



POLICE RECORD CHECK & VULNERABLE SECTOR CHECK

Policies & Procedures

Effective Date:	October 1994
Revised Date:	August 2015 September 2017 April 2019 February 2024
	- <i>Duty to Obtain: Accepting a Photocopy</i> - <i>Requirements: When the VSC is unavailable</i>
Attachments:	<i>Offence Declaration (Criminal Code of Canada)</i> <i>Offence Declaration (Youth Justice Act of Canada)</i>

Purpose

The purpose of this policy and procedures outlined is to provide clear and transparent rules and processes for regularly collecting and using the information in Police Records Checks, Offense Declarations and Attestations for staff, placement students and volunteers and other persons who provide childcare and other services to children.

This policy is intended to help protect the health, safety and well-being of children, families and those involved with the Centre by setting out measures to verify that individuals involved in providing care who are in positions of trust are not prohibited from doing so under the *Child Care and Early Years Act, 2014* (CCEYA) and do not have a criminal history that may put children in care at risk.

This policy is intended to fulfil the obligations set out under Ontario Regulations 137/15 for staff screening and Police Record Checks for a childcare centre.

Faith Infant and Early Education Centre is permitted to use the information gathered to assist in the decision to confirm or rescind conditional offers of employment made with this agency. *It is our goal to ensure the safety and well-being of the children who are in our care.*

Police Record Checks

A Police Record Check is a document concerning an individual that is prepared by a police service or service from national data on the Canadian Police Information Centre system and contains information concerning the individual's personal criminal history. There are three

types of police record checks: (1) Criminal Record Checks, (2) Criminal Records and Judicial Matters Checks and (3) Vulnerable Sector Checks.

1. *Criminal Record Check (CRC)*: A basic type of police record check that is not intended for people who are seeking positions working with vulnerable persons.
2. *Criminal Record and Judicial Matters Check (CRJMC)*: A type of police record check that includes applicable convictions under the Criminal Code of Canada, findings of guilt under the federal Youth Criminal Justice Act of Canada, absolute and conditional discharges and outstanding charges, arrest warrants and certain judicial orders.
3. *Vulnerable Sector Check (VSC)*: An enhanced type of criminal record and judicial matters check for persons who may hold positions of trust or authority over vulnerable persons or persons who have vulnerable people depending on them.
 - A VSC includes information from the CRC and CRJMC AND applicable findings of:
 - Not criminally responsible due to mental disorder.
 - Record suspensions (pardons) related to sexually-based offences,
 - In certain circumstances, non-conviction charges related to information when a strict test is met.

Vulnerable Sector Check (VSC)

Faith Infant and Early Education Centre will obtain a VSC from all employees, placement students and volunteers in accordance with the timelines indicated below:

- Before beginning employment or otherwise interacting with the children,
- On or before the 5th anniversary after the date of the most recent VSC,
- After any break in the relationship with the Centre that has lasted *6 months or more*, before the relationship resumes and
- After any break in the relationship with the Centre that has lasted *less than 6 months*, only if a VSC would have been required during the break before the relationship resumes.
- The VSC provided must be intended for the position that the individual will hold; otherwise, it will not be accepted, i.e. employee, placement student, etc.
- *No exceptions* will be made for individuals to obtain a Police Record Check such as a medical reason.

The Management Team will review all VSCs to ensure that they are:

- Conducted by a Police Service from the city or town in which the person lives,
- Prepared no earlier than six months before the date the Centre obtained it,
- The original document is submitted,
- The original document is not altered in any way,
- The original document is clear and legible,

- It is provided in English or is accompanied by a certified translated copy,
- It is complete with no information missing,
- It is inclusive of all information required about Criminal Code (Canada) convictions as listed in subparagraph 1 ii of subsection 9 (1) of the CCEYA, 2014.

The following *exceptions* will apply to placement students and volunteers only:

- VSCs performed *more than six months before* the day they are provided to the Centre will be accepted as long as the VSC is less than 5 years old from the date it was submitted.
- In such a case, an Offense Declaration addressing the period since the VSC was performed will be required.
- The Centre will also **accept a photocopy** of a VSC under the same circumstances addressed above provided more than 6 months but less than 5 years have passed since the day it was performed.

Delay in Obtaining a Vulnerable Sector Check:

The process, responsibility and cost of obtaining the VSC for employment, placement or volunteer hours is placed on the individual. The original document must be viewed, signed and dated by the Management Team prior to interacting with the children.

Faith Infant and Early Education Centre *may* permit the employee, placement student or volunteer to start or continue their position interacting with the children provided that:

- The candidate has applied to obtain a Vulnerable Sector Check within 48 hours of the offer of employment or the start of placement
- A payment receipt supports proof of applying for a VSC,
- The person has applied to obtain a Vulnerable Sector Check as soon as reasonably possible;
- The length of time required to obtain a Vulnerable Sector Check justifies it, and
- Additional measures are followed to protect the children who will be interacting with the person until the Vulnerable Sector Check is obtained.
- *See the Additional Measures Section below*

A Criminal Record Check (CRC) will only be accepted in place of a VSC where:

- Any statute of Ontario or Canada prohibits the disclosure of information contained in a VSC in respect of a person (i.e. person under 18 years of age, pardoned offences, etc.)
- A Police Service will only issue a CRC, not a VSC, for an individual or
- The person, such as a Director or Officer, does not interact with children at the Centre.
- A Criminal Record and Judicial Matters Check will be accepted in place of a CRC but will not be accepted in place of a VSC.

Individuals turning 18 or 19 years of age:

- Any individual turning 18 while in a position at the Centre, where they interact with children, will be asked by the Administrator to disclose every previous finding of guilt if they received an adult sentence.
- Where there are no such findings, the individual, under the Youth Criminal Justice Act (YCJA), will sign an Offence Declaration for those 18 years old.
- Any individual turning 19 while in a position at the Centre, where they interact with children, will be asked by the Administrator to apply for a VSC within one month after their 19th birthday.
- The person must provide the Centre with the payment receipt or submission.
- The Administrator will inform the individual when an OD for under 19 or a VSC is required.

Renewals:

- The Administrator tracks all VSCs.
- The Administrator will notify the individual who needs to provide a new VSC and require them to apply for one by a certain date or,
- The Administrator will notify the individual to bring in the two documents needed for the VSC, and the application will be made on their behalf.
- The new VSC must be received prior to the 5th anniversary date.
- With long-term employees, Faith Infant and Early Education Centre will pay the ongoing cost for employees only upon the 5-year submission for a VSC.
- *Payments will continue as long as it does not produce a financial hardship for the Centre.*

Each original VSCs will be reviewed and kept in a secure location at the Centre. Should the individual need to keep their original VSC, a copy will be made indicating that the original was viewed with name, signature and date received and reviewed.

Offence Declarations (OD)

An Offence Declaration is described as a written declaration signed by an individual that lists all of the individual's convictions for offences under the *Criminal Code* (Canada), if any, during the period specified in the declaration.

Faith Infant and Early Education Centre will obtain an OD from all employees, placement students and volunteers in accordance with the timelines indicated below:

- Annually, no later than 15 days after the anniversary date of the most recent VSC or OD,
- Where a VSC has been provided by a placement student or volunteer that is more than 6 months old and less than 5 years old before the individual starts interacting with children.

- After any break in the employment relationship that has lasted less than 6 months, only if an OD would have been required during the break before the relationship resumes.
- Where an *individual* who provides other services to the children did not submit an attestation, an OD may be submitted; provided it is no later than 15 days after the anniversary date of the most recent OD or Attestation.
- An Offence Declaration will be made available to all staff upon request. It is the responsibility of each staff to complete the Offense Declaration and submit it to the Administrator before the deadline each year.

The Management Team will ensure that:

- ODs are obtained from the individuals mentioned above every calendar year except if the individual has to provide a VSC that year.
- Any individual from whom the Centre is required to obtain a VSC must disclose to the Administrator as soon as reasonably possible any time they are convicted of any offence under the Criminal Code of Canada.
- Every OD submitted contains:
 - The name of the individual who is making the Offence Declaration,
 - The date of the last VSC or OD or the date of the 18th birthday,
 - A list of all convictions for offences under the Criminal Code of Canada or a statement that the individual has not been convicted of any offences under the Criminal Code of Canada,
 - The date the OD was made,
 - The signature of the individual making the Offence Declaration.
- All ODs will be kept confidential and maintained for 3 years after the date it was created.
- The tracking sheet for all documents is updated periodically.

Annually:

- The Administrator tracks all ODs.
- The Administrator will notify the individual that they need to sign a new OD and prepare one for them using the Centre's template.
- The new OD must be signed no later than 15 days from the anniversary date of the most recent OD.
- Prior to signing the new OD, the individual will be asked if any convictions need to be disclosed.
- The new OD will be placed into the confidential binder and kept in a secure location.

Attestations

Faith Infant and Early Education Centre will obtain an Attestation from the following individuals in accordance requirements indicated below:

- The Management Team will inform any ‘other person’ who provides child care or other services to children at the Centre that an Attestation is required prior to interacting with children,
- The Attestation, once received, will be placed in the confidential binder and kept in a secure location,
- If an Attestation is not otherwise provided, an *Offence Declaration* may be prepared prior to interacting with children,
- An Attestation or OD must be updated annually, no later than 15 days after the anniversary date of the most recent Attestation, if the person continues to provide such services to the Centre.
- ‘Other persons’ may include Early Intervention Services, York Region Children Services visits, bus drivers, music performers, support persons hired by a parent, etc.
- *Exempt*: Police Officers, Firefighters, Ambulance attendants, paramedics or other emergency personnel, regulated health professionals or individuals whose profession is regulated under the Social Work and Social Service Work Act 1998.

The Attestation must include the following:

- The employer, person or entity has obtained and reviewed a VSC from that person;
- The VSC was performed within the last 5 years, and
- The VSC did not list any convictions for any offences under the Criminal Code of Canada, which are listed in subparagraph 1 ii of subsection 9 (1) of the CCEYA, 2014.

Attestations are to be submitted to the Administrator prior to interacting with the children. Each Attestation will be reviewed and kept in the binder at the Centre. The binder is in a locked cabinet and behind a locked door. Should the individual need to keep their Attestation, a copy will be made indicating that the original was viewed and by whom with name and signature, along with the date received and reviewed (these two dates are generally the same).

Break in Employment

When the relationship between Faith Infant and Early Education Centre and a person in respect to whom a previous VSC was obtained terminates, Faith Early Education Centre will obtain a new VSC or OD as follows;

1. If the relationship was terminated for six months or more, a new Vulnerable Sector Check will be obtained before the relationship resumes,
2. Suppose the relationship was terminated for less than six months and, but for the termination, the person would have provided a Vulnerable Sector Check or Offence Declaration during the period of termination. In that case, the Centre shall obtain from the person such VSC or OD before the relationship resumes.

If a person in respect of whom the Centre has obtained a VSC takes a leave of absence from their position and then subsequently returns to their position, and if the person would have

provided a VSC or OD during this period of their leave, Faith Infant and Early Education Centre shall obtain a new Vulnerable Sector Check or Offence Declaration upon the person's return.

If a person used to be a student on an education placement with the Centre and then, **later on**, get hired by the Centre as a staff, this **is** considered a break in employment or other relationship because the individual's relationship with Faith Infant and Early Education Centre ended and was resumed regardless of the change in positions.

Leaves and absences, such as sick leave, parental leave, summer closures, etc., are not considered breaks in employment.

Disclosure of Information

Disclosures:

If an employee discloses that they may have been involved in a crime, a meeting with the Management Team will be immediately scheduled to discuss the parameters involving the employee. Should the employee disclose that the matter may result in pending charges under the *Criminal Code* (Canada), the Management Team will consult counsel and discuss a plan of action.

Should the employee disclose that their involvement in the crime was against a child or children, then the immediate suspension of employment will ensue until there is a definitive outcome to the impending charges. The Management Team will seek the guidance of counsel.

Where the immediate health and safety of the children are a concern, Faith Infant and Early Education Centre will:

- Follow the Serious Occurrence policies and procedures;
- Notify the local Children's Aid Society immediately in accordance with "duty to report" obligations under the Child, Youth and Family Services Act, 2017 or subsequent legislation;
- Notify other authorities such as the College of Early Childhood Educators, Consolidated Municipal Service Manager, local Police Services, etc., as applicable.

Any person with a work permit or work visa that indicates that the individual is not permitted to work with children will not be hired or kept as an employee, accepted or kept as a placement student or volunteer or be allowed to otherwise interact with children at Faith Infant and Early Education Centre.

Convictions Under the Criminal Code (Canada):

If, at any time during a given year, an employee is convicted of an offence under the *Criminal Code* (Canada), an Offence Declaration must be submitted, as soon as reasonably possible, to

the Administrator. The determination of continuing employment or placement will be based on the information received.

No individual will be hired as an employee, accepted as a placement student or volunteer, or otherwise permitted to interact with children at Faith Infant and Early Education Centre if their VSC, OD or Attestation reveals any of the following findings:

1. Any conviction for an offence under the CCEYA;
2. Any conviction under the following sections of the Criminal Code of Canada:
 - a. Section 151 (sexual interference).
 - b. Section 163.1 (child pornography).
 - c. Section 215 (duty of persons to provide necessaries).
 - d. Section 229 (murder)
 - e. Section 233 (infanticide)
3. Any other federal or provincial offence prescribed by the regulations.

In addition, if a person with other convictions under the Criminal Code of Canada has offences that pose a high risk to the health, safety and well-being of children, families or other representatives of the Centre, they will not be hired or kept as an employee, accepted or kept as a placement student or volunteer or be allowed to otherwise interact with children at the Centre.

The CCEYA states that individuals convicted of certain offences are not permitted to provide child care so that children are not placed at risk. Suppose an individual has been convicted of any of the above or the following offences. In that case, they are not permitted to provide care for children in either a paid or volunteer capacity.

These include but are not limited to:

- Physical or sexual abuse or assault;
- Manslaughter;
- Indictable criminal offences for child abuse;
- Convictions for any violent offence, whether or not it involves weapons;
- Offences which indicate a pattern of behaviour that could create risk in terms of the role the individual is expected to play and
- Current prohibitions or probation orders forbidding the individual to have contact with children under 16 years of age.

Professional Misconduct:

Faith Infant and Early Education Centre is obligated to file a report with the Registrar of the College of Early Childhood Educators if the member is terminated, suspended or had restrictions imposed on their duties during their employment due to professional misconduct. The Centre has 30 days after termination, suspension or restriction to file a written report setting out the reasons.

Faith Infant and Early Education Centre is also required to report to the Registrar of the College of Early Childhood Educators should they become aware that a member who is or has been employed by the Centre has:

- Been charged with or convicted of an offence under the Criminal Code of Canada involving sexual conduct and minors,
- Been charged with or convicted of an offence under the Criminal Code of Canada that, in the opinion of the Centre, indicates that a child may be at risk of harm or injury,
- Engaged in conduct or taken action that, in the opinion of the Centre, should be reviewed by a committee of the College.

Anyone who has been found guilty of professional misconduct under the Early Childhood Educators Act, 2007, The Ontario College of Teachers Act, 1996, or the Social Work and Social Service Work Act, 1998, and as a result cannot practice their profession, is also prohibited from providing child care in the province. These three Acts established regulatory Colleges to oversee the specified profession.

With each professional College listed above having a public register of current and past members, Faith Infant and Early Education Centre will review the status of individuals to ensure that the individual has not been found guilty of professional misconduct.

1. The individual's membership in the regulatory body established under that Act was revoked, and the individual has not been readmitted since that time,
2. A certificate or documentation issued to the individual under that Act that authorized the individual to practice was revoked and has not been reissued since that time or
3. The individual's authority to practise was restricted in any other way prescribed by the regulations.

Additional Measures

Hiring employees or placing students or volunteers is dependent upon the return of a satisfactory Vulnerable Sector Check; however, it does not mean that employment or placement will be discontinued, halted, or delayed.

To ensure the safety of the children, additional measures will be put in place until a clear VSC is obtained, such as:

- The candidate's credentials will be verified along with references,
- An Offence Declaration will be obtained from the individual,
- The candidate must submit proof that a VSC has been applied for within 48 hours of the offer of employment or placement, such as a payment receipt,
- The candidate will be supervised at all times while with the children until a clear Vulnerable Sector Check is obtained,
- The individual's behaviour and interactions with the children will be monitored and

documented, at minimum, weekly, by the Supervisor and program teachers in which the individual works,

- Room reassignment or kitchen duties may be required until this document is received,
- Informal discussions will be conducted with the staff working with the individual to collect their observations of the individual's behaviour with the children, parents and colleagues, and
- Placement students and volunteers are never left alone with the children; however, they must comply with the additional measures.

Suppose a VSC is not produced within 2 weeks of the start date, Faith Infant and Early Education Centre will automatically rescind the offer of employment or placement *except where* it can be proven that there are extenuating circumstances as to why there is a delay in obtaining the VSC.

Upon receipt of the VSC, a position of employment or placement will be offered, or the employment or placement may be rescinded if convictions are present.

Confidentiality of Information

Each Vulnerable Sector Check, Offence Declaration or Attestation obtained for positions listed within this policy is kept in a binder, filed under the individual's name or position, in a locked cabinet, behind secured doors. This information will be kept in strict confidence.

The information revealed in the VSC, Offence Declaration or Attestation will be reviewed on an individual basis by the Management Team. Upon reviewing each submission, it will be determined by Faith Infant and Early Education if employment, placement or interactions with the children will continue to be suitable or if employment or services will terminate based on the disclosure.

Information about an individual's criminal record and history will be treated confidentially, and every effort will be made to protect the privacy of staff, placement students and volunteers and any other person mentioned in this policy except when information must be disclosed for the purpose of implementing the procedures in this policy and for legal reasons.

Compliance

Failure to comply with this policy, including all deadline submissions, will result in immediate suspension of employment without pay until the policy requirements are met, or dismissal from employment will be considered.

Policies and procedures re record checks

65. Every licensee shall ensure that there are written policies and procedures that address,

- (a) the process for obtaining a vulnerable sector check or attestation;
- (b) the process for submitting an offence declaration;
- (c) how the confidentiality of information contained in a vulnerable sector check, offence declaration or attestation will be protected;
- (d) the way in which any information revealed in a vulnerable sector check, offence declaration or attestation may be considered and used;
and
- (e) the additional measures that will be put in place when a situation described in subsection 61 (1) occurs to protect the children who interact with the person until the vulnerable sector check is obtained, such as requiring the supervision of all interactions between the person and the children. O. Reg. 137/15, s. 65; O. Reg. 126/16, s. 41.

For all other requirements regarding Staff Screening Measures and Criminal Reference Checks, please refer to the CCEYA, Part 9.