

CHICAGO PUBLIC SCHOOLS
PROCEDURES GOVERNING THE OPERATIONS OF
THE CRIMINAL BACKGROUND COMMITTEE
(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.¹ 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 and Contract 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 “do not hire” (DNH) designations. The Committee takes a much deeper 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 and Contract School candidates, the goal of the Committee is to provide the Charter and Contract 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 students², 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.³

Charter and Contract Schools are also required to conduct criminal background reviews under 105 ILCS 5/27A-5(g)(1). CPS has executed a memorandum of understanding with each Charter

¹ CPS also provides information and analysis to contract and charter schools for employee candidates, vendor employees and volunteers.

² 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](#). The Board applies a broad standard and requires vendors that have any type of contact with students (whether it be in person or via the Internet) to undergo a background check.

³ The Board’s Chief Executive Officer will be issuing additional guidelines under Board Rule 4-4 regarding the frequency of criminal background checks for incumbent employees, volunteers and vendors.

or Contract School whereby CPS collects their candidates' criminal histories and prior CPS employment information and provides that information to the Charter or Contract School for use in making their hiring decisions. The information provided to the Charter or Contract School includes an assessment of whether that candidate would be eligible for hire by CPS.

III. Definitions

“Candidate” is a prospective employee, student teacher, field experience student, student intern, and 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.

- The following dispositions are not findings or admissions of guilt and are not convictions:
 - Nolle prosequi
 - “No probable cause” finding
 - Stricken off with leave to reinstate (SOL)

- The following dispositions include findings or admissions of guilt but are not considered convictions:
 - Deferred adjudication (if successfully completed)
 - Court supervision (if successfully completed)
 - Withheld judgment (if successfully completed)
 - 710-1410 probation(if successfully completed)

- The following dispositions include findings or admissions of guilt and are considered convictions:
 - Probation - Exception: 710-1410 probation from drug charge or first offender probation as long as probation is successfully completed
 - Conditional discharge
 - Jail time or time considered served
 - Guilty plea with fines
 - Unsatisfactorily completed court supervision/deferred adjudication/withheld judgment

- 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 and contract schools. It submits those fingerprints and other pertinent information to both the Illinois State Police ("ISP") and Federal Bureau of Investigation ("FBI"). Safety & Security 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 cleared via the "Auto-Clear" process (see "[Automatic Clears](#)" document) or be sent to the Office of Employee Engagement ("OEE") for review by the Committee. Generally, a certified disposition ("CD") is required for every criminal "hit" or entry that appears on the candidate's FBI or ISP reports. Exceptions - see "Automatic Clears" document.

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, usually a CD, for enumerated offenses, offenses within 7 years, or egregious offenses outside of 7 years.

Current protocol for documentation for arrests that took place when the Candidate was a minor: request adult court CDs for all enumerated or egregious arrests. 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.

Safety & Security 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. Safety & Security 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.

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 the Department of Children and Family Services ("DCFS") to be run through DCFS' Statewide Automated Child Welfare Information System ("SACWIS"). If individuals are indicated, which means DCFS has substantiated a finding

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.

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 Safety & Security, 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. In some situations, Safety & Security requests DCFS' full-length investigative report and/or a letter of explanation from the candidate before the information is submitted to the Committee for review. In other 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 HRIS systems to determine if the candidate was previously employed by CPS and the circumstances under which their employment ended. If a candidate was designated as ineligible for rehire ("DNH") by CPS, the candidate cannot work or be placed at a CPS facility⁵. For Charter and Contract Schools, CPS advises the Charter or Contract School of the DNH designation and provides a summary of the circumstances surrounding the designation so that it may take it into account in its hiring decision-making. See DNH Guidelines [here](#).

V. Decision-making Process and Committee Dispositions

After all information is collected on CPS candidates, the candidate is either cleared for service pursuant to the Automatic Clear process or sent to the Committee for review. The Committee will review 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.

Safety and Security conducts an initial review of all files. The files are reviewed a second time by the Committee Program Manager. That process results in either a clear for employment or a referral to the Committee for a determination.

Files needing further discussion are brought to the Committee meeting every Monday and Wednesday or daily during the hiring season. The Criminal Background Committee Administrative Assistant records the Committee's final decision, and Safety & Security communicates the results to the candidate and other individuals necessary to the hiring process.

Currently, candidates with pending DCFS checks are conditionally cleared due to the delay in receiving results from DCFS. If an indicated finding is returned, the conditionally-cleared candidate is re-examined by the Committee. A decision is made whether to terminate the probationary employee, based on their conditional staffing status, or conduct further investigation by requesting the full investigative report from DCFS and/or a letter of explanation from the candidate, issue some lesser discipline, or take no further action. If CPS becomes aware that a

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.

vendor employee or volunteer has an indicated finding, the Committee would conduct the same review and determine if it is appropriate for the individual to continue working with CPS students. The Board is currently negotiating an Intergovernmental Agreement with DCFS to outline costs, a cohesive process and response times for employees, vendors and volunteers.

After all information is gathered on Charter and Contract School Candidates, information is provided to Charter and Contract Schools for its use in its hiring decision-making process. That information includes the criminal history, DCFS information⁶, CPS personnel information, including any “DNH” designation, and a determination about whether the candidate would be cleared for CPS employment.

A. Cleared for Service Dispositions (All Candidates)

Automatic Clears. The Safety & Security 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 only for offenses outlined in the “Automatic Clears” guidelines (handled by Safety & Security)
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 designated as "DNH" by CPS

Clears after Committee Consideration. The Committee will clear a candidate for service who may have a 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 non-enumerated convictions or the indicated finding. Generally, the Committee will only consider non-enumerated convictions within 7 years, but the Committee may consider older convictions depending on the case. With respect to both convictions and indicated DCFS findings, the Committee will use the U.S. Equal Employment Opportunity Commission (“EEOC”) Enforcement Guidance and consider the following factors:

1. Nature and gravity of the offense or conduct
2. Time that has passed since the offense or conduct and/or completion of the sentence
3. Nature of the job held or sought

The Committee will also clear a candidate for service if, after an internal investigation of the underlying facts of certain arrests, the Committee determines that the candidate is suitable for service based on consideration of the following factors:

1. Nature and gravity of the offense or conduct

⁶ Due to the delay in receiving results from DCFS, Charter and Contract 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 to the Charter and Contract Schools with the DCFS information.

2. Time that has passed since the offense or conduct and/or completion of the sentence
3. Nature of the job held or sought

B. Denied Clearance for Service (All Candidates)

Automatic denials The Safety & Security Department and/or Program Manager will deny clearance for employment or service to a candidate or, in the case of DNH, decline to process the candidate any further for any one of the following reasons:

1. The candidate has been convicted of an enumerated offense pursuant to Section 21B-80 of the Illinois School Code (See "Enumerated Offenses" document for a break-out of offenses)
2. The candidate is a registered sex offender or registered under the IL Violent Offenders Against Youth database
3. The candidate has been designated as "DNH" by CPS.

Committee denials The Committee will deny clearance to a candidate under the following circumstances:

1. The candidate has been convicted of an enumerated offense pursuant to Section 21B-80 of the Illinois School Code (See "Enumerated Offenses" document for a break-out of offenses) (Note that many out-of-state convictions require a legal analysis to determine if they are enumerated offences; that determination is made by the Committee with the assistance of the Program Manager.)
2. If the candidate has a conviction for a non-enumerated crime within the last 7 years that the Committee determines makes the candidate unsuitable for service based on:
 - a. the nature and gravity of the offense or conduct and/or
 - b. the time that has passed since the offense or conduct and/or
 - c. completion of the sentence and/or the nature of the job held or sought.
3. After an assessment of a DCFs indicated finding if the Committee determines that the candidate is unsuitable for employment based on:
 - a. the nature and gravity of the offense or conduct and/or
 - b. the time that has passed since the offense or conduct and/or
 - c. completion of the sentence and/or the nature of the job held.
4. 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 conduct that makes them unsuitable for service.⁷

⁷ 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." 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."

- 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 are 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, if it determines that the pending charge will not result in a conviction that:

1. is an enumerated crime
2. is violent; or
3. after analysis under U.S. EEOC Guidance, would not bar the candidate from service

If a candidate is conditionally cleared, the Background Committee Program Manager sends a letter to the candidate, with Safety & Security copied, informing the candidate of his/her conditional clearance. The Committee Program Manager 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 certified disposition 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.

VI. Appeal Process for Denied Candidates

Candidates who are denied may file an appeal within five (5) days from the date they are notified of the Committee's decision, which is typically a day or two after Committee meetings⁸.

To file an appeal, candidates should submit a letter to Safety & Security with reasons for why the Committee's decision should be overturned along with any CDs, letters of recommendation, and

⁸ The appeal process does not apply to Charter and Contract Schools because we do not make the final decision on whether to onboard the candidate.

other documentation the candidate deems pertinent. Safety & Security then submits the file to the Committee for re-review.

The Committee will make a decision on the candidate's appeal within 10 business days. Safety & Security 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.

VII. Closing Files

Any candidate who fails to provide requested information by a given date while being processed by Safety & Security will not have his or her application reviewed by the Committee and will have his/her 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 needs further information are referred back to Safety & Security. If the candidate does not provide the requested information within the deadline given to the candidate by Safety & Security, 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 Office⁹ are notified.

Closed candidates 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 Safety & Security 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.

- 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 file may be shared with the following people:

- The candidate, but only after requiring confirmation of identifying data such as SSN or DOB
- Safety and Security fingerprinting team
- Law Department

⁹ For volunteers, FACE is notified. For vendors, the vendor HR department is notified.

- Courts
- Superintendent of school district or designee
- Appropriate regional superintendent, if check was requested by school district
- Federal Bureau of Investigation, Illinois State Police 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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