

Operational Services

Convicted Child Sex Offender; Screening; Notifications¹

Persons Prohibited on School Property without Prior Permission

State law prohibits a child sex offender from being present on school property or loitering within 500 feet of school property when persons under the age of 18 are present, unless the offender meets either of the following two exceptions: 2

1. The offender is a parent/guardian of a student attending the school and has notified the Building Principal of his or her presence at the school for the purpose of: (i) attending a conference with school personnel to discuss the progress of his or her child academically or socially, (ii) participating in child review conferences in which evaluation and placement decisions may be made with respect to his or her child regarding special education services, or (iii) attending conferences to discuss other student issues concerning his or her child such as retention and promotion; or
2. The offender received permission to be present from the School Board, Superintendent, or Superintendent's designee. If permission is granted, the Superintendent or Board President shall provide the details of the offender's upcoming visit to the Building Principal.

In all cases, the Superintendent or designee shall supervise a child sex offender whenever the offender is in a child's vicinity.³ If a student is a sex offender, the Superintendent or designee shall develop guidelines for managing his or her presence in school. 4

¹ The topic covered by this policy was previously a part of sample policy 4:170, *Safety*.

² 720 ILCS 5/11-9.3, **amended by P.A. 104-245**, contains these requirements concerning a child sex offender's presence on school property. An Illinois federal court denied a father's request to enjoin a school's policy that prohibited him, as a child sex offender, from attending his children's school activities in *Doe v. Paris Union Sch. Dist.*, 2006 WL 44304 (C.D.Ill. 2006). See also sample policy 8:30, *Visitors to and Conduct on School Property*.

³ 720 ILCS 5/11-9.3(a). The statute assigns the child sex offender the "duty to remain under the direct supervision of a school official." In order to ensure this happens and to protect students, the sample policy requires the superintendent or designee to supervise a child sex offender whenever the offender is in a child's vicinity. See also sample policy 8:30, *Visitors to and Conduct on School Property*.

⁴ Aside from rumor and notoriety, there are three ways that school officials may learn that an enrolled student is a sex offender or a violent offender against youth:

1. By being informed by the student or the student's parent/guardian.
2. Through the Ill. State Police (ISP) Sex Offender Registry, <https://sor.isp.illinois.gov/sorpublic/>. A juvenile sex offender is listed there after the juvenile becomes 17 years old and will be listed for the remaining registration period. 730 ILCS 150/2, **amended by P.A. 103-1071**. The database is updated daily and allows searching by name, city, county, ZIP code, compliance status, or any combination thereof.
3. By receiving notification from a law enforcement agency that a juvenile sex offender or juvenile violent offender against youth is enrolled in a school. The law enforcement agency having jurisdiction to register the juvenile must provide a copy of the offender registration form to the building principal and school counselor designated by the principal; the school must keep the registration form separately from the student's school records. 730 ILCS 152/121(b).

If a sex offender is enrolled in a school, guidelines for managing the sex offender's presence in school should be prepared. The components will depend on the situation but generally should include asking the parent/guardian of a sex offender below the age of 17 years for permission to share the information with certain staff for the protection of both the student and other students. In addition, the guidelines should include a supervision plan providing supervision for the student during all aspects of his or her school day. Finally, the guidelines must respect the privacy of juvenile records and comply with the Ill. School Student Records Act (105 ILCS 10/). The board attorney should be consulted.

Screening 5

The Superintendent or designee shall perform fingerprint-based criminal history records information checks and/or screenings required by State law or Board policy for employees; student teachers; students doing field or clinical experience other than student teaching;⁶ contractors' employees who have direct, daily contact with one or more children; and resource persons and volunteers. The Board President shall ensure that these checks are completed for the Superintendent. He or she shall take appropriate action based on the result of any criminal background check and/or screen. ⁷

Notification to Parents/Guardians

The Superintendent shall develop procedures for the distribution and use of information from law enforcement officials under the Sex Offender Community Notification Law and the Murderer and Violent Offender Against Youth Community Notification Law.⁸ The Superintendent or designee shall serve as

5 The law is silent with regard to *screening* volunteers and individuals in the proximity of a school. Screening and *fingerprint-based criminal history records checks* are different. See sample administrative procedure 4:175-AP1, *Criminal Offender Notification Laws; Screening*, for further distinctions.

The School Code requires school districts 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 Federal Bureau of Investigation's national crime information databases. 105 ILCS 5/10-21.9(a), (a-5) and (a-6).

Screening only involves checking an individual's name and address against publicly-available databases and information provided for local law enforcement like the: (1) Illinois Sex Offender Registry, <https://sor.isp.illinois.gov/sorpublic/>, and (2) the Violent Offender Against Youth Registry maintained by the ISP, <https://sor.isp.illinois.gov/sorpublic/>. Screening must be done for employment applicants and repeatedly at least once every five years that an individual remains employed by the district. 105 ILCS 5/10-21.9(a-5) and (a-6). See sample policy 5:30, *Hiring Process and Criteria*, and its accompanying sample administrative procedure 5:30-AP2, *Investigations*. See also sample policy 6:250, *Community Resource Persons and Volunteers*, and its accompanying sample administrative procedure 6:250-AP, *Resource Persons and/or School Volunteers; Screening*.

6 Field experiences mean a variety of early and ongoing field-based opportunities in which candidates may observe, assist, tutor, instruct, or conduct research, and they may occur in off-campus settings such as schools, community centers, or homeless shelters. 23 Ill.Admin.Code §25.610. Clinical experiences are part of the professional preparation program enabling candidates for licensure to acquire practical experience alongside theoretical knowledge prior to assuming the full responsibilities of the role for which they are seeking licensure. *Id.* Clinical experiences include pre-student teaching field experiences and student teaching. *Id.* Field or clinical experiences other than student teaching often provide aspiring educators with structured, hands-on, supervised experiences in real schools to help them learn how to teach.

7 If permitted by federal or State law, when a fingerprint-based criminal history records check returns a *conviction* of a crime set forth in 105 ILCS 5/21B-80 or when a screening finds a *registration* for an individual licensed by the Ill. State Board of Education (ISBE), the superintendent or regional superintendent must notify the ISBE Superintendent in writing within 15 business days. 105 ILCS 5/10-21.9(e). Contact the board attorney for guidance regarding disclosures permitted by federal or State law.

By comparison, when a fingerprint-based criminal history records check returns a pending criminal charge for an offense set forth in 105 ILCS 5/21B-80, the superintendent, regional office of education, or entity that provides background checks, must notify the ISBE Superintendent within 10 days. *Id.* 105 ILCS 5/10-21.9(e) 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. Additionally, 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.

If an indicated report by the Ill. Dept. of Children and Family Services or by a child welfare agency of another jurisdiction is found, the board must consider the individual's status as a condition of student teaching or employment. 105 ILCS 5/10-21.9(c) and (g). The statute does bar an individual with an indicated finding from student teaching; however, that is the most logical interpretation.

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 will occur either upon the superintendent's request or, if the law enforcement agency knows the offender/alleged offender is employed by a district, automatically. 725 ILCS 191/15. See sample administrative procedure 4:175-AP1, *Criminal Offender Notification Laws; Screening*.

8 Sex Offender Community Notification Law, 730 ILCS 152/; Murderer and Violent Offender Against Youth Community Notification Law, 730 ILCS 154/75-154/105. Law enforcement officials must notify school districts of the names, addresses, and offenses of registered offenders residing in their respective jurisdictions who have committed sex offenses and violent offenses

the District contact person for purposes of these laws. The Superintendent and Building Principal shall manage a process for schools to notify the parents/guardians during school registration that information about sex offenders is available to the public as provided in the Sex Offender Community Notification Law.⁹ This notification must occur during school registration and at other times as the Superintendent or Building Principal determines advisable.

- LEGAL REF.: 20 U.S.C. §7926, Elementary and Secondary Education Act.
 20 ILCS 2635/, Uniform Conviction Information Act.
 720 ILCS 5/11-9.3, Criminal Code of 2012.
 730 ILCS 152/, Sex Offender Community Notification Law.
 730 ILCS 154/75-105, Murderer and Violent Offender Against Youth Community Notification Law.
- CROSS REF.: 2:110 (Qualifications, Term, and Duties of Board Officers), 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), 5:30 (Hiring Process and Criteria), 5:260 (Student Teachers), 6:250 (Community Resource Persons and Volunteers), 8:30 (Visitors to and Conduct on School Property), 8:100 (Relations with Other Organizations and Agencies)

against youth. 730 ILCS 152/120 and 154/95. These laws are silent with regard to what, if anything, districts do with the information. The Sex Offender Community Notification Law, however, provides immunity for “any person who provides or fails to provide information relevant to the procedures set forth in this Law.” 730 ILCS 152/130.

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 boards may wish to have a contact person from each building. See sample administrative procedure 4:175-AP1, *Criminal Offender Notification Laws; Screening*, for implementing procedures.

Upon arrest after commencement of a prosecution for a sex offense against an individual known to be a school employee, the State’s Attorney must provide the superintendent or school administrator of the employing school with a copy of the complaint, information, or indictment. 725 ILCS 5/111-1(c).

⁹ 730 ILCS 152/120(g) 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. In an effort to keep this policy aligned with good governance practices, the responsibility is given to the superintendent and building principal to manage. While State law allows the notification to be made during registration or parent-teacher conferences, the sample policy makes a notification mandatory just during registration to be sure that all parents/guardians are informed.