

**JAMES BAY LOWLANDS
SECONDARY SCHOOL
BOARD**

**ADMINISTRATIVE PROCEDURE
HUMAN RESOURCES NO. 406**

Effective	August 21, 2019
Last Revised	August 15, 2023

**COLLECTION OF PERSONAL INFORMATION:
CRIMINAL BACKGROUND CHECK**

PURPOSE

The James Bay Lowlands Secondary School Board has the responsibility, under the *Education Act*, of providing a safe and secure working and learning environment for students and staff members. 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.

This administrative procedure implements Ontario Regulation 521/01 Collection of Personal Information. It has been developed to describe the requirement for every prospective and current employee of the Board and for anyone who has direct and regular contact with students to provide a satisfactory criminal background check. This procedure also outlines the process to be followed when a current staff member has a criminal conviction.

DEFINITIONS

Police Vulnerable Sector Check: This 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: Offence declaration means 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 a Police Vulnerable Sector Check collected by the Ontario College of Teachers (OCT) or in the last Vulnerable Sector 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.

Identification Card: An identification card is a wallet-sized card, issued by Ontario Education Services Corporation (OESC), for a 12-month period (one school year) to an individual service provider who has been determined to be an acceptable subject who may attend school property and come in direct and regular contact with students.

Service Provider: A service provider is 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;
- b) carrying out their employment functions as an employee of a person who provides goods or services under contract with the board; or
- c) providing services to a person who provides goods or services under contract with the Minister of Education.

PROCEDURES

1. Commitments

1.1. The James Bay Lowlands Secondary School Board will not hire into its employ or continue to employ persons who have police records and/or patterns of behaviour which place students or staff at risk.

1.2. The James Bay Lowlands Secondary 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; or
- who have not provided an acceptable Offence Declaration Affidavit.

2. Police Vulnerable Sector Checks for Employees

2.1. All current employees will provide to the Board an annual Offence Declaration in accordance with Regulation 521/01 Collection of Personal Information

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

3. Requirements

The *Collection of Personal Information Regulation* requires the James Bay Lowlands Secondary School Board to do the following:

3.1. Current Employees

- a) Current employees are required to provide to the Board an Offence Declaration annually each year in which the Board employs the individual. The Offence Declaration must be presented at the beginning of each new school year.
- b) Occasional supply staff will be treated in the same manner as permanent employees.

3.2. 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 (dated within six (6) months of the date of submission) before the day the individual commences employment with the Board.
- b) For permanent employees, the original Police Vulnerable Sector Check will be delivered in person or forwarded in a sealed envelope marked "confidential" to the finance and human resources administrator. Where a Police Vulnerable Sector Check must be returned to an applicant, the original must be presented to the finance and human resources administrator. The Police Vulnerable Sector Check will be photocopied, if necessary, and will be verified for authenticity by the finance and human resources administrator.
For occasional supply staff, the school administration must be presented with the original Vulnerable Sector Check and a photocopy will be sent to the Board office.
- c) Police Vulnerable Sector Checks must be obtained through the Ontario Provincial Police on-line system. This process will generally require applicants to complete an on-line application 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) months 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 they:

- have 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;
 - have made a false declaration in the application;
 - declined to provide a verification of criminal record as required by Board procedures; the Finance and Human Resources Administrator or designate will withdraw the Board's conditional offer of employment.
- f) The Board shall collect an 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 by the end of September, the Board shall issue a memo to all staff members to complete and submit to the Board office their Offence Declaration.**

Emergency Provision

- g) Normally, a candidate shall not commence employment with the Board until a current verification of their 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.
- h) 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 Offence Declaration provided by the employee prove to be false or misleading in any respect.

3.3. 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 the employee's personnel file. Criminal reference checks with attachments and all offence declarations will be filed in a separate and secure location.

3.4. 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 the offence(s)

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- 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 the offence(s)
 - e) any treatment, counseling, or other services received since offence
 - f) other steps taken to rehabilitate
 - g) any likelihood the offence(s) will be repeated
 - h) if alcohol or illegal drugs were a factor in the commission of offence(s)
 - i) the degree of co-operation with this investigation
 - j) if the offence(s) were committed while employed by the Board
 - k) if the employee is a teacher, the relevance of offence(s) to teacher duties as set out in the *Education Act* and Regulations
 - l) if the employee is not a teacher, the relevance of offence(s) to their employment duties
 - m) whether the offence(s) require any action pursuant to the *Ontario Protecting Students Act 2016*, (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.

3.5. Consequences of Non-compliance

- a) 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.
- b) Employees who fail to submit either a Police Vulnerable Sector Check or an Offence Declaration by the required date may be subject to:
 - suspension without pay until the Offence Declaration form is received
 - withdrawal of the offer of employment
 - discharge from employment

4. 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 providing service.

4.1. Action Required

- a) 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 521/01 Collection of Personal Information under 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 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 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 the first academic school day 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 a CPIC for every individual or employee who may come into direct contact with pupils on a regular basis prior to the occurrence of such possible direct contact.”

- b) Board staff will:

- ensure that all service providers are in compliance with Regulation 521/01 before providing services to the Board;
- develop a procedure for regularly updating the service provider list and informing new service providers about the requirements; and
- develop a procedure for acquiring CPICS checks, Identification Cards (and photo-identification) of service providers by school officials on a regular basis.

4.2. 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.

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

- a) All “other” service providers will be required to produce an original Vulnerable Sector Search Summary of the Police Information Check. Examples of this category are:
- trustees
 - persons eighteen (18) years of age or over having direct and regular contact with students
- b) It is understood that staff members in most charitable organizations that provide services to schools have already undergone criminal record checks. The Board will seek confirmation that they are in compliance with the Regulations in accordance with their organizations’ standards and practice. These organizations include but are not limited to:
- Public Health Departments
 - Community Care Access Centres and related service providers
 - Children’s Mental Health Centres
 - Day Nurseries
 - Children’s Aid Societies
 - Provincial School Authorities

6. SCHOOL VOLUNTEERS

- 6.1. All current school volunteers (persons having direct and regular contact with students), if they are in the school in a role that is not directly supervised by a Board staff member, will be required to provide to the Board, at their own expense, an original Police Vulnerable Sector Check.
- 6.2. All current school volunteers, if they are in a role that is not directly supervised by a Board staff member, will provide to the Board an annual Offence Declaration in accordance with Regulation 521/01 Collection of Information.

6.3. Action Required

Board staff will:

- a) ensure that all “Others” are in compliance with Regulation 521/01 Collection of Personal Information.
- b) develop a procedure for regularly updating the “Others” list and informing new “Others” about the requirements.

- c) develop a procedure for checking the CPIC of “Others” by school officials on a regular basis.

6.4. Retention

The Board shall retain in the Board office 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.

6.5. Consequences of Non-compliance

- 6.6. Any “Other” who fails to comply with the Police Vulnerable Sector Check requirements of the Board will be denied school access pending compliance.

REFERENCE DOCUMENTS

Legal:

Education Act, section 170 (1) 12.1 Offences under the Criminal Code
Ontario Regulation 521/01 Collection of Personal Information: Criminal background check
Ontario College of Teachers Act Part IV Investigation Committee
Criminal Code of Canada
Occupational Health and Safety Act
Controlled Drugs and Substances Act
Narcotic Control Act
Food and Drugs Act
Municipal Freedom of Information and Protection of Privacy Act
Ontario Protecting Students Act 2016

Board:

Board Policy GOV-02 Role of the Corporate Board
Board Policy GOV-03 Role of the Supervisory Officer
Board Policy GOV-08 Staff Recruitment and Selection
Administrative Procedure 405 Staff Recruitment and Selection
Administrative Procedure 470 Security of Personal Staff Information
Collective Agreements and Personal Services Contracts

EMERGENCY PROVISION – VULNERABLE SECTOR CHECK LETTER OF AGREEMENT
BETWEEN

(insert person's name)

and

James Bay Lowlands Secondary School Board

WHEREAS the Board requires a Vulnerable Sector Check for new employees in accordance with the *Education Act* and Board procedures 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 _____

