

Huron Playschool Co-operative Inc.

Vulnerable Sector Check Policy

Revised: May 27, 2016

In the interest of hiring staff and recruiting volunteers with the personal and professional qualifications essential to ensuring quality child care, Huron Playschool will include criminal record checking as part of the hiring/recruiting process for all positions within the Playschool. This information will be acquired for candidates to whom a conditional offer of employment has been made and to family members who will participate in the Playschool programs as volunteers.

Purpose

The Ministry of Education's 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.'

A Criminal Reference Check must be a condition for all new employees and volunteers, prior to their appointment. A new criminal reference check must be obtained every 5 years.

Positions Affected

- all full-time and part-time staff, including casual staff
- volunteers, including family members who volunteer for shifts at Playschool

Employees and volunteers with criminal reference checks older than 5 years must apply to obtain a new one within 30 days after the legislation comes into force. Written evidence needs to be on file indicating that confirms the request was made.

- 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

Criminal reference checks for members of the Board of Directors:

Members of the Board of Directors are required to provide evidence of a clear police check following the Annual General Meeting they were elected onto the Board. The purpose of police

checks for Board members is to report on any criminal convictions under the Criminal Code, however, for Board members the police check does not need to include records of incident reports, charges, or having been a victim, suspect or witness to an occurrence. Police Reference Checks are necessary to ensure that the children under our care remain safe. They also ensure that staff, volunteers and/or Board of Directors have not engaged in harmful behaviour in the past that could put our children, staff and/or the business at risk.

Human Rights Code training:

Amendments to the Memorandum of Understanding between Huron Playschool and the local Police Services, effective April 2009, require that our agency must certify that at least one Agency member whose responsibilities include the review and assessment of the suitability of Applicants for positions within the Agency has received training on the Human Rights Code and the Agency's obligations there under with respect to offering employment or volunteer opportunities, has read the current Ontario Human Rights Commission policy or policies applicable to this issue. This training requirement may be met through training delivered by a consultant, the OHRC or through a self-study program undertaken by the responsible Agency member using resources available on the Commission's website (ohrc.on.ca).

Procedures

Staff, volunteers (including Playschool family members who will volunteer in Playschool) will be advised of the requirement of the Criminal Reference Check during the interview and registration process. If a conditional offer is made of employment, or a child's registration is confirmed, the adult will sign a form consenting to the Criminal Reference Check ('Consent to Disclosure Form'). Huron Playschool will supply the necessary forms and will submit them to the Toronto Police Service. The Toronto Police Service sets the cost of the Criminal Reference Check and it is the responsibility of the person who signs the Form to pay for the cost of the Check.

Students who are completing placements at Playschool are required to provide a copy of their Vulnerable Sector Check on their first day of placement. If their Vulnerable Sector Check is more than six months old, they must also provide an Offence Declaration that addresses the period since that day.

At the commencement of each school year (or on joining Playschool and within 15 days of that anniversary date every year), all returning staff and volunteers (including family members) whose criminal reference check is less than 5 years old 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. A new criminal reference check must be completed by every employee and applicable volunteer every 5 years.

Current employees and volunteers of the Playschool 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. Family members who will volunteer will be required to submit to a new Criminal Reference Check when registering a new child (such as a sibling) with the Playschool. If an employee or volunteer has terminated their relationship with Huron Playschool for longer than 6 months, a new criminal reference check is required. If the termination of the relationship with Huron Playschool has been for less than 6 months, the pre-existing criminal reference check would be valid. If a new CRC or declaration came due during the time of separation, that information must be updated upon the return of the employee or volunteer. For employees who return after 6 months, a new criminal reference check is required. For students/ volunteers returning after the 6 month mark, an Offence Declaration must be completed addressing the period since the Criminal Reference Check was completed.

Any information obtained from the candidate or the police shall be restricted to the Hiring Committee (for staff) or to the Director/Teacher (for volunteers).

The Toronto Police Service 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

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.

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 Huron Playschool. The form must be forwarded to the Playschool as soon as it is received.

If the form is not received by the Playschool 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 not been received, the candidate may be relieved of their responsibilities until it arrives.

Procedure for a Positive Criminal Reference Check

The candidate can meet with the Director/Teacher at the Playschool to discuss the CRC summary (s)he has obtained from the police. The Director/Teacher will review the CRC summary form taking into consideration all relevant factors, including:

- a) the nature and seriousness of any charges, convictions or other recorded activity or incident(s) involving the candidate/new member;
- b) the circumstances surrounding the incident(s) in question;
- c) the length of time since the incident(s) occurred;
- d) any rehabilitative efforts made by the individual; and
- e) the potential risk posed the program, children, staff and families as a result of employing/engaging the candidate / new member in the position.

It is important for the Director/Teacher, Playschool Executive and/or Hiring Committee to be familiar with the intent and provisions of the Ontario Human Rights Code, in particular the following sections:

5.(1) *Every person has a right to equal treatment with respect to employment, without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, marital status, family status or disability.*

“Record of offences” is defined in Section 10(1) as follows:

10.(1) *“Record of offences” means a conviction for,*

- a) *an offence in respect of which a pardon has been granted under the Criminal Records Act (Canada) and has not been revoked, or*
- b) *an offence in respect of any provincial enactment.*

24.(1) *The right under section 5 to equal treatment with respect to employment is not infringed where, ...*

- b) *the discrimination in employment is for reasons of age, sex, record of offenses or marital status if the age, sex, record of offenses or marital status of the applicant is a reasonable and bona fide qualification because of the nature of the employment.*

This means that the Playschool may be able to refuse a candidate/new member on the basis of his/her record of offences if it is deemed highly relevant to the essential nature and duties of employment/co-operating duties. A final decision as to whether the candidate/new member will be accepted for the position will be based on whether (s)he is a suitable person to have daily contact with children.

For example, if a candidate/new member will be providing direct service to a child, without supervision, a standing conviction for a child abuse offence under the Child and Family Services Act or a pardon for sexual assault might be considered a reasonable and bona fide reason for denying employment or co-operating status. On the other hand, a 20-year-old conviction for shoplifting in and of itself would likely not.

Please note that “record of offences” refers to pardoned convictions for Criminal Code offences, not to standing convictions. The Ontario Human Rights Code does not prohibit discrimination on the basis of a standing criminal conviction.

Obviously, there can be no blanket policy determining a candidate/new member’s suitability. Instead, the contact person must utilize all of the above guidelines in deciding whether to refuse or accept a candidate/new member with a positive CRC. In addition, the Executive may be consulted in the determination of a new member’s suitability if the contact person deems necessary. Likewise, in the case of a candidate for employment, the Hiring Committee may be consulted.

The candidate/ new member will be advised in writing of the decision and reasons for that decision.

The candidate/new member will have the right to appeal this decision, in writing, to the Executive within two weeks from the date of the Playschool's written notice.

Documentation

All information obtained through a Criminal Reference Check is confidential. Only the Hiring Committee (for staff) or the Director/Teacher (for volunteers) and Ministry of Education inspectors 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/or Offence Declaration. 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 sealed envelope in the file.

Reference Materials

Further materials on the Employment Standards Act, the Ontario Human Rights Code and the Police Reference Check are kept in the Playschool office and are available for reference use by members/employees.