

# North East School Division - Administrative Procedure



## AP 516 Reporting Criminal Charges

### References:

[The Education Act, 1995](#) Sec 85, 87, 108, 109 [Government of Canada - Controlled Drugs and Substances Act](#)  
[Government of Canada - Criminal Code](#) [Government of Canada - Criminal Records Act](#)  
Government of Canada - Food and Drugs Act. [Government of Canada - The Firearms Act.](#)  
[SSBA: LAFOIPP](#)

### Related:

[AP 515 Criminal Record Check.](#)  
[AP 515.1 Criminal Record Check form](#)  
[APF 516.1 Declaration and Reporting Criminal Charges form.](#)  
[AP 412.5 Access to Schools; Volunteers.](#)  
Code of Conduct

### Tracking:

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### Status:

Approved - Dec 2023

## REPORTING CRIMINAL CHARGES

The North East School Division protects the public interest in the delivery of safe education services by requiring that all employees, volunteers, interns, and field experience participants will have provided a criminal record check<sup>1</sup> and vulnerable sector check prior to being placed in his/her position as per AP 515 Criminal Record Check.

All current employees<sup>2</sup>, persons engaged in an internship or field experience program, and volunteers are required to report criminal *charge* in accordance with procedures below.

### PROCEDURES

#### Employee

1. If you have been charged with an offence you must (no later than two working days) notify your immediate supervisor and the Superintendent of Human Resources or Director of Education verbally and subsequently in writing of all charges.
2. APF 516.1 *Declaration and Reporting of Criminal Charges* form will be utilized to submit the written notification. A submission outlining relevant circumstances may be attached.
3. Upon receipt of APF 516.1, and the information pertaining to criminal charges, the Superintendent of Human Resources will investigate. Factors to be considered in the decision-making process when criminal charges are reported may include but are not limited to:
  - a. The nature and particulars of the criminal charge.
  - b. Any extenuating circumstances as provided by the individual.
  - c. The relationship of the charge to the position and any effect it might have on the ability of the individual to do their job.
  - d. Whether the employee can maintain the trust of the public, staff and administration in the continuation of duties.
4. The following actions constitute grounds for disciplinary action up to and including termination of employment, in accordance with the provisions of the employee's contract of employment:
  - a. Failure to disclose criminal charges.

<sup>1</sup> All employees, volunteers, interns, and field experience individuals must read and sign for understanding AP 515 Criminal Record Check

<sup>2</sup> Including those on leave or seasonally employed

- b. Providing a written statement or submission with false or misleading statements pertaining to criminal charges, as evidenced by a new CRC/VSC after the matter has been settled in court.
5. Subject to the provisions of the Education Act, 1995 and the relevant collective agreement or contract of employment, NESD in its discretion may transfer, reassign or terminate the employment of an employee. Even if they are in compliance with the requirements of 515 Criminal Record Check and this 516 Reporting Criminal Charges administrative procedures.
6. Any action taken by NESD with respect to an employee is to be conveyed to the employee in writing. A copy of this correspondence placed in the employee's personnel file.
7. Any documents relating to charges shall be treated as confidential and shall be retained only for so long as needed for the purposes for which they were collected.<sup>3</sup>
8. Any appeal of the decision should be made in accordance with the provisions of the employee's collective agreement, conditions of employment or where no collective agreement applies, within fifteen (15) days of notification of the decision.

### **Volunteer, Internship or Field Experience**

1. Any approved volunteer must, no later than two working days after having been charged with an offence; notify the school principal(s), supervisor, or human resources, verbally and subsequently in writing of all charges using APF 516.1 Declaration and Reporting Criminal Charges.
2. The principal shall immediately suspend the volunteer until the information/written documentation is reviewed and completed in consultation with the Superintendent of Human Resources. A submission outlining relevant circumstances may be attached to APF 516.1 Declaration and Reporting of Criminal Charges.
3. Upon receipt of APF 516.1, and the information pertaining to criminal charges, the principal and the Superintendent of Human Resources will investigate. Factors to be considered in the decision-making process when criminal charges are reported may include but are not limited to:
  - a. The nature and particulars of the criminal charge.
  - b. Any extenuating circumstances as provided by the individual.
  - c. The relationship of the charge to the position and any effect it might have on the ability of the individual to do his/her job.
  - d. Whether the employee can maintain the trust of the public, staff and administration in the continuation of duties.
4. The following actions constitute grounds for immediate dismissal:
  - a. Failure to disclose criminal charges as outlined above.
  - b. Providing a written statement or submission with false or misleading statements pertaining to criminal charges.
5. Any action taken by the Superintendent of Human Resources, in consultation with the principal, with respect to a volunteer in violation of these procedures, is to be conveyed to the volunteer in writing.
6. Any appeal of the decision is to be made to the Director of Education within fifteen (15) days of notification of the Superintendent of Human Resources decision.
7. Any documents relating to charges shall be treated as confidential and shall be retained only for so long as needed for the purposes for which they were collected as per LA FOIP.

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<sup>3</sup> Following LA FOIP regulations