

Procedure Title	Criminal Background Check - Employee		
Date of Issue	June 15, 2004	Related Policy	BP 7380-D
Revision Dates	November 2, 2011; September 5, 2012; February 27, 2013; October 30, 2013; November 8, 2017; December 21, 2022	Related Forms	AF 7384
Review Date		Originator	Administrative Council
References			
Criminal Records Act; Education Act; Ontario Regulation 521/01 "Collection of Personal Information"; Student Protection Act			

1.0 RATIONALE

- 1.1 Individuals who have been offered a conditional position of employment with Bluewater District School Board (BWDSB), will subscribe to the following set of procedures for criminal background searches. Ontario Regulation 521/01 prescribes that the board collect a personal criminal history of any individual who is an employee of the board. All other persons that are placed on an occasional list will have completed the requirements of the criminal background check procedure prior to their placement on the list.
- 1.2 The Criminal Records Act permits an authorized representative who is responsible for the well-being of children or vulnerable persons to request a search of the "Pardoned Sexual Offender Database".

2.0 DEFINITIONS

- 2.1 **Criminal Background Check:** Also known as a criminal record check, is a document concerning an individual that 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 board collects the document or a document that contains information concerning the individual's personal criminal history.
- 2.2 **Criminal Record Check and Judicial Matters Check – Level 2:** Criminal convictions from the Royal Canadian Mounted Police (RCMP) National Repository of Criminal Records (identification databank), Canadian Police Information Center (intelligence and investigation databank), and local police databases where applicant resides. Includes outstanding entries, such as charges and warrants, judicial orders, peace bonds, probation and prohibition orders, absolute and conditional discharges (one to three years) from local databases only. Summary convictions for five years.
- 2.3 **Offence Declaration:** 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, that are not included in a criminal background check collected by the Ontario College of Teachers (OCT), after December 31, 1998, or in the last criminal background check collected by the board under Regulation 521/01 for which a pardon has not been issued or granted.
- 2.4 **Personal Criminal History:** Information on criminal offences of which the individual has been convicted under the Criminal Records Act (Canada) and for which a pardon has not been issued or granted.
- 2.5 **Vulnerable Sector Check (limited to employees who are in a position of authority or trust relative to vulnerable individuals):** Documentation concerning an individual which was prepared by a police force or service from national data on the Canadian Police Information Centre (CPIC) and from local police service records, within six (6) months before the day the board collects the document and contains:

- a) information concerning the individual's personal criminal history,
- b) information resulting from a criminal record search of data maintained by the Royal Canadian Mounted Police for sexual offences for which a pardon has not been granted or issued.

3.0 PROCEDURE

3.1 CRIMINAL BACKGROUND CHECKS FOR EMPLOYEES

All current employees of Bluewater District School Board will provide in accordance with Ontario Regulation 521/01, a criminal background check.

All new employees seeking a position with vulnerable persons will be required to provide, at their own expense, an original vulnerable sector screening check prior to commencing employment.

3.2 REQUIREMENTS

Ontario Regulation 521/01 "Collection of Personal Information" requires Bluewater District School Board to:

3.2.1 Current Employees

- a) If the employee became a member of the Ontario College of Teachers (OCT) after December 31, 1998 and commenced employment with Bluewater District School Board before April 1, 2002, the board shall collect an offence declaration from the individual by September 1st of each year in which the individual is employed by the board after that day (this process commenced in 2002).
- b) If the employee commenced employment with Bluewater District School Board prior to April 1, 2002, and does not qualify as an employee as described in (a) the board shall:
 - i) collect a criminal background check (CPIC) for all individuals continuing to be employed by the board after July 31, 2003
 - ii) collect an offence declaration from the individual by September 1st of each year in which the individual is employed by the board (this process commenced in 2004).

3.2.2 New Employees

- a) The board shall collect an acceptable criminal background check (vulnerable sector screening) before the day the individual commences employment. All offers of employment are conditional on the applicant supplying an acceptable criminal background check. Bluewater District School Board shall collect an offence declaration from the employee by September 1 of each year in which the individual is employed after the initial year that employment commenced or when the individual is transferred.
- b) The application forms provide authorization for the police to search under the following categories of information:
 - i. Criminal records - adult
 - ii. Criminal records - young person
 - iii. Records of not guilty by reason of mental incompetence
 - iv. Charges pending under federal statutes
 - v. Pending charges under the child and family service act
 - vi. Records of convictions for offences under the child, youth, and family service act
 - vii. Liquor control act
 - viii. Pardoned sexual offender database
- c) The applicable police authority will conduct a search and provide the employee with clearance letters or forms based on nil reports. The individual will provide, to the Human Resources Services Department, the original report or a true copy of the original report (copy verified by a principal, office manager, or department supervisor).

- d) The process required for each specific Ontario Provincial Police (OPP) jurisdiction can be found in Appendix A: AP 7380-D (found as a separate document on the BWDSB website → Policies and Procedures section → under link to AP 7380-D).

3.3 EMERGENCY PROVISION

In exceptional circumstances it may be necessary for an individual to begin employment with the board before an acceptable criminal background check is collected. When an exceptional circumstance is identified the individual will be required to submit an offence declaration, pending the submission of an acceptable criminal background check. Before the exception can be made, an agreement shall be entered into between the employee and the board, ensuring that the verification will be provided without delay. In this agreement the board preserves the right to revoke the offer of employment if the information provided by the employee proves to be false or misleading in any respect, or if the background check is determined to be unacceptable.

3.4 EXEMPTIONS

The following groups of persons will be exempted from these procedures:

- a) Anyone under the age of 18
- b) Service Providers - see AP 7382-D "Criminal Background Check - Service Providers"

The board will work with students and their faculty of education to confirm criminal background check/vulnerable sector check.

3.5 RETENTION

The board will retain the original or a true copy taken from the original criminal background check by the board designated contact or designate. Completed criminal background checks and offence declarations will be filed in a separate and secure location in accordance with the BWDSB Classification and Retention Schedule.

3.6 ADJUDICATION

- 3.6.1 Where evidence is received of a criminal conviction, the designated board contact in Human Resources Services will consider at least the following factors in determining an appropriate course of action:

- a) length of time since offence(s);
- b) whether the offence(s) involved children and/or sexual activity and/or violence and/or acts of dishonesty;
- c) employment history;
- d) employee's attitude towards offence(s);
- e) treatment, counselling or other services received since offence;
- f) other steps taken to rehabilitate;
- g) likelihood offence(s) will be repeated;
- h) whether alcohol and/or illegal drugs were factors in the commission of offence(s);
- i) degree of co-operation with the investigation
- j) whether the offence(s) was committed while employed by the board;
- k) if 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) does/do offence(s) require any action pursuant to the Student Protection Act (including notification of the Ontario College of Teachers).

Applicants may have to submit fingerprints to the RCMP in order to have their records released.

- 3.6.2 Where a record does exist and based on the nature of the record, the applicant will be interviewed by the superintendent of education responsible for Human Resources Services, or designate, to determine the applicants suitability for employment with the board, with specific reference to the adverse information resulting from the criminal background check.

- 3.6.3 The course of action resulting from the interview may include:
- a) a decision to grant clearance which will be confirmed in writing;
 - b) action up to and including dismissal, and/or withdrawal of offer, and shall be in compliance with other board policies, collective agreements and legislation.
 - c) where an applicant with a record of criminal offences withdraws their application or resigns their position with the board, such records and related letters/forms will be returned to the applicant or former employee, and this information will not be retained in any board files.

3.7 OFFENCE DECLARATIONS FOR EXISTING EMPLOYEES

- 3.7.1 All current or existing employees will provide an offence declaration form (online (preferable) or using AF 7384) by September 1 of each and every school year.
- 3.7.2 Offence declaration forms will be available to all current or existing employees each year during the month of May by:
- a) an electronic format that will be available in the BWDSB K212 Employee Portal
- OR
- b) by completing a paper copy of the AF 7384 "Offence Declaration Form" that will be available in each school or board location
- 3.7.3 To ensure that an offence declaration form is processed prior to September 1 of each school year the form must be completed and forwarded to the Human Resources Services Department by May 31 of each year.

3.8 CONSEQUENCES OF NON-COMPLIANCE

- 3.8.1 Current employees who fail to provide a criminal background check, in compliance with Regulation 521/01, will be suspended without pay pending submission of the criminal background check.
- 3.8.2 Current employees who fail to provide a signed offence declaration by the date prescribed will be suspended without pay until the form is submitted.
- 3.8.3 All offers of employment for new employees with the board shall be conditional upon the applicant supplying an acceptable criminal background check.