort to ensure the safety of students and minimize potential Board liability, the Board will contract with the Ontario Education Services Corporation (OESC), a non-profit company established by the four School Boards' Associations in Ontario and the Council of Directors of Education, to collect and adjudicate Police Record Checks on individuals in this category and who have been identified by the Board as potentially coming into direct and regular contact with students.

- 3.1** Included in this category are the following:
- 3.1.1 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 requirements¹ as the organization has standards and practice in place which meet or exceed those of OESC:
 - 1. Public Health Departments
 - 2. Victorian Order of Nurses
 - 3. Community Care Access Centres
 - 4. Children's Mental Health Ontario
 - 5. Provincial Schools Authority
 - 6. Day Nurseries
 - 7. Children's Aid Societies
 - 3.1.2 trustees;
 - 3.1.3 students attending university or college programs which require practicum or co-op placements in schools;
 - 3.1.4 school volunteers;
 - 3.1.5 persons eighteen (18) years of age or over having direct and regular contact with students².
- 3.2 Action Required**
Board staff will:
- 3.2.1 Develop a procedure for regularly, as required updating the "Others" list, communicating this information to OESC and informing new "Others" about the requirements.
 - 3.2.2 Develop a procedure for checking *Identification Cards* (and photo-identification) of "Others" by school officials on a regular basis.
- 3.3 Adjudication**
- 3.3.1 OESC will use a panel of experts to screen "Others" who have Police Records. OESC will use published screening criteria and adjudication procedures which will strive to ensure provincial consistency in adjudication.
 - 3.3.2 All decisions of OESC will be final.

¹ As of February 23, 2004 this list includes St. John Ambulance, Big Brothers and Big Sisters of Canada.

² The Youth Criminal Justice Act protects the privacy of minors by limiting access to their records. It is recommended therefore that a Service Provider or "Other" who has not attained the age of 18 be directly supervised by a staff member.

3.4 Consequences of Non-Compliance

Any "Other" who fails to comply with the Police Record Check requirements of the Board through OESC will be barred from providing goods and/or services to the Board and from all direct and regular contact with students.

Legal References:

Education Act S. 300 (7) Safety of Pupils; S. 315 Collection of Personal Information
Ontario Regulation 521/01 Collection of Personal Information
Ontario College of Teachers Act
Criminal Records Act (Canada)

Effective Date: November 16, 2004

Latest Review Date: February, 2010

Latest Revision Date: January 24, 2012