

## **CRIMINAL REFERENCE CHECK POLICY**

It is our policy that the vulnerable sector check be one component of our overall selection criteria for all new employees.

### **Definitions**

**Police Record Check:** A search of entries that are held in police databases pertaining to a specific individual. There are two types of police record checks: **Criminal Reference Checks** and **Vulnerable Sector Checks**.

**Offence Declaration:** A written declaration signed by an individual that lists all of the individual's convictions for offences under the Criminal Code (Canada), if any, during the period specified in the declaration.

**A Vulnerable Sector Check:** An **enhanced** type of **police record check** and is required of individuals who would be in an employment or volunteer position of trust or authority over children or other vulnerable persons.

**Employee:** Any individual **who is paid** by the licensee to **provide a service** for the children and **may assist with the supervision** of children in the child care program is considered an employee for the purpose of vulnerable sector check requirements.

**Volunteers:** Any individual who is **engaged in the child care program** and **interacts** with children in care, but **is not paid** by the licensee, is considered a volunteer.

### **Duty to obtain**

We shall obtain a vulnerable sector check from:

- (a) every **employee, before** the person begins their employment; and
- (b) every **volunteer or student** who is on an educational placement, **before** the person begins interacting with children

**As exception,** we may **permit** a person who has **not provided** a vulnerable sector check **to start** their **employment or volunteer position**, or otherwise start interacting with children if:

- we required the person **to apply to obtain** a vulnerable sector check **as soon as** reasonably possible;

- **the length of time** required to obtain a vulnerable sector check **justifies it**; and
- we **put additional measures in place** to protect children who interact with the person until the vulnerable sector check is obtained e.g. the individual will be allowed to **work** with the children **only together with another staff** and will be **always supervised** while working with children; and we obtained **an offence declaration** from the individual

The vulnerable sector check is to be:

- conducted by a **police force**, and
- be prepared **no earlier than six months** before the day it is obtained

We will use one of the following as documentation to meet vulnerable sector check requirements:

- **original** of a vulnerable sector check;
- **true copy** of a vulnerable sector check (in hard copy or digital format);
- **a copy** of a vulnerable sector check for **a volunteer or student** (in hard copy or digital format);

We may obtain and retain **a copy (photocopy) of a volunteer's or student's police record check** to demonstrate compliance, **instead of the original** document, **except** that,

(a) if **more than six months** but **less than five years** have passed since the day the vulnerable sector check was performed, **the volunteer or student** must also provide **an offence declaration** that addresses the period since that day; and

(b) we will **not accept** a copy of a vulnerable sector **check if five or more years have passed** since the day it was performed and in this case, **the volunteer or student** must provide a **new vulnerable sector check or copy**

**A true copy** of a police record check is a **photocopy of the original** police record check that is **signed and dated** by the Principal to confirm that the original document was reviewed.

### **International Students**

A Canadian police force may not issue a police record check for an international student if they have not resided in the country long enough. In these cases, we may accept a **police record check** (original or copy) **conducted** by a police force in their **home country**.

The police record check must be conducted **less than 5 years** prior to the date obtained by us. Where the police record check is conducted more **than 6**

**months** before the date obtained by us, we shall also obtain **an offence declaration** addressing the period since the date of the police record check and speaking to offences under the Criminal Code (Canada).

Where the student needs time to obtain a police record check from their home country, we may permit, **as exception**, to begin his/her placement before a police record check is obtained, if **additional measures** are in place to protect children who interact with the student.

#### **Individuals under 19 years of age**

Person is **not required** to provide or obtain a vulnerable sector check or offence declaration if person is **under 18 years old**.

If a person **turns 18 years old** we shall obtain from the person, **within one month after** the person **turns 18 years old**, **a statement** that discloses every previous **finding of guilt** of the person under the Youth Criminal Justice Act (Canada), if the person received an adult sentence.

If a person **turns 19 years old** we shall require the person to apply to obtain a **vulnerable sector check** within **one month after** the person turns **19 years old**.

#### **Other persons at child care center**

Any person who provides child care or other services to a child who receives child care at the child care centre, other than an employee, volunteer or student.

We shall obtain:

(a) **an offence declaration** from the person; **or**

(b) **an attestation** from **the person's employer** or from the person or entity who retained the person's services that,

- the employer, person or entity has **obtained and reviewed a vulnerable sector check** from that person,
- **the vulnerable sector check** was **performed** within **the last five years**, and
- **the vulnerable sector check did not list any convictions** for any offences under the *Criminal Code* (Canada)

We shall obtain **the offence declaration or attestation**:

(a) **before** the person **begins interacting** with children and

(b) **every year thereafter, no later than 15 days after the anniversary date** of the most recent offence declaration or attestation, if the person continues to provide such child care or other services

### **Exception**

if any statute of Ontario or Canada **prohibits the disclosure** of information contained in **a vulnerable sector check** in respect of a person, the requirement in those sections may be met by obtaining **a criminal reference check**.

Where a police force **will not conduct a vulnerable sector check**, and will **only conduct a criminal reference check** for an individual, we will provide written evidence (e.g., email, fax, etc.) to that we tried to get confirmation from the police force that conducted the check that it will not issue a vulnerable sector check for that individual.

In this case, we will use one of the following as documentation to meet vulnerable sector check requirements:

- (a) **original** of a **criminal reference check**;
- (b) **true copy** of a **criminal reference check** (in hard copy or digital format); or
- (c) **a copy** of a **criminal reference check** for a **volunteer or student** (in hard copy or digital format).

### **Timing for New Criminal Reference Check and Offence Declaration**

We shall obtain, from each person from whom we previously obtained a vulnerable sector check,

- (a) **a new vulnerable sector check**, on or before **every fifth anniversary** after the date of the most recent vulnerable sector check; and
- (b) **a new offence declaration**, in **every calendar year except** a year in which a vulnerable sector check is obtained.

Each **offence declaration** shall address **the period** since the most recent offence declaration or vulnerable sector check and will be obtained **no later than 15 days** after the **anniversary** date of the most recent offence declaration or vulnerable sector check.

A person from whom we require to obtain a vulnerable sector check is required to provide **an offence declaration**, as soon as reasonably possible, **any time he or she is convicted** of an offence under the Criminal Code (Canada).

### **Break in Employment**

If our relationship with a person in respect of whom we **previously obtained** a vulnerable sector check **terminates and then subsequently resumes**, we shall obtain a **new vulnerable sector check or offence declaration** as follows:

- if our relationship was **terminated for six or more months**, we shall obtain **a new vulnerable sector check** from the person **before** the relationship resumes
- if the relationship was terminated for **less than six months** and, but for the termination, the person **provided** a vulnerable sector check or offence declaration **during the period of termination**, the licensee shall obtain from the person **such** vulnerable sector check or offence declaration **before** the relationship resumes

### **Procedures**

The Principal received **Human Rights Code Training** through a study program using resources available on the Commission's Website ([www.ohrc.on.ca](http://www.ohrc.on.ca)).

The potential employee is given **Consent to Disclosure form** and also Police Reference Check Program – **Information About the Vulnerable Sector Screening**, in order to be fully aware about the information available as a result of his/her contact with the Police Service.

The Principal will discuss and review with the potential employee both documents. The potential employee will sign the return slip that the he/she read Police Reference Check Program – Information About the Vulnerable Sector Screening.

Offence declaration will be submitted on approved form in due time and kept in separate file together with vulnerable sector check documents.

The Criminal Reference Check must be submitted in the final stages of a job offer.

If there will be a significant delay before the vulnerable sector check can be completed, a job offer will be conditional on a negative criminal reference check.

### **Past conduct**

No individual will be employed if:

1. The individual has been convicted of any of the following offences:

- An offence under Child Care and Early Years Act, 2014
- The individual has been convicted of any of the following offences:
  - Sexual interference
  - Child pornography
  - Duty of persons to provide necessities
  - Murder
  - Infanticide
  - invitation to sexual touching
  - sexual exploitation
  - sexual exploitation of person with a disability
  - bestiality
  - voyeurism
  - publication of intimate image without consent
  - parent or guardian procuring sexual activity
  - making sexually explicit materials available to a child
  - luring a child
  - agreement or arrangement sexual offence against a child
  - sexual assault
  - sexual assault with weapon, threats to a third party or bodily harm
  - aggravated sexual assault
  - abduction of person under 14
  - obtaining sexual services for consideration
  - obtaining sexual services for consideration from an individual under the age of 18
- Any other federal or provincial offence prescribed by the regulations.

2. The individual has been found guilty of professional misconduct under the Early Childhood Educators Act, 2007, the Ontario College of Teachers Act, 1996, the Social Work and Social Service Work Act, 1998 or another prescribed Act, and based on that finding,

- the individual's membership in the regulatory body established under that Act was revoked and the individual has not been readmitted since that time,
- a certificate or documentation issued to the individual under that Act that authorized the individual to practice was revoked and has not been reissued since that time, or

- the individual's authority to practice was restricted in any other way prescribed by the regulations.

We shall review vulnerable sector checks provided by prospective employees, volunteers and students to ensure that individuals have not been convicted of any of the above offences. If an individual has been convicted of the above offences, they are not permitted to provide care for children in either a paid or volunteer capacity.

We shall also review **membership status** of individuals who are members of the College of Early Childhood Educators, Ontario College of Teachers and/or Ontario College of Social Workers and Social Service Workers, **to ensure** that the individual **has not been found guilty** of professional misconduct.

Information about whether an RECE, Certified Teacher or Social Worker is in good standing with their professional college is available at:

[College of ECE Public Register](#)

[Ontario College of Teachers Find a Teacher](#)

[The Ontario College of Social Workers and Social Service Workers Online Register](#)

Individuals with **outstanding** Criminal Code Convictions or **charges pending**, for certain offences, **will not be accepted** for a **direct service** position with the children. These offences include, but are not necessarily limited to, the following:

- Physical or sexual assault;
- Current prohibitions or probation orders forbidding the individual to have contact with children under the age of 14;
- Offences under the Child and Family Services Act relating to abuse of children;
- Outstanding convictions or charges pending for any offence deemed violent, whether or not it involved weapons;
- Outstanding convictions or charges pending for criminal driving offences, including but not limited to impaired driving.

Individuals may be excluded from positions also as a result of other information gained during the vulnerable sector check process, and/or as a consequence of other factors identified through the screening process.

If the individual does not contact the Principal with the vulnerable sector check results within 4 weeks after request for vulnerable sector check was made, the offer may be revoked. If an individual has been working during the time period that the vulnerable sector check was being processed, she/he may be suspended or dismissed.

In case the potential employee returns the vulnerable sector check with the available information, the Principal is to review the vulnerable sector check and will determine the suitability of employee for the position he/she has applied for.

To ensure confidentiality and privacy of information, the vulnerable sector check and offence declaration is maintained in **confidential and secure files**. The application information and the vulnerable sector check as well as offence declaration are kept confidential and accessible only to the Principal.