

Manitoulin-Sudbury District Services Board POLICY & PROCEDURES MANUAL	
Section: F. Children's Services	Effective Date: January 2010
Topic: 7. Operator Requirements	Replaces: 16.1 Provisional Licenses Policy November 2004
Subject: 7.3. Criminal Reference Checks	
Policy No. F.7.3.	Page 1 of 3

POLICY

Authority: Day Nurseries Act - R.R.O. 1990, Reg. 262 (75)

All Service Providers (Licensed Child Care Service Providers, Hubs, and Special Needs Resourcing) funded by the Manitoulin-Sudbury DSB providing direct service to children will be required to have a criminal reference check policy and procedure in place. As a minimum, criminal reference checks must be applied to all successful candidates for full and part time positions and agency volunteers (including board members) having direct contact with children. It should be noted that the words "candidate" and "staff" include all persons who provide, for the agency, direct service to children, not just those persons who are in an employment relationship with the agency; this includes students and volunteers.

PROCEDURE

Criminal reference checking is a mandatory precautionary measure designed to ascertain whether employees/volunteers providing direct service to children have a criminal history which could potentially make them unsuitable for certain positions of trust. Such checks can assist agencies in attempting to ensure the safety and well being for people who are receiving services from them.

Criminal reference checks must be completed for all successful candidates for either full or part time positions and agency volunteers who have direct contact with children. Where board members have direct contact through volunteer work, for example, they will also be required to undergo criminal reference checks.

In some cases, it is quite clear that an employee or volunteer provides direct service to clients. However, in some cases, agencies will have to use some judgment in deciding if certain staff or volunteers provide direct service. For example, cooks, drivers, and maintenance staff, who may not normally be considered to be direct service workers, sometimes have unsupervised contact with clients as part of their regular duties. As a good practice, agencies are encouraged not to be restrictive in the application of this policy.

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Policy No. F.7.3.	Page 2 of 3

Process

The release of information related to criminal reference checks is subject to the discretion of the local Police Chief. In developing policies, agencies should first consult with the local Police Chief to determine the most effective way to implement the procedure.

Service Providers have two options for obtaining criminal reference check information:

1. They can request the successful candidate to provide his or her own criminal reference check; or,
2. They can obtain the written and signed consent of the candidate and send requests for criminal reference checks directly to the local police station.

The Ministry of the Solicitor General and Correctional Services advises that criminal reference check information provided by the police, to agencies for employment screening, can be used only for hiring purposes. Given the sensitive nature of the information, agencies should establish procedures to protect the confidentiality of the information, and for destroying or securing the information, once the check has been completed and a final decision regarding employment has been made.

Costs

The cost of obtaining a criminal reference check is determined by the local police jurisdiction. In some cases, the local police department conducts the criminal reference checks at no cost while other police departments charge an administrative fee.

Where there is a cost for obtaining a criminal reference check, the successful applicant or volunteer is responsible for the costs. However, the internal policies of the Service Provider can decide to pay the costs of the criminal reference check.

Service Provider Policies

Service Provider policies should contain, as a minimum, the following elements:

- The staff/volunteer positions to which the policies will apply;
- The process to be followed in obtaining the criminal reference check;
- The process to be followed in the event of a positive criminal reference check; and
- The process to be followed when the length of time required to obtain a criminal reference check may require the agency to make a conditional offer of employment.

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Subject: 7.3. Criminal Reference Checks	
Policy No. F.7.3.	Page 3 of 3

Positive Reference Checks

Agency procedures should describe the process used for responding to positive criminal reference checks and should indicate that a positive response does not necessarily preclude employment. Agencies should consider the nature of and circumstances surrounding the charges and convictions.

A criminal reference check should only be one part of an overall hiring policy. References obtained from past employers and rehabilitative and other efforts subsequently made by the candidate should also be considered. The Manitoulin-Sudbury DSB requirement is only that agencies ensure checks are conducted and that the checks form part of the hiring procedure. All hiring decisions are the complete responsibility of the agency.

Conditional Job Offers

It is recognized that some agencies may wish to make a conditional job offer to a candidate, or an agency may consider it necessary to have an individual begin work during the time period that the criminal reference check is being processed. While the Manitoulin-Sudbury DSB directive does not prevent agencies from exercising discretion in this manner, it is strongly recommended that precautionary measures are put in place. For example, if an individual begins work prior to the completion of the criminal reference check, it may be appropriate for the individual to have supervised access to agency clients. As well, agencies will want to ensure that if employment is commenced before the results of the criminal reference check are obtained, the relationship can be terminated if the agency considers it appropriate once the results are received.