



COMMISSION SCOLAIRE CENTRAL QUÉBEC
CENTRAL QUÉBEC SCHOOL BOARD

BACKGROUND CHECK POLICY

Adopted March 14, 2008



BACKGROUND CHECK POLICY

ARTICLE 1 – PURPOSE

- 1.1 On September 1st, 2006, the Act amending the Education Act and the Act respecting Private Education came into effect. As a result, new powers were given to the Minister of Education, Recreation and Sports. New obligations with regard to the verification and/or declaration of judicial records were also imposed on the following groups: individuals applying for or holding a teaching licence, school boards, private institutions and individuals working and/or coming into regular contact with minor students.
- 1.2 This Act confirms the Board's responsibility to provide a safe and secure working and learning environment for students and employees. The Board is in a position of trust with regard to students and must strive to protect their intellectual, physical, mental, and emotional well-being.
- 1.3 Aside from the obligation provided for in the Act, based on the fact that the Board is a public entity and handles public money, the Board also has a moral obligation to protect its assets, properties, buildings, and assure the security of the financial aspect of its operations. It also has the obligation to protect the confidentiality of the information it collects.
- 1.4 Therefore, in compliance with this Act, and the responsibility put upon the Board based on its public nature, the purpose of this Policy is to ensure that no one at the Board be permitted to work with children, or be in a position which could have a bearing on the safety of the financial and material component of the Board, if they have demonstrated in the past, conduct incompatible with their function within the Board. It is the responsibility of the Board to ensure that all complies with this Policy.

ARTICLE 2 – SCOPE

- 2.1 To meet its obligation and in accordance with the purpose of this policy, the Board will require background checks on all persons working for the Board including and without restriction, applicants, actual employees, volunteers, contractors, commissioners, members of management such as principals, vice-principals, and service/centre directors if they meet one of the following criteria:
 - working, or likely to be working, with minor-age students,
 - regularly in contact, or likely to be regularly in contact, with minor-age students,
 - working, or likely to be working, in a sensitive position in regard to the financial, confidential or material component of the Board.

The aforementioned also includes current employees who are promoted or transferred to a different position that falls within these criteria.

- 2.2 Although this is no guarantee against criminal acts, it does reduce the likelihood of crime and may reduce the Board's liability in the event a crime occurs.
- 2.3 The Board recognizes that its need to verify the criminal background of these individuals must be balanced with the need to protect their privacy. Therefore, in determining if a criminal background check is required (if a position falls within the determined criteria) and in conducting these verifications, the Board will act in accordance with the different laws and rights including the Charter of Human Rights which specifically protects the right to privacy.
- 2.4 This policy is complementary to the Board's Recruitment, Selection and Hiring policy and must be applied in conjunction with the terms specified in that policy.
- 2.5 The CQSB Background Check Policy entails the verification of the presence of the following elements:
- a) Any conviction for a criminal and/or penal offence committed in Canada or elsewhere unless a pardon has been obtained for that offence;
 - b) Any charge still pending for a criminal and/or penal offence committed in Canada or elsewhere;
 - c) Any court orders subsisting against the applicant in Canada or elsewhere.
- 2.6 The following offences will be investigated, except for b) and f) which will lead to an automatic disqualification:
- a) Offences involving any violence, such as homicide, robbery, assault, kidnapping, forcible confinement, uttering threats, intimidation, criminal harassment;
 - b) Sexual offences, especially sexual assault, indecent acts, soliciting or inducing prostitution, child pornography;
 - c) Offences that by their nature constitute theft or fraud, such as breaking and entering, theft, fraud, corruption, impersonation;
 - d) Offences involving a motor vehicle, more specifically when they involve impaired driving, hit-and-run, dangerous driving;
 - e) Offences relating to drugs and other illegal substances, such as possession, trafficking, importing, exporting, production;
 - f) Offences jeopardizing the safety and well-being of minor students, such as failure to provide the necessities of life, criminal negligence, criminal organization offences, offences carried out for a terrorist group.

ARTICLE 3 - SUMMARY OF RESPONSIBILITY AND OBLIGATIONS

3.1 The Board:

- a) Before hiring any person, the Board must ensure that the applicant has no judicial record relevant to the functions that could be assigned to them within the Board if these functions are within the scope of this policy. To do so, the Board must request a completed declaration when needed upon which it is to verify the declaration or have it verified. The Board will not consider applicants who are unwilling to complete or have not completed the form.
- b) The Board will request of any persons working in a position targeted by this policy that they complete a declaration concerning their judicial record so that the Board may ensure that these

persons have no judicial record relevant to their functions within that Board. To that end, the Board will act on the strength of that declaration until it has been verified according to the calendar provided in Annex I.

- c) If the Board has reasonable grounds to believe that a person working in a position targeted by this policy has a judicial record, it must require that the person complete a declaration concerning his judicial record.

The Board must verify the declaration or have it verified, and ensure that the person has no judicial record relevant to the person's functions within the Board.

- d) The Board, represented by at least two of the following people (Director General, Assistant Director General and Director of Human Resources), must render the decision with regard to the link between a judicial record and the occupied position taking into consideration the recommendation of Human Resources or of the review committee.
- e) Once the Board is made aware that a current employee of the board or someone rendering services at the Board (e.g. contractor) has a judicial record that could potentially have a bearing on the occupied position or the services given, the Board must take the necessary temporary steps (including suspension of employee, cancellation of contract) until a decision is rendered to assure the security of the students and the financial, material component of the Board as well as the confidentiality of the information while the inquiry procedure takes place before the final decision is rendered.

3.2 **The person responsible (herein called Human Resources) as designated by the PROTOCOL¹:**

- a) Proceeds diligently to the verification of the declaration according to the terms of the Protocol;
- b) Maintains and provides accurate records of the different steps related to the background verification;
- c) Handles with confidentiality the information collected in relation to the background check;
- d) Proceeds to the initial analysis of the background check upon reception of the police verification and provide the Board with a recommendation;
- e) Provides the pertinent documentation (“Declaration package”) to the schools, members of the selection committee, and applicants.

¹ Agreement signed by the Board with « le service de police de Québec » establishing the modalities for the verification of background checks by « le service de police de Québec » and identifying the persons responsible for the application of the Protocol.

3.3 Senior Staff (Board Office, Schools & Centre):

- a) These above mentioned individuals must collaborate with Human Resources to optimise and facilitate the application and respect of this policy.
- b) As part of the selection committee for the hiring of employees for their own school, centre or service, the people mentioned above must ensure that all interviewed candidates complete the form entitled “Declaration Concerning the Judicial Background” and that the completed declaration be sent to Human Resources.
- c) They must also ensure that individuals subject to temporary assignment such as supply teaching, short-term replacement, or volunteers have had their background check completed and verified before they start working. To do so they should make sure that these individuals are selected within the list of “approved” candidates provided by the Board or, if not possible, they must take the necessary steps to have the individual complete the declaration and send it to Human Resources. Thus, they cannot use the services of these individuals until they have received proper authorization from Human Resources.
- d) They must also ensure that there is adequate supervision of individual contractors who come in from time from time to do repairs or any other type of work.

3.4 Senior Staff & Management Personnel:

- a) When entering into a contract with a self-employed individual or a contractor, the competent authority representing the Board must make sure that the contract contains the necessary clause related to the background verification. It should state that the self-employed individual must provide a recent proof of their background verification, and in the case of contractors, that they declare that the employee or employees provided to the Board have no judicial records relevant to the task they are required to perform (including being in the presence of minors). It should also state that contractors agree that the Board may request, from time to time, proof that the background verification has been done for these employees. If this obligation is not met, the contract will be terminated with due notice.

3.5 Current Board Employees, volunteers, commissioners, members of management:

- a) When a declaration of judicial record is requested by the Board, it is mandatory for these individuals to comply with the request. Should the person refuse to do so, the Board may take administrative or disciplinary measures. If so, these measures would be imposed according to the provision of the different collective agreements and other regulations governing the working conditions of management staff.
- b) Within 10 days of being notified of a change in their judicial record, these individuals must inform the Board of that change and complete a declaration concerning their judicial record, regardless of whether they have already filed such a declaration in the past.
- c) When completing a Declaration concerning their judicial background, these individuals must disclose all information pertinent to their background. Any omission or false declaration could bring the Board to impose administrative or disciplinary measures. If so, these measures would be imposed according to the provision of the different collective agreements and other regulations governing the working conditions of management staff.

3.6 Candidates:

- a) Candidates must comply with the Board's request to fill out the Declaration related to the judicial background so as not to cause undo delay in the selection process.
- b) When completing a Declaration concerning their judicial background, these individuals must disclose all information pertinent to their background. Any omission or false declaration could bring the Board to disregard their application or offer of services.

3.7 Service Contract - Self-employed workers or a Company

- a) Any self-employed worker wishing to work or keep on working for the Board in a position in which he works with minor students, is regularly in contact with them, or is in a position that affects the security of the financial, material component of the Board will need to provide a recent proof of absence of a judicial record (an original document) in association with those activities. In this case, the self-employed worker will be charged an amount of \$60 that will be subtracted from their contract amount.
- b) Any company requested to sign a contract to provide regular services to the Board must agree to provide the Board with a statement to the effect that the employees assigned to do the work have no judicial record relevant to the tasks they are performing for the Board (including working in the environment occupied by minors). The contractor must also agree to provide, at the board's request, proof of the background checks of those employees. Contracts will be effective when the appropriate information is given and all contracts should contain a clause to that effect. Any non-respect of these obligations will be considered as a breach of contract.

ARTICLE 4 – PROCESS SUMMARY

4.1 Timeframe for the verification of background checks

a) Occasional hiring (supply teachers, temporary replacement, etc.) – Volunteers

During the school year, any individual who wishes to be added to the school's supply/replacement lists or do volunteer work for a position in which he will work with minor students or will be regularly in contact with them or is in a position that affects the security of the financial, material component of the Board must complete a declaration form. The individual will have access to a "Declaration package" (declaration and other information documents in relation with the process) available from the HR department or at each school/centre if they submit their resume in person to one of the schools or centre. The completed declaration must be returned to Human Resources. The school or center will be required to forward the resume of all new supply/replacement candidates to Human Resource to ensure that the Board's lists be updated accordingly.

In the case of any student-teacher or trainee, the declaration must be completed at least 4 weeks before they start.

b) Regular hiring

Before hiring any person, the Board must ensure that the applicant has no judicial record relevant to the functions that could be assigned to them within that Board if these functions are within the scope of this policy. To do so, the Board must request a completed declaration upon which it is to verify the declaration or have it verified. The Board will not consider applicants who are unwilling to complete or have not completed the form.

c) Emergency Provision

- i) In exceptional circumstances, it may be necessary for an individual to begin employment with the Board before an official criminal background check is obtained. In those situations, the Board will nonetheless require from the individual that they complete the Declaration regarding their judicial record. No employment can begin before Human Resources receives the completed Declaration, makes a preliminary assessment of the Declaration, and gives a provisional authorization.
- ii) The signature of the Declaration by the individual constitutes a binding agreement between the employee and the Board ensuring that the individual is informed that the offer of employment is conditional to final verification of the background and that the Board will proceed diligently to avoid unnecessary delays. The agreement will preserve the Board's right to revoke the offer of employment and dismiss the employee should the information provided by the employee prove to be false or misleading in any respect, or if the background check reveals incompatibility between the employee's record and his employment.

4.2 Automatic disqualification (termination of employment, termination of contracts with self-employed workers or company under contract with the school board)

Any conviction for one of the following offences, will lead to automatic disqualification:

- a) Sexual offences, especially sexual assault, indecent acts, soliciting or inducing prostitution, child pornography;
- b) Offences jeopardizing the safety and well-being of minor students, such as failure to provide the necessities of life, criminal negligence, criminal organization offences, and offences carried out for a terrorist group.

4.3 Recommendation and decision-making process

4.3.1 As part of the hiring process

Human Resources will proceed to the verification as part of the overall verification of the applicant's references and documents as provided for in the Board's Recruitment, Selection and Hiring Policy.

4.3.2 Related to the declaration of current employees or supply/replacement employees, student-teachers, trainees, volunteers

- a) In the absence of a judicial record, Human Resources will inform the individual and the Principals (see exception for volunteers) of its positive recommendation.

- b) In the presence of a judicial record, the initial analysis will be conducted by Human Resources to establish if the judicial record is relevant to the functions or the tasks to be performed by the individual. The criteria used for the analysis are the ones listed in Annex II
- c) If it is determined that the judicial record is not relevant to the functions or tasks to be performed, Human Resources shall inform the Board (represented by one of the following persons: Director General, Assistant Director General, Director of Human Resources) of its recommendation so that it can take the proper decision. Human Resources will then inform the individual and the Director of Service or the Principals of school and center (see exception for volunteers) of the Board's decision.
- d) If it is determined that an individual's judicial record may be relevant to his duties, the individual will be notified by phone that his file will be further analyzed. He will also be informed that he may provide additional relevant information within a reasonable timeframe (in writing, by the phone or in person). Human Resources may contact the police as the case may be for more information on the incident reported.
- e) Upon reception of additional information from the individual, and if it is determined that an individual's judicial record has a bearing on his duties, Human Resources shall inform the Board (represented by at least two of the following persons: Director General, Assistant Director General, Director of Human Resources) of its recommendation so that it can take the proper decision.
- f) The Board's decision is provided to the individual in writing. If the decision is not favourable to the individual, the letter will inform him of the possibility to request in writing (within 10 working days) the transfer of his file to the review committee. If the file is not transferred, the decision becomes final. Human Resources will then inform the individual, the Director of Service and Principals of schools & centre (see exception for volunteers) of the Board's decision.
- g) Upon reception of the review committee's recommendation, the Board (represented by at least two of the following persons: Director General, Assistant Director General, Director of Human Resources) will take the final decision. Human Resources will then inform the individual and the principals of school and center (see exception for volunteers) of the Board's decision.
- h) If the decision is not favourable to the individual, and if the individual is a teacher, as requested by law, Human Resources will inform the MELS that the Board has concluded that the judicial record of the teaching licence holder is relevant to the duties that are or may be assigned to the teacher by the Board. Correspondence with the MELS is filed in the background check confidential file of the person.
- i) **Exception for volunteers:**

The volunteer will be contacted and informed of the decision. The volunteer will have the choice to contact the school/center or let Human Resources proceed. In the event that the volunteer prefers to contact the school/center directly, he authorizes the Principal to report to Human Resources within the next 24 hours to confirm that the volunteer contacted him.

In all cases, the volunteer does not have to divulge the information related to the judicial record. The simple mention of the fact that he will not volunteer at the school until further notice is sufficient.

j) **Review committee**

- i) The file is transferred to the review committee anonymously. Therefore, the committee has no knowledge of the identity of the person subject to the review; they only get the information necessary to analyse the file.
- ii) The Review Committee will consist of one lawyer, one psychologist and three other members to be named by Human Resources :
- iii) The review committee may base their analysis strictly on the file or request additional information either from the individual or the police (via the person in charge in HR) or any other source that they would deem relevant.
- iv) Once their analysis is final, the Committee should send its recommendation to Human Resources who in turn will inform the Board. The report should enumerate the elements upon which the recommendation is based. If other recommendations are to be provided, such as conditions or limits for the occupation of a function, they should also be provided at that time.

4.3.3 **Company & Self-employed worker (Service Contract)**

The decision to terminate a service contract with a company or a self-employed worker will be made jointly with a Director of Service and Human Resources. The letter informing the self-employed worker or the company will be signed by the Director of Service.

4.3.4 **Commissioners**

The declaration of a commissioner having a judicial record will be dealt with as per the by-law on the Code of Ethics and Professional Conduct for the Commissioners of the Central Québec School Board.

4.4 **Length of the validity of declaration**

Occasional hiring & returning employees - The Board considers that judicial background verification is valid for a period of 12 months. Consequently, should an employee leave the Board's employment and return later on, he will be asked to complete a new declaration upon his return if more than 12 months have passed since the previous declaration. This is applicable to all the categories targeted in the policy (such as volunteers, temporary employees, supply teachers, etc.)

4.5 **Temporary measures during investigation**

At any time during the background check procedure, the Board may administratively suspend an employee for the time necessary to the verification or analysis of the record in order to protect the reputation of the Board and/or the safety of its minor students or its financial, material and confidential component.

The suspension procedures will be in accordance with the different collective agreements and other regulations governing the working conditions of management staff.

At all times and by all parties, the disclosure of information must be restricted to ensure there is no violation of each one's integrity and rights.

4.6 Cost of verification

The Board will assume the cost of all background verifications with the exception of Contract Service and Self-Employer workers. (see 3.7).

4.7 Confidentiality

- a) The Board will ensure that confidentiality is respected at all times, in conformity with an Act respecting access to documents held by public bodies and the Protection of personal information.
- b) The Senior Staff of Human Resources and the Administration Technician assigned to the hiring process will be responsible for the application of the Policy as well as verifications according to the Protocol. The Director General, the Assistant Director General, the Director of Human Resources will also be informed but only in cases of litigious files. The School Principals, Centre or Service Director and Selection Committee members will only get a confirmation of approval or rejection of a candidate. They will not be informed of the content of the background file.
- c) It is understood that any person in contact with the declaration will need to have signed a confidentiality agreement, unless otherwise authorized by the person who signed the declaration.
- d) The Board shall retain a copy of the original declaration regarding the judicial background check. Completed judicial background checks, including the copy of the declaration, police reports, recommendations, the Board's decision, and communication with the MELS, will be filed in a sealed envelope in the employee's file at the HR department or in another secured location in the HR department for non-employees.

ARTICLE 5 – SANCTIONS TO BE IMPOSED FOR:

5.1 Candidates, supply/replacement, current employees in cases of movement of personnel (transfer, promotion, etc.), if need be.

- a) Any false declaration or refusal to fill out the declaration and sign it may result in the refusal of the application.
- b) If it is determined that the individual has a criminal background in relation to the duties that may be assigned to him/her, his application will not be retained.

5.2 Employees, volunteers

- a) Any false declaration or refusal to fill out the declaration and sign it will result in administrative or disciplinary measures.
- b) If the employee fails to disclose a change in his criminal background within 10 working days of his knowledge of such a change, administrative or disciplinary measures will be taken.
- c) If it is determined that the employee has a criminal background in relation to the duties that are assigned to him/her, administrative or disciplinary measures may be taken including possible termination of employment as well as the possibility of setting specific conditions.

If such measures are imposed, they would be according to the provision of the different collective agreement and other regulations governing the working conditions of management staff.

5.3 Persons holding confidential information related to background information

Any unnecessary disclosure of confidential information related to background check made by someone having access to that information will result in administrative or disciplinary measures.

ARTICLE 6 – APPLICATION

- 6.1 The Background Check Policy will come into effect as of March 14th, 2008.

Annex I

Calendar for the verification of Background Check Declaration of employees hired before September 1st, 2006

As stated in the Background Check Policy, the Board will request of any persons working in a position targeted by the policy that they complete a declaration concerning their judicial record so that the Board may ensure that these persons have no judicial record relevant to their functions within that Board.

Therefore, within 60 days of the adoption of the Background Check Policy, the Board will proceed to request from all its employees, hired before September 1st, 2006, that they complete a Background check declaration and send it back to the Board within 20 days.

The Board will then proceed to have these background Declarations verified within a 5 year period. Any declaration containing a judicial background will be dealt with as a priority. Subsequently, the order in which the declaration will be sent to the police for verification will follow the level of risk associated with each position. The board will proceed with the highest level position first and proceed toward the lowest level up until everyone has been verified. The level of risk has been evaluated according to the following criteria:

- level of authority
- isolation of work area
- access to the school
- student vulnerability
- size of student group (one on one vs. classroom)
- access to financial information and material assets

Based on these criteria, these are the potential order in which the Board would proceed with verifications:

- Commissioners
- Directors and Coordinators of service
- School/Center Administration (Principal & Vice-Principal)
- Caretakers
- Professionals (ex. Psychologist, Speech Language Pathologist, Guidance Counsellor, etc.)
- Attendants
- Special Education Technicians
- PreK personnel
- Kindergarten teachers
- Grade 1-6 teachers
- Day Care personnel
- Student Supervisors
- Elementary schools office staff (ex. Secretaries, Doc. Techs)
- Sec. 1-6 teachers
- Secondary schools office staff
- Board office staff

Until each declaration has been verified, the Board will act on the strength of that declaration as permitted by law.

Annex II

Criteria used for analyzing Background files

These criteria will be used as a guideline for each analysis. They are in no way restrictive and every case will be analyzed individually upon its own merit and in accordance with the philosophy behind the Background Check Policy.

1. Conviction or accusation
2. Nature of the conviction or accusation
3. Circumstances leading to the infraction
4. Length of time since the last infraction
5. Nature of the infraction
6. Number of infractions
7. Position of the person
8. The “Human resources file” of the person at the Board
9. Admissibility to a pardon
10. Repetitivity of the offence, risk of reoccurrence
11. Infraction involving children or teenagers
12. Values of the Board
13. Delay since the Board’s knowledge
14. The community values and the impact on the community
15. Behaviour of the person toward his background (remorse, understanding, denial...)
16. Behaviour of the person during the investigation (cooperation, openness, truthfulness...)
17. Others