

<b>Topic:</b>	<b>Criminal Record Checks: Employees and Volunteers</b>
<b>Effective:</b>	<b>September 2003</b>
<b>Cross-Reference:</b>	<a href="#"><u>Education Act – Regulation 521/01</u></a> <a href="#"><u>Protocol with External Agencies for the Provision of Services by Regulated Health Professionals, Social Service Professionals, and Paraprofessionals</u></a> <a href="#"><u>Police Record Checks Reform Act, 2015 (new)</u></a>
<b>Revision Dates:</b>	<b>October 2017, November 2018</b>
<b>Review Date:</b>	<b>September 2021</b>
<b>Responsibility:</b>	<b>Executive Officer of Human Resources</b>

**INTENDED PURPOSE:**

The Halton District School Board has the responsibility, under the Education Act, to provide a safe and secure working and learning environment for students and employees. The Board is in a position of trust with regard to students and must strive to protect their intellectual, physical, mental, and emotional well-being. The Halton District School Board will not employ or continue to employ persons who have criminal records and/or patterns of behaviour that may place students at risk.

**DEFINITIONS**

**“Criminal Record Check”** means, in respect of the Board, a document concerning an individual that:

- a) was prepared by a police force or service from the national data on the Canadian Police Information Centre (CPIC) database within six (6) months before the date the Board collects the document; and
- b) contains information concerning the individual’s *Personal Criminal History*.

**“Offence Declaration”** means, in respect of the 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:

- a) that are not included in the last Criminal Record 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.

**“Personal Criminal History”** means, in respect of an individual, information on criminal offences of which the individual has been convicted under the Criminal Records Act (Canada) and for which a pardon under Section 4.1 of the Criminal Records Act (Canada) has not been issued or granted to the individual.

A **“Vulnerable Sector Check”** is a police information check plus a check to see if a person has a record suspension (pardon) for sexual offences.

The **“Vulnerable Sector Check”** check is to be used by applicants seeking a paid or volunteer position with vulnerable persons. “Vulnerable person” means a person who, because of their age, a disability or other circumstances, whether temporary or permanent, are (a) in a position of dependence on others; or (b) are otherwise at a greater risk than the general population of being harmed by a person in a position of authority or trust relative to them, pursuant to the Criminal Records Act.

**PROCEDURES****A. EMPLOYEES**

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

## New Employees

All offers of employment with the Board shall be conditional upon the applicant supplying an acceptable Criminal Record Check. Employees who work in a school or have direct and regular contact with students are also required to supply a Police Vulnerable Sector Check. The Board shall then henceforth obtain an Offence Declaration from the individual by September 1 of each year in which the Board employs the individual after the year employment was 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 Criminal Record Check before the day the individual commences employment with the Board.

## Emergency Provisions

In exceptional circumstances, it may be necessary for an individual to begin employment with the Board before an acceptable Criminal Record Check is collected. With the approval of the Executive Officer of Human Resources, or designate, a binding agreement shall be entered into between the employee and the Board, requiring the employee to submit an Offence Declaration and proof of their application for the Criminal Record Check. The 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 Criminal Record Check is determined to be unacceptable.

## Retention of Documents

The Board shall retain an original or a true copy taken from the original Criminal Record Check.

## Adjudication

Where evidence is received of a criminal conviction, the Director of Education or designate, in consultation with the Executive Officer of Human Resources, will consider at least the following factors in determining the appropriate course of action:

- a. length of time since offence(s);
- b. involvement of children and/or sexual activity and/or violence and/or acts of dishonesty;
- c. employment history;
- d. employee's attitude towards offence(s);
- e. treatment, counselling or other services received since offence;
- f. other steps taken to rehabilitate;
- g. likelihood offence(s) committed while employed by the Board;
- h. substance (e.g., alcohol or illegal drugs) use or abuse as a factor in commission of offence(s);
- i. degree of cooperation with this investigation;
- j. employer, at the time the offence was committed;
- k. if 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 the offence(s) to their employment duties; and
- m. requirement of any action pursuant to the Student Protection Act (including notification of the Ontario College of Teachers).

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

## Consequences of Non-Compliance

Employees who fail to provide a Criminal Record Check in compliance with Regulation 521/01 will be suspended, without pay, pending submission of the Criminal Record Check. Continued non-compliance will result in termination of employment.

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

## **B. Volunteers**

All volunteers over 18 years of age who are deemed by the Principal or hiring supervisor to have “direct and regular contact” with students must submit a Criminal Record Check, including a successful Vulnerable Sector Screening, prior to commencing their volunteer assignment. The school will retain an original or a true copy taken from the original Criminal Record Check on site. Returning volunteers with a Criminal Record Check and Vulnerable Sector Screening on file at the school will be required to complete the HDSB Annual Offence Declaration Form for Volunteers. The Annual Offence Declaration Form will be completed annually and filed at the school.

Volunteers who have been designated as having ‘direct and regular contact’ with students who fail to provide a Criminal Record Check, with subsequent Annual Offence Declaration, will not be eligible to work with students in any capacity (e.g., within the school, school excursions, coaching, etc.).

The same Adjudication process that is used for employees will be used for volunteers where evidence is received of a criminal conviction.

Note the exception that in accordance with the Police Record Check Reform Act, no employee or volunteer under the age of 18 will be required to submit a Criminal Record Check.

Principals should ensure that the onsite supervisor of partner agencies, who are supervising volunteers under the age of 18, have a Criminal Record Check with Vulnerable Sector Screening.

The Halton District School Board honours existing records of Criminal Record Checks and Annual Offence Declarations when volunteers transfer to another HDSB school (i.e., as a result of a change in school, regardless of panel). The school will transfer a record of these documents to the new school upon request.

Volunteers under the age of 18 are not subject to Criminal Reference Checks. Schools and partner agencies should do their own due diligence when recruiting volunteers.

This process should include, but is not limited to:

1. Submission of a completed application
2. Attendance at an in-person interview with qualified HDSB staff
3. Submission of 3 satisfactory references, including one from a school staff member
4. Attendance at training containing
  - i) a description or the role and responsibilities of the volunteer
  - ii) the need to maintain the privacy of the individuals they are working with
  - iii) who the volunteer would report to if they observed any abusive conduct

*Note that Cooperative Education is not “volunteering”.*