

ATLANTIC PROVINCES SPECIAL EDUCATION AUTHORITY

[ASL Translation](#)

Procedure Title: **Background Check Administrative Procedures**

Issue Date: **February 2022**

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These procedures outline how the Background Check Policy will be implemented by APSEA.

1. **Pre-Employment**

- 1.1 Upon extending an Offer of Employment to a candidate for a position that is designated as 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 (Residents of Nova Scotia only)**
Provide APSEA with a current Child Abuse Register Search; and
 - b. **Vulnerable Sector Check**
Provide APSEA with a current Vulnerable Sector check that includes a Criminal Record Check.
- 1.2 Upon extending an Offer of Employment to a candidate for a position that is not designated as being a position of trust or authority but has a reasonable expectation of direct contact with children/students, the Director of Human Resources, or designate, must notify the candidate of their requirement to complete the following:
 - a. **Child Abuse Register Search (Residents of Nova Scotia only)**
Provide APSEA with a current Child Abuse Register Search; and
 - b. **Criminal Record Check**
Provide APSEA with a current Criminal Record Check.
- 1.3 Pre-employment checks will be physically received (or electronically accessed, depending on the submission process) by the Director of Human Resources, or designate, and placed in the appropriate file.

- 1.4 The Director of Human Resources, when authorized by the candidate, 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 candidate. See Section 7 for additional Records Management considerations.
- 1.5 Candidates who are Canadian citizens or who hold landed immigrant status in Canada must provide the prescribed record checks from Canada. All other candidates must provide the equivalent prescribed record checks from their country of citizenship and country of residence, as well as the prescribed checks from Canada.
- 1.6 If a candidate is found to have a criminal record during the pre-employment phase, the Director of Human Resources will notify the Superintendent or designate. The 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 children/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. other factors as are deemed appropriate under the circumstances.
- 1.7 Pre-employment considerations and records of decision will be documented and retained in accordance with Records Management directives, as outlined in Section 7.
- 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 1.6. The Director of Human Resources, or designate, will be responsible for informing the Director/Supervisor/Manager or designate, who will notify the candidate of completed requirements.
- 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 the candidate does not appear in the Child Abuse Register or have an entry under the Vulnerable Sector Check or Criminal Record Check.

- 1.10 Third-party contractors procured by APSEA to provide a service that would otherwise be provided by an APSEA employee must ensure that any employee contracted to a designated employee role adheres to the same record check requirements as APSEA employees.
- 1.11 Third-party contractors who provide services for a limited period of time are encouraged to conduct record checks of their employees as a pre-condition to working at the Centre and/or in proximity to children/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 offence(s) on their records check, APSEA must ensure that the contractor is not left unaccompanied while on-site and must not provide access that could reasonably result in direct contact with a child/student. This could be negotiated as part of the contract with the third-party vendor.

2. Returning to Work

Breaks in Service

- 2.1 All designated employees that experience a break in service will be required to resubmit 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.

Leaves of Absence

- 2.2 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 resubmit their Child Abuse Register and Vulnerable Sector checks, and other record check requirements, within a reasonable timeframe upon returning to work.

3. Offence Declaration

- 3.1 Employees will be notified of their need to complete an Offence Declaration by the Director of Human Resources or designate.
- 3.2 After being notified of their need to complete an Offence Declaration, active employees will have sixty (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 thirty (30) days to submit the declaration upon return.

- 3.2.1 Offence Declarations will only be requested and collected when the employee is present and working.
- 3.3 Offence Declarations will be retained in accordance with the Records Management directives outlined in Section 7.
- 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.
- 4. **Immediate Disclosure**
 - 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 (7) days of 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).
 - 4.2 The Director of Human Resources will be responsible for informing the Superintendent.
 - 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 (7) days of the school year.
 - 4.3 Immediate disclosure reports are to be submitted to the Director of Human Resources and include, at a minimum:
 - a. the date of the 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).
 - 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 Section 7.
- 5. **Criminal Record Check (CRC) Renewal**
 - 5.1 APSEA will create and maintain a schedule that ensures:
 - a. all current employees in designated positions update their CRC in accordance with the schedule;

- 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.
- 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 ninety (90) days of receiving notification.
 - 5.2.1 CRC renewals will only be requested and collected when the employee is present and working.
 - 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.
- 5.3 A copy of the updated CRC will be retained in the appropriate file, in accordance with Records Management directives, as outlined in Section 7.
- 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.
- 6. **Disclosure Follow-Up**
 - 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 children/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. other factors as are deemed appropriate under the circumstances.
 - 6.2 Final decisions concerning suitability of continued employment will be made by the 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.

- 6.3 The employment consideration and record of decision outlined in 6.2 will be documented and retained in each appropriate file in accordance with Records Management directives, as outlined in Section 7.

7. Records Management

Security and Maintenance

- 7.1 Retained records 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

- 7.2 Personal information must be appropriately retained and accessible only to the 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

- 7.3 APSEA shall adhere to the APSEA Privacy Breach Protocol which will guide the decision making and documentation that is required in response to a breach of employee personal information.
- 7.4 Employees who contribute to the circumstances of a privacy breach may be subject to disciplinary action in accordance with processes established in collective agreements or terms and conditions of employment.

Disclosure

- 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

- 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

- 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 consideration, and records of decision.

Authorized Disposal Process

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

8. Communication and Distribution

- 8.1 APSEA will distribute the approved Background Check Policy and associated Administrative Procedures to all employees, as well as make the policy available online.
- 8.2 APSEA will ensure all employees receive notification when new or revised procedures have been updated online.

9. **Procedure Supports**

- APSEA Background Check Policy
- APSEA Offence Declaration Form