



YMCA of Newfoundland and Labrador
CRIMINAL RECORD CHECK and VULNERABLE SECTOR CHECK POLICY
(Revised 13 June 2022)

1. POLICY

A Criminal Record Check and Vulnerable Sector Check is required for all YMCA employees, volunteers and job placement positions. All forms of advertising used to recruit and select staff and volunteers will include a statement that YMCA offers of employment (or volunteer assignment) are contingent upon the successful completion of a Criminal Record Check and Vulnerable Sector Check. It is to be received prior to the individual starting their employment or voluntarism with the YMCA. See **Appendix A** for the YMCA of Newfoundland and Labrador Participant CRC/VS Privacy Policy.

The Criminal Record Check shall consist of a check through the Canadian Police Information Computer (CPIC) for criminal code charges, as well as criminal convictions for which a pardon has not been granted, and a Vulnerable Sector Check (RNC or RCMP). A federal government security check is also acceptable. Third party agencies cannot be used for the purpose of obtaining a Criminal Record Check or Vulnerable Sector Check, nor will they be accepted.

2. TERMINOLOGY

Criminal Record Check is a search of the records held in the information database of a policy agency. It may include a check of national or local regional police records. Basic types include Police Criminal Record Check or Police Information Check or Police Vulnerable Sector Check. At the end of the process, a report is issued.

3. PURPOSE

This is a precautionary measure designed to seek confirmation that employees, volunteers, and job placements potentially providing direct service to children or vulnerable adults do not have a criminal history which could make them unsuitable for positions of trust.

As per the YMCA Children Protection and Vulnerable Persons Policy, the information provided by the results will only be used for the purpose of hiring for the YMCA and will

not be disseminated to any other person or organization. All information will be kept confidential.

4. APPLICATION OF THE POLICY

- A. All new staff, volunteers and job placements must provide their supervisor with an original Criminal Record Check and Vulnerable Sector Check, or present the original for inspection to be photocopied and verified by the supervisor with a signature and date that is less than 90 days old on their start date prior to starting work and to be kept in the individual's personnel file. Employees who leave employment with the YMCA and return later as an employee to the YMCA will follow the same process for new hires. Request for Exemption forms for a Criminal Record Check and Vulnerable Sector Check can be accepted on an exceptional basis. Supervisors are to ask the Child Protection Lead for a copy of the Exemption Form each time they are requesting to use it. A two-person monitoring procedure will be in place when approving the Exemption Form for new employees (i.e., the Supervisor and the Child Protection Lead or a Human Resources representative).
- B. All current staff, volunteers, and job placements must have a Criminal Record Check and Vulnerable Sector Check on file that was submitted prior to or within 60 days after February 20th, 2013.
- C. If a criminal record check reveals a prior criminal record for a prospective employee, the following factors should be considered in determining whether to employ the individual at the YMCA of Newfoundland and Labrador:
- the type of offence
 - number of convictions
 - how long ago the offence occurred and the individual's age at the time of the conviction(s)
 - what rehabilitative efforts have been made by the individual
 - the relevance of the offence to the position involved
 - potential risk to the YMCA in accepting the individual into the position
- D. The Human Rights Act, Section 14, prohibits an employer from refusing to employ, or otherwise discriminate, against an employee on the basis of a conviction for an offence that is unrelated to their employment.
- E. An employer must consider the circumstances of the conviction to decide if it is related to the employment of an individual. All relevant circumstances must be included:
- (1) Does the behaviour for which the charge was laid, if repeated, pose any threat to the employer's ability to carry on its business safely and efficiently?

- (2) What were the circumstances of the charge and the particulars of the offence involved, e.g. how old was the individual when the events in question occurred, were there any extenuating circumstances?
- (3) How much time has elapsed between the charge and the employment decision? What has the individual done during that period of time? Has the individual shown any tendencies to repeat the kind of behaviour for which they were charged? Has the individual shown a firm intention to rehabilitate?

If the YMCA of Newfoundland and Labrador refuses to hire the applicant after a good faith consideration of the above factors, the YMCA's decision would likely not amount to discrimination in breach of the Human Rights Act.

Workplace Violence

The Occupational Health and Safety Regulations, 2012, provides that an employer is required to inform workers who may be exposed to the risk of injury from violence of the nature of the risk and the precautions that may be taken. Where, following a risk assessment, an employer determines that such a risk exists, employers have the duty to provide information related to the risk of violence from persons who have a history of violent behavior and whom workers are likely to encounter in the course of their work. As per the OHS Regulations, 2012, sections 22.1 (Risk Assessment), 23 (Violence Prevention), and 24 (Instruction to Workers) are relevant

Criminal Record Check and Vulnerable Sector Check exemptions apply to the following:

1. Advisory committee volunteers who have no potential contact with children or vulnerable adults while fulfilling their advisory committee roles including the Board's Nominating Committee.
2. Philanthropic development and fundraising volunteers who have no potential contact with children or vulnerable adults while fulfilling their YMCA role.

All information obtained is strictly confidential. Reports of all checks will be maintained in personnel files and/or in a secure location.

4. REVIEW

This shall form only part of the selection process. Successful candidate(s), from the interview process, with a criminal record shall not be automatically disqualified from the job competition. Should an applicant have a criminal record or issues flagged by the Criminal Record Check or Vulnerable Sector Check the supervisor(s) shall present all circumstances to the President and CEO and one other member of the Senior Management Group (SMG) before reaching a final decision and final approval for hiring will be required in writing from the President and CEO.

The employee's, volunteer's, or job placement's immediate supervisor will review the Criminal Record Check and Vulnerable Sector Check. Upon receipt of a clear Criminal Record Check and Vulnerable Sector Check, the supervisor will follow usual procedures to activate employment or volunteer services.

In the event a Criminal Record Check or Vulnerable Sector Check is returned with disclosures, the President and CEO and one other member of the SMG and the supervisor(s) will determine if the disclosures put the Association at risk, having regard to the provisions of the Human Rights Act, 2010. If in their opinion there is no risk, the Criminal Record Check and Vulnerable Sector Check will be filed in the personnel file with a note verifying a review took place that is signed by the President and CEO.

If in the opinion of the President and CEO and one other member of the SMG there is potential risk the prospective employee, volunteer, or job placement may be given the opportunity to provide explanations. The CEO and one other member of the SMG shall then determine if an offer of employment should be made or denied, or if employment should be terminated.

When there is a disclosure of convictions or charges of a member of the Board of Directors that may cause a risk to the Association, the matter will be reviewed by the Board Chair and CEO. The Board Chair and CEO shall determine if the volunteer position should be denied or terminated and propose the removal process for resolution by the Board.

Should the prospective employee, volunteer, or job placement choose not to show the related summary to the supervisor, neither employment nor volunteer services will commence.

5. RESPONSIBILITY FOR OBTAINING THE CRIMINAL RECORD CHECK AND VULNERABLE SECTOR CHECK AND COST

It will be the responsibility of the potential employee/volunteer to obtain the Criminal Record Check and Vulnerable Sector Check.

1. The Association will issue a letter requesting no charge for volunteers (**Appendix B**)
2. It is the responsibility of all individuals applying to a full or part-time position to cover the cost of obtaining a Criminal Record Check and Vulnerable Sector Check.
3. The Association will reimburse employees on the most recent payroll and in job placements to cover the cost of obtaining a new Criminal Record Check and Vulnerable Sector Check.

6. IMPLEMENTATION

This policy took full effect on 1 May, 2007 and was revised for clarity on 19 February, 2009 and again on 19 December 2012 and again on 20 February 2013, again 22 September 2016, and again on 7 February 2022.

From time to time the President and CEO or designate may require updated Criminal Record Check and Vulnerable Sector Checks to be obtained.



APPENDIX B
VOLUNTEER CRIMINAL RECORD CHECK AND VULNERABLE SECTOR CHECK WAIVER FORM

DATE

Headquarters **OR INSERT LOCAL/PROVINCIAL RCMP address**
Royal Newfoundland Constabulary
1 Fort Townshend
St. John's, NL A1C 2G2

To Whom It May Concern:

The YMCA is a charity that provides opportunities for all to grow in spirit, mind, and body. We provide access to all in employment, child care, and health programs, all of which are based on the Y core values of caring, honesty, respect, responsibility and diversity. Many of our programs are run by volunteers and volunteer development is part of our commitment to building strong kids, strong families, and strong communities.

VOLUNTEER FULL NAME has applied to become a volunteer with the YMCA of Newfoundland and Labrador and as such we will require that they obtain a Criminal Record Check and Vulnerable Sector Check. Please process this application and waive the fee as normal for all volunteers in our organization.

If you have any questions regarding this letter, please contact me at **(INSERT supervisor phone number)** or by email at **NAME@nl.ymca.ca**.

Sincerely,

SUPERVISOR NAME
SUPERVISOR TITLE
Supervisor Location