

## **General Personnel**

### **Administrative Procedure - Sexual Misconduct Related Employment History Review (EHR)**

Prior to hiring an applicant for a position involving *direct contact with children or students*, a sexual misconduct related employment history review (EHR) must be initiated, but the District may permit the individual to be hired and begin employment pending its outcome.<sup>1</sup> This applies to all permanent and temporary employment positions within a school, including substitute employees and employees of contractors. An EHR is not required for volunteers.

#### **Glossary of Terms**

**Contractor** - A firm holding a contract with any school including, but not limited to, food service workers, school bus drivers, and other transportation employees who have direct contact with children or students. 105 ILCS 5/22-94(b), added by P.A. 102-702, eff. 7-1-23.

**Direct contact with children or students** - The possibility of care, supervision, guidance, or control of children or students or routine interaction with children or students. 105 ILCS 5/22-94(b), added by P.A. 102-702, eff. 7-1-23.

**Initiate an EHR** - The District initiates an EHR when it submits an *Authorization for Release of Sexual Misconduct-Related Information and Current/Former Employer Response* form(s) to every current and previous employer identified by the applicant on said form(s).

**School** - A public or nonpublic elementary or secondary school. 105 ILCS 5/22-94(b), added by P.A. 102-702, eff. 7-1-23.

**Sexual misconduct** - Any act, including but not limited to, any verbal, nonverbal, written, or electronic communication or physical activity, by an employee with direct contact with a student, that is directed toward or with a student to establish a romantic or sexual relationship with the student. Examples include but are not limited to: 1) a sexual or romantic invitation, 2) dating or soliciting a date, 3) engaging in sexualized or romantic dialog, 4) making sexually suggestive comments that are directed toward or with a student, 5) self-disclosure or physical exposure of a sexual, romantic, or erotic nature, 6) a sexual, indecent, romantic, or erotic contact with the student. 105 ILCS 5/22-94(b), added by P.A. 102-702, eff. 7-1-23; 105 ILCS 5/22-85.5(c), added by P.A. 102-676.

#### **Substitute Employees**

For substitute employees, the EHR is required only prior to the initial hiring of a substitute employee or placement on a school's or district's approved substitute list. A substitute employee seeking to be added to another school's or district's substitute list must undergo another EHR. An EHR conducted upon initial hiring by a contractor or any other entity that furnishes substitute staffing services, e.g., a

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The footnotes should be removed before the material is used.

<sup>1</sup> 105 ILCS 5/22-94(c)(4), added by P.A. 102-702, eff. 7-1-23, requires schools or contractors to *initiate* a sexual misconduct related employment history review (EHR) prior to hiring an applicant; it does not require them to wait to receive EHR results. While hiring an applicant after initiating an EHR may be necessary in some circumstances (e.g., to fill an urgent staffing need), waiting for EHR results before hiring an applicant may be prudent in other circumstances. Consult the board attorney for further guidance. See 4:60-AP4, *Sexual Misconduct Related Employment History Review (EHR) of Contractor Employees*, at f/n 1, for a discussion of this issue as it applies to contractors.

regional office of education, satisfies the EHR requirement for all schools using that contractor's/entity's services. 105 ILCS 5/22-94(i), added by P.A. 102-702, eff. 7-1-23.

### Employees of Contractors

For employees of contractors, the EHR is performed either at the time of initial hiring or prior to the employee's assignment to perform work for a school involving direct contact with children or students. 105 ILCS 5/22-94(j)(1), added by P.A. 102-702, eff. 7-1-23. Contractors must maintain records documenting EHRs for all such employees and, upon the District's request, provide the District with access to the records. 105 ILCS 5/22-94(j)(2), added by P.A. 102-702, eff. 7-1-23. See Board policy 4:60, *Purchases and Contracts*, administrative procedure 4:60-AP1, *Purchases*, and administrative procedure 4:60-AP4, *Sexual Misconduct Related Employment History Review (EHR) of Contractor Employees*, for employment history review requirements for employees of contractors who have direct contact with children or students.

### Employment History Review for Direct Hires

Actor	Action
Board President	When the applicant is a superintendent candidate, ensures that either the resigning Superintendent, Human Resources Administrator, or designee initiates the EHR.
Superintendent, Human Resources Administrator, or designee	<p>After a conditional hiring offer has been extended to an applicant for a temporary, permanent, or substitute position involving direct contact with children or students,<sup>2</sup> initiates the EHR and provides the applicant with:</p> <ol style="list-style-type: none"> <li>1. A <i>Sexual Misconduct Disclosure</i> form, using the Ill. State Board of Education (ISBE) <i>Sexual Misconduct Disclosure Template for Applicant</i> at <a href="http://www.isbe.net/Documents/Temp1-ISBE-Sexual-Misconduct-Disclosure-Form-Applicant.pdf">www.isbe.net/Documents/Temp1-ISBE-Sexual-Misconduct-Disclosure-Form-Applicant.pdf</a>.<sup>3</sup></li> <li>2. Copies of the <i>Authorization for Release of Sexual Misconduct-Related Information and Current/Former Employer Response</i> form, using the ISBE <i>Authorization for Release of Sexual Misconduct-Related Information and Current/Former Employer Response Template</i> at <a href="http://www.isbe.net/Documents/Temp2-Auth-Release-Sexual-Misconduct-Related-Info.pdf">www.isbe.net/Documents/Temp2-Auth-Release-Sexual-Misconduct-Related-Info.pdf</a>, for the applicant to complete for each current/former employer,</li> <li>3. Instructions to complete and return all forms within [<i>insert number</i>] calendar days after receipt, and</li> </ol>

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<sup>2</sup> Optional. 105 ILCS 5/22-94, added by P.A. 102-702, eff. 7-1-23, does not specify when an applicant must undergo an EHR. To reduce administrative work, this sample procedure provides that an EHR will only occur once an applicant for a position involving direct contact with children or students reaches a particular stage in the hiring process. Alternatively, a district may choose to conduct an EHR for all applicants who reach a particular stage in the hiring process, even if the position does not involve direct contact with children or students, in case the position's job duties change to involve direct contact with children or students. If the district wishes to conduct EHRs for all applicants who reach a particular stage in the hiring process, delete for a temporary, permanent, or substitute position involving direct contact with children or students.

<sup>3</sup> Districts must use Ill. State Board of Education templates to develop their EHR forms. 105 ILCS 5/22-94(c), added by P.A. 102-702, eff. 7-1-23. Districts may incorporate the templates into existing forms and/or add to the templates' requirements, but they cannot alter the templates' contents.

Actor	Action
	4. Notice that the District cannot hire an applicant who does not provide the information required by the forms (105 ILCS 5/22-94(f), added by P.A. 102-702, eff. 7-1-23). <sup>4</sup>
Applicant	Completes the <i>Sexual Misconduct Disclosure</i> form and <i>Authorization for Release of Sexual Misconduct-Related Information and Current/Former Employer Response</i> form(s) and returns them to the Superintendent, Human Resources Administrator and/or designee. 105 ILCS 5/22-94(c)(3), added by P.A. 102-702, eff. 7-1-23.
Superintendent, Human Resources Administrator, or designee	<p>Reviews the applicant's completed <i>Sexual Misconduct Disclosure</i> form and <i>Authorization for Release of Sexual Misconduct-Related Information and Current/Former Employer Response</i> form(s). Maintains copies of these forms in the personnel file. See policy 5:150, <i>Personnel Records</i>, and administrative procedure 5:150-AP, <i>Personnel Records</i>.</p> <p>Provides, to all employers identified by the applicant in Section 3 of the <i>Authorization for Release of Sexual Misconduct-Related Information and Current/Former Employer Response</i> form:</p> <ol style="list-style-type: none"> <li>1. A copy of the <i>Authorization for Release of Sexual Misconduct-Related Information and Current/Former Employer Response</i> form (105 ILCS 5/22-94(c)(4), added by P.A. 102-702, eff. 7-1-23); and</li> <li>2. Instructions to complete the form and return it to the Superintendent, Human Resources Administrator, or designee within 20 calendar days (105 ILCS 5/22-94(e), added by P.A. 102-702, eff. 7-1-23) after receipt.</li> </ol> <p>For applicants licensed by ISBE, verifies the applicant's reported previous employers with previous employers in ISBE's Educator Licensure Information System (ELIS) to ensure accuracy. 105 ILCS 5/22-94(c)(5), added by P.A. 102-702, eff. 7-1-23.</p> <p>Reviews all responses received from the applicant's employers and uses information in the responses to evaluate the applicant's fitness to be hired or for continued employment. 105 ILCS 5/22-94(e), added by P.A. 102-702, eff. 7-1-23.</p> <p>May report information in the responses, as appropriate, to ISBE, a state licensing agency, a law enforcement agency, a child protective services agency, another school or contractor, or a prospective employer. <u>Id.</u></p> <p><b>Note:</b> An employer, school, school administrator, or contractor who provides information or records about a current or former employee or applicant is immune from criminal and civil liability for the disclosure of</p>

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<sup>4</sup> This restriction only applies to applicants for temporary, permanent, or substitute positions involving direct contact with children or students. A district may choose to extend this restriction to all applicants.

Actor	Action
	<p>the information or records, unless the information or records provided were knowingly false. <u>Id.</u></p> <p>Maintains the <i>Sexual Misconduct Disclosure</i> form and all responses received from the current/former employers in the personnel file. See policy 5:150, <i>Personnel Records</i>, and administrative procedure 5:150-AP, <i>Personnel Records</i>.</p>