

General Personnel

Administrative Procedure - Personnel Records

Applicant Records

Records for a successful employment applicant are maintained with the individual's employment records. Records for an unsuccessful employment applicant are maintained for no less than five years from the application date.¹ Applicant records include the following if received by the District:

- Employment application forms
- Transcripts
- Previous work experience
- References
- Such other relevant information as the District desires of applicants for screening purposes

Personnel Records

Personnel records for all employees include:

- Job posting, pay scale, and benefits for the employee's position (beginning 1-1-25)²
- Pre-employment records, including verification of past employment
- Dates of employment
- Valid certificate and/or evidence of required credentials for services being performed
- Criminal background investigation history and report
- Sexual Misconduct Related Employment History Review (EHR) records³
- Form I-9 required under the Immigration Reform and Control Act⁴
- Records maintained pursuant to Internal Revenue Service regulations
- Payroll information and deductions, including all records required to be kept by 5:35-AP2, *Employee Records Required by the Fair Labor Standards Act* (29 C.F.R. §§516.2 and 516.3) and the Equal Pay Act of 2003, 820 ILCS 112/20⁵
- Records maintained for the Ill. Teachers' Retirement System or the Ill. Municipal Retirement System
- Credit release information
- Sick leave, leaves of absence, personal leave, and vacation data (where appropriate)
- Salary schedule data

¹ Equal Employment Opportunity Commission regulations require employers to retain all personnel records, including applications, for at least one year from the date the record was made or any personnel action was taken, whichever is later. 29 C.F.R. §1602.14. A longer retention period allows the district to gather data that may be used to defend a discrimination complaint.

² 820 ILCS 112/20, amended by P.A. 103-539, eff. 1-1-25. These records are not specifically required to be kept in an employee's personnel file but are included in this sample procedure for ease of administration.

³ 105 ILCS 5/22-94(e), added by P.A. 102-702. See sample administrative procedure 5:30-AP3, *Sexual Misconduct Related Employment History Review (EHR)*.

⁴ For information on Form I-9, see *Handbook for Employers, Instructions for Completing Form I-9, Form I-9 Resources* at: www.uscis.gov/i-9-central/form-i-9-resources. The Ill. Right to Privacy in the Workplace Act (820 ILCS 55/) imposes requirements on employers who use the E-Verify Program, see: <https://labor.illinois.gov/laws-rules/conmed/privacy-workplace.html>. See also f/n 13 in sample policy 5:30, *Hiring Process and Criteria*.

⁵ The payroll recordkeeping requirements of the Equal Pay Act of 2003 (EPA), 820 ILCS 112/20, amended by P.A. 103-539, eff. 1-1-25, overlap with the requirements of the FLSA and are not separately listed in this procedure. They include employee name, address, occupation, and wages. *Id.* However, the EPA requires these records be maintained for five years, compared to three years under the Fair Labor Standards Act. *Id.*; 29 C.F.R. §516.5. Certain payroll documents, e.g., *pay stub* and *payroll card*, are defined in the Ill. Wage Payment and Collection Act. 820 ILCS 115/2, amended by P.A. 103-953, eff. 1-1-25.

Relevant health and medical records, including the verification of freedom from tuberculosis required by the School Code (105 ILCS 5/24-5) ⁶

Supervisory evaluations

Promotions

Awards received

Personnel documents that have been or are intended to be used in determining an employee's qualification for promotion, transfer, compensation, benefits, discharge, or disciplinary action⁷

Any employment-related contracts or agreements that the District maintains are legally binding on the employee ⁸

Any employee handbooks that the District made available to the employee or that the employee acknowledged receiving ⁹

Any written District policies or procedures that the District contends the employee was subject to and that concern qualifications for employment, promotion, transfer, compensation, benefits, discharge, or other disciplinary action ¹⁰

Disciplinary actions and accompanying records

Notice of discharge and accompanying records

Letter of resignation or retirement

Notification that an employee is the subject of an Ill. Dept. of Children and Family Services (DCFS) investigation pursuant to the Abused and Neglected Child Reporting Act (ANCRA) and any report to DCFS made or caused to be made by a District employee concerning another employee; this record will be deleted if DCFS informs the District that the allegations were unfounded ¹¹

Any additional information the District deems to be relevant

In addition to the above, personnel records for all professional personnel include:

Valid certificate for services being performed

Copies of official transcripts required by the School Code (105 ILCS 5/24-23)

Transcripts of graduate work completed

Verification of past teaching experience, if any

Record of in-service work completed

Acknowledgement of mandated reporter status

Employment records will be maintained permanently for all District employees and former employees unless the Local Records Commission's approval is obtained to dispose of them.

Restrictions on Information that May Be Kept

The District will not gather or keep a record of an employee's associations, political activities, publications, communications, or non-employment activities, unless the employee submits the information in writing or gives the District express, written consent when the District keeps or gathers such records. However, the

⁶ The Americans with Disabilities Act requires that employment health and medical records be kept separately from the regular personnel file. 42 U.S.C. §12112(d)(3).

⁷ 820 ILCS 40/2(a), added by P.A. 103-727, eff. 1-1-25. The Personnel Record Review Act (PRRA) restricts an employer's ability to use record information during a proceeding in court or before a hearing officer that was not included in the personnel record. 820 ILCS 40/4. Thus, this item becomes a statement of what must be kept in an employee's personnel record.

⁸ *Id.* at 40/2(a)(2), added by P.A. 103-727, eff. 1-1-25.

⁹ *Id.* at 40/2(a)(3).

¹⁰ *Id.* at 40/2(a)(4).

¹¹ 820 ILCS 40/13; 325 ILCS 5/4 and 5/7.4, amended by P.A. 103-460; see the last section of this procedure for additional requirements. According to ANCRA: (1) DCFS must notify the employer of an individual who is the subject of a formal child abuse or neglect investigation if his or her employment results in frequent contact with children (325 ILCS 5/7.4(b)(4)); and (2) when a report is made by a school district employee involving the conduct of an individual employed by the district, the appropriate Child Protective Service Unit must send a copy of its final finding report to the district superintendent (325 ILCS 5/7.4(c-5)).

District may gather or keep records in an employee's personnel file concerning: (1) activities or associations with individuals or groups involved in the physical, sexual, or other exploitation of a minor, or (2) activities occurring on the District's premises or during the employee's working hours that interfere with the performance of the employee's duties or activities, or those of other employees, regardless of when and where occurring, that constitute criminal conduct or may reasonably be expected to harm the District's property, operations or educational process, or programs, or that could, by the employee's actions, cause the District financial liability. 820 ILCS 40/9, amended by P.A. 103-727, eff. 1-1-25.

Access to Employee Records and Correction Requests

Upon written request, which may include any electronic communications, e.g., email or text messages, an employee has the right to inspect, copy, or receive copies of his or her personnel records according to provisions in the Ill. Personnel Record Review Act (PRRA), 820 ILCS 40/, and any relevant provisions in an applicable collective bargaining agreement. Except for the documents described in 820 ILCS 40/10, an employee is granted access to his or her personnel records at least two times in a calendar year at reasonable intervals. Unless otherwise indicated in an applicable bargaining agreement, access to the employee's personnel records will be according to the following guidelines:

1. The employee must submit a written request to the Superintendent or the Superintendent's designee using exhibit 5:150-E, *Employee Request Form for Personnel Records*. The written request must (820 ILCS 40/2(c)):
 - a. Identify what personnel records the employee is requesting or if the employee is requesting all records allowed to be requested under 820 ILCS 40/2;
 - b. Specify if the employee is requesting to inspect, copy, or receive copies of the records;
 - c. Specify whether records be provided in hardcopy or in a reasonable and commercially available electronic format;
 - d. Specify whether inspection, copying, or receipt of copies will be performed by that employee's representative, including family members, lawyers, union stewards, other union officials, or translators; and
 - e. If the requested records include medical information and medical records, include a signed waiver to release medical information and medical records to that employee's specific representative.
2. The Superintendent or designee will provide the employee the opportunity for inspection within seven working days after receipt of the request. If such deadline cannot reasonably be met, the District will have an additional seven calendar days to comply.
 - a. If the District does not maintain records in one or more of the categories requested, the District may respond by notifying the employee in writing that the District does not maintain records in that category, but the District must still permit inspection, copying, and receipt of copies of any other records category requested that the District does maintain.
 - b. If records are maintained in a manner and fashion that is already accessible by the employee, the District may instead provide the employee with instructions on how to access that information.
3. The employee will inspect, copy, or receive copies of the personnel record at the District's administrative office during normal working hours or at another time mutually convenient to the employee or the employee's representative and the Superintendent or designee.
4. Inspection of personnel records will be conducted under the supervision of an administrative staff member.
5. Neither an employee nor his or her representative will have access to records that are treated as exceptions in the PRRA discussed below.
6. The employee may copy material maintained in his or her personnel record. Payment for record copying will be based on the District's actual costs of duplication and may not include: the imputed costs of time spent duplicating the information; the purchase or rental of copying machines; the

purchase or rental of computer equipment; the purchase, rental, or licensing of software; or other similar expenses.

7. The employee may not remove any part of his or her personnel records from his or her file nor remove any part of his or her personnel records from the District's administrative office.
8. Upon the employee's request, the District will email or mail a copy of the specific record(s) to the email address or mailing address identified by the employee for the purpose of receiving the record(s).¹² The District will charge a fee for providing a copy of the records not to exceed the actual cost of duplication.
9. Should the employee be involved in a current grievance against the District or involved in any other contemplated proceedings against the District, the employee may designate in writing a representative who has the authority to inspect the personnel records under the same rights as the employee.
10. If the employee disagrees with any information contained in the personnel record, a removal or correction of that information may be mutually agreed upon by the District and employee. If agreement cannot be reached, the employee may submit a written statement explaining his or her position. The District will attach the employee's statement to the disputed portion of the personnel record and the statement will be included whenever that disputed record is released to a third party as long as the disputed record is part of the employee's personnel file. Inclusion of any written statement attached to the disputed record in an employee's personnel file without any further comment or action by the District will not imply or create any presumption that the District agrees with the statement's contents.

Requests by Third Parties

The Board Attorney shall be consulted whenever a subpoena or court order requests personnel record information. Any other request for personnel information by a third party will be treated as a FOIA request and immediately forwarded to the School District's Freedom of Information Officer (see administrative procedure 2:250-AP1, *Access to and Copying of District Public Records*). Concerning a request for a disciplinary report, letter of reprimand, or other disciplinary action:

1. If the responsive record is more than four years old and is not related to an incident or an attempted incident of sexual abuse, severe physical abuse, or sexual misconduct as defined in 105 ILCS 5/22-85.5(c), access will be denied unless the release is ordered in a legal action or arbitration. 5 ILCS 140/7.5(q); 820 ILCS 40/8, amended by P.A. 102-702.
2. If the responsive record is more than four years old and is related to an incident or an attempted incident of sexual abuse, severe physical abuse, or sexual misconduct as defined in 105 ILCS 5/22-85.5(c), the request cannot be denied. 820 ILCS 40/8, amended by P.A. 102-702.
3. If the responsive record is four years old or less, access will be granted (regardless of its nature). The District will provide the employee with written notice or through electronic mail, if available, on or before the day any such record is released, unless notice is not required under the Personnel Record Review Act. 5 ILCS 140/7.5(q); 820 ILCS 40/7 and 40/8, amended by P.A. 102-702.
4. The employee will not be informed if the employee has specifically waived written notice as part of a written, signed employment application with another employer; the disclosure is ordered to a party in a legal action or arbitration; or information is requested by a government agency as a result of a claim or complaint by an employee, or as a result of a criminal investigation by such agency.

A FOIA request for a performance evaluation will be denied. 820 ILCS 40/11, 5 ILCS 140/7.5(q).

Before replying to a request from a third party, the District will review the requested records and delete or redact material that is protected from disclosure. 820 ILCS 40/8, amended by P.A. 102-702.

¹² Optional.

Restriction on Employee Access

The PRRA, 820 ILCS 40/10, amended by P.A. 103-727, eff. 1-1-25, provides that the right of the employee or the employee's representative to inspect his or her personnel records does not extend to:

1. Letters of reference for that employee.
2. Any portion of a test document, except that the employee may see a cumulative total test score for either a section of or the entire test document.
3. Materials relating to the employer's staff planning, such as matters relating to the District's development, expansion, closing or operational goals, where the materials relate to or affect more than one employee, provided, however, that this exception does not apply if such materials are, have been or are intended to be used by the employer in determining an individual employee's qualifications for employment, promotion, transfer, compensation, or benefits, or in determining an individual employee's discharge or discipline.
4. Information of a personal nature about a person other than the employee if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy.
5. Records relevant to any other pending claim between the District and employee that may be discovered in a judicial proceeding.
6. Investigatory or security records maintained by the District to investigate criminal conduct by an employee or other activity by the employee that could reasonably be expected to harm the District's property, operations, or education process or programs, or could by the employee's activity cause the District financial liability, unless and until the District takes adverse personnel action based on information in such records.
7. The District's trade secrets, client lists, sales projections, and financial data.

Complying with Requirements in the Abused and Neglected Child Reporting Act

The Superintendent will execute the requirements in ANCRA whenever a District employee makes a report to DCFS involving another District employee's conduct. This includes performing the following tasks (325 ILCS 5/4 and 820 ILCS 40/13):

1. Disclose to any school district requesting information concerning a current or former employee's job performance or qualifications the fact that he or she was the subject of another employee's report to DCFS. Only the fact that a District employee made a report may be disclosed.
2. Inform the District employee who is or has been the subject of such report that the Superintendent will make the disclosure as described above.
3. Delete the record of such a report if DCFS informs the District that the allegation was unfounded.

Complying with Requirements of Faith's Law¹³

The Superintendent or designee shall execute the recordkeeping requirements of *Faith's Law*. This includes performing the following tasks (105 ILCS 5/22-94(e)):

1. At the time of an employee's separation from employment, or upon request of any employee, ensures the completion of the *Authorization for Release of Sexual Misconduct Related Information and Current/Former Employer Response* form, using the Ill. State Board of Education *Authorization for Release of Sexual Misconduct Related Information and Current/Former Employer Response Template* at: www.isbe.net/Documents/Temp2-Auth-Release-Sexual-Misconduct-Related-Info.pdf.

¹³ 105 ILCS 5/22-94(e), added by P.A. 102-702. The contents of this subhead implement: (1) the *Faith's Law* recordkeeping requirements contained in the **Special Superintendent Responsibilities** subhead in sample policy 5:90, *Abused and Neglected Child Reporting*, and (2) the obligation to respond to employer requests for information under *Faith's Law* contained in the **Prospective Employer Inquiries Concerning a Current or Former Employee's Job Performance** subhead in sample policy 5:150, *Personnel Records*.

2. If the District is still investigating an employee for *sexual misconduct*¹⁴ after the employee's separation from employment, updates the information in the *Authorization for Release of Sexual Misconduct Related Information and Current/Former Employer Response* form accordingly. ¹⁵
3. Maintains the completed *Authorization for Release of Sexual Misconduct Related Information and Current/Former Employer Response* form in the employee's personnel file.
4. Responds to employer requests for sexual misconduct related employment history information under *Faith's Law* by: (a) completing the *Authorization for Release of Sexual Misconduct-Related Information and Current/Former Employer Response* form provided by the employer within 20 calendar days of receipt, and (b) providing to the employer any relevant information, including copies of personnel records, regarding instances of sexual misconduct in accordance with the instructions on the form.

LEGAL REF.: 29 C.F.R. Part 516.
 5 ILCS 140/, Freedom of Information Act.
 105 ILCS 5/22-94.
 325 ILCS 5/4 and 5/7.4, Abused and Neglected Child Reporting Act.
 820 ILCS 40/, Personnel Record Review Act.
 820 ILCS 112/20, Equal Pay Act of 2003.
 23 Ill.Admin.Code §1.660.

APPROVED:

¹⁴ *Sexual misconduct* is defined in 105 ILCS 5/22-85.5(c), added by P.A. 102-676.

¹⁵ 105 ILCS 5/22-94(e), added by P.A. 102-702.