

CHICAGO PUBLIC SCHOOLS
PROCEDURES GOVERNING THE OPERATIONS OF
THE CRIMINAL BACKGROUND COMMITTEE

Effective August 27, 2019

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I. Introduction

The CPS Talent Office created a Criminal Background Committee (“Committee”) 25 or more years ago, which consisted of administrative personnel whose charge was to review criminal histories of candidates for CPS employment or volunteer service to determine their suitability for service in CPS schools in light of their criminal history, their position and related factors. The Committee’s membership, scope, and methodology have evolved significantly over time.

Today, the Committee is a cross-departmental function. Its members include a diverse group of administrators who bring different lenses to the Committee’s discussions and decision-making. The work now includes candidates for CPS employment, vendor service or volunteer service and candidates for charter, contract, and alternative school employment. The work includes a review of incidents adjudicated by the Illinois Department of Children and Family Services (“DCFS”), and candidates are screened for removals while an investigation into serious misconduct is pending, “do not hire” (“DNH”) designations, or “do not hire pending investigation” (“DPI”) designations. The Committee takes a deep look at criminal and DCFS histories and solicits verifying, explanatory and contextual information from candidates, and in some instances requests an investigation, to ensure that the Committee has information that is relevant to the history under review and that the Committee deems reliable.

With respect to CPS candidates for employment or services, the goal of Committee meetings is to achieve consensus on their suitability for CPS employment or service through discussion of each candidate’s individual criminal and DCFS background, including any explanatory or contextual materials provided by the candidate or acquired by the Committee. With respect to charter, contract, and alternative school candidates, the goal of the Committee is to provide the Charter, Contract, and alternative school accurate and relevant information for it to make an informed hiring decision.

II. Authority

All prospective employees, student teachers, field experience students, student interns, vendors who have contact with students¹, and Level I volunteers (“candidates”) receive a fingerprint-based background check prior to being staffed or placed at a CPS facility, or prior to being allowed to volunteer pursuant to the Illinois School Code, 105 ILCS 5/34-18.5, Board Rule 4-4, and the Board’s Volunteer Policy.²

Additionally, per Section Section 22-94 of the Illinois School Code (Faith’s Law), CPS collects disclosures from CPS vendor candidates and charter/contract/alternative schools candidates via the candidate’s

¹ The School Code only requires that vendors with “direct, daily contact” receive a background check. In fall 2012, ISBE published guidance stating that “direct, daily contact” is a determination made by the contracting district or non-public school, usually in consultation with the contracting firm. See [ISBE guidance](#). In general, all vendors who have any type of contact with students (whether it be in person or via the Internet) must undergo a background check with the exception of vendors who are never physically at a CPS site and never interact with students (this includes virtually and in-person); or who are delivering items or food to the security desk and will always be supervised by security staff.

²As part of our comprehensive Protecting Chicago’s Children Plan of Action to improve student safety, CPS is committed to rechecking the backgrounds of all adults working in schools on a periodic basis.

Background Investigation Authorization and Release Form, which mirrors the questions posed on ISBE's Sexual Misconduct Disclosure Form.³

Charter, contract, and alternative schools are also required to conduct criminal background reviews under 105 ILCS 5/27A-5(g)(1). CPS has executed an agreement with each charter, contract, or alternative school whereby CPS collects their candidates' criminal histories and prior CPS employment information and provides that information to the charter, contract, or alternative school for use in making their hiring decisions. The information provided to the charter, contract, or alternative school includes an assessment of whether that candidate would be eligible for hire by CPS. The disclosures obtained via Faith's Law for charter/control/alternative school candidates are also shared with the charter/contract/alternative schools for review and next steps.

III. Definitions

"Candidate" is a prospective employee, student teacher, field experience student, student intern, a vendor employee who has contact with students, and Level I volunteers.

"Service" means work in a CPS school provided by a CPS employee, a CPS vendor employee or a CPS Level I volunteer as defined in the CPS Volunteer Policy.

"Conviction" is a criminal disposition in which there is a finding or admission that a criminal defendant is guilty of committing the elements of an offense and the state has determined that the disposition should constitute a criminal conviction, which is determined by the disposition of the criminal charge or sentence imposed.

Note: Juvenile arrests may not be considered unless they are adjudicated in adult court because juvenile court jurisdiction is considered civil in nature (adjudication of delinquency). See Juvenile Court Act of 1987, 705 ILCS 405.

IV. Information Gathering Process

A. Criminal History Information Collection: Fingerprinting, Database Checks, Candidate-Supplied Information

The Board's current fingerprinting vendor, Accurate Biometrics, takes fingerprints by LiveScan™ of candidates for CPS and charter, contract, and alternative schools. It submits those fingerprints and other pertinent information to both the Illinois State Police ("ISP") and Federal Bureau of Investigation ("FBI"). CPS Safety & Security ("S & S") receives and processes the results received by the FBI and ISP. In situations where a candidate's fingerprints cannot be captured by LiveScan™, after a certain number of attempts, a candidate's background is checked based on their name ("name-based check").

If the candidate's fingerprints return a "hit," meaning that the candidate has an arrest or warrant on their criminal record, the file will either be reviewed and cleared by S & S or be sent to the Committee for

³ Effective July 1, 2023, prior to hiring and pursuant to the Illinois School Code, [105 ILCS 5/22-94](#) (Faith's Law trailer bill), Illinois public or nonpublic elementary and secondary schools or school contractors are required to complete an employment history review of all temporary or permanent employment candidates where the candidate will have direct contact with children or students. As part of the Faith's Law trailer bill's requirements, candidates are required to make certain sexual misconduct disclosures and schools and applicable contractors are required to verify those disclosures with the candidate's applicable former and/or current employers, among other obligations.

review. A certified disposition (“CD”) or other information may be required based on the type of “hit” or entry that appears on the candidate’s FBI or ISP reports.

A copy of the candidate’s rapsheet from the arresting agency is generally required in instances where the candidate provides a “no records” letter from the court, or otherwise cannot provide any court documentation.

S & S contacts the candidate and requests CDs and any other relevant documents, such as police department rap sheets, police reports, letters of explanation, orders to expunge or seal, executive clemency orders or certificates of good conduct. S & S performs a check of the Statewide and Nationwide Sex Offender Databases⁴ and a check of the Statewide Murderer and Violent Offender Against Youth Database for all candidates. At times, the Program Manager will obtain additional documentation at the Committee's discretion.

Current protocol for documentation for arrests that took place when the candidate was a minor: request adult court CDs for all enumerated or serious crimes of violence, sex crimes or other egregious arrests to determine if the arrest was adjudicated in adult court. See Sections 5-130 and 5-805(2) of the Juvenile Court Act of 1987. If no adult court CD is available, request a "no records" letter from the adult court and request a rap sheet from the relevant arresting agency.

B. Child Abuse and Neglect Background History Information Collection

Accurate Biometrics also submits a completed Child Abuse and Neglect Tracking System (“CANTS”) Authorization for Background Check form to DCFS to be run through DCFS’ Statewide Automated Child Welfare Information System (“SACWIS”). See 105 ILCS 34-18.5(c). If individuals are indicated, which means DCFS has substantiated a finding of child abuse or neglect, their name stays in DCFS’ database for 5 to 50 years, depending on the type of abuse or neglect.

For indicated findings, DCFS submits a one-page “Hit Form” to S & S, which informs the Board of the specific indicated finding(s), the date(s) the indicated finding(s) was processed, and the date of birth of the youngest involved child, along with other information. S & S requests DCFS’ full-length investigative report and a letter of explanation from the candidate before the information is submitted to the Committee for review. In some situations, the information contained on the Hit Form is sufficient for the Committee to make a decision.

C. CPS Employment History Information Collection

CPS conducts a check of its Human Resource Information Technology (“HRIT”) systems to determine if the candidate was previously employed by CPS and the circumstances under which their employment ended or may be temporarily suspended. If a candidate is: 1) removed while an investigation into serious misconduct is pending or 2) designated as ineligible for rehire (“DNH”) or do not hire pending investigation (“DPI”) by CPS, the candidate cannot work or be placed at a CPS facility.⁵ For charter, contract, and

⁴ The School Code only requires a check of the Statewide Sex Offender Database, but the Board checks the Nationwide Sex Offender Database as it captures all states. Typically, the FBI will also report Sex Offender registrants on its reports.

⁵ The individual can petition the DNH Committee to remove the DNH in-part, such that the individual can volunteer or provide services as a vendor. The DPI designation is a temporary designation for employees who separated while an investigation into serious misconduct is pending or initiated. In the event the investigation is unsubstantiated, the DPI

alternative schools, CPS shares the DNH designation or temporary suspension status and provides a summary of the circumstances surrounding the designation so that it may take it into account in its hiring decision-making. The CEO Guidelines for Designating Separated Employees as Ineligible for Rehire can be found at cps.edu/oah.

D. Faith's Law Information Collection

For CPS employee candidates, CPS also reviews any records provided by a candidate's current or applicable former employer. Information received through the Faith's Law process that involves adult-on-adult sexual misconduct is reviewed and evaluated by the Criminal Background Committee (see below for more information on the Background Committee). For CPS vendor candidates, CPS reviews the candidate's Faith's Law disclosures. For charter, contract, and alternative schools, CPS shares the disclosures with the school so that it may take it into account in its hiring decision-making and complete the Faith's Law process.

Note: The CPS Talent Office also plays a role in the Faith's Law process. For CPS employee candidates, the Talent Office may also receive and review information received through the Faith's Law process and makes a decision on the candidate's hire eligibility.

V. Decision-making Process and Committee Dispositions

After all information is collected, the candidate is either reviewed and cleared for service by S & S, the Committee Program Manager, or sent to the Committee for review. The Committee will perform an interactive assessment and determine whether the candidate should be cleared for service. The goal of the Committee is to come to a consensus on each file; in situations where consensus is not possible, a majority vote controls.

S & S conducts an initial review of all files. Some files are reviewed a second time by the Committee Program Manager. That process results in either clearing the candidate or a referral to the Committee for a determination. Files needing further discussion are brought to regularly scheduled Committee meetings. After the Committee makes a decision, S & S communicates the results to the candidate and other individuals necessary to the hiring process.

After all information is gathered on charter, contract, and alternative school candidates, information is provided to the school for its use in its hiring and decision-making process. That information includes the criminal history, DCFS information⁶, CPS personnel information, including any removals while an investigation into serious misconduct is pending or DNH/DPI designation, Faith's Law disclosures, and a determination about whether the candidate would be cleared for CPS employment.

A. Cleared for Service Dispositions (All Candidates)

designation will be lifted. However, in the event the investigation is substantiated, a DNH may be placed in HRIT for that individual.

⁶ If there is a delay in receiving results from DCFS, charter, contract and alternative schools may receive an interim report with criminal history and CPS personnel information only. Once information is received from DCFS, an updated report is sent with the DCFS information.

Automatic Clears. The S & S Department and Program Manager will clear a candidate for employment or service, if all of the following is determined from their background information:

1. There are no convictions or there are convictions for minor offenses only (handled by S & S)
2. The candidate is not registered on the Statewide or Nationwide Sex Offender Registries or ISP Murderer and Violent Offender Against Youth Registry.
3. The candidate has no indicated finding with DCFS
4. The candidate has not been removed while an investigation into serious misconduct is pending and has not been designated as DNH or DPI by CPS

Clears after Committee Consideration. The Committee will clear a candidate for service who may have an arrest or conviction for a non-enumerated offense or a DCFS indicated finding, if it determines that the candidate is suitable for service after conducting an analysis of the non-enumerated arrest or conviction or the indicated finding. Generally, the Committee will only consider non-enumerated arrests and convictions within 7 years of the application date, but the Committee may consider older arrests and convictions depending on the case. With respect to convictions, the Committee will use the Illinois School Code, Illinois Human Rights Act⁷ and U.S. Equal Employment Opportunity Commission (“EEOC”) Enforcement Guidance and consider the following factors:

1. The length of time since the conviction
2. The number of convictions that appear on the conviction record
3. The 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 individual at the time of the conviction
6. Evidence of rehabilitation efforts
7. Nature of the job held or sought

The above factors are also taken into consideration when evaluating indicated DCFS findings. The Committee will also clear a candidate for service if, after an internal investigation of the underlying facts of certain arrests and convictions, the Committee determines that the candidate is suitable for service based on consideration of the factors outlined above.

B. Automatic, Preliminary and Final Denials for Service (Employment, Vendor and Pipeline Candidates)

Automatic denials S & S and/or the Program Manager will deny clearance for employment or service to a candidate in either of the following circumstances:

1. The candidate is a registered sex offender or registered under the IL Violent Offenders Against Youth database
2. The candidate has been removed while an investigation into serious misconduct is pending or has been designated as DNH or DPI by CPS

⁷ On March 23, 2021, Governor JB Pritzker signed legislation that amended the Illinois Human Rights Act (IHRA), prohibiting employers from using an arrest record as a basis to refuse to hire a candidate. However, 775 ILCS 5/2-103(B) indicates that the Act shall not be construed to prohibit an employer, employment agency, or labor organization from obtaining or using other information which indicates that a person actually engaged in the conduct for which he or she was arrested.

Committee denials⁸

The Committee will perform an interactive assessment for each candidate's criminal background record and will deny clearance to a candidate under the following circumstances:

1. Preliminary denial factors
 - a. The candidate has been convicted of an enumerated offense pursuant to Section 21B-80 of the Illinois School Code (Note that many out-of-state convictions require a legal analysis to determine if they are enumerated offenses; that determination is made by the Committee with the assistance of the Program Manager).
 - b. The candidate's⁹ conviction or corroborated arrest record is "substantially related" to the employment position applied for. "Substantially related" means: The Committee can demonstrate that the position in question offers an opportunity for the candidate to engage in the same or similar criminal offense.
 - c. The candidate's conviction or corroborated arrest record poses an "unreasonable risk" to the property or safety or welfare of individuals in the workplace. In doing so, the Committee considers the following factors:
 - i. the length of time since the conviction;
 - ii. the number of convictions that appear on the conviction record;
 - iii. the nature and severity of the conviction and its relationship to the safety and security of others;
 - iv. the facts and circumstances surrounding the conviction;
 - v. the age of the candidate at the time of the conviction; and
 - vi. evidence of rehabilitation efforts.
 - d. The candidate has a record of arrest and after an assessment of the facts underlying the arrest(s), the Committee determines that the candidate engaged in the underlying conduct and that conduct makes them unsuitable for service (a "corroborated arrest record").¹⁰
2. Denial procedure for employment candidates - If after considering mitigating factors, the Committee makes a preliminary decision that the candidate's conviction record or corroborated arrest record disqualifies the candidate from employment, the following procedures will be followed:
 - a. The candidate will be informed of the preliminary denial with a notice that includes the conviction(s) or corroborated arrest record that the Committee based its decision on, a copy of the candidate's conviction history report, and an explanation of the candidate's right to respond to the preliminary denial of employment.
 - b. The candidate will have five (5) business days to dispute the denial with evidence challenging the accuracy of the conviction record that is the basis for the disqualification.

⁸ The Illinois Human Rights Act prevents the use of conviction records in employment-related decisions unless an employer can meet at least one of two exceptions as outlined in this section.

⁹ The IHRA amendments do not impact volunteers or Local School Council candidates.

¹⁰ The Illinois Human Rights Act provides: "[I]t is a civil rights violation for any employer . . . to inquire into or to use the fact of an arrest . . . as a basis to refuse to hire, to segregate, or to act with respect to recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure or terms, privileges or conditions of employment." 775 ILCS 5/2-103. The Board has the right to procure and use "other information which indicates that the person actually engaged in the conduct for which he or she was arrested." *Id.*

- c. The committee will perform another interactive assessment of the candidate's criminal history and additional information submitted after the preliminary denial.
 - d. If after performing the second interactive assessment of the candidate's file, the Committee issues a final decision denying the candidate employment, the candidate will receive a final denial notice, which will outline the reasons for denial and the appeal procedures.¹¹
- Note: Many candidates do not disclose their full criminal history; thus, the Committee does not automatically deny candidates based on a failure to disclose, but disclosures may be used to investigate arrests that did not appear on reports from the FBI and ISP

C. Conditional Clearance (All Candidates)

The Committee may conditionally clear a candidate with pending criminal charges or a candidate who is currently on probation, conditional discharge or supervision, if it determines that the pending charge will not result in a conviction that:

1. is an enumerated crime, or
2. after analysis under the IHRA amendment, would not bar the candidate from service

If a candidate is conditionally cleared, the candidate receives correspondence informing the candidate of his/her conditional clearance. S & S monitors the conditional clearance until the case is fully resolved.

D. Deferred Decisions (All Candidates)

The Committee may vote to defer the review of a candidate for a number of reasons, including to obtain and review one or more of the following:

1. Request a CD of an arrest from the court – One or more CDs are required to determine the final disposition of an arrest
2. Request previous employment files – If the candidate was a former CPS employee, a file should be requested from Employee Records. Employee records will generally only have a file if the candidate was fingerprinted after 2001.
3. Letter of Explanation – The candidate provided all necessary court/police documents, but the committee requires further information regarding the surrounding circumstances in order to render a decision.
4. Request other information – arresting police department rap sheet, arresting department police reports, orders, employment references, etc.

¹¹ The candidate will also be informed of the procedures to file a charge with the Illinois Department of Human Rights if they feel they have been unfairly discriminated against.

VI. Appeal Process for Denied Candidates

Candidates who have received a final denial may file an appeal within five (5) business days from the date they are notified of the Committee's decision, which is typically a day or two after Committee meetings.¹²

To file an appeal, candidates must submit a letter to S & S with reasons for why the Committee's decision should be overturned along with any CDs, letters of recommendation, and other documentation the candidate deems pertinent. S & S then submits the file to the Committee for re-review.

Generally, the Committee will make a decision on the candidate's appeal within 10 business days of receipt. S & S then notifies the candidate and other individuals necessary to the hiring process of the appeal decision. Candidates have the opportunity to appeal to the Committee only once per denial.

Note: Candidates who have been denied based on a DNH, DPIs, suspension or Faith's Law are not eligible for an appeal through the criminal background Process. Information on how to petition for a DNH removal can be found at cps.edu/oah. Denials based on DPIs, suspensions and Faith Law are not eligible to be appealed unless the candidate demonstrates an error was made or has established mistaken identity.

VII. Closing Files

Any candidate who fails to provide requested information by a given date while being processed by S & S will not have their application reviewed by the Committee and will have their file closed. The closure releases the position so that the hiring manager may move forward with the hiring process.

All files that the Committee determines need further information are referred back to S & S. If the candidate does not provide the requested information within the deadline given to the candidate by S & S, the file will be closed and will not be sent to Committee for further review.

Once the file is closed, the candidate and the Talent Office¹³ are notified.

Candidates whose files are closed cannot work for CPS and must re-do the background process and other steps of the on-boarding process, as necessary, should they be extended another offer.

VIII. Confidentiality of Criminal Histories (See 105 ILCS 5/34-18.5(b))

Any information concerning the record of convictions obtained by S & S is confidential and may only be transmitted to the superintendent of the school district or his designee or any other person necessary to the decision of hiring the candidate for employment. Any unauthorized release of confidential information may be a violation of Section 7 of the Criminal Identification Act.

¹² The appeal process does not apply to Charter, Contract and Alternative Schools because CPS does not make the final decision on whether to onboard the candidate.

¹³ For volunteers, FACE² (Family And Community Engagement in Education) is notified. For vendors, charter schools, contract schools, and alternative schools, the specific HR department is notified.

- Crim. Identification Act - 20 ILCS 2630/7: No file or record of the [ISP] . . . shall be made public, except as provided in the "Illinois Uniform Conviction Information Act" or other Illinois law . . . Violation of this Section shall constitute a Class A misdemeanor.
- Uniform Conviction Info. Act - 20 ILCS 2635/5: All conviction information mandated by statute to be collected and maintained by the [ISP] must be open to public inspection in the State of Illinois.

Information regarding a candidate's criminal background may be shared with the following people:

- The candidate, but only after requiring confirmation of identifying data such as SSN or DOB
- S & S fingerprinting team
- CPS Law Department
- Courts
- Superintendent of school district or designee
- Appropriate regional superintendent, if check was requested by school district
- FBI, ISP, and Chicago Police Department (clarification purposes)
- Any other person necessary to the decision of hiring the candidate for employment

The information may not be shared with the following people:

- The principal/manager
- Family members of the candidate
- CPS employees writing letters of reference, etc.
- Community members reaching out on the candidate's behalf

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