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General Personnel

Administrative Procedure - Interview Questions

Anti-discrimination laws affect all steps of the employee hiring process. Knowledge of the characteristics on which these laws prohibit inquiry is especially critical when conducting interviews. Any employer that asks applicants to record video interviews and uses an artificial intelligence analysis of the applicant-submitted videos must comply with the Artificial Intelligence Video Interview Act, 820 ILCS 42/ ~~added by P.A. 101-260~~. Sloppy interview practices can result in the appearance of illegal discrimination or actual discrimination.

Interviewers should avoid seeking information that will not be used to make an employment decision. Assume that a rejected applicant may believe that all information acquired was used. The District, if challenged, must explain why it asked for the information – a very difficult task when the information involves race, sex, religion, age, disability, etc. Information needed for insurance, tax, Social Security, or similar purposes should be obtained after employment. The following list of protected characteristics may not be complete because of the rapidly changing nature of discrimination laws.

Protected Status	Do not ask	Permissible to ask
Race and color	What race are your parents?	
Alienage, ancestry, national origin, nationality, and citizenship status (provided the individual is authorized to work in the U.S.), work authorization status	<p>In what country were you born?</p> <p>In what country were your parents born?</p> <p>Are you a naturalized citizen?</p> <p>Do you have proof that you are authorized to work in the U.S.?</p>	<p>Are you legally authorized to work in the United States?</p> <p>What languages do you read, speak, or write fluently?</p>
Marital status <u>or family responsibilities</u>	<p>Are you married? Single? Divorced? Engaged?</p> <p>Are you living with someone?</p> <p>Would your spouse move with you if you got this position?</p> <p>What is your maiden name?</p> <p><u>Are you a caregiver for a family member?</u></p>	

Protected Status	Do not ask	Permissible to ask
Gender, including parent and pregnancy status, and reproductive health decisions	<p>What are your future family plans?</p> <p>Are you pregnant or planning to become pregnant?</p> <p>Are you receiving fertility treatment?</p> <p>Do you have children? What are their ages?</p> <p>Do you have child care?</p>	<p>Is there anything that would interfere with regular work attendance?</p> <p>Are you available to work overtime?</p>
Sexual orientation, including actual or perceived heterosexuality, homosexuality, bisexuality, or gender-related identity	Do you have a spouse or partner – which?	How do you feel about supervising a diverse workplace?
Religion or creed	What religious holidays do you celebrate?	We need you to work on <i>[insert days]</i> . Are you available to work those days?
Age	<p>When do you plan to retire?</p> <p>When do you plan to collect your pension?</p>	What are your long-term career goals?
Military status	Will you miss work because you are a member of a U.S. Reserve unit, such as, Army Reserve or Marine Corps Reserve, or a member of a National Guard unit?	How does your military training or experience prepare you for this job?
Unfavorable discharge from military service	Under what circumstances were you discharged from the service?	
Use of lawful products during non-working hours	<p>Do you smoke or use tobacco or cannabis products during non-working hours?</p> <p>Do you consume alcoholic beverages during non-working hours?</p>	Have you been disciplined by an employer for violating its rules forbidding the use of alcohol or tobacco or cannabis products?

Protected Status	Do not ask	Permissible to ask
<p>Arrest record</p> <p>Conviction that is not on the School Code's list of disqualifying convictions</p> <p>The Job Opportunities for Qualified Applicants Act, 820 ILCS 75/, amended by P.A. 104-2, prohibits an employer from asking about a criminal record until the employer determines that the applicant is qualified for the position; however, this does not apply when employers are required to exclude applicants with certain criminal convictions from employment. Thus, school employers should limit their requests for criminal convictions to job-disqualifying convictions.</p>	<p>Have you ever been arrested?</p> <p>Spent time in jail?</p>	<p>Have you ever been convicted of attempting to commit, conspiring to commit, soliciting, or committing any crime in the following list? (1) any sex-offense or drug-offense listed, as defined in Sec. 21B-80(a) of the School Code, (2) first degree murder or <u>any</u> Class X felony, or (3) any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in this State, would have been punishable as one or more of the foregoing offenses. 105 ILCS 5/21B-80, amended by P.A.s 101-531 and 101-552.</p> <p>Consult with the Board <u>A</u>ttorney if the District wants to ask candidates about disqualifying convictions before the job offer stage, due to Ill. Dept. of Human Rights guidance on 775 ILCS 5/2-103.1, added by P.A. 101-656, at: https://dhr.illinois.gov/conviction-record-protection-frequently-asked-questions.html www2.illinois.gov/dhr/Pages/Conviction_Record_Protection_Frequently_Asked_Questions.aspx.</p> <p>See <u>sample Board policy 5:30, Hiring Process and Criteria</u>, at f/n 6 for additional explanation.</p>
<p>Genetic information</p>	<p>What were the results of any diagnostic, predictive, or pre-symptomatic genetic testing that you've had?</p>	<p>See section on <i>disability</i> below.</p>
<p>Whether applicant has ever filed a claim or received benefits under the Illinois Workers' Compensation Act or Workers' Occupational Diseases Act</p>	<p>Have you ever filed a claim or received benefits under the Illinois Worker's Compensation Act or Workers' Occupational Disease Act?</p>	

Protected Status	Do not ask	Permissible to ask
<p>Credit history/report, unless the Employee Credit Privacy Act permits a satisfactory credit history to be a job requirement, such as, the position's duties include custody of or unsupervised access to cash or marketable assets valued at \$2,500 or more. 820 ILCS 70/10(b).</p>	<p>Unless specifically permitted, do not ask:</p> <p>Do you have a good credit score?</p> <p>Have you been denied a credit card within last 5 years?</p> <p>Have you ever filed bankruptcy?</p>	<p>How long have you lived at your current address?</p>
<p>Wage or salary history, including benefits or other compensation, unless: the applicant's wage or salary history is a matter of public record, or is contained in a document completed by the applicant's current or former employer and then made available to the public by the employer, or then submitted or posted by the employer to comply with State or federal law; or the applicant is a current employee applying for a position with the same current employer. 820 ILCS 112/10, amended by P.A. 103-539, amended by P.A. 101-177. For further discussion, see f/n 19 in sample policy 5:30, <i>Hiring Process and Criteria</i>.</p>	<p>What is your current wage/salary?</p> <p>What was your previous wage/salary?</p> <p>What benefits or other compensation do you currently receive?</p> <p>What benefits or other compensation did you previously receive?</p> <p>What was your highest paid position?</p> <p>This position pays \$X; is that more or less than what you are making now?</p> <p>Have you ever filed a complaint with the Ill. Dept. of Labor regarding a job posting?</p>	<p>This position provides the following wage/salary, benefits, and compensation: [<i>insert details</i>]. Does that meet your expectations?</p> <p>What are you looking for in terms of wage/salary, benefits, and other compensation for this position?</p>
<p>Victim of domestic violence or being protected under an order of protection</p>	<p>Have you ever requested a restraining order or order of protection against your spouse or <u>an</u> other person?</p>	

Disability

Inquiries that are likely to elicit information about a disability, before a bona fide job offer is made, are prohibited. Inquiries about the ability to perform job functions that do not ask about disabilities are permissible.

Protected Status	Do not ask	Permissible to ask, provided all applicants are asked
Disability	<p>Have you had any recent illnesses or operations?</p> <p>Do you have AIDS?</p> <p>Do you have asthma?</p> <p>Do you have a disability which would interfere with your ability to perform the job?</p> <p>How many days were you sick last year?</p> <p>Have you ever filed for Workers' Compensation?</p> <p>Have you ever been injured on the job?</p> <p>How much alcohol do you drink each week?</p> <p>Have you ever been treated for alcohol problems?</p> <p>Have you ever been treated for mental health needs?</p> <p>What prescription drugs are you currently taking?</p>	<p>Can you perform the functions of this job (essential and/or marginal), with or without reasonable accommodation?</p> <p>Please describe/demonstrate how you would perform these functions (essential and/or marginal).</p> <p>Have you ever been disciplined (oral or written reprimand, suspension or termination) for attendance violations or problems?</p> <p>Are you a current user of illegal drugs?</p> <p>Do you have the required licenses to perform this job?</p>

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General Personnel

Administrative Procedure - Investigations

Immigration Investigation

All newly hired employees must complete section one of the U.S. Citizenship and Immigration Services Form I-9 (Form I-9) no later than three business days following their first working day (Immigration Reform and Control Act, 8 U.S.C. §1324a, 8 C.F.R. §274a.2). See: www.uscis.gov/i-9. If an individual is unable to provide the required documents to complete it, the individual may present a receipt for the application of the required documents within three days of the hire. The individual must then present the required documents within 90 days of the hire. The Superintendent or designee completes section two of the Form I-9 and confirms the employee's information.

If the Employment Eligibility Verification System (E-Verify) is used to complete Form I-9, the Superintendent or designee will review the Ill. Dept. of Labor's website and its E-Verify factsheet, available at: <https://labor.illinois.gov/content/dam/soi/en/web/idol/laws-rules/legal/documents/e-verification-facts-poster.pdf>. If the District contends that there is a discrepancy in an employee's employment verification information, follow the procedures required by ~~The Right to Privacy~~ in the Workplace Act, 820 ILCS 55/1412, amended added by P.A. 103-879104-455, and 820 ILCS 55/13, added by P.A. 103-879, eff. 1-1-25.

The completed Form I-9 shall be maintained in a file separate from other personnel records in order to prevent unauthorized review of personnel files. The Form I-9 shall be retained for a period of three years after the date of hire or one year after individual employment is terminated, whichever is later.

Fingerprint-based Criminal History Records Information (CHRI) Check (105 ILCS 5/10-21.9, amended by P.A. 103-1542-702)

A fingerprint-based criminal history records information check must be initiated prior to employment, but the District may permit the individual to be hired and begin employment pending its outcome. See Criminal History Records Information (CHRI) Checks for Certified and Non-certified School Personnel, at: www.isbe.net/Documents/guidance_chr.pdf. See administrative procedure 5:30-AP4, Fingerprint-Based Criminal History Record Information, for procedures regarding the handling of sensitive CHRI provided through the Federal Bureau of Investigation's national databases.

A complete criminal history records check pursuant to 105 ILCS 5/10-21.9, amended by P.A. 103-154, consists of:

1. Fingerprint-based checks through (a) the Ill. State Police (ISP) for criminal history records information (CHRI) pursuant to the Ill. Uniform Conviction Information Act (20 ILCS 2635/), and (b) the Federal Bureau of Investigation (FBI) national crime information databases pursuant to the Adam Walsh Child Protection and Safety Act (Pub. L. 109-248),
2. *A check of the Ill. Sex Offender Registry (see the Sex Offender Community Notification Law, 730 ILCS 152/ et seq.), and
3. *A check of the Murderer and Violent Offender Against Youth Registry (see the Murderer and Violent Offender Against Youth Registration Act, 730 ILCS 154/75 - 154/105).

*These checks must be conducted by the District or the Regional Superintendent¹ once every five years that an individual remains employed by the District. 105 ILCS 5/10-21.9(a-5), (a-6), ~~amended by P.A. 102-552.~~

See also Board policy 4:175, *Convicted Child Sex Offender; Screening; Notifications*, and administrative procedure 4:175-AP1, *Criminal Offender Notification Laws; Screening*. **Important:** 20 ILCS 2630/5.2 outlines how an individual may petition to have an arrest record expunged by the arresting authority and the records of the arrest sealed by the circuit court clerk. It also details offenses for which an individual cannot have his or her conviction sealed.

Note: The following criminal history records check guides ~~is~~ are also available:

Guide to Understanding Criminal History Record Check Information is available at: <https://dph.illinois.gov/content/dam/soi/en/web/idph/files/forms/background-check-guide-071817.pdf>.

~~Ill. State Board of Education non-regulatory guidance document, Criminal History Records Information (CHRI) Checks for Certified and Non-certified School Personnel, at: www.isbe.net/Documents/guidance_chr.pdf.~~

The following individuals are responsible for the actions listed:

Applicant - Each applicant for employment in any position (except bus drivers employed by a private student transportation contractor) must provide a written authorization for a complete criminal history records check at the time he or she submits the application.

Individual Student Teaching or beginning a required internship - Each individual student teaching or beginning a required internship must provide written authorization for, and pay the costs of, his or her criminal history records check (including any applicable vendor's fees) prior to participating in any field experiences in the District. See 105 ILCS 5/10-21.9(g).

Applicant for Bus Driver - Each applicant for a bus driver position must complete the application required by the Secretary of State for a school bus driver permit (obtained from the District) and submit it to the District along with the necessary fingerprint submission as required by the ISP to conduct a fingerprint-based criminal history records check. The Superintendent or designee will conduct a pre-employment interview² with prospective school bus driver candidates, distribute school bus driver applications and medical forms, and submit the applicant's fingerprint cards to the ISP. The Superintendent or designee will certify in writing to the Secretary of State that all pre-employment conditions have been successfully completed, including the successful completion of a criminal history records check as required by State law. The applicant must present the certification to the Secretary of State at the time of submitting the school bus driver permit application. See 625 ILCS 5/6-106.1, amended by P.A.s ~~104-260 and 104-256s-102-168 and 102-299~~; 92 Ill.Admin.Code §1035.25.

Superintendent or designee - Note: Add any additional steps to efficiently receive a complete criminal history records check.

1. Fingerprint-Based Criminal History Records Check:

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¹ Alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Service Center Executive Director" throughout this procedure.

² Any employer that asks applicants to record video interviews and uses an artificial intelligence analysis of the applicant-submitted videos must comply with the Artificial Intelligence Video Interview Act, 820 ILCS 42/.

- a. For all applicants, the Superintendent or designee completes the required forms to request the criminal history records checks from an appropriate ISP or LiveScan vendor. When the applicant is a successful superintendent candidate who has been offered employment by the Board, the School Board President shall ensure that these checks are completed. This may include submitting the applicant's name, sex, race, date of birth, Ssocial Ssecurity number, fingerprint images, and other identifiers to the ISP and FBI on the forms prescribed by each agency.
- b. The Superintendent or designee, or when the applicant is a successful superintendent candidate who has been offered employment by the Board, the Board President, will provide the applicant with a copy of the ISP and FBI reports. Required by 105 ILCS 5/10-21.9(b) and 20 ILCS 2635/7. The applicant has the obligation and responsibility to notify the District within seven (7) working days if information in the report furnished by the ISP is inaccurate or incomplete. Id.
- c. The Superintendent or designee, or the Regional Superintendent, notifies the State Superintendent of Education in writing within 15 business days when a CHRI returns a *conviction* of a crime set forth in 105 ILCS 5/21B-80. 105 ILCS 5/10-21.9(e) and The Superintendent or designee, or the Regional Superintendent, also:
 - i. Makes a preliminary determination that the applicant will be disqualified based on a conviction record when: (1) the District is prohibited by 105 ILCS 5/10-21.9, amended by P.A. 103-154, from employing the individual because the conviction is an offense listed in 105 ILCS 5/21B-80, amended by P.A. 102-552,³ (2) there is a *substantial relationship* between one or more of the previous criminal offenses and the employment sought or held; or (3) the employment would involve an *unreasonable risk* to property or to the safety or welfare of specific individuals or the general public.

Conviction record means information indicating that a person has been convicted of a felony, misdemeanor or other criminal offense, placed on probation, fined, imprisoned, or paroled pursuant to any law enforcement or military authority. 775 ILCS 5/1-103(G-5). It includes the results of a *complete criminal history records check* conducted pursuant to 105 ILCS 5/10-21.9, amended by P.A. 103-154.

Substantial relationship means a consideration of whether a job position offers the opportunity for the same or a similar offense to occur and whether the circumstances leading to the conduct for which the person was convicted will recur in the position. 775 ILCS 5/2-103.1(A).

To determine whether an applicant is disqualified based on a *substantial relationship* or *unreasonable risk*, considers the following factors: (1) length of time since the conviction; (2) number of convictions that appear on the conviction record; (3) nature and severity of the conviction and its relationship to the safety and security of others; (4) the facts or circumstances surrounding the conviction; (5) the age of the employee at the time of the conviction; and (6)

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³ Attorneys have different opinions as to whether the IHRA requires the *interactive assessment* outlined in 775 ILCS 5/2-103.1(c), which includes preliminary and final notices, when a disqualifying offense listed in 105 ILCS 5/21B-80 is found in a conviction record; **consult the board attorney for guidance on this issue.**

evidence of rehabilitation efforts. 775 ILCS 5/2-103.1(B). See also Ill. Dept. of Human Rights (IDHR) *Conviction Record Protection – Frequently Asked Questions* (March 2021), at: <https://dhr.illinois.gov/conviction-record-protection-frequently-asked-questions.html>.

- ii. When the applicant's conviction record disqualifies him/her/they, notifies the applicant of the preliminary decision in writing. The written notice shall contain: (1) the disqualifying convictions that are the basis for the preliminary decision and the District's reasoning for the disqualification; (2) a copy of the *complete criminal history records check* conducted pursuant to 105 ILCS 5/10-21.9, amended by P.A. 103-154; and (3) an explanation of the applicant's right to submit evidence challenging the accuracy of the conviction record that is the basis for the disqualification within seven (7) working days of the applicant's receipt of the copy of the conviction record⁴ if the applicant wishes to dispute the accuracy of the conviction record and/or submit evidence in mitigation, such as rehabilitation. 775 ILCS 5/2-103.1(C)(1) and (2). See exhibit 5:30-AP2, E1, *Notice of Preliminary Hiring Decision Based on Conviction Record*, for a sample letter template.

Note: Evidence of rehabilitation may include education, training, stable employment, family and community involvement, and recovery from substance abuse. For more information, see *EEOC Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decision under Title VII of the Civil Rights Act*, at: www.eeoc.gov/laws/guidance/enforcement-guidance-consideration-arrest-and-conviction-records-employment-decisions.

- iii. When the final decision disqualifies the applicant based on the conviction record, provides a second written notice to the applicant that contains: (1) notice of the disqualifying conviction(s) that are the basis for the final decision and the District's reasoning for the disqualification; (2) any existing procedure the employer has for the applicant to challenge the decision or request reconsideration (this is not required)⁵; and (3) the right to file a charge with the IDHR. 775 ILCS 5/2-103.1(C)(3). See exhibit 5:30-AP2, E2, *Notice of Final Hiring Decision Based on Conviction Record*, for a sample letter template.
- d. The Superintendent or designee, or the Regional Superintendent, or as applicable the entity that provides background checks for public schools, notifies the State

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⁴ The IHRA requires at least five business days for the applicant to dispute the accuracy of the conviction record, but the Ill. Uniform Conviction Information Act (UCIA) provides the applicant seven working days from of receipt of the copy of the conviction information to notify the district if the information is inaccurate or incomplete. 20 ILCS 2635/7(A)(2). This procedure accommodates the longer timeline of the UCIA.

⁵ Consult the board attorney for advice about whether policy 2:260, *Uniform Grievance Procedure*, should be included in the final decision letter for new applicants and/or existing employees. That policy is limited to students, parents/guardians, employees, or community members that want to file a complaint regarding the district's alleged violation of a constitutional right, statute, or board policy.

Superintendent of education in writing⁶ within 10 business days⁷ after receiving information of a *pending* criminal charge for an offense set forth in 105 ILCS 5/21B-80. Required by 105 ILCS 5/10-21.9(e).

Note: For substitute teachers, the Superintendent will need to ensure that the District performs these checks. Contact the Board Attorney and/or ISBE regarding the validity of a *certificate of authorization*, if a substitute teacher presents one. ~~From 1-1-11 through 7-1-11, the Regional Superintendent or Suburban Cook County Intermediate Service Center Executive Director, whichever was appropriate, was allowed to issue certificates of authorization to substitute teachers. Issuance of a certificate of authorization was proof that the substitute teacher applicant had met all of the requirements to substitute teach in the educational service region: i.e., a fingerprint-based criminal history records check, a physical examination, and a negative tuberculin test. Because P.A. 97-607 deleted certificates of authorization, substitute teachers no longer receive them because they no longer exist.~~

- e. For individuals student teaching or beginning a required internship, the Superintendent or designee ensures that the individual completes the required forms, authorizations, and provides payment to the District for the costs of completing a complete criminal history records check prior to student teaching or beginning a required internship (105 ILCS 5/10-21.9(g) and Board policy 5:260, *Student Teachers*). ~~For more information, see also ISBE's non-regulatory guidance document, *Criminal History Records Information (CHRI) Checks for Certified and Non-certified School Personnel*, available at: www.isbe.net/Documents/guidance_chr.pdf.~~
2. Screen of the Statewide offender databases upon hire and every five years thereafter that an individual remains employed by the District. 105 ILCS 5/10-21.9(a-5), (a-6), ~~amended by P.A. 102-552~~. The Superintendent or designee, or when the applicant is a successful superintendent candidate who has been offered employment by the Board, the Board President, performs a screen for each applicant of:
 - a. The Statewide Sex Offender Registry, <https://sor.isp.illinois.gov/sorpublic> ~~<https://isp.illinois.gov/Ser/Disclaimer>~~, as authorized by the Sex Offender Community Notification Law (730 ILCS 152/ *et seq.*), and
 - b. The Statewide Murderer and Violent Offender Against Youth Registry <https://sor.isp.illinois.gov/sorpublic> ~~<https://isp.illinois.gov/MVOAY/Disclaimer>~~, as authorized by the Murderer and Violent Offender Against Youth Registration Act (730 ILCS 154/75-154/105).

The Superintendent or designee, or when the applicant is a successful superintendent candidate who has been offered employment by the Board, the Board President, notifies the individual if he or she is identified in the database as a sex offender. Required by 105 ILCS 5/10-21.9(a-5), (a-6), and (b). The Superintendent or designee, or the Regional Superintendent, notifies the State Superintendent of

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⁶ 105 ILCS 5/10-21.9(e) requires written notice for *convictions*. While notice for *pending* criminal charges is not required to be "in writing," for ease of use, consistency in administration, alignment with the requirement to provide written notice for *convictions*, and best practices this sample text states the State Superintendent will also be notified of *pending* criminal charges in writing. Consult the board attorney for further guidance.

⁷ 105 ILCS 5/10-21.9(e) does not state whether the notice requirement is *calendar days* or *business days*. Support for it being *business days* is found later in 105 ILCS 5/10-21.9(e), which requires that notice for *convictions* be provided within 15 business days.

Education in writing within 15 business days, when a database screen finds a *registration* for an individual licensed by ISBE. 105 ILCS 5/10-21.9(e).

ISP and FBI - The ISP and FBI furnish records of convictions (until expunged), pursuant to the District's request, to the Board President. **Note:** The ISP and FBI must "furnish, pursuant to a fingerprint-based criminal history records check, records of convictions, until expunged, to the president of the school board..." See 105 ILCS 5/10-21.9(a) and (g). 20 ILCS 2630/3.3 establishes authority for the ISP to collect fees from the District if the Board wishes to participate in a Federal *Rap Back Service*. Rap Back Service is a capability of the FBI's Next Generation Identification (NGI) system that provides authorized agencies notification of criminal activity and, in limited cases, of civil activity, that occurs after the initial processing and retention of criminal or civil transactions, e.g., an initial fingerprint-based criminal history records check. The Board may determine that it wants to participate. Participation includes ISP submitting fingerprints that the District orders to the FBI Rap Back Service to be retained for the purpose of being searched by future submissions to the FBI Rap Back Service. For a student teacher, the report shall be returned to the Superintendent or designee (see [ISBE's non-regulatory guidance document, Criminal History Records Information \(CHRI\) Checks for Certified and Non-certified School Personnel](#), at: www.isbe.net/Documents/guidance_chr.pdf).

Board President - The School Code requires the Board President to keep a conviction record confidential. The information may only be shared between the Board President, the Superintendent or designee, Regional Superintendent (if the check was requested by the District), State Superintendent of Education, State Educator Preparation and Licensure Board, any other person necessary to the hiring decision, the ISP and/or Statewide Sex Offender Registry for clarification purposes, or the Teachers' Retirement System of the State of Illinois (TRS) when the board learns that a teacher has been convicted of a felony. See 105 ILCS 5/10-21.9(b), 105 ILCS 5/21B-10, [amended by P.A. 104-128](#), and 105 ILCS 5/21B-85, amended by P.A. [103-512-552](#). For further discussion about the practical implementation issues for the Board President to ensure that a fingerprint-based criminal history records information check and other database screens are initiated and completed prior to employment, see f/n 11 in [Board sample policy 5:30, Hiring Process and Criteria](#).

Regional Superintendent/Suburban Cook County Intermediate Service Center Executive Director - The Superintendent or designee may require the applicant to authorize the Regional Superintendent or Suburban Cook County Intermediate Service Center Executive Director, whichever is appropriate, to conduct the check when an applicant is (1) seeking employment in more than one District simultaneously as (a) a substitute teacher, (b) a concurrent part-time employee, and/or (c) educational support personnel, or (2) the employee works for a contractor holding contracts with more than one district. The Regional Superintendent or Suburban Cook County Intermediate Service Center Executive Director, whichever is appropriate, also performs a check of the Statewide Sex Offender Registry, <https://sor.isp.illinois.gov/sorpublic/https://isp.illinois.gov/Sor/Disclaimer>, as authorized by the Sex Offender Community Notification Law (730 ILCS 152/115), and the Violent Offender Against Youth Registry, <https://sor.isp.illinois.gov/sorpublic/https://isp.illinois.gov/MVOAY/Disclaimer>, as authorized by the Murderer and Violent Offender Against Youth Registration Act (730 ILCS 154/75-154/105). See 105 ILCS 5/10-21.9 (a-5), (a-6), and (b), [amended by P.A. 102-552](#).

Contractors - The above requirements for a *complete criminal history records check* apply to all employees and agents of contractors who have direct, daily contact with students. 105 ILCS 5/10-21.9(f). Every contractor with the District shall: (1) make every employee or agent who will have direct, daily contact with students submit to a complete criminal history records check, (2) confirm that it will make those employees available to the District for the criminal history records check, and (3) submit payment for the costs of the check(s) to the District.

Note: The provisions in 105 ILCS 5/10-21.9(f) and (g) apply to employees of contractors who have “direct, daily contact” with students. To be comprehensive and to eliminate uncertainty, this procedure and Board policy 4:175, *Convicted Child Sex Offender; Screening; Notifications*, may require a criminal history records check on *all* employees of contractors who may work in any school building or on school property. Whether the District uses the comprehensive language or the direct language from the School Code, the District, not the contractor, must perform the background checks. Contractors are not authorized under any State or federal law to: (1) conduct the required criminal history background checks; or (2) see the employee’s criminal history furnished by the ISP and the FBI.⁸ All contracts should also require the contractor to purchase insurance to cover misconduct by their employees and/or an indemnification clause. Additionally, the Superintendent or designee should check insurance coverage to determine whether employees of contractors are covered. See also Board policy 4:175, *Convicted Child Sex Offender; Screening; Notifications*, and administrative procedure 4:60-AP3, *Criminal History Records Check of Contractor Employees*, for the responsibilities of contractors. Last, if the District has received, within the last year, information that concerns the record of conviction and identification as a sex offender of any contractors’ employees, the District must provide the information to another school or school district that requests it. 105 ILCS 5/10-21.9(f-5). ~~For more information, see ISBE’s non-regulatory guidance document, *Criminal History Records Information (CHRI) Checks for Certified and Non-certified School Personnel*, available at: www.isbe.net/Documents/guidance_chr.pdf.~~ Unless notified by the individual named in a criminal history records information (CHRI) request or by the ISP that the information furnished in a CHRI report is inaccurate or incomplete, the District cannot be liable for damages to any person to whom the CHRI pertains for actions it reasonably took in reliance on the accuracy and completeness of CHRI report. 20 ILCS 2635/7(A)(3).

District - The District complies with 105 ILCS 5/10-21.9, amended by P.A. ~~103-1548-102-552 and 102-702~~, and 5/21B-80, ~~amended by P.A. 102-552~~. It will not knowingly employ a person, or allow a person to work or student teach/complete a required internship (105 ILCS 5/10-21.9(g)) on school grounds, who:

1. Has been convicted of any one or more of the following offenses, until seven years following the end of the sentence⁹ for the criminal offense:
 - a. Those defined in the Cannabis Control Act, 720 ILCS 550/, except: 720 ILCS 550/4(a), 550/4(b), 550/4(c), 550/5(a), 550/5(b), and any offense for which the holder of a license is placed on probation under the provisions of 550/10 provided that if the terms and conditions of probation required by the court are not fulfilled, the offense is not eligible for this exception.
 - b. Those defined in the Ill. Controlled Substances Act, 720 ILCS 570/100 et seq., amended by P.A. 103-881, except: any offense for which the holder of a license is placed on probation under the provisions of 570/410, amended by P.A.s 103-702, 103-881, and 104-417, provided that if the terms and conditions of probation required by the court are not fulfilled, the offense is not eligible for this exception.
 - c. Those defined in the Methamphetamine Control and Community Protection Act, 720 ILCS 646/, except: any offense for which the holder of a license is placed on probation

The footnotes should be removed before the material is used.

⁸ See sample administrative procedure 4:60-AP3, *Criminal History Records Check of Contractor Employees*, at fn 1, for discussion of the impact of 775 ILCS 5/2-103.1 on contractor employees.

⁹ *Sentence* includes any period of supervision or probation that was imposed either alone or in combination with a period of incarceration. 105 ILCS 5/21B-80(a), ~~amended by P.A. 102-552~~.

- under the provisions of 646/70, [amended by P.A. 103-702](#), provided that if the terms and conditions of probation required by the court are not fulfilled, the offense is not eligible for this exception.
- d. Any attempt to commit any of the offenses listed in (a)-(c) of this section.
 - e. Any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in Illinois, would have been punishable as one or more of the offenses listed in (a)-(d) of this section.
2. Has been convicted of committing or attempting to commit any one or more of the following offenses:
- a. ~~Attempting to commit, conspiring to commit, soliciting, or committing first degree murder or any Class X felony.~~
 - b. ~~Attempting to commit, conspiring to commit, soliciting, or committing any offense defined in Article 9 (Homicide) of the Criminal Code of 1961 or the Criminal Code of 2012.~~
 - c. ~~Attempting to commit, conspiring to commit, soliciting, or committing any sex offense. Sex offense means any offense defined in:~~
 - i. ~~Sections 11-6 and 11-9 through 11-9.5, inclusive, and 11-30 (if punished as a Class 4 felony) of the Criminal Code of 1961 or the Criminal Code of 2012;~~
 - ii. ~~Sections 11-14.1 through 11-21, inclusive, of the Criminal Code of 1961 or the Criminal Code of 2012;~~
 - iii. ~~Sections 11-23 (if punished as a Class 3 felony), 11-24, 11-25, and 11-26 of the Criminal Code of 1961 or the Criminal Code of 2012; and~~
 - d. a. ~~Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-4.9, 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-32, 12-33, 12C-45, and 26-4 (if punished pursuant to 26-4(d)(4) or (5)) of the Criminal Code of 1961 or the Criminal Code of 2012 any offense listed at 105 ILCS 5/21B-80.~~
 - e. b. Any offense committed or attempted in any other state or against the laws of the United States, which if committed or attempted in Illinois, would have been punishable as one or more of the foregoing offenses.
3. Has been found to be the perpetrator of sexual or physical abuse of any minor less than 18 years of age pursuant to proceedings under Article II of the Juvenile Court Act of 1987.

Reporting New Hires

The Superintendent or designee shall timely file an IRS Form W-4 or IDES *New Hire Reporting Form* for each newly hired employee with the Ill. Dept. of Employment Security. See 820 ILCS 405/1801.1, [amended by P.A. 103-343](#). When the applicant is a successful superintendent candidate who has been offered employment by the Board, the Board President shall ensure either the retiring Superintendent or designee performs this task.

OK as is
Share w/ Jen G.
Melissa, Lisa

General Personnel

Administrative Procedure - Coordination with Children's Advocacy Center¹

Children's Advocacy Centers (CACs) are child-focused, trauma-informed, facility-based programs that provide a multi-disciplinary, comprehensive response to child abuse. Illinois CACs are organized and operate under the Children's Advocacy Center Act. 55 ILCS 80/. CACs are accredited based on standards set by the National Children's Alliance. 55 ILCS 80/2.5. See www.nationalchildrensalliance.org/.

If the District is located within a county that is served by an accredited CAC, it must coordinate with the CAC to implement the **Alleged Incidents of Sexual Abuse; Investigations** subhead of Board policy 5:90, *Abused and Neglected Child Reporting*. 105 ILCS 5/22-85. For a map of accredited CACs, and to identify a CAC that may serve the District, see www.childrensadvocacycentersofillinois.org/about/map. Use this procedure to coordinate with the District's local CAC.

Glossary of Terms

Alleged incident of sexual abuse – An incident of sexual abuse of a child (as defined in the Ill. Criminal Code of 2012, 720 ILCS 5/11-1.509-1A) that is alleged to have been perpetrated by school personnel, including a school vendor or volunteer, that occurred either: on school grounds during a school activity, outside of school grounds, or not during a school activity. 105 ILCS 5/22-85(b).²

Alleged victim – A student who is alleged to be the victim of an alleged incident of sexual abuse.

Appropriate law enforcement agency – A law enforcement agency whose employees have been involved, in some capacity, with an investigation of a particular alleged incident of sexual abuse. 105 ILCS 5/22-85(b).

Child advocate – May be a school social worker, a school or equally-qualified psychologist, or a person in a position the Ill. State Board of Education (ISBE) has identified as an appropriate advocate for a student during a school's investigation into an alleged incident of sexual abuse. 105 ILCS 5/22-85(i).

Forensic interview – An interview between a trained forensic interviewer, as defined by National Children's Alliance standards, and a child in which the interviewer obtains information from children in an unbiased and fact finding manner that is developmentally appropriate and culturally sensitive to support accurate and fair decision making by the multidisciplinary team in the criminal justice and child protection systems. 55 ILCS 80/2.5.

School personnel – School employees, vendors, and volunteers.

Sexual Abuse and Sexual Assault – See Ill. Criminal Code of 2012 definitions at:
720 ILCS 5/11-9.1A. Permitting sexual abuse of a child.

The footnotes should be removed before the material is used.

¹ This procedure cites the minimum requirements of State law. Modify this procedure based upon the District's specific implementation needs and any additional needs of the CAC that serves the District.

² See the f/n 15 analysis in sample policy 5:90, *Abused and Neglected Child Reporting*. To provide boards with clarity, this procedure uses the definition of *sexual abuse* from the Ill. Criminal Code of 2012.

- 720 ILCS 5/11-1.20. Criminal sexual assault.
- 720 ILCS 5/11-1.30. Aggravated criminal sexual assault.
- 720 ILCS 5/11-1.40. Predatory criminal sexual assault of a child.
- 720 ILCS 5/11-1.50. Criminal sexual abuse.
- 720 ILCS 5/11-1.60. Aggravated criminal sexual abuse.

Coordination with CAC

Actor	Action
ISBE	Identifies persons in positions who may be appropriate child advocates for students during a school’s investigation into an alleged incident of sexual abuse. 105 ILCS 5/22-85(c) . As of the publication of PRESS Issue 121 (March 20263) , ISBE has not identified any persons.
Superintendent or designee	<p>Establishes a CAC Communication Committee (Committee) to operate as a Superintendent committee. See administrative procedure 2:150-AP, Superintendent Committees. Consider including:</p> <ul style="list-style-type: none"> • District Nondiscrimination Coordinator (see Board policies 2:260, Uniform Grievance Procedure; and 2:265, Title IX Grievance Procedure) • District Safety Coordinator (see administrative procedure 4:170-AP1, Comprehensive Safety and Security Plan, Part C, District Safety Coordinator and Safety Team; Responsibilities) • District-level administrators • Building Principals (Building Principals are mandatory for successful implementation of the Alleged Incidents of Sexual Abuse; Investigations subhead of Board policy 5:90, Abused and Neglected Child Reporting) • School personnel • Employees from the accredited CAC that serves the District <p>Chairs and convenes Committee meetings for the purpose of implementing the Alleged Incidents of Sexual Abuse; Investigations subhead of policy 5:90, <i>Abused and Neglected Child Reporting</i>.</p> <p>Note: To achieve the minimum requirement of State law that the District coordinate with its local CAC, this procedure establishes an administrative committee. Establishing a committee provides a best practice for aligning with governance principles and examining implementation issues specific to each individual school district and the CACs that serve each district. While smaller school districts, e.g., one-building districts, may be able to implement a program through one meeting, larger school districts will likely require the uniform coordination this Committee provides.</p> <p>Informs the School Board of the Committee’s progress and needs by adding information items to the Board’s agendas as needed.</p> <p>Ensures that at least every two years, school personnel are trained to understand, provide information and referrals to, and address issues pertaining to students who are parents, expectant parents, or victims of domestic or sexual violence. Note: 105 ILCS 5/10-22.39(b-25), added by</p>

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Actor	Action
	<p>P.A. 103-542 and amended by P.A. 104-391, eff. 1-1-24 and operative 7-1-24, requires this training to be conducted by persons with expertise in domestic and sexual violence and the needs of expectant and parenting students and must include training concerning each of the following:</p> <ol style="list-style-type: none"> 1. Communicating with and listening to student victims of domestic or sexual violence and expectant and parenting students. 2. Connecting student victims of domestic or sexual violence and expectant and parenting students to appropriate in-school services and other agencies, programs, and services as needed. 3. Implementing the school district's policies, procedures, and protocols with regard to such students, including confidentiality. At a minimum, school personnel must be trained to understand, provide information and referrals, and address issues pertaining to such students. 4. Procedures for responding to incidents of teen dating violence that take place at school, on school grounds, at school-sponsored activities, or in vehicles used for school-provided transportation as outlined in 105 ILCS 5/27-240110.3.10.
School Personnel	<p>Upon suspecting or receiving knowledge of an alleged incident of sexual abuse, shall perform each of the following (105 ILCS 5/22-85(c)):</p> <ol style="list-style-type: none"> 1. Immediately report to the Ill. Dept. of Children and Family Services (DCFS) on its Child Abuse Hotline 1-800-25-ABUSE (1-800-252-2873 (within Illinois); 1-217-524-2606 (outside Illinois); or 1-800-358-5117 (TTY). 2. Follow directions given by DCFS concerning filing Prepare an internal written report documenting your report to DCFS within 48 hours with the nearest DCFS field office. 25 ILCS 5/7. The written report shall include, if known, each of the following: <ol style="list-style-type: none"> a. The name and address of the child, his or her parents/guardians, or other persons having custody; b. The child's age; c. The child's condition, including any evidence of previous injuries or disabilities; and d. Any other information that the reporter believes may be helpful to DCFS for its investigation. 3. Promptly notify the Superintendent or Building Principal that a report to DCFS has been made.
Superintendent or Building Principal	<p>Immediately coordinates any necessary notifications to the student's parents/guardians with DCFS, the applicable school resource officer (SRO), and/or local law enforcement which includes the local State's Attorney's Office. ³</p>

Commented [MB1]: Note to Subscribers: 325 ILCS 5/7, amended by P.A. 103-624, no longer requires reporters to file a written report with DCFS within 48 hours of any initial report.

The footnotes should be removed before the material is used.

³ This sentence implements optional language from sample policy 5:90, *Abused and Neglected Child Reporting*, and should be deleted if the board's adopted policy does not contain it.

Actor	Action
	Notifies the District's Nondiscrimination Coordinator of the reported alleged incident of sexual abuse.
DCFS and/or Appropriate Law Enforcement Agency	<p>Determines whether to accept a reported alleged incident of sexual abuse for investigation. If a reported alleged incident is accepted, refers the matter to the CAC serving the District. 105 ILCS 5/22-85(d).</p> <p>Note: If neither DCFS nor law enforcement investigate the alleged incident of sexual abuse, the District can move forward with its own investigation without CAC involvement.</p>
CAC	<p>Coordinates the investigation of the alleged incident of sexual abuse in accordance with its existing multidisciplinary team protocol and National Children's Alliance accreditation standards. 105 ILCS 5/22-85(e)(1).</p> <p>Facilitates communication between the DCFS/law enforcement multidisciplinary team investigating the alleged incident of sexual abuse and the District's Nondiscrimination Coordinator.⁴ At a minimum:</p> <ol style="list-style-type: none"> 1. Ensures that all applicable parties have each other's contact information; and 2. Shares the CAC's protocol regarding the process of approving the viewing of a forensic interview by appropriate school personnel or Board members, and a contact person for questions regarding the protocol. 105 ILCS 5/22-85(e)(2).
Nondiscrimination Coordinator	<p>Upon being notified of the reported alleged incident of sexual abuse by the Superintendent or Building Principal, shall:</p> <p>Open and conduct the District's investigation into the alleged incident of sexual abuse in accordance with Board policy 7:20, <i>Harassment of Students Prohibited</i>.</p> <p>Schedule regular follow-up calls to the CAC to inquire whether DCFS/law enforcement has opened an investigation into the alleged incident of sexual abuse.</p> <p>If DCFS/law enforcement investigation is not opened, stops using this procedure and continues the District's investigation in accordance with Board policy 7:20, <i>Harassment of Students Prohibited</i>.</p> <p>If DCFS/law enforcement investigation is opened, continues with the following steps.</p> <p>Notes the date DCFS/law enforcement opened its investigation and sets a reminder for 15 calendar days after it.</p>

The footnotes should be removed before the material is used.

⁴ Throughout this procedure "Nondiscrimination Coordinator" may be replaced with Title IX Coordinator or designee, Complaint Manager, School Resource Officer, or the title of any other school personnel leading the school's investigation into the alleged incident of sexual abuse.

Actor	Action
	<p>Note: This time period is important because the CAC has 15 calendar days to conduct a forensic interview of the alleged victim. During this time, the District is cannot interview the alleged victim regarding the alleged incident.</p> <p>While the child abuse and/or criminal investigations related to the alleged incident of sexual abuse are being conducted by DCFS/law enforcement, the Nondiscrimination Coordinator:</p> <ol style="list-style-type: none"> 1. Continues the District's investigation, which may include interviewing the alleged witnesses and/or the alleged perpetrator. 2. May request information from the alleged victim or his or her parent/guardian to ensure his or her safety and well-being at school during the investigations. 105 ILCS 5/22-85(f). 3. Refrains from interviewing the alleged victim until after the CAC completes its forensic interview. 105 ILCS 5/22-85(f).⁵ 4. Upon request, must inform DCFS/law enforcement investigators of any evidence it has gathered, <u>asto the extent</u> permitted by federal or State law. 105 ILCS 5/22-85(f). <p>Note: Evidence gathered by the Nondiscrimination Coordinator during the District's investigation may be confidential under the Illinois School Student Records Act (105 ILCS 10/) and the Family Rights and Educational Privacy Act (20 U.S.C. §1232g). Consult the Board Attorney regarding what disclosures, if any, are allowed in response to a request from DCFS and/or law enforcement and conditions that must be met prior to disclosure.</p> <p>Schedule regular follow-up calls with the CAC to inquire about the status of the forensic interview of the alleged victim.</p>
CAC	<p>Informs the Nondiscrimination Coordinator that:</p> <ol style="list-style-type: none"> 1. The forensic interview of the alleged victim is complete, and the electronic recording of the forensic interview may be viewed; or 2. The CAC determined a forensic interview will not be conducted. 105 ILCS 5/22-85(g), (h).
Nondiscrimination Coordinator	<p>If the electronic recording of the forensic interview of the alleged victim is available for viewing:</p> <ol style="list-style-type: none"> 1. Verifies the CAC has obtained informed consent from an alleged victim over the age of 13 or the alleged victim's parent/guardian

The footnotes should be removed before the material is used.

⁵ The purpose of waiting to interview and coordinating with CACs is to minimize trauma of an alleged victim by preventing multiple interviews of him/her regarding the alleged incident of sexual abuse. When a DCFS/law enforcement investigation is pending, then the CAC's forensic interview serves as the interview that other entities, e.g., school districts, may use by viewing or listening to it for their investigations. If a DCFS/law enforcement investigation is pending but the CAC does not conduct a forensic interview, then the school may conduct its own interview of the alleged victim after following the procedures outlined in this procedure.

Actor	Action
	<p>for appropriate school personnel or Board members to view the forensic interview (105 ILCS 5/22-85(h)); and</p> <p>Note: Each CAC may have its own consent form. Contact your local CAC to confirm that it will obtain written consent from the alleged victim over the age of 13 or the alleged victim's parent/guardian (if under the age of 13).</p> <p>2. Views the electronic recording of the forensic interview.</p> <p>If the CAC has not performed a forensic interview of the alleged victim within 15 calendar days after DCFS/law enforcement opens an investigation, notifies the CAC that the District intends to interview the alleged victim.</p>
CAC	<p>After receiving notification that the District intends to interview the alleged victim, has 10 additional calendar days to conduct a forensic interview. 105 ILCS 5/22-85(g).</p>
Nondiscrimination Coordinator	<p>If the CAC does not conduct a forensic interview of the alleged victim within the 10 additional calendar days, proceeds with the District's interview of the alleged victim. <u>Id.</u></p> <p>If the alleged victim is under 18 years old, makes a child advocate available to the alleged victim and allows the child advocate to be present during the interview. A child advocate may be a school social worker, a school or equally qualified psychologist, or a person in a position that ISBE has identified as an appropriate advocate for a student during a school's investigation into an alleged incident of sexual abuse. 105 ILCS 5/22-85(i).</p> <p>Schedules regular follow-up calls to DCFS/law enforcement to inquire if the investigation of an incident has been suspended and/or is complete, including the outcome of the investigation. 105 ILCS 5/22-85(j), (k).</p>