

CRIMINAL REFERENCE CHECK POLICY

Date Effective: _____

In the interest of hiring staff and recruiting volunteers with the personal and professional qualifications essential to ensuring quality child care, *ABC Childcare Centre* will include criminal record checking as part of the hiring/recruiting process for all positions within the Centre. This information will be acquired only for candidates to whom a conditional offer of employment/volunteering has been made.

At the commencement of each school year, all returning staff and volunteers will be required to execute a Volunteer Offence Declaration certifying the absence or presence of convictions under the *Criminal Code* since their last Criminal Reference Check was conducted.

Current employees and volunteers of the Centre will be required to submit to a new Criminal Reference Check when offered a new position within the school (for example, an Early Childhood Education (ECE) teacher who is offered a position as a Supervisor), unless a Criminal Reference Check was completed within the preceding twelve (12) months.

Purpose

The Ministry of Community and Social Services' guidelines state:

‘...criminal reference checking is a precautionary measure designed to ascertain whether certain groups of employees...have a record of criminal convictions which would make them unsuitable for positions of trust (i.e. sexual assault, drug trafficking). Such checks assist the Ministry in attempting to ensure the safety and well-being of those for whom it has the responsibility to provide or ensure proper care.’

Effective March 1, 1995, a Criminal Reference Check must be a condition for all new employees and volunteers, prior to their appointment.

Positions Affected

- all full-time and part-time staff;
- volunteers, if any, who might be left alone with the children at any time

Any employees or volunteers who were hired before March 1, 1995, however, are not required to supply a Criminal Reference Check.

- volunteers, staff and/or students under 18 years of age are required to provide two positive reference letters from persons over 18 years of age, and will not be left alone with children at any time, and cannot accompany children to the washroom without a staff member in attendance

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info@pcpcontario.org
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Procedures

All candidates will be advised of the requirement of the Criminal Reference Check during the interview. If a conditional offer is made, the successful candidate will sign a form consenting to the Criminal Reference Check ('Consent to Disclosure Form'). ***ABC Childcare Centre*** will supply the necessary forms and will submit them to the Toronto Police Service.

The successful candidate is responsible for the cost of securing the Criminal Reference Check however; ***ABC Childcare Centre*** may decide to cover the costs.

Any information obtained from the candidate or the police shall be restricted to the Hiring Committee (the Vice-President and the Supervisor, not the staff member).

The Toronto Police Service (TPS) will complete the Criminal Reference Check (which is a six (6) to eight (8) week process) and will forward information concerning the results of the search by mail directly to the candidate.

The Criminal Reference Check will consist of a check through the Canadian Police Information Computer System (CPIC) (which includes Investigative, Intelligence and Identifications data banks and Service data banks) for the following information:

- Criminal convictions
- Outstanding criminal and provincial statute warrants
- Outstanding charges before the courts (including charged entries, including conditional release information)
- Missing person and/or elopee information
- Probation information (including peace bonds, restraining orders and reporting conditions)
- Any prohibitions (including firearms, driving, hunting and boat)
- Federal and provincial parolee information, and information relating to whether the candidate is suspected of committing a criminal offence or are involved in a serious criminal investigation
- Refused information (including firearm acquisition certificates)
- Special interest police information (including persons who have attempted to commit suicide whether in or out of police custody; persons who are known to be violent towards the police, themselves or other persons; and persons who are foreign fugitives where no warrant is available or the fugitive is not arrest-able in Canada)
- Persons of interest (including persons who are suspected of committing criminal offences; persons involved in a serious criminal investigation; and persons who feel they are in danger of family violence)
- Criminal record information
- Special address information (information pertaining to addresses involved in criminal activity or domestic situations)
- Non-indictable information

- Note: if, in the future there is any position where children will be passengers in a vehicle driven by the employee/volunteer, a driving record check will also be required

In addition to the above categories of records, Service databases also document contacts that the candidate has had, if any, with the Service under the *Mental Health Act*; specifically there are provisions under the *Mental Health Act* according to which police officers may apprehend a person and take them to the hospital for assessment by a medical professional. When police apprehend someone under the *Mental Health Act*, this is noted in the police database.

The Toronto Police Service does not, however, disclose contact, if any, that the candidate has had with the Service pursuant to the *Mental Health Act* as part of the Criminal Reference Check, unless **ABC Childcare Centre** specifically requests such information and certifies to the Service on the Consent to Disclosure Form that the information is required by the Centre to properly complete its evaluation of the candidate's suitability for the position.

ABC Childcare Centre will request this information when filling positions which require the candidate:

- To exercise a supervisory function in the program (i.e. bear overall responsibility for a group of children, which includes responsibility for planning and directing the group's activities, and monitoring and reviewing the children's experiences in the program); or
- To be routinely alone with children without the presence of another adult for a significant segment of the program.

Positions at **ABC Childcare Centre** that require these functions include:

- Supervisors
- Early Childhood Education (ECE) teachers and supply teachers
- Staff and volunteers employed in areas where children are sleeping
- Staff and volunteers employed to walk children from one location to another
- Staff and volunteers employed in after-school and after-hour programs
- Summer Camp Supervisors and Assistant Supervisors
- Summer Camp Counselors

Note: candidates for these positions will be asked to sign a Consent to Disclosure Form that requests information with respect to whether the applicant has been apprehended under any provision of the under the *Mental Health Act*.

The candidate may start to work before a Criminal Reference Check response is received but it will be made clear on the contract that their position is conditional on a negative Criminal Reference Check. Candidates will not be left alone with the children until there has been a satisfactory outcome of the Criminal Reference Check process.

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Procedure for a Negative Criminal Reference Check

When a Criminal Reference Check results in no findings of a police record, the Toronto Police Service will send a copy of the original Consent to Disclosure Form with a stamp identifying 'No Findings' to the candidate directly. The candidate must retain a copy of the form and immediately submit the original to **ABC Childcare Centre**. The form must be forwarded to the Centre as soon as it is received.

If the form is not received by the Centre within eight (8) weeks, the candidate will be asked to follow up with the Toronto Police Service.

If twelve (12) weeks pass and the form has still not been received, the candidate may be relieved of their responsibilities until it arrives.

Procedure for a Positive Criminal Reference Check

In the event of a positive Criminal Reference Check, the candidate will be provided with the police response and may be asked for written particulars surrounding the charges/convictions listed.

The candidate must retain a copy of the findings, and immediately submit the original to **ABC Childcare Centre**.

The candidate may be requested to authorize the Toronto Police Service (Records Management Services) to speak with a member of the Hiring Committee to confirm the general nature of the information included in the summary of findings.

Upon receipt of the findings, the candidate will be given an opportunity to meet with the Hiring Committee to discuss the results of the check.

In the case of a positive Criminal Reference Check, the position *may* be withdrawn (and the employee or volunteer may be required to cease work, if applicable) until a final decision of the Hiring Committee has been made.

The Hiring Committee will review the offence(s), taking into consideration:

- The nature of the offence(s)
- Sentencing received
- The length of time since the offences were committed
- The candidate's employment record, qualifications and references
- Any rehabilitative efforts made
- Whether a pardon has been requested
- If the finding concerns an apprehension under the *Mental Health Act*, the circumstances surrounding and following the apprehension, and the length of time since the apprehension

- The specific duties and responsibilities associated with the position applied for and the relevance of the particular conviction to the position
- The risk posed to the Centre and the children if the candidate were hired

A decision will be made based on the Committee's assessment.

The Committee will document its discussion and the reasons for its decision.

The candidate will be advised verbally and in writing of the Committee's decision.

Documentation

All information obtained through a Criminal Reference Check is confidential. Only the Hiring Committee (Supervisor and Vice-President, not the staff member) will have access to this information.

The Supervisor will note in the employee's or volunteer's file the date of the Criminal Reference Check and the date the check was accepted by the Hiring Committee. Any other documentation, including that of the Criminal Reference Checks, summaries of findings, and records of the Committee's discussion, will be kept in a secured file.