



Policy Manual – Human Resources

H.M.12 – Criminal Reference Check

The mission of Catholic Education in Hamilton-Wentworth, in union with our Bishop, is to enable all learners to realize the fullness of humanity of which Our Lord Jesus Christ is the mode

POLICY STATEMENT

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

The Hamilton-Wentworth Catholic District School Board will not allow school access to *Service Providers* or *Others* who have direct and regular contact with students:

- who have not provided a Police Vulnerable Sector Check, or
- who have provided a Police Vulnerable Sector Check which has been adjudicated and found to present an unacceptable risk to students and/or staff.

Purpose

To implement the Police Vulnerable Sector Check legislation (Ontario Regulation 521/01, as amended by Regulation 322/03) in order to maintain a safe learning environment for students within the Hamilton-Wentworth Catholic District School Board.

Responsibility: Superintendent of Human Resources

POLICE VULNERABLE SECTOR CHECKS FOR EMPLOYEES

All current employees will provide to the Board an annual on-line Offence Declaration in accordance with Regulation 521/01, as amended by Regulation 322/03.

All new employees will be required to provide to the Board, at their own expense, an original Police Vulnerable Sector Check.

Definitions

“*Police Vulnerable Sector 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; 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 equivalent 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 Police Vulnerable Sector Check collected by the Ontario College of Teachers (OCT) after December 31, 1998 or in the last vulnerable Sector Check collected by the Board under this regulation as per by Board Policy; 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"* requires the Hamilton-Wentworth Catholic District School Board to do the following:

I. Current Employees

Are required to provide to the Board an on-line Offence Declaration annually each year in which the board employs the individual.

Occasional Supply staff will be treated in the same manner as permanent employees assigned one location. Staff working in more than one location will only be required to submit one Police Vulnerable Sector Check/Offence Declaration.

II. New Employees

Condition of Employment

- a) All applicants for employment with the Board will be advised on application forms that it will be a condition of any offer of employment that the applicant provide an original document of their Police Vulnerable Sector Check in respect of the individual (*date within six (6) months of the date of submission*) before the day the individual commences employment with the Board
- b) The original Police Vulnerable Sector Check should be delivered in person or forwarded in a sealed envelope marked "confidential" to the Administrator of Human Resources. (*Where a Police Vulnerable Sector Check must be returned to an applicant, the original must be presented to Human Resource Department. The Police Vulnerable Sector Check will be photocopied, if necessary, and will be verified for authenticity by a Human Resource designate*).

- c) Police Vulnerable Sector Checks must be obtained through the local Police Services Department, 155 King William Street, Hamilton. Police Services will generally require applicants to complete a form and provide two pieces of identification before they access the Canadian Police Information Centre (CPIC) database. The cost of the Police Vulnerable Sector Check is the sole responsibility of the applicant.
 - d) Anyone who has been a resident outside of Canada for more than three (3) months in the previous twelve (12) may be required to provide the equivalent Police Vulnerable Sector Check from the foreign jurisdiction(s) in addition to the Police Vulnerable Sector Check using the Canadian Police Information Centre.
 - e) In the event that the information provided by the applicant on their application form for a vulnerable Sector Check determines he/she:
 - i) Has outstanding charges or prior convictions for which a pardon has not been granted or revoked which indicate, in the Administration's opinion, that the applicant could pose a threat to students;
 - ii) Has made a false declaration in their application;
 - iii) Declines to provide a verification of criminal record as required by Board policy;
- The Administrator of Human Resources or designate will withdraw the Board's conditional offer of employment.
- f) The Board shall collect an on-line Offence Declaration from the individual annually for each year in which the Board employs the individual after submission of the original Police Vulnerable Sector Check. Each year, the board shall issue a memo with directions and the link for the completion of the on-line Offence Declaration.

Emergency Provision

Normally, a candidate shall not commence employment with the Board until a current verification of his/her Police Vulnerable Sector 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" which may, at the Board's sole discretion permit the candidate to commence employment for a maximum of twenty (20) working days, prior to the submission and receipt of the Police Vulnerable Sector Check. Before any such exception is made, a binding agreement shall be entered into between 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 should the on-line Offence Declaration provided by the employee prove to be false or misleading in any respect. A copy of this agreement is attached as Appendix A.

Retention

The Board shall retain an original or a true copy taken from the original by the Board designate. Completed and clear criminal reference checks will be filed in his/her personnel file. Criminal Reference checks with attachments and all 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, counseling or other services received since offence;
- 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 of other Board policies, collective agreements and legislation.

Consequences of Non-compliance

- 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 the Declaration, the Board will consider discipline up to and including discharge from employment.
- Employees who fail to submit either a Police Vulnerable Sector Check or an Offence Declaration by the required date may be subject to:
 - a) Suspension without pay until the Offence Declaration form is received;
 - b) Withdrawal of offer of employment; or
 - c) Discharge from employment.

POLICE VULNERABLE SECTOR CHECKS FOR SERVICE PROVIDERS

All Service Providers and employees of Service Providers who are identified by the Board as potentially coming into direct and regular contact with students must present a Police Vulnerable Sector Check Certificate or Identification Card prior to entering Board buildings.

Definitions

“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.

“Identification Card” means a wallet sized card valid for a three (3) year period issued by the Ontario Education Services Corporation to an individual who has been determined not to present an unacceptable risk to students, and who may attend school property and come into direct and regular contact with students.

Board staff will:

- a) 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 Vulnerable Sector 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 back ground 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 Vulnerable Sector 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 1st each year thereafter with respect to the Offence Declarations.

For the purposes 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 be deemed to 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 obtain or renew Identification Cards 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.”

- b) ensure that all Service Providers are in compliance with Regulation 521/01 before providing services to the Board.
- c) develop a procedure for regularly, updating the Service Provider list and informing new Service Providers about the requirements.
- d) develop a procedure for checking Identification Cards (and photo-identification) of Service Providers by school officials on a regular basis.

Consequences of Non-compliance

A Service Provider who fails to comply with the Police Vulnerable Sector Check requirements of the Board may be restricted from providing goods and/or services to the Board.

POLICE VULNERABLE SECTOR CHECKS FOR “OTHERS” HAVING DIRECT AND REGULAR CONTACT WITH STUDENTS

Effective September 1, 2005, all “other” service providers will be required to produce a valid OESC ID Card or an original Vulnerable Sector Search Summary of Police Information Check along with an identification card which clearly identifies them as an employee of the organization.

Included in this category are the following:

- a) trustees
- b) students attending university or college programs which require practicum or coop placements in schools
- c) St. John Ambulance
- d) Big Brothers and Big Sisters of Canada
- e) persons eighteen (18) years of age or over having direct and regular contact with students¹.
- f) Provincial Organizations that provide services to schools are required to provide some form of letter or certificate that confirms they are in compliance with the Regulations in accordance with their organizations’ standards and practice:

Including but not limited to:

1. Public Health Departments
 2. Community Care Access Centres and related service providers
 3. Children’s Mental Health Centres
 4. Day Nurseries
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5. Children's Aid Societies
6. Provincial School Authorities

SCHOOL VOLUNTEERS

Effective September 1, 2005 all current school volunteers [persons having direct and regular contact with students] will be required to provide to the Board, at their own expense, an original Police Vulnerable Sector Check.

All current school volunteers will provide to the Board an annual Offence Declaration in accordance with Regulation 521/01, as amended by Regulation 322/03.

(Appendix B – found on the Hamilton-Wentworth Catholic District School Board Website)

Board staff will:

- a) ensure that all "Others" are in compliance with Regulation 521/01, which came into effect as of September 1, 2005.
- b) develop a procedure for regularly, updating the "Others" list and informing new "Others" about the requirements.
- c) develop a procedure for checking Identification Cards (and photo-identification) of "Others" by school officials on a regular basis.

Retention

The Board shall retain in the Human Resources Department an original or a true copy taken from the original by the Board designate. Completed criminal reference checks for Board employees shall be placed in their personnel file. Completed criminal reference checks for volunteers will be filed in a locked and secured filing cabinet in the Human Resources Department together with all subsequent offence declarations for both employees and volunteers.

Consequences of Non-compliance

Any "Other" who fails to comply with the Police Vulnerable Sector Check requirements of the Board, which came into effect as of September 1, 2005 will be denied school access pending compliance.

RELATED BOARD COMMITTEE: Committee of the Whole

Policy Review Date

BM Original Policy Approved: 05 November 1996

Revisions: 01 October 2002, 07 June 2005, 05 June 2007, 02 June 2009, 04 June 2012,
06 May 2014, 01 February 2022

To be reviewed every three years

HAMILTON WENTWORTH CATHOLIC DISTRICT SCHOOL BOARD

POLICY MANUAL

EMERGENCY PROVISION –VULNERABLE SECTOR CHECK
LETTER OF AGREEMENT
BETWEEN
(insert person’s name)
(the employee)
and
HAMILTON-WENTWORTH CATHOLIC DISTRICT SCHOOL BOARD
(the Board)

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

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

The parties hereby agree:

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

2. This agreement is made at _____ this _____ day of _____ .

For the Board

(insert person’s name)

HAMILTON-WENTWORTH CATHOLIC DISTRICT SCHOOL BOARD
OFFENCE DECLARATION

PLEASE PRINT

Surname	First Name	Middle Name(s)	Date of Birth		
			YYYY	MM	DD
Volunteer – School Name					

I DECLARE, 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, that (please check one box):

I have no convictions under the Criminal Code of Canada up to and including the date of declaration for which a pardon has not been issued or granted under the Criminal Records Act (Canada).

OR

I have the following criminal 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. a) Date: _____

b) Court Location: _____

c) Conviction: _____

2. a) Date: _____

b) Court Location: _____

c) Conviction: _____

3. a) Date: _____

b) Court Location: _____

c) Conviction: _____

(Use additional page if necessary)

DATED at _____ this _____ day of _____ 20____.

Signature