



ADMINISTRATIVE PROCEDURE	
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<i>Review Date</i> 2019	<i>Page</i> 1 of 10
<i>Contact Person/Department</i> Human Resources Administrator	<i>Identification</i> HR-4020

CRIMINAL RECORD CHECKS AND OFFENCE DECLARATIONS

1.0 PURPOSE

Trillium Lakelands District School Board is responsible for providing 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 will strive to protect their intellectual, physical, mental, and emotional well-being.

Trillium Lakelands District School Board will not hire into its employ, or continue to employ persons with direct and / or regular contact with students, who have police records and / or patterns of behaviour which place students or staff at risk.

Trillium Lakelands District School Board will not allow school access to *Service Providers* or *Others* who have direct and / or regular contact with students:

- who have not provided a Criminal Record Check which may include a Vulnerable Sector Check , or
- who have provided a Criminal Record Check which may include a Vulnerable Sector Check which has been adjudicated and found to present an unacceptable risk to students and / or staff, or
- who have not provided an acceptable Offence Declaration Affidavit.

2.0 REFERENCES AND RELATED DOCUMENTS

- 2.1 Education Act:
 - Regulation 521/01
- 2.2 Education Act:
 - Regulation 322/03
- 2.3 Criminal Records Act, Section 6.
- 2.4 Records Retention Policy BD-2035.
- 2.5 Collective Agreements, Terms and Conditions of Employment and Personal Services Contracts.

3.0 TERMS AND DEFINITIONS

- 3.1 *CRIMINAL RECORD CHECK* (Criminal Background Check) - for the school board is 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 day the Board receives the document and;
 - b) includes a vulnerable sector check where direct contact with students on a regular basis is anticipated to occur and;
 - c) 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.
- 3.2 *OFFENCE DECLARATION* - for the school board is 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. (This can include an electronic submission):
- a) that are not included in a Criminal Record Check collected by the Ontario College of Teachers (OCT) after December 31, 1998 or 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.
- 3.3 *SERVICE PROVIDER* - an individual who is not an employee of the Board and who comes into direct contact with students 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 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 Board.
- 3.4 *OESC*
The Ontario Education Services Corporation (OESC) is a non-profit company established to collect and adjudicate Criminal Record Checks on all Service Providers and employees of Service Providers who are identified by the Board as coming into direct and/or regular contact with students.

- 3.5 *IDENTIFICATION CARD* - a valid wallet sized card issued by the Ontario Education Services Corporation (OESC) to an individual who has been determined not to present an unacceptable risk to students, and who may attend school property and come in direct and / or regular contact with students.

4.0 ADMINISTRATIVE PROCEDURE

4.1 CRIMINAL RECORD CHECKS FOR EMPLOYEES

- 4.1.1 All current employees will provide an annual Offence Declaration (Appendix 5.1 or Appendix 5.2) in accordance with Regulation 521/01, as amended by Regulation 322/03;
- 4.1.2 All new employees will be required to provide, at their own expense, an original Criminal Record Check.
- 4.1.3 Requirements

Trillium Lakelands District School Board is required to do the following:

a) Current Employees

Provide to the Board an Offence Declaration by August 31 of each year in which the individual is employed by the Board.

b) New Employees

i) Condition of Employment

The Board shall collect a Criminal Record Check in respect of the individual before the day the individual commences employment with the Board. All offers of employment with the Board shall be conditional upon the applicant supplying an acceptable Criminal Record Check. The Board shall collect an Offence Declaration from the individual by August 31st of each year in which the individual is employed by the Board after that day;

ii) Emergency Provision

Normally, a candidate shall not commence employment with the Board until a current verification of their Criminal 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.

In such a case, the candidate will be required to provide an Offence Declaration Affidavit (Appendix 5.4) together with a valid piece of photo-identification (e.g. passport, driver's license, Ontario Photo Card, Health Card) which may, at the Board's sole discretion permit the candidate to commence employment prior to the submission of the Criminal Record Check. Before any such exception is made, a binding agreement (Appendix 5.5) 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 power to revoke the offer of employment, and dismiss the employee, should the Offence Declaration Affidavit provided by the employee prove to be false or misleading in any respect.

4.1.4 Retention

The Board shall retain an original or a true copy taken from the original by the Board designated contact or designate. Completed Criminal Record Checks, Offence Declarations, and related documentation will be filed in a separate and secure location, and maintained in a confidential manner. This can include electronic filing.

4.1.5 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) age at the time of the offence;
- c) number of offences;
- d) any involvement of children and / or sexual activity and / or violence and / or acts of dishonesty in the offence(s);
- e) the employment history;
- f) the employee's attitude towards offence(s);
- g) any treatment, counselling or other services received since offence;
- h) other steps taken to rehabilitate;
- i) any likelihood offence(s) will be repeated;
- j) if alcohol or illegal drugs were a factor in commission of offence(s);
- k) the degree of co-operation with this investigation;
- l) if the offence(s) committed while employed by the Board;
- m) if the employee is a teacher, relevance of offence(s) to teacher duties as set out in the Education Act and Regulations;

- n) if employee is not a teacher, relevance of offence(s) to their employment duties; and
- o) 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 of employment, and shall be in compliance of other Board policies, collective agreements and legislation.

4.1.6 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. Occasional or casual employees who fail to provide a signed Offence Declaration form by the date prescribed by the Board will be removed from the lists of occasional or casual employees.

4.2 CRIMINAL RECORD CHECKS FOR OTHERS HAVING DIRECT AND / OR REGULAR CONTACT WITH STUDENTS

- 4.2.1 In order to apply a consistent standard to all individuals who have direct and / or regular contact with students, meet regulatory requirements, further the effort to ensure the safety of students and minimize potential Board liability, the Board will implement the following procedures for “others” and / or employees and parents in the case of individuals participating in Board sponsored activities who are in regular and / or direct contact with students must:

Included in this category are the following:

- a) provincial and community 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 which meet or exceed those of OESC:
 - i) Public Health Departments;
 - ii) Victorian Order of Nurses;
 - iii) Community Care Access Centres;
 - iv) Children’s Mental Health Ontario;
 - v) Children’s Aid Societies;
 - vi) Day Nurseries;
 - vii) St. John Ambulance;
 - vii) Big Brothers and Big Sisters of Canada;
- b) trustees;

- c) students attending university or college programs which require practicum or co-op placements in schools;
- d) school volunteers;
- e) other persons eighteen (18) years of age or over having direct and / or regular contact with students¹ and / or employees and parents in the case of individuals participating in Board sponsored activities.

4.2.2 Implementation

- a) Individuals from provincial and community organizations as per above, must, upon arrival at the school, provide to the principal of the school or designate one of the following:
 - i) a valid OESC ID Card along with a valid piece of photo identification (e.g. passport, driver's license, Ontario Photo Card, Health Card);
 - ii) documentation from OESC which indicates that the organization has been reviewed through OESC and that representatives or employees from the organization are exempt from the requirement to provide school level documentation **and** photo-identification issued by the organization which clearly identifies the individual as an employee of the organization;
 - iii) a signed document from the organization, on organization letterhead, which confirms that persons acting on behalf of the organization or employed by the organization who will be in regular and / or direct contact with students in TLDSB schools, have been screened through the Criminal Record Check process **and** photo-identification issued by the organization which clearly identifies the individual as a representative or employee of the organization;
 - iv) a signed "Affidavit Regarding Criminal Record Check" for Representatives of Provincial and Community Organizations (Appendix 5.3 – to be available at the school office) **and** photo identification issued by the organization which clearly identifies the individual as a representative or employee of the organization.
- b) Trustees will be required to:

¹ 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 when in contact with students.

- i) provide to the Board at the Board's expense, an original Criminal Record Check;
 - ii) are required to provide to the Board an Offence Declaration by August 31st of each year in which the individual is a Trustee of Trillium Lakelands DSB.
- c) Students attending university or college programs which require practicum or co-op placements in schools will be required to provide the school principal or designate either a valid OESC ID card or an original Criminal Record Check completed within one year of the date of the start of the placement, together with a valid piece of photo identification (e.g. passport, driver's License, Ontario Photo Card, Health Card).
- d) School volunteers:
- i) Before beginning a role in a school which involves direct and / or regular contact with students, the individual will be required to provide the school principal, at his / her own expense, an original Criminal Record Check;
 - ii) For each subsequent school year in which the individual continues to volunteer at the same school in the Board, the individual will be required to complete an Offence Declaration and provide it to the principal of the school before he / she resumes his / her volunteer role in the school;
 - iii) If an individual begins a volunteer role at a different school, he / she must arrange to have their original Criminal Record Check and Offence Declaration documents, or certified copies, transferred to the Principal at that school. The requirement for the completion of an Offence Declaration as per above will apply in subsequent years;
 - iv) In emergency situations, an individual may sign an Offence Declaration Affidavit (Appendix 5.4) and provide a copy of a valid piece of photo identification (e.g. Passport, Driver's License, Ontario Photo Card, Health Card);
- e) Persons eighteen (18) years of age or older, other than students enrolled in a co-op program through a secondary school in TLDSB, who have direct and / or regular contact with students and / or employees and parents in the case of individuals participating in Board sponsored activities must do one of the following:

- i) before beginning a role in a school which involves direct and / or regular contact with students, provide the school principal, at his / her own expense, an original Criminal Record Check;
- ii) provide an acceptable signed Offence Declaration Affidavit Appendix 5.4) together with a valid piece of photo-identification (e.g. passport, driver's license, Ontario Photo Card, Health Card).

4.2.2 Board staff will ensure that:

- a) All "Others" are in compliance with Regulation 521/01;
- b) Criminal Record Checks and Offence Declarations are stored in a separate and secure location and maintained in a confidential manner. (This can include electronic filing);
- c) Where evidence is received of a criminal conviction or other relevant conviction, and where the OESC is not involved in the adjudication process, the Human Resources Administrator will consider at least the factors outlined in "Adjudication" (4.1.5) in determining an appropriate course of action.

4.2.3 The School Principal will ensure that

- a) Appropriate documentation as described above is presented to the principal or designate by "others" before there is direct and / or regular contact with student(s);
- b) All Criminal Record Checks and Offence Declarations are filed and stored in a secure location and maintained in a confidential manner. (This can include electronic filing);
- c) The Human Resources Administrator or the area superintendent is consulted in determining an appropriate course of action where evidence is received of a criminal conviction or other relevant conviction, and where the OESC is not involved in the adjudication process.

4.2.4 Consequences of Non-Compliance:

Any "Other" who fails to comply with the Criminal Record Check requirements of the Board will be denied school access pending compliance.

4.3 Criminal Record Checks for Service Providers

4.3.1 Requirements

- a) All new Request for Proposal / Tender / Quotation of contract will include wording from Education Act, Regulation 521/10 with respect to Criminal Record Checks and Offence Declarations (see Appendix 5.6)
- b) Board staff will ensure that all Service Providers are in compliance with Education Act, Regulation 521/01 before providing services to the Board;
- c) The Principal of a school will ensure that original Criminal Record Check documents or valid OESC identification cards and photo identification of Service Providers are checked on a regular basis and will refuse entry to Service Providers who do not have the required documentation;
- d) The Supervisor of Purchasing will annually update the Service Provider list, and inform new Service Providers about the requirements.

4.3.2 Adjudication

OESC will use a panel of experts to screen Service Provider employees who have Police Records. OESC will use published screening criteria and adjudication procedures which will strive to ensure provincial consistency in adjudication. All decisions of OESC will be final.

4.3.3 Consequences of Non-Compliance

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

5.0 APPENDICES

- 5.1 Appendix 5.1 – Offence Declaration
- 5.2 Appendix 5.2 – Offence Declaration (electronic version)
- 5.3 Appendix 5.3 – Affidavit Regarding Criminal Record Check for Representatives of Provincial and Community Organizations
- 5.4 Appendix 5.4 – Offence Declaration Affidavit
- 5.5 Appendix 5.5 – Emergency Provision – Criminal Record Check Letter of Agreement
- 5.6 Appendix 5.6 - Text from Trillium Lakelands District School Board Tender Document

OFFENCE DECLARATION

I, _____ - _____
(Print Name) (position / title / location)

hereby declare that since the last Criminal Background Check collected by this Board or the Ontario College of Teachers, as the case may be, **or** since the last Offence Declaration given by me to this Board:

I have no convictions for offences 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 (Canada)*.

OR

I have the following convictions for offences under the Criminal Code of Canada for which a pardon under the *Criminal Records Act (Canada)* has not been issued or granted:

List of Offences:

1. Date: _____
Court Location: _____
Conviction: _____
2. Date: _____
Court Location: _____
Conviction: _____

(Use additional page if necessary)

DATED at _____ this _____ day of _____, 20

Signature

Position

Please Print Name

Date of Birth: _____
(yyyy/mm/dd)

OFFENCE DECLARATION - (electronic version – sample)

Annual Offence Declaration	Welcome: Jane Doe	Close <input type="checkbox"/>
<p>On this day, February 5, 2013, I Jane Doe, hereby declare that:</p> <ul style="list-style-type: none"> ○ I have no convictions for offences 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 (Canada); ○ I have the following convictions for offences under the Criminal Code of Canada for which a pardon under the Criminal Records Act (Canada) has not been issued or granted 		
Current Offences		
Date	Court Location	Conviction Description
- None -		
Previous Offences		
Date	Court Location	Conviction Description
- None -		
Electronic Signature ▶	Submit ▶	

**AFFIDAVIT
REGARDING CRIMINAL RECORD CHECK
FOR REPRESENTATIVES OF
PROVINCIAL AND COMMUNITY ORGANIZATIONS**

I, _____, make oath and swear that a Criminal Record
(*please print name*)

Check (current within the past 3 years) is on file at the organization noted below, and following the review process, it has been determined that I do not present an unacceptable risk to students.

In my role as _____, I am attending at
(*indicate position*)

_____ on behalf of the following organization:
(*name of school*)

Name of Organization: _____

Address: _____

Phone Number: _____

Name of Supervisor: _____

Signature

Date

Signature of Witness (Principal of School or Designate)

Date

OFFENCE DECLARATION AFFIDAVIT

I, _____, make oath and swear that:
(Print Name)

- I have no convictions for offences 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 (Canada)*.

OR

- I have the following convictions for offences under the Criminal Code of Canada for which a pardon under the *Criminal Records Act (Canada)* has not been issued or granted.

AND (if applicable):

- I am a resident of another country and have no convictions for offences under corresponding criminal legislation, up to and including the date of this Declaration, for which a pardon has not been issued or granted under corresponding legislation.

OR

- I am a resident of another country and I have the following convictions for offences under corresponding criminal legislation, for which a pardon under corresponding legislation has not been issued or granted.

List of Offences:

1. Date: _____
Court Location: _____
Conviction: _____
2. Date: _____
Court Location: _____
Conviction: _____

(Use additional page if necessary)

DATED at _____ this _____ day of _____, 20

Signature

Position

Please Print Name

Date of Birth: _____
(yyyy / mm / dd)



EMERGENCY PROVISION – CRIMINAL RECORD CHECK

LETTER OF AGREEMENT
BETWEEN
(insert person’s name)
(the employee)

AND

TRILLIUM LAKELANDS DISTRICT SCHOOL BOARD
(the Board)

WHEREAS the Board requires a Criminal Record Check including a Vulnerable Sector Check for new employees in accordance with the Education Act and Board policy prior to commencement of employment and;

WHEREAS the employee has completed an Offence Declaration Affidavit prior to the commencement of employment;

The parties hereby agree:

- 1. That (insert person’s name) will obtain a Criminal Record Check including a Vulnerable Sector Check as a condition of employment on or before (insert date). Failure to provide an acceptable Criminal Record Check including Vulnerable Sector Check on the said date will revoke the offer of employment and the Board will dismiss the employee should the Offence Declaration Affidavit provided by the employee prove to be false or misleading in any respect.

Signed at _____, on this _____ day of _____, 20____.

For the Board

Employee

Text from Trillium Lakelands District School Board Tender Document

4.6 ONTARIO REGULATION 521/01

4.6.1 The Applicant acknowledges that the Board must comply with Regulation 521/01 (Collection of Personal Information) to the Education Act with respect to criminal background checks and offence declarations.

If required by the Board, the Applicant agrees to assist the Board, if necessary, in complying with this Regulation 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 (Criminal Background Check). Also, an Offence Declaration in a Board-approved form for every individual or employee of the Applicant 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 1st of each year thereafter with respect to the Offence Declarations) is required. For the purpose of this RFSQ, the Board will determine in its sole discretion whether an individual or employee of the selected Applicant may come into direct contact with pupils on a regular basis.

The Applicant further acknowledges and agrees that the Contract between the Board and the Applicant contains provisions of indemnification and provisions allowing the Board to terminate in the event the Applicant fails to provide the Board with a Criminal Background 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 1st of each year thereafter with respect to the Offence Declaration). In addition, the Contract contains provisions that will allow the Board (or other entities as the Board may designate) upon review of the Criminal Background Check to determine that an individual will not be permitted on a school site in circumstances where direct contact with students is probable.

4.6.2 Ontario Education Services Corporation (OESC) is conducting Police Record Checks through our ONLINE system on 2 (two) types of applicants: those under 27 years of age but older than 18 (born on or after January 14, 1986) and those who have obtained an OESC ID card or had a previous check completed through OESC in the past.

Individuals who do not meet the criteria mentioned above cannot use OESC ONLINE check at this time. The Contractor can, however, go to their local police department and order a Criminal Record Check with Vulnerable Sector Search containing a search of the Pardoned Sex Offender Database. Once their check is complete they are able to submit their original Vulnerable Sector police certificate to OESC for adjudication in order to obtain an OESC ID card.

4.6.3 Adjudication

OESC will use a panel of experts to screen Service Provider employees who have Police Records. OESC will use published screening criteria and adjudication procedures which will strive to ensure provincial consistency in adjudication. All decisions of OESC will be final.