

<b>Division:</b>	Human Resources	<b>Effective:</b>	November 22, 2014
<b>Name:</b>	Criminal Records Screening Vulnerable Sector Check		
<b>Approved:</b>	November 22, 2014	<b>Amended:</b>	April 15, 2019

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### **Policy Statement**

The Newfoundland and Labrador English School District (the “District”) requires all new employees, post-secondary students, and private contractors including their employees (who may be in situations to be alone with students as part of their employment), to provide satisfactory Criminal Records Checks from the RNC, the RCMP or other local police authority prior to the commencement of any duties. A Vulnerable Sector Check must also be secured for persons who are in a position of authority or trust toward a child or vulnerable person. The District also requires volunteers to provide satisfactory Criminal Record Checks in accordance with the **NLESD Volunteer Policy (PROG-300)**.

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### **Background**

The District has a responsibility to provide a safe and secure working and learning environment. All reasonable precautions will be taken to determine whether individuals pose a threat to students, employees, or District operations, particularly those who have direct and regular contact with students and/or are in positions deemed safety-sensitive or with heightened risk. Individuals are required to complete a Criminal Records Check, Vulnerable Sector Check and/or Criminal Offence Declaration as appropriate, as part of the District’s screening measures.

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## Scope

This policy applies to:

- All successful candidates recommended for employment with the District and all existing employees who may be in situations to be alone with students as part of their employment;
- Private contractors and their employees:
  - Who are successful bidders for District contractual services, and whose employees may be in the position to work alone with students to fulfill their contractual obligation;
  - Who provide transportation services;
- All volunteers providing services deemed medium or high risk, as outlined in the District's Volunteer Policy;
- All post-secondary students completing work terms;
- Individuals completing government-sponsored employment or training; and
- Any other individual providing service to students/schools (e.g., photography services).

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## Definitions

**Criminal Record Check** - A document prepared by a police force or service through a search of the local police records, court records, and the national repository of criminal records maintained by the Royal Newfoundland Constabulary, Royal Canadian Mounted Police, or other local police authority. A criminal record check provides information concerning an individual's criminal record (for which they have not been pardoned), findings of guilt and/or possible other criminal history.

**Note** - An applicant who resides in a Royal Canadian Mounted Police (RCMP) jurisdiction must first make an application at the Provincial Court in their area for a record of conviction. The applicant must take this certified record of conviction back to the RCMP to request a criminal record check.

**Position of Trust** - A position in which the employee has responsibility for students, financial control, or influence over staff, students and/or others.

**Satisfactory Criminal Record Check** - A criminal record check indicating no criminal record or criminal finding of guilt or other criminal history, including a charge, for an offence that:

1. Is related to the employment of the person
2. Would pose a risk in an educational environment to students or staff

**Vulnerable Sector** Persons who, because of age, a disability, or other circumstances, whether temporary or permanent, (a) are in a position of dependence on others; or (b) are otherwise at a greater risk than the general population of being harmed by persons in a position or authority or trust relative to them.

**Vulnerable Sector Check** - A police information check to see if a person has a record of suspension (i.e., pardon) for sexual offences.

**Criminal Offence Declaration** - A written declaration by an individual listing all of the individual's charges and convictions for criminal offences under the **Criminal Code of Canada** and provincial legislation, since last submitting a Criminal Record Check or Criminal Offence Declaration to the District, and up to and including the date of the declaration.

### **Policy Directives**

1. A Criminal Record Check (and Vulnerable Sector Check if appropriate) will be completed by the RNC, RCMP or other local police authority where the applicant resides/resided. The Criminal Record Check must record the Newfoundland and Labrador English School District as the requesting organization (or Contractor, for the purpose of providing a service to the NLESD).
2. The District will not accept documentation that lists an agency other than the Newfoundland and Labrador English School District (or Contractor, for the purposes of providing a service to NLESD).
3. Criminal record checks provided by third party companies will not be accepted.
4. The Criminal Record Check shall be provided to the Regional Human Resources Division prior to the beginning employment or provision of service. Where a copy is provided the original must be provided within 30 days. In extenuating circumstances, submission of the original may be submitted later than 30 days with the approval of the Regional Director of Human Resources.
5. The applicant is responsible for all costs associated with securing a Criminal Record Check or Vulnerable Sector Check including fingerprinting.

6. The presence of a criminal record or conviction or other criminal history does not automatically disqualify an individual from a position or continuing employment with the District. Each situation will be assessed by the appropriate District staff to decide to what extent the individual would pose a risk to students, employees, or the operations of the District and if that assessment reasonably disqualifies that individual for employment or placement with District.
7. An evaluation of a Criminal Reference Check shall consider, but not be limited to, the following factors:
  - a. The nature of the offence(s) and the number of convictions;
  - b. Sentence(s) received;
  - c. The length of time since the most recent conviction;
  - d. Any rehabilitative efforts made by the applicant;
  - e. Any submissions made by the applicant;
  - f. The specific duties and responsibilities associated with the position and the relevance of the particular criminal conviction or history to the position; or
  - g. Any other factors deemed relevant by the District.
8. An applicant who submits a Criminal Record Check that identifies a conviction(s) in another jurisdiction is required to provide written documentation from the courts, in that jurisdiction, providing details of the charges prior to being considered for employment with the District.
9. The District reserves the right to withdraw any offer of employment to an applicant when it is determined that the appropriate Criminal Record Check/Vulnerable Sector Check/Criminal Offence Declaration information is not in order.
10. The Associate Director of Education (Programs & Human Resources) or designate, shall be responsible for ensuring that satisfactory Criminal Record Checks and/or Criminal Offence Declarations, and where applicable, Vulnerable Sector Checks are received by the District for all employees as well as all students completing work terms with the District.
11. The Chief Financial Officer/Assistant Director of Education (Corporate Services), or designate, is responsible for ensuring that confirmation of Criminal Record Checks or Criminal Offence Declarations is submitted as required to the District by Student

Transportation and Facilities.

12. Supervisors/managers and school administrators must ensure that Criminal Record Checks and/or Criminal Offence Declarations are received as required for individuals volunteering with their divisions or schools. The relevant Regional Assistant Director of Education (Programs) shall determine if a criminal charge or conviction is a reasonable disqualification for volunteer placement with the District. For further information, refer to the PROG-300 Volunteers in Schools policy.
13. The school administrator will ensure that the appropriate Criminal Record Check and/or Vulnerable Sector Check is on file at the appropriate regional office prior to any awarding of contracts to conduct business in a school where the employees of that business will interact with students.
14. Permanent employees transferring to a new position are required to have a Criminal Offence Declaration on file for the current school year.
15. Substitute/temporary/casual employees or employees on approved leave of absence who finish in a school year employed by the District, and return to employment the subsequent school year, are required to submit a Criminal Offence Declaration.
16. Any employee who severs employment is required to resubmit a new Criminal Record Check, and/or Vulnerable Sector Check for those positions requiring same.
17. Notwithstanding these requirements, an employee of the District, subject to a criminal investigation, charged with, or convicted of a criminal offence, shall self-report the offence to their supervisor immediately. Failure to do so will result in disciplinary action or termination of employment or contract/service.
18. The submission of falsified Criminal Record Checks and/or Vulnerable Sector Checks and/or Criminal Offence Declarations is subject to disciplinary action including termination of employment and/or termination of contract/service.
19. All information gathered as part of the collection of Criminal Record Checks, Vulnerable Sector Checks, and Criminal Offence Declarations shall be treated as confidential and access is restricted to the Human Resources Division and, where deemed necessary, the employee's supervisor/manager.