

# Student Protection Policy

**Effective Date: June 1, 2021**

## 1. Policy Statement

This policy outlines measures to ensure the safety and security of all students, while interacting with or under the care of teachers and other designated employees in the public education system.

## 2. Definitions

**break in service:** A period of more than three consecutive calendar months during which a person, who was an employee of a Regional Centre for Education (RCE) or the Conseil scolaire acadien provincial (CSAP), is not employed by the RCE/CSAP. An approved leave of absence is not considered a break in service.

**Child Abuse Register Search:** A search of the Nova Scotia Child Abuse Register conducted in accordance with the *Children and Family Services Act* (Nova Scotia 1990).

**criminal offence:** An offence under the *Criminal Code* (Canada 1985), the *Controlled Drugs and Substances Act* (Canada 1996), or an offence under the criminal law of a competent jurisdiction outside of Canada in which the offence occurred.

**designated employee:** Any individual in, or applying for, a position designated as a position of trust or authority and, in accordance with the regulations, requires prescribed record checks as a condition of employment, or ongoing employment, by a Regional Centre for Education (RCE) or the Conseil scolaire acadien provincial (CSAP).

**direct contact:** Physical or verbal interaction, or personal and sustained written or electronic interaction.

**Offence Declaration:** A declaration by an employee, in the prescribed form, in respect of whether the employee has a conviction for a criminal offence.

**position of authority:** A position in which an individual's role or responsibilities give them power or influence over a student.

**position of trust:** A position held by an individual with fiduciary responsibility for a student, or in which an individual's role or responsibility may reasonably cause a student to believe that they are under the individual's protection, care, or control.

**signature:** A written or electronic signature or other manner of identification in a form approved by the Minister.

### 3. Policy Objectives

This policy outlines the requirements for record checks, annual declarations, immediate disclosures, and related processes as described in the *Education Act* (Nova Scotia 2018a) and *Ministerial Education Act Regulations* (Nova Scotia 2018b).

### 4. Guiding Principles

- The Department of Education and Early Childhood Development (EECD), the Regional Centres for Education (RCEs), and the Conseil scolaire acadien provincial (CSAP) have a responsibility to provide safe and secure learning environments for students.
- The safety and security of students is the first and foremost consideration in considering suitability for employment.
- Regular checks help ensure designated employees meet safety and security standards needed to lead or support school activities and provide safe and secure learning environments.
- EECD, RCEs, and CSAP respect the privacy of all employees and will ensure that private personal information is appropriately maintained.

### 5. Application

This policy applies to all employees and prospective employees of RCEs and CSAP.

The directives outlined in this policy replace directives in existing policies covering the same issue.

### 6. Policy Directives

#### Pre-employment

- 6.1 All applicants who will hold a position of trust or authority must provide the necessary record checks, in accordance with the *Student Protection Policy Administrative Procedures*.
- 6.2 All applicants who will not hold a position of trust or authority but have a reasonable expectation of direct contact with students, must provide the necessary record checks in accordance with the *Administrative Procedures*.
- 6.3 Pre-employment record checks and any additional information requested will become the property of the RCE/CSAP and will not be forwarded to any other institution or individual except to the extent required or permitted by law.

#### Offers of Employment

- 6.4 All offers of employment must be conditional upon there being no outstanding criminal charges or prior convictions that reasonably indicate that the candidate could pose a threat to
  - 6.4.1 students;
  - 6.4.2 other employees;
  - 6.4.3 property and equipment; or
  - 6.4.4 government's legitimate interest in public trust in the education system

- 6.5 The final determination concerning suitability of prospective employment shall be made by the Director of Human Resources (HR) in consultation with legal counsel, when necessary.

#### **Annual Offence Declaration**

- 6.6 In all cases, except when on an approved leave of absence or in other unique circumstances, employees are required to complete, annually, an Offence Declaration form attesting to the fact that they have not, in the past year or since the completion of a previous declaration, received a criminal conviction for which a pardon has not been granted.
- 6.7 Employees who fail to submit, or submit falsified Offence Declaration forms, may be subject to disciplinary action up to and including termination.

#### **Immediate Disclosure**

- 6.8 All employees must immediately disclose to their employer any charge or conviction for a criminal offence. If the criminal offence occurs outside of Canada, it should be reported if the charge or conviction would also be considered criminal activity in Canada.
- 6.9 Immediate disclosure is to occur within seven days of the employee becoming aware of the conviction(s) or immediately following a
- 6.9.1 break in service;
  - 6.9.2 approved leave of absence; or
  - 6.9.3 break in the school year (e.g., summer holidays).
- 6.10 Employees who fail to immediately disclose to their employer any charge or conviction for a criminal offence, may be subject to disciplinary action up to and including termination.

#### **Criminal Record Check Renewal**

- 6.11 All designated employees will be required to update their Criminal Record Check (CRC) every five years, pursuant to a schedule created and maintained by the Regional Centre for Education (RCE) or Conseil scolaire acadien provincial (CSAP).
- 6.12 Designated employees who fail to comply with the CRC renewal process may be subject to disciplinary action, up to and including termination.

#### **Disclosure Follow-up**

- 6.13 In all cases where there is a charge or conviction immediately disclosed, or indicated on a CRC or Offence Declaration, the RED/Superintendent or designate shall review the suitability of the employee for ongoing employment, given the charge or conviction.
- 6.14 When appropriate, the RED/Superintendent or designate, in consultation with the Director of HR, will arrange an in-person follow-up meeting with the employee.
- 6.14.1 The follow-up meeting is to take place within a reasonable timeframe based on the severity of the charge or conviction.
- 6.15 Where areas of concern are identified, the final decision concerning suitability of continued employment shall be made by the RED/Superintendent or designate, in consultation with the Director of HR and when necessary, legal counsel.

- 6.15.1 Any disciplinary action determined will be in accordance with processes established in collective agreements or terms and conditions of employment.
- 6.15.2 Follow-up considerations, discussions, and records of decision will be documented and retained in accordance with Records Management directives, as outlined in 6.16 and the *Administrative Procedures*.

### Records Management

- 6.16 All records collected by the RCE or CSAP as a condition of pre-employment and ongoing employment, will be retained according to a prescribed disposition schedule and stored in a confidential and secured location, in accordance with
  - 6.16.1 *Government Records Act* (Nova Scotia 1995),
  - 6.16.2 *Public Archives Act* (Nova Scotia 1998),
  - 6.16.3 *Freedom of Information and Protection of Privacy Act* (Nova Scotia 1993a) and *Regulations* (Nova Scotia 1993b),
  - 6.16.4 *Nova Scotia Records Management Policy* (Nova Scotia Treasury and Policy Board ND),
  - 6.16.5 *Nova Scotia Privacy Policy* (Nova Scotia Treasury and Policy Board 2018), and
  - 6.16.6 *Managing a Privacy Breach: Protocol and Forms* (Nova Scotia Department of Internal Services 2017).

## 7. Roles and Responsibilities

### The Department of Education and Early Childhood Development is responsible for

- developing the *Student Protection Policy* and *Administrative Procedures*, in support of the *Education Act* and *Ministerial Education Act Regulations*
- reviewing the *Student Protection Policy* regularly
- communicating the *Student Protection Policy* to unions, professional associations, and RCEs and CSAP

### Regional Centres for Education and Conseil scolaire acadien provincial are responsible for

- implementing the *Student Protection Policy* and *Administrative Procedures* for all schools and work sites under its management and control
- distributing this policy to those employed and served by the RCE/CSAP, as well as making the policy available for school community members, ensuring that personnel understand their roles and responsibilities related to the policy
- ensuring the availability of resources required to fulfil the directives within the policy
- supporting schools, offices, and other work sites to educate all employees during the implementation of the *Student Protection Policy*
- adhering to Freedom of Information and Protection of Privacy (FOIPOP) in terms of access to information requests and ensuring the privacy of personal information in compliance with the *FOIPOP Act* and applicable employment terms and conditions

- adhering to the provincial *Privacy Breach Protocol*, released by the Department of Internal Services, addressing a possible breach of employee personal information
- monitoring compliance with the *Student Protection Policy* for all schools, work sites, and other users within their RCE/CSAP

#### **Regional Executive Directors of Education/Superintendent are responsible for**

- determining appropriate follow-up and conducting disclosure follow-up, as required
- determining disciplinary action for employees who fail to submit or falsify prescribed checks, declarations, or disclosures

#### **Principals, Vice Principals, and other supervisors and administrators participating in the selection process (e.g., coordinators, directors) are responsible for**

- notifying candidates of the requirement for and fulfillment of pre-employment conditions, including the completion of any required record checks

#### **Human Resource Directors are responsible for**

- making the final determination regarding suitability of prospective employment
- determining candidate and employee suitability for employment
- monitoring the schedule of employee record checks
- notifying employees of the need to renew and re-submit record checks for ongoing employment
- determining, in consultation with the RED/Superintendent as needed, disciplinary action for employees who falsify record checks or fail to submit record checks
- determining appropriate follow-up and conducting disclosure follow-up, as required
- ensuring appropriate management of employee personal information

#### **Regional Centres for Education and Conseil scolaire acadien provincial employees are responsible for**

- providing prescribed record checks as a condition of employment
- renewing and re-submitting prescribed record checks as a condition of ongoing employment
- immediately disclosing any charge or conviction for a criminal offence to their employer
- completing an annual Offence Declaration form pursuant to direction from their employer

## **8. Monitoring**

Department of Education and Early Childhood Development (EECD) staff will be responsible for monitoring this policy regularly. As part of the annual review, EECD staff will recommend amendments to the policy, as needed.

## 9. References

- Canada. 1985. *Criminal Code*. RSC, c. C-46. <https://laws-lois.justice.gc.ca/eng/acts/c-46/>.
- . 1996. *Controlled Drugs and Substances Act*. SC, c. 19. <https://laws-lois.justice.gc.ca/eng/acts/c-38.8/>.
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- . 1995. *Government Records Act*. SNS, c. 7. <https://nslegislature.ca/sites/default/files/legc/statutes/government%20records.pdf>.
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- . 1998. *Public Archives Act*. SNS, c. 24. <https://nslegislature.ca/sites/default/files/legc/statutes/public%20archives.pdf>.
- . 2018a. *Education Act*. SNS, c. 1. <https://nslegislature.ca/sites/default/files/legc/statutes/education.pdf>.
- . 2018b. *Ministerial Education Act Regulations*. SNS, c. 1. <https://novascotia.ca/just/regulations/regs/admin.htm>.
- . Nova Scotia Department of Education and Early Childhood Development. 2021. *Student Protection Policy Administrative Procedures*. Halifax, NS: Province of Nova Scotia. [add link when available]
- Nova Scotia Department of Internal Services. 2017. *Managing a Privacy Breach: Protocol and Forms [Privacy Breach Protocol]*. Halifax, NS: Province of Nova Scotia.
- Nova Scotia Treasury and Policy Board. 2018. "Chapter 4.11: Privacy Policy." *Common Services Manual*. Halifax, NS: Province of Nova Scotia. <https://novascotia.ca/treasuryboard/manuals/PDF/300/30411-03.pdf>.
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