

## Operational Services

### Administrative Procedure - Criminal Offender Notification Laws; Screening

#### Laws Protecting Students on School Grounds

The following list describes laws and resources protecting students on school grounds from individuals convicted of serious crimes:

1. A child sex offender is prohibited from being present on school property or loitering within 500 feet of school property when persons under the age of 18 are present unless specifically permitted by statute. 720 ILCS 5/11-9.3(a), (b). See Board policies 4:175, *Convicted Child Sex Offender; Screening; Notifications*; and 8:30, *Visitors to and Conduct on School Property*.
2. Law enforcement must notify schools of offenders who reside or are employed in the county. See: (a) Sex Offender Community Notification Law, 730 ILCS 152/, and (b) Murderer and Violent Offender Against Youth Community Notification Law, 730 ILCS 154/75-154/105. These laws are hereafter referred to as “offender notification laws.” See also Board policy 4:175, *Convicted Child Sex Offender; Screening; Notifications*.  
The School Code (105 ILCS 5/10-21.9, 5/21B-5 and 5/21B-80) lists criminal offenses that disqualify an individual from District employment if the individual was convicted. 105 ILCS 5/10-21.9 requires any person hired by the District to submit to a fingerprint-based criminal history records check through the Ill. State Police (ISP) for an individual’s *Criminal History Records Information* (CHRI), and the Federal Bureau of Investigation (FBI) national crime information databases. The law also requires a school district to initially check<sup>1</sup> the Statewide Sex Offender Registry, <https://isp.illinois.gov/Sor/Disclaimer>, and the Statewide Murderer and Violent Offender Against Youth Registry, <https://isp.illinois.gov/MVOAY/Disclaimer>, for each applicant being considered for hire and, if hired, repeatedly checked at least once every five years that an individual remains employed by the District. Obtaining the results of the fingerprint-based criminal history records check and review of the database registries is a *complete criminal history records check* as required by the School Code. See Board policy 5:30, *Hiring Process and Criteria*; administrative procedure 5:30-AP2, *Investigations*; and Ill. State Board of Education (ISBE) non-regulatory guidance, *Criminal History Records Information (CHRI) Checks for Certified and Non-certified School Personnel*, at: [www.isbe.net/Documents/guidance\\_chr.pdf](http://www.isbe.net/Documents/guidance_chr.pdf).
3. The National Sex Offender Public Website, [www.nsopw.gov/](http://www.nsopw.gov/); however, if performing a check here note that the same information will likely appear in the information furnished by the FBI.
4. The provisions in the School Code described above also apply to employees of persons or firms holding contracts with a school district who have direct, daily contact with students. 105 ILCS 5/10-21.9(f). See administrative procedures 4:60-AP3, *Criminal History Records Check of Contractor Employees*; and 5:30-AP2, *Investigations*.
5. Being charged with attempting to commit, conspiring to commit, soliciting, or committing any offense listed in 105 ILCS 5/21B-80(b-5) results in the automatic suspension of the individual’s

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<sup>1</sup> 105 ILCS 5/10-21.9(a-5) and (a-6). **Note:** the statute uses the term *applicant* even though a person who “remains employed by the school district” is commonly referred to as an employee.

license or denial of the individual's license application until the individual's criminal charges are adjudicated through a court of competent jurisdiction. If the individual is acquitted, his or her license or application shall be immediately reinstated.<sup>2</sup>

6. Conviction of an offense listed in 105 ILCS 5/21B-80(c) results in the automatic suspension of the individual's license or denial of the individual's license application, whichever is applicable. When the conviction becomes final, the license will be revoked. Conviction of an offense listed in 105 ILCS 5/21B-80(b), results in the automatic suspension of the individual's license or denial of the individual's license application, whichever is applicable, until seven (7) years following the end of the sentence for the criminal offense.<sup>3</sup>
7. The offender notification laws require law enforcement to ascertain whether a juvenile sex offender or violent offender against youth is enrolled in a school and, if so, to provide a copy of the registration form to the Building Principal and any school counselor designated by him or her. This registration form must be kept separately from any and all school records maintained on behalf of the juvenile sex offender. 730 ILCS 152/121(b). See Board policy 4:175, *Convicted Child Sex Offender; Screening; Notifications*.
8. When a criminal sexual offense is committed, or alleged to have been committed, by a District employee or contractor, law enforcement shall immediately transmit a copy of the criminal history record information relating to the investigation of the offense/alleged offense to the Superintendent. This transmission occurs either (725 ILCS 191/15):
  - a. Upon the Superintendent's request<sup>4</sup> to a law enforcement agency; or
  - b. If the law enforcement agency knows the offender/alleged offender is employed by the District (either as an employee or contractor), automatically.The copy of the CHRI that is provided must exclude the identity of the adult victim, and if the Superintendent is otherwise aware of the adult victim, he or she must keep that person's identity confidential.

#### Receipt of Information from and Collaboration with Law Enforcement<sup>5</sup>

**Offender Notification Laws:** The Superintendent and Building Principal(s) shall notify the local law enforcement official, including the relevant lawyers in the county State's Attorney's Office and/or county sheriff, that he or she is the District's official contact person for purposes of the offender notification laws.<sup>6</sup> The Superintendent and/or Building Principal may at any time request information from law enforcement officials regarding sex offenders or violent offenders against youth.

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<sup>2</sup> 105 ILCS 5/21B-80(b-5).

<sup>3</sup> 105 ILCS 21B-80(b), (c); 105 ILCS 5/21B-15(a).

<sup>4</sup> The law is silent as to how a superintendent can make this request. Contacting the county State's Attorney's Office(s) and/or local law enforcement agencies that the district has established relationships with through a reciprocal reporting agreement are the suggested request methods. See sample administrative procedure 7:190-AP3, *Guidelines for Reciprocal Reporting of Criminal Offenses Committed by Students*. The law also does not address to whom criminal history records information may be transmitted if the superintendent is the offender/alleged offender. **Contact the board attorney for further guidance.**

<sup>5</sup> The law is silent with regard to what, if anything, districts do with the information (except for records provided to a school district by a state's attorney's office under the Juvenile Court Act at 705 ILCS 405/5-901(8)). It does, however, provide that "any person who provides or fails to provide information relevant to the procedures set forth in this [Sex Offender Community Notification] Law shall not be liable in any civil or criminal action." 730 ILCS 152/130.

<sup>6</sup> Naming a contact person will facilitate communication and cooperation with local law enforcement agencies. Any school official may be used as the contact person and the superintendent may wish to have a contact person from each building.

The Superintendent will provide Building Principals and other supervisors with a copy of all lists received from law enforcement officials containing the names and addresses of sex offenders and violent offenders against youth.

The Building Principal or designee shall provide the lists to staff members in his or her building on a need-to-know basis, but in any event:

- A teacher will be told if one of his or her students, or a student's parent/guardian, is on a list.
- The school counselor, nurse, social worker, or other school service personnel will be told if a student or the parent/guardian of a student for whom he or she provides services is on a list.

No person receiving a list shall provide it to any other person, except as provided in these procedures, State law,<sup>7</sup> or as authorized by the Superintendent. Requests for information should be referred to the local law enforcement officials or State Police.

**Licensed Teacher Felony Conviction Notification Laws:** On behalf of the Board, the Superintendent, or if the licensed teacher is the Superintendent, the Board President, shall notify the State Superintendent of Education promptly and in writing of the name of a licensed teacher who was convicted of a felony, along with the conviction and the name and location of the court where the conviction occurred.<sup>8</sup>

On behalf of the Board, the Superintendent, or if the teacher is the Superintendent, the Board President, shall notify the Teachers' Retirement System (TRS) of the State of Ill. Board of Trustees promptly and in writing when the District learns that a teacher as defined in the Ill. Pension Code was convicted of a felony, along with the name and location of the court where the conviction occurred, and the case number assigned by that court to the conviction.<sup>9</sup>

**Juvenile Delinquency Adjudication Notifications:** The Superintendent or designee shall contact the Juvenile Division(s) of the county State's Attorney Office(s) having jurisdiction over the District's school(s) to discuss how the State's Attorney(s) shall inform the Superintendent or designee of any students adjudicated as delinquent minors for offenses that would be felonies and/or certain weapons offenses under the Criminal Code of 2012, 705 ILCS 405/5-901(8). The Superintendent and/or designee(s) shall ensure the dissemination of such information is limited to the Building Principal and any school counselor designated by the Building Principal. Id.

#### Informing Staff Members and Parents/Guardians About the Law<sup>10</sup>

Building Principals or their designees shall inform parents/guardians about the availability of information concerning sex offenders during school registration and, if feasible, during parent-teacher conferences. Information should be distributed about the Statewide Sex Offender Registry, <https://isp.illinois.gov/Sor/Disclaimer>, and the Statewide Murderer and Violent Offender Against Youth Registry, <https://isp.illinois.gov/MVOAY/Disclaimer>. Information may also be included in the

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<sup>7</sup> The list of child sex offenders may be a *public record* subject to disclosure under the Ill. Freedom of Information Act (FOIA). 5 ILCS 140/. Consult the board attorney when a FOIA request is made.

<sup>8</sup> 105 ILCS 5/21B-85(a).

<sup>9</sup> Id. at 5/21B-85(b).

<sup>10</sup> State law requires a principal or teacher to notify the parents/guardians during school registration or parent-teacher conferences that information about sex offenders is available to the public as provided in the Sex Offender Community Notification Law. 730 ILCS 152/120(g). While State law allows the notification to be made during registration or parent-teacher conferences, the sample procedure makes a notification mandatory just during registration to be sure that all parents/guardians are informed.

Student Handbook. See the Sex Offender Community Notification Law, 730 ILCS 152/, and exhibit 4:175-AP1, E1, *Informing Parents/Guardians About Offender Community Notification Laws*.

Requests for additional information shall be referred to local law enforcement officials.

### Screening Individuals Who Are Likely to Have Contact with Students at School or School Events <sup>11</sup>

The law is silent with regard to *screening* volunteers and individuals in the proximity of a school. *Screening* is not the same as the School Code's requirement to perform a *fingerprint-based criminal history records check* through (a) the ISP for an individual's CHRI, and (b) the FBI's national crime information databases. 105 ILCS 5/10-21.9.

Screening involves checking an individual's name and address against the: (1) Statewide Sex Offender Registry, <https://isp.illinois.gov/Sor/Disclaimer>, and (2) the Statewide Murderer and Violent Offender Against Youth Registry maintained by the ISP, <https://isp.illinois.gov/MVOAY/Disclaimer>. 105 ILCS 5/10-21.9(a-5), (a-6).

There are five categories listed below of individuals with the potential to have contact with students at school or at school events.

1. For employees and student teachers, the Superintendent or Building Principal(s) perform the following tasks:
  - a. Complete the required forms to request the *fingerprint-based criminal history records check*; see administrative procedure 5:30-AP2, *Investigations*. 105 ILCS 5/10-21.9(a).
  - b. Screen the individual's name and address against the: (1) Statewide Sex Offender Registry, <https://isp.illinois.gov/Sor/Disclaimer>, and (2) the Statewide Murderer and Violent Offender Against Youth Registry maintained by the State Police, <https://isp.illinois.gov/MVOAY/Disclaimer>. 105 ILCS 5/10-21.9(a-5), (a-6). This screening must be done for applicants being considered for hire and, if hired, repeatedly at least once every five years that an individual remains employed by the District. <sup>12</sup>
  - c. Review the lists of sex offenders and violent offenders against youth as the lists are received from law enforcement. If a match is found, the Superintendent immediately contacts the local police officials to confirm or disprove the match. The Superintendent immediately notifies the Board if a match is confirmed. The Board President will contact the Board Attorney and the Board will take the appropriate action to comply with State law that may include terminating the individual's employment.
  - d. May request the individual to authorize a clearance of his or her name through the Ill. Dept. of Children and Family Services (DCFS) Child Abuse and Neglect Tracking System, a/k/a CANTS. This check documents that the person does not have an indicated report or record on DCFS' registry of child abuse and/or neglect. 325 ILCS 5/11.1(a)(11) and (c). Clearances must be requested using the DCFS Background Check Portal at <https://dcfs.illinois.gov/for-providers/background-checks-for-licensed-and-unlicensed-providers/background-check-portal-for-licensed-providers.html>.

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<sup>11</sup> The law is silent with regard to screening volunteers and individuals in the proximity of a school. *Screening* is not the same as the School Code's requirement to perform a *fingerprint-based criminal history records check* through (a) the ISP for an individual's *Criminal History Records Information* (CHRI), and (b) the FBI's national crime information databases. 105 ILCS 5/10-21.9.

<sup>12</sup> See f/n 1.

- If an indicated report by DCFS or by a child welfare agency of another jurisdiction is found, the Board must consider the individual's status as a condition of employment.<sup>13</sup> Contact the Board Attorney for guidance.
- e. Notify the State Superintendent of Education in writing<sup>14</sup> within ten business<sup>15</sup> days when a fingerprint-based criminal history records check returns a *pending* criminal charge against a license holder for an offense set forth in 105 ILCS 5/21B-80.
  - f. Notify the State Superintendent of Education in writing within 15 business days when a fingerprint-based criminal history records check returns a *conviction* of a crime set forth in 105 ILCS 5/21B-80 or when publicly available Illinois offender databases checks find a registration.<sup>16</sup>
2. For students doing field or clinical experience other than student teaching, the Superintendent or Building Principal(s):
    - a. May require the same fingerprint-based criminal history records check required of student teachers.<sup>17</sup> The cost of this check will be reimbursed by the student seeking the experience.<sup>18</sup>
    - b. Performs the responsibilities listed in 1. b. & c., above.
  3. For volunteers, see administrative procedure 6:250-AP, *Resource Persons and/or School Volunteers; Screening*. The Superintendent or Building Principal(s):
    - a. May require the same fingerprint-based criminal history records check required of student teachers.<sup>19</sup>
    - b. Performs the responsibilities listed in 1. b. & c., above.
  4. For contractors' employees, see administrative procedures 4:60-AP3, *Criminal History Records Check of Contractor Employees*; and 5:30-AP2, *Investigations*.
  5. For individuals in the proximity of a school or bus stop, the Building Principal(s) review(s) the lists of sex offenders and violent offenders against youth as they are received from law enforcement. The Building Principal or designee shall: (a) notify staff members according to the section of this procedure on **Receipt of the Information from Law Enforcement**, and (b) attempt to alter school bus stops and the route students travel to and from school in order to avoid contact with an individual on such a list.

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<sup>13</sup> 105 ILCS 5/10-21.9(c) and (g).

<sup>14</sup> 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.

<sup>15</sup> 105 ILCS 5/10-21.9(e). The statute 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.

<sup>16</sup> *Id.*

<sup>17</sup> For districts with boards that require students participating in any field or clinical experience to undergo the same fingerprint-based criminal history records check required of student teachers in 105 ILCS 5/10-21.9(g), delete "~~May require~~" and replace with "Performs". See f/n 3 in sample policy 5:260, *Student Teachers*.

<sup>18</sup> Optional. Delete if your district pays for the fingerprint-based criminal history records check for student teachers.

<sup>19</sup> For districts with boards that require volunteers to undergo the same fingerprint-based criminal history records check required of student teachers in 105 ILCS 5/10-21.9(g), delete "~~May require~~" and replace with "Performs".

CROSS REF.: 3:40 (Superintendent), 3:50 (Administrative Personnel Other Than the Superintendent), 3:60 (Administrative Responsibility of the Building Principal), 4:165 (Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors), 4:175 (Convicted Child Sex Offender; Screening; Notifications), 5:30 (Hiring Process and Criteria), 6:250 (Community Resource Persons and Volunteers), 8:30 (Visitors to and Conduct on School Property)

ADMIN. PROC.: 4:60-AP3 (Criminal History Records Check of Contractor Employees), 4:175-AP1, E1 (Informing Parents/Guardians About Offender Community Notification Laws), 5:30-AP2 (Investigations), 6:250-AP (Resource Persons and/or School Volunteers; Screening), 6:250-E (Resource Person and Volunteer Information Form and Waiver of Liability), 8:30-AP (Definition of Child Sex Offender), 8:30-E1 (Letter to Parent Regarding Visits to School by Child Sex Offenders), 8:30-E2 (Child Sex Offender's Request for Permission to Visit School Property)

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