

General Personnel

Administrative Procedure - Personnel Records

Applicant Records

Records for a successful employment applicant are maintained with the individual's employment records. Records for an unsuccessful employment applicant are maintained for no less than 5 years from the application date. ¹ Applicant records include the following if received by the District:

- Employment application forms
- Transcripts
- Previous work experience
- References
- Such other relevant information as the District desires of applicants for screening purposes

Personnel Records

Personnel records for all employees include:

- Pre-employment records, including verification of past employment
- Dates of employment
- Valid certificate and/or evidence of required credentials for services being performed
- Criminal background investigation history and report
- Form I-9 required under the Immigration Reform and Control Act ²
- Records maintained pursuant to Internal Revenue Service regulations
- Payroll information and deductions, including all records required to be kept by 5:35-AP2, *Employee Records Required by the Fair Labor Standards Act* (29 C.F.R. §§516.2 and 516.3)
- Records maintained for the Illinois Teachers' Retirement System or the Illinois Municipal Retirement System
- Credit release information
- Sick leave, leaves of absence, personal leave, and vacation data (where appropriate)
- Salary schedule data
- Relevant health and medical records, including the verification of freedom from tuberculosis required by The School Code (105 ILCS 5/24-5) ³

The footnotes should be removed before the material is used.

¹ Equal Employment Opportunity Commission regulations require employers to retain all personnel records, including applications, for at least one year from the date the record was made or any personnel action was taken, whichever is later (29 C.F.R. §1602.14). A longer retention period allows the district to gather data that may be used to defend a discrimination complaint.

² The Department of Homeland Security (DHS) (formerly Immigration and Naturalization Service (INS)) amended the I-9 form by: (1) reformatting and reorganizing the form to ensure consistency with standard DHS practices, and (2) eliminating five of the listed documents in List A that can be used to establish identity and employment eligibility. DHS also updated its Handbook for Employers as a companion to the new version of the Form I-9 at: <http://www.uscis.gov/files/nativedocuments/m-274.pdf>.

Consult with the board attorney regarding the district's rights and responsibilities under all Illinois laws pertaining to Form I-9 and *E-Verify*. *E-Verify* (formerly known as the Basic Pilot/Employment Eligibility Verification Program) is an Internet based system operated by the DHS in partnership with the Social Security Administration (SSA) that allows participating employers to electronically verify the employment eligibility of their newly hired employees. In September of 2007, DHS asked a court to declare illegal an Illinois law prohibiting employers from enrolling in the DHS's *E-Verify* program. Illinois agreed not to enforce that law until the lawsuit ends; however, several other State laws regarding use of *E-Verify* by employers that are not subject to the DHS lawsuit exist. More information about the *E-Verify* issue as it pertains to Illinois may be obtained at the DHS website at: http://www.dhs.gov/ximgtn/programs/gc_1199120920203.shtm or http://www.uscis.gov/files/pressrelease/Illinois_EVerify_31dec07.pdf.

Supervisory evaluations

Promotions

Awards received

Personnel documents that have been or are intended to be used in determining an employee's qualification for promotion, transfer, discharge, or disciplinary action except as provided in 820 ILCS 40/10 ⁴

Disciplinary actions and accompanying records

Notice of discharge and accompanying records

Letter of resignation or retirement

Notification that an employee is the subject of a Dept. of Children and Family Services (DCFS) investigation pursuant to the Abused and Neglected Child Reporting Act and any report to DCFS made or caused to be made by a District employee concerning another employee; this record will be deleted if DCFS informs the District that the allegations were unfounded ⁵

Any additional information the District deems to be relevant

In addition to the above, personnel records for all professional personnel include:

Valid certificate for services being performed

Copies of official transcripts required by The School Code (105 ILCS 5/24-23)

Transcripts of graduate work completed

Verification of past teaching experience, if any

Record of in-service work completed

Employment records will be maintained permanently for all District employees and former employees unless the Local Records Commission's approval is obtained to dispose of them.

Restrictions on Information that May Be Kept

The District will not gather or keep a record of an employee's associations, political activities, publications, communications, or non-employment activities, unless the employee submits the information in writing or authorizes the District in writing to keep or gather such records. However, the District may gather or keep records in an employee's personnel file concerning activities occurring on the District's premises or during the employee's working hours that: (1) interfere with the performance of the employee's duties or activities, or those of other employees, regardless of when and where occurring, (2) constitute criminal conduct or may reasonably be expected to harm the District's property, operations or educational process, or programs, or (3) could, by the employee's actions, cause the District financial liability. ⁶

³ The Americans with Disabilities Act requires that employment health and medical records be kept separately from the regular personnel file (42 U.S.C. §12112(d)(3)).

⁴ This item restates what the Personnel Record Review Act requires employers to disclose to employees (820 ILCS 40/2). The Act restricts an employer's ability to use record information during a proceeding in court or before a hearing officer that was not included in the personnel record (820 ILCS 40/4). Thus, this item becomes a statement of what must be kept in an employee's personnel record.

⁵ 820 ILCS 40/13; 325 ILCS 5/4 and 5/7.4, as amended by P.A. 95-908; see the last section of this procedure for additional requirements. According to the Abused and Neglected Child Reporting Act: (1) DCFS must notify the employer of an individual who is the subject of a formal child abuse or neglect investigation if his or her employment results in frequent contact with children (325 ILCS 5/7.4(b)(4)); and (2) when a report is made by a school district employee involving the conduct of an individual employed by the district, the appropriate Child Protective Service Unit must send a copy of its final finding report to the district superintendent (325 ILCS 5/7.4(c-5), as amended by P.A. 95-908).

⁶ 820 ILCS 40/9.

Access to Employee Records and Correction Requests ⁷

An employee is granted access to his or her personnel records according to provisions in the Personnel Record Review Act, 820 ILCS 40/0.01 et seq., and any relevant provisions in an applicable collective bargaining agreement. According to the Review Act, an employee is granted access to his or her personnel records at least 2 times in a calendar year at reasonable intervals. Unless otherwise indicated in an applicable bargaining agreement, access to the employee's personnel records will be according to the following guidelines:

1. The employee must submit a written inspection request to the Superintendent or the Superintendent's designee.
2. The Superintendent or designee will provide the employee the opportunity for inspection within 7 working days after the request. If such deadline cannot reasonably be met, the District will have an additional 7 days to comply.
3. The employee will inspect the personnel record at the District's administrative office during normal working hours or at another time mutually convenient to the employee and the Superintendent or designee.
4. Inspection of personnel records will be conducted under the supervision of an administrative staff member.
5. Neither an employee nor his or her designated representative will have access to records that are treated as exceptions in the Illinois Personnel Record Review Act discussed below.
6. The employee may copy material maintained in his or her personnel record. Payment for record copying will be based on the District's actual costs of duplication.
7. The employee may not remove any part of his or her personnel records from his or her file or may not remove any part of his or her personnel records from the District's administrative office.
8. Should the employee demonstrate his or her inability to inspect his or her personnel records in person, the District will mail a copy of the specific record(s) upon written request.
9. Should the employee be involved in a current grievance against the District or involved in any other contemplated proceedings against the District, the employee may designate in writing a representative who has the authority to inspect the personnel records under the same rights as the employee.
10. If the employee disagrees with any information contained in the personnel record, a removal or correction of that information may be mutually agreed upon by the District and employee. If agreement cannot be reached, the employee may submit a written statement explaining his or her position. The District will attach the employee's statement to the disputed portion of the personnel record and the statement will be included whenever that disputed record is released to a third party as long as the disputed record is part of the employee's personnel file. Inclusion of any written statement attached to the disputed record in an employee's personnel file without any further comment or action by the District will not imply or create any presumption that the District agrees with the statement's contents.

Requests by Third Parties ⁸

Before the District divulges disciplinary reports, letters of reprimand, or records of other disciplinary action to a third party, to a party who is a part of the employer's organization, or to a party who is a

The footnotes should be removed before the material is used.

⁷ This section's provisions are from the Personnel Record Review Act (820 ILCS 40/1 et seq.); the limitations on the employee's right to review personnel records are at the employer's option.

⁸ 820 ILCS 40/7 and 40/8.

part of a labor organization representing the employee, the District will provide the employee with a written notice. The written notice to the employee will be mailed to the employee's last known address and will be mailed on or before the day the information is divulged to any of the aforementioned parties.

No such written notice will be required if the employee has specifically waived written notice as part of a written, signed employment application with another employer; the disclosure is ordered to a party in a legal action or arbitration; or information is requested by a government agency as a result of a claim or complaint by an employee, or as a result of a criminal investigation by such agency.

Before releasing personnel records to a third party or allowing them to be copied, the District will review the requested records and, delete disciplinary reports, letters of reprimand, or other records of disciplinary action that are more than 4 years old, unless the release is ordered to a party in a legal action or arbitration.

Restriction on Employee Access

Section 10 of the Illinois Personnel Record Review Act provides that the right of the employee or the employee's designated representative to inspect his or her personnel records does not extend to:

1. Letters of reference for that employee.
2. Any portion of a test document, except that the employee may see a cumulative total test score for either a section of or the entire test document.
3. Materials relating to the employer's staff planning, such as matters relating to the District's development, expansion, closing or operational goals, where the materials relate to or affect more than one employee, provided, however, that this exception does not apply if such materials are, have been or are intended to be used by the employer in determining an individual employee's qualifications for employment, promotion, transfer, or additional compensation, or in determining an individual employee's discharge or discipline.
4. Information of a personal nature about a person other than the employee if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy.
5. Records relevant to any other pending claim between the District and employee that may be discovered in a judicial proceeding.
6. Investigatory or security records maintained by the District to investigate criminal conduct by an employee or other activity by the employee that could reasonably be expected to harm the District's property, operations, or education process or programs, or could by the employee's activity cause the District financial liability, unless and until the District takes adverse personnel action based on information in such records.

Complying with Requirements in the Abused and Neglected Child Reporting Act ⁹

The Superintendent will execute the requirements in the Abused and Neglected Child Reporting Act whenever a District employee makes a report to DCFS involving another District employee's conduct. This includes performing the following tasks:

1. Disclose to any school district requesting information concerning a current or former employee's job performance or qualifications the fact that he or she was the subject of another employee's report to DCFS. Only the fact that a District employee made a report may be disclosed.
2. Inform the District employee who is or has been the subject of such report that the Superintendent will make the disclosure as described above.

The footnotes should be removed before the material is used.

⁹ This section contains the requirements in 325 ILCS 5/4, as amended by P.A. 95-908, and 820 ILCS 40/13.

3. Delete the record of such a report if DCFS informs the District that the allegation was unfounded.

LEGAL REF.: 325 ILCS 5/4 and 5/7.4.
 820 ILCS 40/1 et seq.
 23 Ill.Admin.Code §1.660.