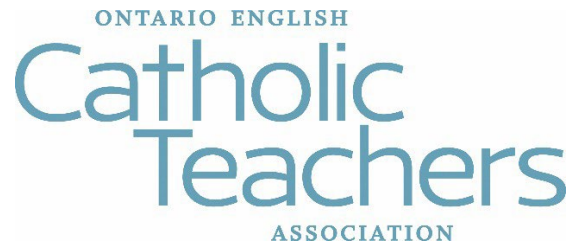


Proposed Amendments to O. Reg. 521/01: Collection of Personal Information and Consequential Regulations

Submission to the Ministry of
Education



The Ontario English Catholic Teachers' Association (OECTA) represents the 45,000 passionate and qualified teachers in Ontario's publicly funded English Catholic schools, from Kindergarten to Grade 12.

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TABLE OF CONTENTS

1.	INTRODUCTION	1
2.	OVERVIEW OF PROPOSED REGULATORY AMENDMENT	2
3.	RESPECTING COLLECTIVE AGREEMENTS AND THE COLLECTIVE BARGAINING PROCESS	3
4.	LACK OF DETAIL OR SPECIFICITY ON THE INFORMATION TO BE COLLECTED AND DISCLOSED.....	4
5.	PRIVACY AND DATA COLLECTION.....	5
6.	POTENTIAL NEGATIVE IMPACT ON EMPLOYMENT AND LABOUR RIGHTS.....	6
7.	HUMAN RIGHTS AND EQUITY.....	6
8.	ADMINISTRATIVE DEMANDS	7
9.	RECOMMENDATIONS	8
10.	WORKS CITED	10

INTRODUCTION

The Ontario English Catholic Teachers' Association (OECTA) welcomes the opportunity to provide input on behalf of 45,000 teachers working in publicly funded Catholic schools in Ontario, in response to the Ford Conservative government's proposed changes to the Revised Regulations of Ontario (RRO) 1990, Regulation 521/01: Collection of Personal Information and Consequential Regulations.

Catholic teachers are deeply committed to ensuring the safety and well-being of students, teachers, staff, and everyone in our school communities. We support and advocate for such measures, while also recognizing the professionalism and daily commitment of Ontario's teachers and education workers to creating safe and supportive learning environments.


At the same time, our Association firmly believes that public policy and regulatory changes must balance safety objectives with respect for privacy, equity, and the fair treatment of teachers and education workers. Without striking this balance, new regulatory requirements risk creating new issues – even as they purport to address others.

Catholic teachers recognize the government's stated goal of strengthening student safety through amendments to Regulation 521/01, and we share this priority. However, we must also point out that several aspects of the proposed amendments could potentially constitute unlawful government overreach, and go beyond a reasonable intrusion upon teachers' privacy and employment rights. In addition, the government has yet to provide any data, evidence, or rationale as to why the current regulatory regime is inadequate at protecting student safety and why such broad and substantive changes are necessary.

The Association is continuing to review the legality and constitutionality of the proposed regulatory amendments, including any potential adverse impacts on rights under the *Ontario Human Rights Code*, the *Labour Relations Act, 1995*, and the *Canadian Charter of Rights and Freedoms*.

After presenting an overview of the proposed regulatory amendments, this submission articulates six areas of concern, including:

- Respecting collective agreements and the collective bargaining process
- Lack of detail or specificity on the information to be collected and disclosed

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- Privacy and data protection
 - Potential negative impact on employment and labour rights
 - Human rights and equity
 - Administrative demands

Given these concerns and outstanding questions, the Association is respectfully requesting that the government pause any proposed amendments to regulation 521/01, remove requirements for a Vulnerable Sector Check or Criminal Record and Judicial Matters Check every five years, and instead engage in meaningful consultation with education stakeholders prior to enacting any changes to the current regulatory regime.

OVERVIEW OF PROPOSED REGULATORY AMENDMENT

In a May 29 memo from the Minister of Education and Deputy Minister of Education, the government indicated that – as part of the broader changes resulting from the introduction of Bill 33, the *Supporting Children and Students Act* – it would be proposing a series of regulatory amendments, one of which would seek to standardize the requirement for police record checks.

Following this, on August 26, the proposed amendment to Regulation 521/01 was posted to the Ontario Regulatory Registry.

If approved, the proposed changes would:

- Amend Minister's regulation (O. Reg 521/01) to require school boards and school authorities to collect a police record check every five years from employees, service providers, volunteers, and students on educational placements.
 - Checks would be collected as follows:
 - A Vulnerable Sector Check (VSC) from employees, service providers, volunteers, and students on an educational placement who are or will be in a position of trust or authority in relation to pupils;
 - A Criminal Record and Judicial Matters Check (CRJMC) from employees, service providers, volunteers, and students on an educational placement who are not or will not be in a position of trust or authority in relation to pupils.

- Require school boards to collect the new police record checks for existing employees, service providers, and volunteers over a staggered timeline based on when their last check was collected. These requirements would come into effect in four phases as follows: January 1, 2026, March 31, 2026, September 1, 2026, and January 1, 2027.
- Require an offence declaration every year in between the collection of required checks.
- Make updates to align with new terminology and associated authorized disclosure of information under the Police Record Checks Reform Act, 2015 (PRCRA).
- Make consequential amendments to Regulation 298 (Operation of Schools), O. Reg. 142/08 (Letters of Permission) and O. Reg. 322/10 (Letters of Permission - Early Childhood Educators) to align with updated terminology and requirements in O. Reg 521/01.


The proposed amendment represents a substantive change from the existing framework, which primarily relies on initial hiring-stage checks and annual self-declarations. By adding prescribed recurring record checks, mid-cycle reporting obligations, and expanded categories of individuals who are subject to these requirements, the amendment would create a more complex compliance environment, both for school boards and workers – one that could pose barriers and create inequities.

While Catholic teachers share the objective of ensuring a safe and supportive learning environment, the breadth of these proposals raises serious questions about their necessity, fairness, and practical impact.

RESPECTING COLLECTIVE AGREEMENTS AND THE COLLECTIVE BARGAINING PROCESS

OECTA is the exclusive representative for teachers employed by publicly funded Catholic school boards, including in respect of the terms and conditions of their employment. The imposition of cyclical vulnerable sector checks on all teachers as a condition of employment is a significant change to their working conditions.

It is critical to remember that, in the case of OECTA, a number of local collective agreements already contain language and provisions that govern the timing and scope of criminal background checks, what documents may be placed in an educator's personnel file, how those documents are to be handled, and the processes by which information is



reviewed or challenged.

These provisions exist to ensure fairness, consistency, and due process in the management of employee records. This language is arrived at through the constitutionally protected collective bargaining process and ensures that the unique perspectives of the signatories, including Catholic teachers, are taken into account.

In addition, the central terms of Part A of the collective agreement signed by OECTA, representatives of the Crown, and the Ontario Catholic School Trustees' Association (OCSTA) include requirements for consultation. It is Catholic teachers' firm expectation that the government will respect and uphold current collective agreement language – and engage in a free and fair collective bargaining process.


LACK OF DETAIL OR SPECIFICITY ON THE INFORMATION TO BE COLLECTED AND DISCLOSED

A key feature of the regulatory amendment is the proposal to collect either a Vulnerable Sector Check ("VSC") or Criminal Record and Judicial Matters Check ("CRJMC") every five years from employees, service providers, volunteers, and students on education placements.

Of particular note, VSCs and CRJMCs are broad in scope and *can* include non-conviction records or police interactions that never resulted in charges (Raven and Ogilvie 2025). In addition, VSCs may capture withdrawn or stayed charges, acquittals, outstanding warrants, court orders, and even mental health apprehensions under the *Mental Health Act*.

The issue is compounded by the fact that police services have wide discretion in deciding what to include in a VSC, and practices vary across the province. For example, one police service might disclose a withdrawn charge or charges of a particular nature (e.g., pursuant to the *Highway Traffic Act*), while another might not, meaning two educators with identical histories could face very different outcomes depending solely on geography. This lack of consistency creates inequities and undermines confidence in the process.

Ultimately, the proposed amendments are also *silent* with respect to what the school board does with the information contained in the VSC. Accordingly, it appears that much is left to the discretion of the school board in assessing the risks posed by a particular teacher based



on the information contained in their VSC and the school board's duties under s. 170 of the *Education Act*.

Without clear limits on what can and cannot be disclosed, the proposed amendments risk over-collecting personal information while failing to distinguish between information that is meaningful and information that is immaterial to an individual's suitability to work safely with children. At the same time, the lack of detail or specificity could lead to inconsistencies in application from one school board to another.

PRIVACY AND DATA COLLECTION

As noted, the proposed amendment would require school boards to collect and store highly sensitive personal information from educators, staff, volunteers, and students on educational placements.

This raises serious concerns about over-collection and the potential for misuse. Privacy experts and legal scholars have warned that including non-conviction data can perpetuate stigma and lead to unfair employment consequences (OPCC 2018). As human rights advocate Alok Mukherjee explains, this level of data collection "gives enormous power not only to a police service, but also the individual decision-maker, to affect the lives of people for whom a police records check is required" (Raven and Ogilvie 2025).

Also troubling is the absence of clear, articulated, province-wide standards for how boards would store and manage these records. With 72 school boards and 10 school authorities across Ontario, there is a heightened risk of inconsistent practices in data security and retention.

A report by the Information and Privacy Commissioner of Ontario (2021) highlighted how breaches of sensitive employee information have become a growing problem in the public sector. Without clear limits on retention periods, access protocols, and restrictions on secondary use, these amendments risk exposing educators to identity theft, reputational damage, or unauthorized disclosure of personal information.



POTENTIAL NEGATIVE IMPACT ON EMPLOYMENT AND LABOUR RIGHTS

The proposed amendment could significantly alter the employment landscape for teachers and education workers by introducing requirements that could undermine due process. In particular, requiring employees to disclose charges before conviction threatens the presumption of innocence – a principle that is enshrined in the Canadian Charter of Rights and Freedoms.

For instance, a teacher who is charged but not convicted could nonetheless face discipline, negative stigma from colleagues, and long-term career harm. The Ontario Human Rights Commission has found that criminal record checks often lead to employment discrimination even when charges are withdrawn or stayed (OHRC 2014).


Further, the proposed amendment creates the potential for “double punishment.” Teachers and education workers could face both legal proceedings in court and employment-related discipline at work for the same alleged offence, even when no conviction is rendered. This risks undermining existing collective agreement provisions that set out fair processes for discipline and grievance resolution.

If the amendment comes into force without explicit protections, school boards will be left to interpret their obligations in ways that may conflict with established labour rights, collective agreement language and provisions. This, in turn, will only increase the likelihood of grievances, arbitration, and costly litigation.

HUMAN RIGHTS AND EQUITY

As proposed, the amendments to Regulation 521/01 could disproportionately impact Indigenous, Black, racialized, 2SLGBTQIA+, neurodiverse individuals and people with disabilities, as well as individuals from other equity-deserving communities within the education sector, who are more likely to be stopped, questioned, or charged due to systemic bias in policing.

Research consistently demonstrates that Black and Indigenous peoples, in particular, are overrepresented in police interactions and in the criminal justice system in Ontario (OHRC 2018). Requiring repeated police checks will only magnify these inequities, further entrenching systemic barriers to employment in education.



Ontario is already facing a serious and well-documented crisis of teacher recruitment and retention, with many school boards struggling to fill classrooms and keep certified and qualified teachers in the profession (Wong 2025). Introducing additional layers of mandatory police checks, annual declarations, and mid-cycle reporting obligations – that disproportionately impact certain demographics – risks deterring talented individuals from entering or remaining in the sector.


In addition, the inclusion of non-conviction data risks stigmatizing individuals who have had mental health–related interactions with police, further marginalizing people with disabilities or mental health conditions. The amendment, as proposed, runs counter to the principles of equity and inclusion that Ontario’s publicly funded education system is meant to uphold. At a time when Ontario should be removing barriers to teacher recruitment and retention, these proposed changes risk exacerbating the shortage and making it harder to attract and support the next generation of educators.

ADMINISTRATIVE DEMANDS

The proposed amendment to Regulation 521/01 could create significant new administrative obligations for school boards, which would be responsible for tracking police checks, offence declarations, and re-checks triggered by new charges – across thousands of employees, volunteers, and students on educational placements.

In addition, school boards will be required to review and assess the contents of the police records checks for each education sector workers and volunteers. This requires an individualized, case-by-case assessment, of each record in order to determine any risks posed by the individual, in a context where the record may contain, among other things, prejudicial allegations which were ultimately withdrawn by a Crown prosecutor or dismissed by a court, or charges and court orders which have little relevance to a teachers’ employment.

This represents a daunting logistical challenge at a time when many school boards are already struggling with staffing shortages, underfunding, and administrative workload. In practice, the proposed system would likely require the hiring of additional dedicated staff to process, monitor, and store compliance records – at the current funding levels, these requirements would divert already-scarce resources away from direct support for students.



While the cost of certain types of police record checks may not be prohibitive for many, we should not assume that there are individuals – and groups of individuals – who may be burdened by the additional costs. For example, new teachers and students on educational placements who may be required to obtain a vulnerable sector check could face financial barriers to entering into the profession.

At the same time, school boards may also incur additional expenses for secure data storage, IT systems, and staff training – including the potential need for additional staff – to manage compliance. Funding that would otherwise support classroom learning would need to be redirected. At a time when education funding is already constrained, it is critical that new policies do not impose additional costs that fail to directly improve student safety.

It is also worth noting the administrative burden that would be placed on to police services. The sheer number and extensive nature of executing VSCs, coupled with limited police resources, will likely result in significant delays in processing VSCs for the approximately 230,000 teachers across Ontario.


Systemic delays could have serious prejudicial impacts on the teacher's employment status and psychological wellbeing, as they are placed in limbo pending the completion of the police records check process by the police service and their employer.

Ultimately, the proposed amendments could result in significant administrative burdens, delays, and uncertainties for police, school boards, and teachers, with serious implications for the employment status and psychological wellbeing of teachers.

RECOMMENDATIONS

Any regulatory change of this nature and magnitude must be developed in dialogue with unions and worker representatives who understand both the classroom realities and existing contractual frameworks.

Catholic teachers once again must express our profound disappointment with the Ford Conservative government's refusal to consult meaningfully with our Association and other education stakeholders ahead of posting the proposed regulatory amendments.



As the frontline workers in the field of education, teachers possess firsthand knowledge and experience of how best to operationalize education policy, and which practices and methods are most conducive to success.

As a result of the areas of concern articulated in this submission – including the outstanding questions related to the scope of information to be collected and disclosed to school boards – and real concerns with the legality and constitutionality of the proposed amendments –

Catholic teachers strongly urge the government to pause the proposed amendments to Regulation 521/01, and to establish a formal consultation process with unions and education stakeholders.

While Catholic teachers agree that efforts to ensure student safety are a central priority, requiring teachers to provide a VSC or CRJMC every five years not only creates significant logistical and administrative complications, but – more to the point – could constitute an unnecessarily intrusive measure that goes well beyond what could be considered reasonable.

In addition to **removing the potentially intrusive and unconstitutional requirement for VCSs or CRJMCs every five years**, Catholic teachers would use a meaningful consultation process to advocate for:

1. **Strengthening privacy protections**

Establish and enforce province-wide standards for the secure collection, storage, access, and retention of police record checks. Limit access to designated personnel, and set clear rules on the length of time that records can be retained by school boards before mandatory destruction.

2. **Protecting due process and employment rights**

Ensure that employees are not disciplined, suspended, or terminated based solely on charges that have not resulted in conviction. Embed clear protections for presumption of innocence and respect for existing collective agreement provisions.

3. **Conducting an equity impact assessment**

Commission an independent equity review to examine how any amendments may disproportionately affect Indigenous, Black, racialized, and equity-deserving individuals. Use the findings to redesign processes that mitigate systemic discrimination.

4. **Fully funding compliance costs**

Neither teachers, students on educational placements, nor volunteers should be required to pay out of pocket for any mandatory requirements. The government should also provide proper funding for school boards to establish the necessary technological and human resources for data storage, IT systems, and staff training.

5. **Streamlining administration**

Provide school boards with centralized systems, templates, and resources to ensure consistent application across the province. Avoid diverting resources away from classrooms and student support by making compliance efficient, fair, and transparent, with clearly articulated accountability measures.

6. **Addressing violence by properly funding schools with the necessary resources and supports**

Provide resources and supports for more frontline, school-based child and youth workers, social workers, psychologists, and other professional services to help students and education workers deal with their social, emotional, and behavioural needs, in some cases attributable to pandemic-related causes.

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