

## General Personnel

### Administrative Procedure - Investigations

#### Immigration Investigation

All newly hired employees must complete section one of the Immigration and Naturalization Service Form I-9 no later than 3 business days following their first working day (Immigration Reform and Control Act, 8 U.S.C. §1324a, 8 C.F.R. §274a.2). 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 3 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: [www.state.il.us/Agency/idol/Forms/PDFs/everify.pdf](http://www.state.il.us/Agency/idol/Forms/PDFs/everify.pdf). See, the Ill. Dept. of Labor Right to Privacy in the Workplace Act, 820 ILCS 55/12, amended by P.A. 96-623.

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 3 years after the date of hire or one year after individual employment is terminated, whichever is later.

#### Criminal History Records Check

**Note:** These requirements are in 105 ILCS 5/10-21.9, as amended, and 105 ILCS 5/21B-80, as amended. See also the Sex Offender Community Notification Law (730 ILCS 152/101 *et seq.*); Murderer and Violent Offender Against Youth Community Notification Law (730 ILCS 154/75-105); policy 4:170, *Safety*; and administrative procedure 4:170-AP2, *Criminal Offender Notification Laws*. A detailed "Guide to Understanding Criminal Background Check Information" is available at: [www.isp.state.il.us/docs/5-727.pdf](http://www.isp.state.il.us/docs/5-727.pdf). **Important:** 20 ILCS 2630/5(h)(2)(A) 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.

The following individuals are responsible for the actions listed:

**Applicant** - Each applicant for employment in any position (except bus driver and substitute teacher) must provide a written authorization for a fingerprint-based criminal history records check at the time he or she submits the application.

**Applicant for Substitute Teacher** - Each applicant for any substitute teacher position must provide his or her certificate of authorization from the Regional Superintendent of Schools or Suburban Cook County Intermediate Service Center (P.A. 96-893), whichever is appropriate. See 105 ILCS 5/21-9(c), amended by HB 5863, eff. 1-1-2011.

**Student Teacher** - Each student teacher must provide payment of the costs of and a written authorization for his or her higher educational institution to perform a fingerprint-based criminal history records check and checks of the Statewide Sex Offender Database and Statewide Child Murderer and Violent Offender Against Youth Database prior to participating in any field experiences in the District. See 105 ILCS 5/10-21.9(g), amended by P.A. 96-1452.

**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 Department of State Police to conduct a fingerprint-based criminal history records check. The Superintendent or designee will conduct a pre-employment interview with prospective school bus driver candidates, distribute school bus driver applications and medical forms, and submit the applicant's fingerprint cards to the Department of State Police. 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. 96-962 and P.A. 96-1182 and 105 ILCS 5/10-21.9(g), amended by P.A. 96-1452.

**Superintendent - Note:** *Add any additional steps to efficiently receive a fingerprint-based criminal history records check.*

1. Fingerprint-Based Criminal History Records Check:

The Superintendent or designee completes the required forms in order to request a fingerprint-based criminal history records check from an appropriate police or live scan agency. **Note:** Superintendents will need to ensure that their districts perform these checks again for substitute teachers. Contact the board attorney and/or ISBE regarding the validity of a *certificate of authorization*, if a substitute teacher presents one. From Jan. 1, 2011 through July 1, 2011, the Regional Superintendent of Schools or Suburban Cook County Intermediate Service Center, whichever is appropriate, was allowed to issue *certificates of authorization* to substitute teachers (105 ILCS 5/21-9(c), amended by P.A. 96-1489 and deleted by P.A. 97-607). 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 will no longer receive them because they no longer exist. For those substitute teachers who did receive them, there is not an answer to the question of whether their *certificates of authorization* are still valid. Attorneys in the field suggest looking for an expiration date on the *certificate of authorization*. If the document has no expiration date, it is likely invalid because the document no longer exists. If there is an expiration date, then the document is likely valid until the date listed. For student teachers, the Superintendent works with the higher education institution where the student teacher is enrolled to obtain or ensure that the student teacher completes the required forms to request a fingerprint-based criminal history records check (105 ILCS 5/10-21.9(g), amended by P.A. 96-1452, see policy 5:260, *Student Teachers*).

This may include submitting the applicant's name, sex, race, date of birth, social security number, fingerprint images, and other identifiers to the Department of State Police on the forms prescribed by it.

The Superintendent or designee will provide the applicant with a copy of the conviction record obtained from the Department of State Police. Required by 105 ILCS 5/10-21.9(b).

2. Check of the statewide offender databases. The Superintendent or designee performs a check for each applicant of:

- a. The Statewide Sex Offender Database (a/k/a Sex Offender Registry), [www.isp.state.il.us/sor](http://www.isp.state.il.us/sor), as authorized by the Sex Offender Community Notification Law (730 ILCS 152/101 et seq.), and
- b. The Statewide Murderer and Violent Offender Against Youth Registry ([www.isp.state.il.us/cmvo/](http://www.isp.state.il.us/cmvo/)), as authorized by the Murderer and Violent Offender Against Youth Community Notification Law (730 ILCS 154/75-105).

The Superintendent or designee notifies an applicant if the applicant is identified in the database as a sex offender. Required by 105 ILCS 5/10-21.9 (a-5), (a-6) and (b).

**State Police and FBI -** The Department of State Police and FBI furnish records of convictions (until expunged), pursuant to a fingerprint-based criminal history records check, to the School Board President or for a student teacher, the Superintendent and the higher education institution where the student teacher is enrolled. **Note:** The State Police 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), amended by P.A. 96-1452.

**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 Schools, State Educator Preparation and Licensure Board, any other person necessary to the hiring decision, or for clarification purposes, the Department of State Police and/or Statewide Sex Offender Database. See 105 ILCS 5/10-21.9(b), amended by P.A. 96-1452.

**Regional Superintendent/Suburban Cook County Intermediate Service Center** - Whenever an applicant is seeking employment in more than one District as either a substitute or part-time teacher or educational support personnel employee, the Superintendent or designee may require the applicant to authorize the Regional Superintendent or Suburban Cook County Intermediate Service Center, whichever is appropriate, to conduct the check. The Regional Superintendent or Suburban Cook County Intermediate Service Center, whichever is appropriate, also performs a check of the Statewide Sex Offender Database ([www.isp.state.il.us/sor](http://www.isp.state.il.us/sor)) as authorized by the Sex Offender Community Notification Law (730 ILCS 152/115) and the Violent Offender Against Youth Database ([www.isp/state.il.us/cmvo/](http://www.isp/state.il.us/cmvo/)) as authorized by the Child Murderer and Violent Offender Against Youth Community Notification Law (730 ILCS 154/75-105). See 105 ILCS 5/10-21.9 (a-5), (a-6) and (b).

**Contractors** - The above requirements for fingerprint-based criminal history records check apply to every employee or agent of any contractor if the employee or agent has direct, daily contact with students. **Note:** The provisions in 105 ILCS 5/10-21.9(f) apply to contractor’s employees who have “direct, daily contact with students.” Thus, districts must: (1) seek a fingerprint-based criminal history records check for all such employees, or (2) include a provision in the contract with the contractor that the contractor will obtain the fingerprint-based criminal history records check and submit it to the district. All contracts should require the contractor to purchase insurance to cover misconduct by their employees and/or an indemnification clause. Additionally, a district should check its own insurance coverage to determine whether employees of contractors are covered. See also policy 4:170, *Safety*, for the responsibilities of contractors. Last, if a district receives 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, school district, community college district, or private school that requests it (105 ILCS 5/10-21.9(h), amended by P.A. 97-248).

**District** - The School District complies with 105 ILCS 5/10-21.9, and 5/21B-80. It will not knowingly employ a person, or allow a person work or student teach on school grounds, who:

1. Has been convicted of committing or attempting to commit any one or more of the following offenses:
  - a. First-degree murder, any Class X felony, or conspiring to commit or soliciting first-degree murder or a Class X felony.
  - b. Sex offenses as defined in Sections 11-6 and 11-9 through 11-9.5, inclusive, Sections 11-14 through 11-21, inclusive, Sections 11-23 (if punished as a Class 3 felony), 11-24, 11-25, and 11-26, and Sections 12-4.9, 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-32, and 12-33 of the Criminal Code of 1961.
  - c. Those defined in the Cannabis Control Act, 720 ILCS 550/., except those defined in 720 ILCS 550/4(a), 550/4(b), and 550/5(a) and any offense for which the person is placed on probation under the provisions of 720 ILCS 550/10, and the terms and conditions of probation are fulfilled.
  - d. Those defined in the Illinois Controlled Substances Act, 720 ILCS 570/100 *et seq* except any offense for which the person is placed on probation under the provisions of 720 ILCS 570/410, and the terms and conditions of probation are fulfilled.

- e. Those defined in the Methamphetamine Control and Community Protection Act, 720 ILCS 646/ except any offense for which the person is placed on probation under the provisions of 720 ILCS 646/70, and the terms and conditions of probation are fulfilled.
  - f. 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.
2. 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 Illinois Department of Employment Security. See 820 ILCS 405/1801.1.

APPROVED: June 18, 2012