



Administrative Procedures Memorandum

#: APS038

Police Record Checks and Offence Declarations for Board Employees

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Memo To: All Staff
From: Director of Education

ACCESSIBILITY:

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PURPOSE:

A satisfactory and acceptable Police Record Check for all newly hired employees and a satisfactory and acceptable Offence Declaration provided annually for current employees, in accordance with legislation (Ontario Regulation 521/01) is required in order to maintain a safe learning and working environment for students and staff within the Waterloo Catholic District School Board (WCDSB).

REFERENCES:

- Education Act
- Regulation 521/01
- Board Policy IV-003
- Criminal Records Act
- Human Rights Code
- Police Record Checks Reform Act, 2015

FORMS:

- APS038-01F: [Police Record Check Pending](#)

REPORTS:

- N/A.

APPENDICES:

- N/A.

COMMENTS AND GUIDELINES:

The WCDSB has the responsibility, under the Education Act, to provide a safe and secure working and learning environment for students and employees. The WCDSB is in a position of authority and trust with regard to students and must strive to protect their intellectual, physical, mental, and emotional well-being.

The WCDSB will not hire into its employ or continue to employ persons who have direct and regular contact with students who have police records and/or patterns of behaviour which place the safety and well-being of students or employees at risk. The duty of the WCDSB to protect students and employees is of paramount importance.

Definitions

Police Record Check

In accordance with the Police Record Checks Reform Act, 2015, means a document indicating a search of the Canadian Police Information Centre Databases or another police database maintained by a police service in Canada to determine whether the databases contain entries relating to an individual in order to screen the individual for the purposes of determining his or her suitability for employment.

Offence Declaration

For the purposes of the WCDSB, means an electronic declaration by an employee listing all of the **employee's** convictions for offences under the Criminal Records Act (Canada) up to the date of the declaration:

- That are not included in a Police Record Check collected by the Ontario College of Teachers (OCT) after December 31, 1998, or in the last Police Record Check collected by the WCDSB under this regulation.
- For which a pardon under section 4.1 of the Criminal Records Act (Canada) has not been issued or granted.

Vulnerable Person

Means a person who, because of his or her age, a disability or other circumstances, whether temporary or permanent:

- Is in a position of dependency on others.
- Is otherwise at a greater risk than the general population of being harmed by a person in a position of trust or authority towards them.
- The WCDSB considers all students to be identified as 'vulnerable persons'.

Current Employees - Requirements

Regulation 521/01 requires the following for current employees:

1. All employees of the WCDSB are required to submit an Offence Declaration by September 1st of each year in which the WCDSB employs the individual.
2. Current employees who may not have previously provided a Vulnerable Sector Police Record Check upon hire will be required to do so, at WCDSB expense, if they transfer or transition to a position of trust or authority over vulnerable persons. If an employee's Vulnerable Sector Police Record Check contains criminal charge(s), the WCDSB's Adjudication Protocol, outlined below, will be applied to determine the appropriate course of action.

Applicants – Condition of Employment

Regulation 521/01 requires the following for new applicants:

1. All applicants for employment with the WCDSB are advised on postings that it is a condition of any offer of employment that the applicant provide an original document of a suitable Police Record Check in respect of the applicant (dated within six (6) months of the date of hire) before the day the applicant commences employment with the WCDSB. All positions of trust or authority over vulnerable persons require a Vulnerable Sector Police Sector Check. Human Resource Services will identify to applicants the type of Police Record Check required.
2. An original Police Record Check must be delivered in person or forwarded in a sealed envelope marked 'confidential' to the appropriate Human Resource Services Officer to be verified for authenticity. The original Police Record Check will be returned to an applicant and an electronic copy is kept by Human Resource Services.
3. Police Record Checks must be obtained through the local or regional Police Services Department in the area in which an individual resides. The cost of the Police Record Check is the sole responsibility of the applicant.
4. Anyone who has been a resident outside of Canada for more than three (3) months in the previous twelve (12) months may be required to provide the equivalent Police Record Check from the foreign jurisdiction(s) in addition to the Police Record Check using the Canadian Police Information Centre.
5. The Director of Education or designate will withdraw the WCDSB's offer of employment if the applicant has:
 - Outstanding charges, prior convictions for which a pardon has not been granted or revoked, and/or a pattern of behaviour which indicates, in the WCDSB's opinion, that the applicant poses a threat to the safety and well-being of students and staff.
 - Made a false declaration in his/her application.
 - Declined to provide a verification of criminal record as required by this Memorandum.
6. If an applicant's Police Record Check contains criminal charge(s), the Board's Adjudication Protocol, outlined below, will be applied to determine the appropriate course of action.

Adjudication Protocol

The Human Rights Code prohibits discrimination based on a 'record of offences'. Where evidence is received of a criminal conviction, other relevant conviction, criminal charge and/or a concerning pattern of behaviour for an employee or applicant, the Director or designate will consider at least the following factors in determining an appropriate course of action:

- The length of time since offence(s)
- Any involvement of children and/or sexual activity and/or violence and/or acts of dishonesty in the offence(s)
- The employment history
- The employee's or applicant's attitude toward the offence(s)
- Any treatment, counselling or other services received since the offence
- Other steps taken to rehabilitate
- Any likelihood the offence(s) will be repeated
- If alcohol or illegal drugs were a factor in the commission of the offence(s)
- The degree of co-operation with this investigation
- If the offence(s) was committed while employed by the WCDSB
- If the employee or applicant is a teacher, relevance of offence(s) to teacher duties as set out in the Education Act and Regulations
- If the employee or applicant is not a teacher, relevance of offence(s) to his/her employment duties
- Whether the offence(s) require any action pursuant to The Student Protection Act (including notification of the Ontario College of Teachers and the College of Early Childhood Educators, or other relevant governing body)

The course of action may include disciplinary action up to and including dismissal, and/or withdrawal of an offer of employment, and/or transfer of location or responsibilities and shall be compliant with other WCDSB policies, collective agreements and legislation.

Emergency Provision

Normally, a candidate shall not commence employment with the WCDSB until a current verification of his/her Police Record Check has been supplied. Only in an exceptional case will a person be permitted to commence employment with the WCDSB before the WCDSB has received the verification. In such cases, the candidate will be required to provide a [Police Record Check Pending](#) (Form APS038-01F) which may, at the WCDSB's sole discretion, permit the candidate to commence employment for a maximum of twenty (20) working days, prior to the submission and receipt of an acceptable Police Record Check. Before any such exception is made, a binding agreement shall be entered into between the employee and the WCDSB, ensuring that the verification be provided without delay and in a timely manner. This agreement will preserve the WCDSB's power to revoke the offer of employment and dismiss the employee should the Police Record Check Pending form provided by the employee prove to be false or misleading in any respect.

Retention

The WCDSB shall retain an original or true copy taken from the original by a WCDSB designated contact or designate. Human Resource Services will store all employee Police Record Checks and Offence Declarations in a file separate from the personnel file.

Consequences of Non-Compliance

1. It is a serious employment offence to make a false statement on an Offence Declaration. Where an employee is found to have knowingly made a false statement on a Declaration, the WCDSB will consider discipline up to and including discharge from employment.
2. Employees who fail to submit either a satisfactory and acceptable Police Record Check, or Vulnerable Sector Check when required for transfers to positions, or an Offence Declaration by the required date may be subject to:
 - Suspension without pay until the Offence Declaration form is received no later than August 31st.
 - The requirement to provide a new satisfactory and acceptable Police Record Check at the employee's own expense which must be received by October 31st.
 - Withdrawal of an offer of employment.
 - Discharge from employment.

Trustees

This Administrative Policy Memorandum shall apply to trustees of the WCDSB. All new trustees are requested to provide a Police Record Check and to, thereafter, complete the annual Offence Declaration while serving on the Board of Trustees.