

Student Protection Administrative Procedures

Procedure Type: Provincial

Regional

Effective Date: Upon implementation of the *Student Protection Policy*

1. Purpose

These procedures outline how the *Student Protection Policy* will be implemented in the Regional Centres for Education (RCEs) and Conseil scolaire acadien provincial (CSAP).

2. Definitions

break in service: A period of more than three consecutive calendar months during which a person, who was an employee of an RCE or the 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 an RCE or the 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. Administrative Procedures

3.1 Pre-Employment

- 3.1.1 Upon extending an Offer of Employment to an applicant for a position that is designated as being a position of trust or authority, the Director of Human Resources, or designate, must notify the candidate of their requirement to complete the following:
- a. **Child Abuse Register Search**
Provide the RCE/CSAP with a current (no greater than six months preceding employment offer) Child Abuse Register Search; and
 - b. **Vulnerable Sector Check**
Provide the RCE/CSAP with a current (no greater than six months preceding employment offer) Vulnerable Sector Check, which includes a Criminal Record Check.
- 3.1.2 Upon extending an Offer of Employment to an applicant for a position that is not designated as being a position of trust or authority but has a reasonable expectation of direct contact with students, the Director of Human Resources, or designate, must notify the candidate of their requirement to complete the following:
- a. **Child Abuse Register Search**
Provide the RCE/CSAP with a current (no greater than six months preceding employment offer) Child Abuse Register Search; and
 - b. **Criminal Record Check**
Provide the RCE/CSAP with a current (no greater than six months preceding employment offer) Criminal Record Check.
- 3.1.3 Pre-employment checks will be physically received (or electronically accessed, depending on submission process) by the Director of Human Resources, or designate, and placed in the appropriate file.
- 3.1.4 The Director of Human Resources, when authorized by the applicant, may choose to create a copy of an original record check to be retained in the appropriate file and return the original record check directly to the applicant.
See 3.7 for additional Records Management considerations.
- 3.1.5 Applicants who are Canadian citizens or who hold landed immigrant status in Canada must provide the prescribed record checks from Canada. All other applicants must provide the equivalent prescribed record checks from their country of citizenship and country of residence, as well as the prescribed checks from Canada.
- 3.1.6 If an applicant is found to have a criminal record during the pre-employment phase, the Director of Human Resources will notify the Regional Executive Director of Education (RED)/ Superintendent or designate. The RED/Superintendent, or designate, will take the following into consideration, while determining whether the candidate can be employed:
- a. the risk that the potential employee poses to students, employees, and/or property and equipment;
 - b. the specific employment and volunteer (if applicable) duties and responsibilities of the position in question and the relevance of the criminal charges or convictions;

- c. the length of time since the charges and/or convictions;
 - d. the individual's employment history, including their work record and accomplishments since the time of the offence; and
 - e. such other factors as are deemed appropriate under the circumstances.
- 3.1.7 Pre-employment considerations and records of decision will be documented and retained in accordance with Records Management directives, as outlined in 3.7.
- 3.1.8 Conditions of employment will be fulfilled when the Director of Human Resources receives confirmation that the candidate does not appear in the Child Abuse Register or have an entry under the Vulnerable Sector Check or Criminal Record Check, or when a determination is made that the candidate can be employed per 3.1.6. The Director of Human Resources, or designate, will be responsible for informing the Principal or Supervisor and the Principal, supervisor, or designate will notify the candidate of completed requirements.
- 3.1.9 When transitioning from a role/function not designated as a position of trust or authority to another role/function that is designated as a position of trust or authority, without a break in service, employees will not be permitted to perform the new role/function until confirmation is received that that the candidate does not appear in the Child Abuse Register or have an entry under the Vulnerable Sector Check or Criminal Record Check.
- 3.1.10 Third-party contractors procured by an RCE/CSAP to provide a service that would otherwise be provided by an RCE/CSAP employee (e.g., bus drivers) must ensure that any employee contracted to a designated employee role adheres to the same record check requirements as RCE/CSAP employees.
- 3.1.11 Third-party contractors who provide services for a limited period of time (e.g., conducting maintenance or repairs at a school or work site) are encouraged to conduct record checks of their employees as a pre-condition to working in a school or work site and/or in proximity to students. In cases where a record check is not possible, or where there is a possibility that a third party contractor would have a criminal offense(s) on their records check, the RCE/CSAP must ensure that the contractor is not left unaccompanied while on school or work site grounds, and must not provide access that could reasonably result in direct contact with a student. This could be negotiated as part of the contract with the third-party vendor. Please see the Volunteer Background Check Policy (Nova Scotia Department of Education and Early Childhood Development 2021b) for additional detail.

3.2 Returning to Work

Breaks in Service

- 3.2.1 All designated employees that experience a break in service will be required to re-submit their Child Abuse Register and Vulnerable Sector checks at the time of their application for re-employment. Upon receiving confirmation that the employee does not appear in the Child Abuse Register or have an entry under the Vulnerable Sector Check, the employee will be notified and a return to service date will be determined.

Temporary Transfers

- 3.2.2 Employees on temporary transfer to another RCE/CSAP or the Department of Education and Early Childhood Development will not be required to renew their Child Abuse Register Search and Vulnerable Sector Check upon return to their employing RCE/CSAP, as long as the transfer term and return are consecutive.

Leaves of Absence

- 3.2.3 The Director of Human Resources will determine the appropriate process, for employees returning from a period of paid or unpaid leave of longer than two years, to re-submit their Child Abuse Register and Vulnerable Sector checks, and other record check requirements, within a reasonable timeframe upon returning to work.

3.3 Offence Declaration

- 3.3.1 Employees will be notified of their need to complete an Offence Declaration by the Director of Human Resources or designate.
- 3.3.2 After being notified of their need to complete an Offence Declaration, active employees will have 60 days to submit the declaration to the Director of Human Resources. Employees experiencing an approved leave of absence, long term disability leave, or break in the school year (e.g., summer holidays) will have 60 days to submit the declaration upon return.
 - 3.3.2.1 Offence Declarations will only be requested and collected when the employee is present and working.
- 3.3.3 Offence Declarations will be retained in accordance with the Records Management directives outlined in 3.7.
- 3.3.4 Employees who fail to submit or submit falsified Offence Declarations, may be subject to disciplinary action in accordance with processes established in collective agreements or terms and conditions of employment.

3.4 Immediate Disclosure

- 3.4.1 Employees who are charged or convicted of a criminal offence must submit an Immediate Disclosure Report to the Director of Human Resources within seven days of the becoming aware of the charge(s) or conviction(s) or immediately following a break in service, approved leave of absence, or break in the school year (e.g., summer holidays).
- 3.4.2 The Director of Human Resources will be responsible for informing the RED/Superintendent.
 - 3.4.2.1 For employees that remain employed but are not active/on-site during the summer months, disclosure must be submitted within the first seven days of the school year.

- 3.4.3 Immediate disclosure reports are to be submitted to the Director of Human Resources and include, at a minimum:
 - a. the date of conviction or charge;
 - b. the location of the court proceedings; and
 - c. a list of the specific offence(s) for which the employee has been charged or convicted and not granted a record suspension (pardon).
- 3.4.4 The Director of Human Resources will retain a copy of the Immediate Disclosure Report in the appropriate file, in accordance with Records Management directives, as outlined in 3.7.

3.5 Criminal Record Check (CRC) Renewal

- 3.5.1 Education entities will create and maintain a schedule that ensures:
 - a. all current employees in designated positions update their CRC in accordance with the schedule set out by the RCE/CSAP;
 - b. all current employees in designated positions update their CRC every five years, and
 - c. all new employees hired in designated positions update their CRC every five years, subsequent to the checks performed during pre-employment.
- 3.5.2 Designated employees will be notified of their requirement for CRC renewal by the Director of Human Resources or designate. Employees must provide the renewed CRC to the Director of Human Resources or designate within 90 days of receiving notification.
 - 3.5.2.1 CRC renewals will only be requested and collected when the employee is present and working.
 - 3.5.2.2 If a designated employee is unable to receive a CRC renewal, through no fault of their own, alternate arrangements may be made if evidence of being denied the CRC renewal is provided to the Director of Human Resources.
- 3.5.3 A copy of the updated CRC will be retained in the appropriate file, in accordance with Records Management directives, as outlined in 3.7.
- 3.5.4 Designated employees that fail to submit a renewed CRC may be subject to disciplinary action in accordance with processes established in collective agreements or terms and conditions of employment.

3.6 Disclosure Follow-Up

- 3.6.1 In all cases where there is a criminal record, the Director of Human Resources or designate shall review the circumstances disclosed in the criminal record, or disclosed incident, and consider the following factors, where applicable:
 - a. the risk that the potential employee poses to students, employees, and/or property and equipment;
 - b. the specific employment and volunteer (if applicable) duties and responsibilities of the position in question and the relevance of the criminal charges or convictions;
 - c. the length of time since the charges and/or convictions;

- d. the individual's employment history, including their work record and accomplishments since the time of the offence; and
 - e. such other factors as are deemed appropriate under the circumstances.
- 3.6.2 Final decisions concerning suitability of continued employment will be made by the RED/ Superintendent or designate within a reasonable timeframe based on the severity of the charge or conviction and will be in accordance with processes established in collective agreements or terms and conditions of employment.
- 3.6.3 The employment considerations and record of decision outlined in 3.6.2 will be documented and retained in each appropriate file, in accordance with Records Management directives, outlined in 3.7.

3.7 Records Management

Security and Maintenance

- 3.7.1 Retained records and any and all copies must be confidentially maintained with a high degree of security to avoid unauthorized access, collection, use, alteration, duplication, disclosure, displacement, or disposal.

Access to Records

- 3.7.2 Personal information must be appropriately retained and accessible only to the RED/ Superintendent, Director of Human Resources, or designate, who require access to the information for the purpose of determining the suitability of initial or ongoing employment. The Director of Human Resources will ensure that
- a. employee personal information in paper format will be stored securely and protected against unauthorized access; and
 - b. employee personal information in electronic format will be password-protected and have adequate controls in place to ensure the confidentiality, integrity, and availability of information to specified users only.

Privacy Breach

- 3.7.3 RCEs and CSAP shall adhere to the provincial [Privacy Breach Protocol](#), released by Information Access and Privacy Services within the Department of Internal Services. The *Privacy Breach Protocol* will guide RCEs and CSAP through the decision making and documentation that is required in response to a breach of employee personal information.
- 3.7.4 Employees who contribute to the circumstances of a privacy breach, as described in the *Privacy Breach Protocol's* "Consideration Table," may be subject to disciplinary action in accordance with processes established in collective agreements or terms and conditions of employment.

Disclosure

- 3.7.5 Employee record check information will not be disclosed for reasons other than determining the suitability of initial or continued employment, unless the employee has consented in writing to its disclosure.

Format Conversion

- 3.7.6 If it is deemed practicable to convert records in paper format to an electronic format, or from an electronic format to a paper format, the Director of Human Resources will ensure appropriate confidentiality, integrity, and accessibility is maintained throughout the conversion process.

Retention

- 3.7.7 The following record check information is to be appropriately filed and retained:
- a. pre-employment checks, considerations, and records of decision for successful applicants;
 - b. pre-employment checks, considerations, and records of decision for unsuccessful applicants;
 - c. re-submitted checks, following a break in service;
 - d. Offence Declarations;
 - e. Immediate Disclosure Reports; and
 - f. disclosure follow-up, employment considerations, and records of decision.

Authorized disposal process

- 3.7.8 All retained records will have appropriate disposition assigned:
- a. For 3.7.7 (a), (c), (d), and (e), appropriate disposition will be 7 years.
 - b. For 3. 7.7 (b), appropriate disposition will be a minimum of 36 months.
 - c. For 3. 7.7 (f), records of decision, disclosure follow-up, and employment considerations are to be retained for the life of the file.
- 3.7.9 Proper signatures will be obtained prior to the disposal of records.
- 3.7.10 Disposal of records containing employee personal information will be carried out using secure methods, such as shredding.

4. Communication and Distribution

- 4.1 RCEs and CSAP will distribute the approved *Student Protection Policy* and associated *Administrative Procedures* to all employees, as well as make the policy available online for school community members via their respective websites.
- 4.2 RCEs and CSAP will ensure that staff, school administration, and other school community members will receive notification when new or revised procedures have been updated online.

5. Authority/Reference

- 5.1 *Education Act* (Nova Scotia 2018a)
- 5.2 *Ministerial Education Act Regulations* (Nova Scotia 2018b)
- 5.3 *Student Protection Policy* (Nova Scotia 2021a)

6. Monitoring

- 6.1 EECD and RCEs and CSAP are responsible for the implementation, monitoring, and revision of the *Administrative Procedures*.
- 6.2 The *Administrative Procedures* will be reviewed regularly and revised as needed to reflect changing circumstances and/or conditions.

7. References

Canada. 1985. *Criminal Code*. RSC, 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/>.

Nova Scotia. 1990. *Children and Family Service Act*. SNS, c. 5. <https://nslegislature.ca/sites/default/files/legc/statutes/children%20and%20family%20services.pdf>.

—. 1995-96. *Education (CSAP) Act*. SNS, c.1. [https://nslegislature.ca/sites/default/files/legc/statutes/education%20\(csap\).pdf](https://nslegislature.ca/sites/default/files/legc/statutes/education%20(csap).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/edmin.htm>.

Nova Scotia Department of Education and Early Childhood Development. 2021a. *Student Protection Policy*. Halifax, NS: Government of Nova Scotia. **[add link when available]**

—. Forthcoming. *Volunteer Background Check Policy*. Halifax, NS: Government of Nova Scotia.

Nova Scotia Department of Internal Services. 2017. *Managing a Privacy Breach: Protocol and Forms [Privacy Breach Protocol]*. Halifax, NS: Province of Nova Scotia. <https://beta.novascotia.ca/sites/default/files/documents/1-1132/managing-privacy-breach-protocol-and-forms-en.pdf>.