

Faith's Law Guidance & FAQ

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Illinois
State Board of
Education

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Faith's Law and Sexual Misconduct in Schools Guidance and FAQ

What is Faith's Law?

Faith's Law is named after prevention advocate and child sexual abuse survivor Faith Colson, who graduated from an Illinois high school in the early 2000s. Faith was sexually abused by a teacher at her high school. Years later, during the course of legal proceedings related to the abuse, Faith learned that several adults within her high school suspected that the teacher's relationship with her was inappropriate but did not take appropriate action to report their concerns. As a result of her experiences, Faith pushed for change to state laws related to educator sexual misconduct in K-12 schools.

Faith's Law was passed by the 102nd General Assembly as two separate pieces of legislation. The first legislation, [Public Act 102-0676](#), took effect on December 3, 2021,¹ and, for the first time, established the definition of sexual misconduct within the School Code. It further outlined the requirements for schools to develop and post employee code of professional conduct policies, which were to include the definition of sexual misconduct, and required ISBE to develop a [resource guide](#) for schools to make available to pupils, parents/guardians, and teachers. Public Act 102-0676 also expanded the definition of "grooming" in the Illinois Criminal Code, added "grooming" to the list of conduct that qualifies a child as an "abused child" under the Abused and Neglected Child Reporting Act, and added professional development training opportunities for employees seeking to renew their professional educator license.

The second legislation, [Public Act 102-0702](#), will take effect on July 1, 2023. It focuses on the prevention of "sexual misconduct" as defined in the first part of the legislation (Public Act 102-0676) by school employees, substitute employees, and employees of contractors. Specifically, the Act adds employment history reviews as part of the hiring and vetting process, requires notices to be provided to parents/guardians and the applicable student when there's an alleged act of sexual misconduct, and makes other changes to the process schools must follow when handling allegations of sexual misconduct. Public Act 102-0702 also adds that if a district superintendent has any reasonable cause to believe a license holder has committed an act of sexual misconduct, the superintendent must report this information to the state superintendent of education and the applicable regional superintendent of schools. Further, the state superintendent can initiate the process to revoke or suspend a license, endorsement, or approval issued under Article 21B for reasons including sexual misconduct. The ultimate goals of Public Act 102-0702 are to give parents/guardians notice regarding allegations of sexual misconduct that involve their student; equip schools across Illinois with better information regarding the employment history of an applicant or employee of a contractor; give schools the resources necessary to make well-informed decisions about who they are employing/contracting with; and protect students from acts of sexual misconduct by school employees, substitute employees, and employees of contractors.

¹ While the effective date of Public Act 102-0676 was December 3, 2021, various provisions of the Act became applicable later. See the following three pages for more information regarding the implementation dates of certain aspects of the Act.

What changes or new requirements were made as a result of Faith's Law and what are their effective/implementation dates?

The first legislative part of Faith's Law (102-0676) was effective as of December 3, 2021, but it's critical to note that some of the requirements under 102-0676 were not implemented upon passage of the Act.

The requirements that became effective immediately on December 3, 2021, include:

- 1) Expanding the definition of "grooming" in Section 11-25 of the Criminal Code of 2012 to include in-person acts, any conduct through a third party, and written communication; and
- 2) Adding grooming as defined in the Criminal Code to the list of conduct that qualifies a child as an "abused child" under the Abused and Neglected Child Reporting Act.

Any requirements with a delayed implementation date are described in greater detail below.

The second legislative part of Faith's Law (Public Act 102-0702) is effective on July 1, 2023, and most of the requirements under that Act are to be implemented when the law takes effect.

In addition to the changes described in this guidance document, Public Act 102-0702 makes changes to Section 26A-30 of the School Code, which will take effect on July 1, 2025, and generally outlines school districts' obligations with respect to the confidentiality and disclosure of information concerning a student's status and related experiences as a parent, expectant parent, or victim of domestic or sexual violence, or a student who is a named perpetrator of domestic or sexual violence. Faith's Law created an exception so that the provisions of Section 26A-30 do not apply to notification of parents or guardians if the perpetrator of the alleged sexual misconduct is an employee, agent, or contractor of a school district, charter school, or nonpublic school with direct contact with children or students.

Public Act 102-0702 also creates an exception under the Personnel Records Review Act. Specifically, under the Personnel Records Review Act, an employer is typically required to delete disciplinary reports, letters of reprimand, or other records of disciplinary action which are more than four years old before disclosing to a third party, unless the disclosure is ordered to a party in a legal action or arbitration. Faith's Law carves out an exception so that school districts² can share information related to sexual misconduct as defined in Section 22-85.5(c) of the School Code.

Changes/Requirements That Were to be Implemented by July 1, 2022 (Public Act 102-0676)

- 1) Approved providers of professional development listed under 105 ILCS 5/21B-45(g) must provide educators with professional development opportunities that satisfy at least one of a list of topics, which now includes training on the physical and mental health needs of students, student safety, educator ethics, professional conduct, and other topics that

² We note that only school districts and not charter schools or private schools are exempt from these requirements. Charter schools and nonpublic schools should consult with legal counsel to determine whether disciplinary records that are more than four years old need to be disclosed. See [Public Act 102-0676](#) and [Public Act 102-0702](#).

address the well-being of students and improve the academic and social-emotional outcomes of students. See [105 ILCS 5/21B-45\(h\)\(11\)](#).

- 2) The definition of “sexual misconduct” becomes applicable. Section 22-85.5(c) defines “sexual misconduct” as:
 - a) Any act, including, but not limited to, any verbal, nonverbal, written, or electronic communication or physical activity, by an employee or agent of the school district, charter school or nonpublic school with direct contact with a student that is directed toward or with a student to establish a romantic or sexual relationship with the student. Such an act includes, but is not limited to, any of the following:
 - b) A sexual or romantic invitation.
 - c) Dating or soliciting a date.
 - d) Engaging in sexualized or romantic dialog.
 - e) Making sexually suggestive comments that are directed toward or with a student.
 - f) Self-disclosure or physical exposure of a sexual, romantic, or erotic nature.
 - g) A sexual, indecent, romantic, or erotic contact with a student.
- 3) To prevent sexual misconduct with students, each school district, charter school, or nonpublic school shall develop an employee code of professional conduct policy. (See **Employee Code of Professional Conduct Policy** below for more details.) See [105 ILCS 5/22-85.5\(d\)](#).

Changes/Requirements to be Implemented by July 1, 2023 (Public Acts 102-0676 & 102-0702)

- 1) ISBE will develop and maintain a [resource guide](#) that will be available on its website and include guidance for pupils, parents or guardians, and teachers about sexual abuse responses and prevention resources available in their community, including the contact information of entities that provide services for victims of child sexual abuse and their families. See [105 ILCS 5/2-3.188\(a\)](#).
- 2) At the beginning of the school year, each school district, charter school, or nonpublic school shall notify the parents or guardians of enrolled students of the availability of the resource guide. Each school district, charter school, or nonpublic school shall furnish the resource guide to a student's parent or guardian at the request of the parent or guardian and may also make the resource guide available on its website. See [105 ILCS 5/2-3.188\(b\)](#).
- 3) A superintendent of the employing school board shall, in writing, notify the state superintendent of education and the applicable regional superintendent of schools of any license holder whom he or she has reasonable cause to believe has committed (i) an intentional act of abuse or neglect with the result of making a child an abused child or a neglected child as defined in Section 3 of the Abused and Neglected Child Reporting Act, or (ii) an act of sexual misconduct as defined in Section 22-85.5 of this Code (this is a new

requirement), and that act resulted in the license holder's dismissal or resignation from the school district. See [105 ILCS 5/10-21.9\(e-5\)](#); [105 ILCS 5/34-18.5\(e-5\)](#).

- 4) New requirements for notifying students and parents/guardians must be followed for allegations of sexual misconduct and any action taken as a result of an allegation. (See **Sexual Misconduct Allegation Notification Requirements** below for more details.)
- 5) Applicants must complete an employment history review prior to working at a school. (See **Employment History Review Requirements** below for more details.)

Frequently Asked Questions Regarding Sexual Misconduct

Q-1. Is “sexual misconduct” the same thing as “grooming” or “sexual abuse”?

A-1. Not necessarily, but grooming or sexual abuse may be sexual misconduct.

“Sexual misconduct” as defined above on page 9 is a new term added to the School Code and applies to all students. See [105 ILCS 5/22-85.5\(c\)](#).

An “alleged incident of sexual abuse” as defined in Section 22-85 of the School Code is “an incident of sexual abuse of a child that is alleged to have been perpetrated by school personnel, including a school vendor or volunteer, that occurred (i) on school grounds or during a school activity or (ii) outside of school grounds or not during a school activity.” See [105 ILCS 22-85 \(a\)](#).

“Grooming” as now defined in Section 11-25 of the Criminal Code is “when [a person] knowingly uses a computer on-line service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission, *performs an act in person or by conduct through a third party*, or uses written communication to seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice a child, a child’s guardian, or another person believed by the person to be a child or a child’s guardian, to commit any sex offense as defined in Section 2 of the Sex Offender Registration Act, to distribute photographs depicting the sex organs of the child, or to otherwise engage in any unlawful sexual conduct with a child or with another person believed by the person to be a child. As used in this Section ‘child’ means a person under 17 years of age.” (Italics indicate new language from Faith’s Law.) See [720 ILCS 5/11-25](#).

In addition to the above-defined terms, there are several other terms defined throughout the law that may be applicable and carry their own set of requirements and implications. Consider consulting with legal counsel to determine which terms and processes are applicable depending on the facts in your case.

Someone has alleged that sexual misconduct has occurred between a student and employee.

Q-2. Do I notify the Illinois Department of Children and Family Services (DCFS)? When?

A-2. Mandated reporters must notify DCFS **immediately** when a mandated reporter has reasonable cause to believe a child is an abused or neglected child under the Abused and Neglected Child Reporting Act (325 ILCS 5/3), including reasonable cause to believe that a child was a victim of grooming as defined by 720 ILCS 5/11-25. Call 1-800-25-ABUSE to make a report.

Q-3. Do I notify local law enforcement? When?

A-3. Please consult your local district/school’s policy or your district/school’s legal counsel for guidance regarding your obligation to report to local law enforcement.

Q-4. Do I notify the parents/guardians? When?

A-4. Generally, parents/guardians must be notified after the student has been notified. Please see pages 15 and 16.

Q-5. How is it determined and by whom that an employee committed an act of sexual misconduct that would trigger Faith's Law requirements?

A-5. A school, through its administration or school board, would determine whether there is sufficient evidence to find that an employee committed an act of sexual misconduct.

Employee Code of Professional Conduct Policy

The Basics

Q-6. When does the employee code of professional conduct policy have to be adopted by a school?

A-6. School districts, charter schools, and nonpublic schools were required to develop and implement an employee code of professional conduct policy by July 1, 2022. See [105 ILCS 5/22-85.5\(a\)](#).

Q-7. What entities are required to implement the employee code of professional conduct policy?

A-7. School districts, charter schools, and nonpublic schools. See [105 ILCS 5/22-85.5\(d\)](#).

Q-8. What must the employee code of professional conduct policy include?

A-8. The employee code of professional conduct policy must:

- 1) Incorporate the Code of Ethics for Illinois Educators found at 23 Il Adm Code 22.20.
- 2) Incorporate the definition of "sexual misconduct" in Section 85.5(c) of the School Code.
- 3) Identify the expectations for employees and agents of the school district, charter school, or nonpublic school regarding how to maintain a professional relationship with students, including the expectations for staff-student boundaries; recognize the age and developmental level of the students served; and establish guidelines for all of the following situations:
 - a) Transporting a student.
 - b) Taking or possessing a photo or a video of a student.
 - c) Meeting with a student or contacting a student outside of the employee's or agent's professional role.
- 4) Reference the employee reporting requirements required under the Abused and Neglected Child Reporting Act and under Title IX of the federal Education Amendments of 1972.
- 5) Reference required employee training that is related to child abuse and educator ethics that are applicable under State and federal law.

See [105 ILCS 5/22-85.5\(d\)](#).

Q-9. How must the employee code of professional conduct policy be communicated?

A-9. The employee code of professional conduct policy must be:

- 1) Posted on the website, if any, of each school district, charter school, or nonpublic school; and

- 2) Included in any staff, student, or parent handbook provided by the school district; charter school, or nonpublic, nonsectarian³ elementary or secondary school.

Although the statute uses the word “or,” the intent of Faith’s Law is that a school publishes the policy in all of its handbooks.

See [105 ILCS 5/22-85.5\(e\)](#).

Q-10. What happens if an employee violates the employee code of professional conduct policy?

A-10. A violation of the employee code of professional conduct policy may subject an employee to disciplinary action up to and including dismissal from employment. Failure of an employee to report a violation of the employee code of professional conduct policy by another employee may subject that employee to disciplinary action up to and including dismissal from employment. See [105 ILCS 5/22-85.5\(f\)](#).

³ ISBE believes the intent of the bill was to require posting of the policy by all nonpublic schools and not just nonsectarian, nonpublic schools. Nonpublic, sectarian schools should consult with their legal counsel as to the applicability of this provision. See [105 ILCS 5/22-85.5\(e\)](#).

Sexual Misconduct Allegation Notification Requirements

The Basics

Q-11. What must a school district, charter school, or nonpublic school do if an allegation of sexual misconduct is made?

A-11. As of July 1, 2023, the governing body of each school district, charter school, or nonpublic school shall implement two notification procedures to address sexual misconduct.

The first procedure requires schools to provide notice to the parents or guardians of an enrolled student with whom an employee, agent of the school, or a contractor of the school is **alleged** to have engaged in sexual misconduct as defined in Section 22-85.5(c) of the School Code.

The second procedure requires schools to provide notice to the parents or guardians of a student when any **formal action** has been taken by the governing body relating to the employment of the alleged perpetrator following the investigation of sexual misconduct, including whether employment was terminated or whether the governing body accepted the resignation of the employee.

Each procedure shall include the following:

- 1) Consideration of the time frame for providing notice to the student and the student's parents or guardians if the alleged misconduct is also being investigated by DCFS or law enforcement as described in Section 22-85 of the School Code⁴;
- 2) Notice to the student in a developmentally appropriate manner;
- 3) After notice to the student is provided, the student's parents or guardians shall be notified in writing; and
- 4) Notification must be provided as soon as feasible, subject to the requirements of Section 22-85(f)⁵ of the School Code, after the employing entity becomes aware that alleged misconduct may have occurred and after the board action is taken, as applicable. See [105 ILCS 5/22-85.10\(a\) & \(b\)](#).

Q-12. What are the specific notice requirements when there is an allegation of sexual misconduct?

A-12. When there is an allegation of sexual misconduct, notification must first be provided to the enrolled student in a developmentally appropriate manner and include:

- 1) That notice will be given to the student's parents or guardians;

⁴ Section 22-85 of the School Code describes the requirements when there is an alleged incident of sexual abuse at school. See 105 ILCS 5/22-85.

⁵ Section 22-85(f) outlines the requirements a school must follow after an alleged incident of sexual abuse is accepted for investigation by DCFS or a law enforcement agency, and while the criminal and child abuse investigations related to that alleged incident are being conducted by the multidisciplinary team. See 105 ILCS 5/22-85(f).

- 2) What information will be included in the notice to the student's parents or guardians;
- 3) Available resources for the student within the school and community in accordance with Article 26A of the School Code and available counseling services under Section 3-550 of the Mental Health and Developmental Disabilities Code; and
- 4) Beginning July 1, 2025, the name and contact information for the domestic and sexual violence and parenting resource coordinator under Section 26A-35 of the School Code.

After notifying the student, the student's parents or guardians shall be notified in writing of the following:

- 5) The alleged misconduct; and
- 6) Available resources for the student within the school and the community in accordance with Article 26A of the School Code and, beginning on July 1, 2025, the name and contact information for the domestic and sexual violence and parenting resource coordinator under Section 26A-35 of the School Code.

Notice provided to the parent or guardian of a student with a disability must not conflict with the student's Individualized Education Program (IEP) or a Section 504 Plan under the federal Rehabilitation Act of 1973 and the requirements of applicable state or federal law. See [105 ILCS 5/22-85.10 \(a\)\(2\) & \(3\)](#).

Q-13. What are the notice requirements when formal action has been taken due to allegations of sexual misconduct?

A-13. When formal action has been taken by the governing body relating to the employment of an alleged perpetrator following the investigation of sexual misconduct, notification must first be provided to the student in a developmentally appropriate manner and include:

- 1) That notice will be given to the student's parent or guardian of the governing body's action;
- 2) What information will be included in the notice to the student's parents or guardians;
- 3) Available resources for the student within the school and community in accordance with Article 26A of the School Code and available counseling services under Section 3-550 of the Mental Health and Developmental Disabilities Code; and
- 4) Beginning July 1, 2025, the name and contact information for the domestic and sexual violence and parenting resource coordinator under Section 26A-35 of the School Code.

After notification of the student, the student's parents or guardians shall be notified in writing of the following:

- 5) The governing body's action;
- 6) Whether a report concerning the alleged sexual misconduct was or will be submitted to the state superintendent of education and the applicable regional superintendent of schools pursuant to Section 10-21.9 of the School Code; and

- 7) Available resources for the student within the school and the community in accordance with Article 26A of this Code and, beginning on July 1, 2025, the name and contact information for the domestic and sexual violence and parenting resource coordinator under Section 26A-35 of the School Code.

Notice provided to the parent or guardian of a student with a disability must not conflict with the student's IEP or a Section 504 Plan under the federal Rehabilitation Act of 1973 and the requirements of applicable state or federal law.

If the student is no longer enrolled at the time formal action is taken, sending written notice to the last known address in the student's file fulfills notification requirements. See [105 ILCS 5/22-85.10\(b\)\(2\), \(3\), & \(5\)](#).

Q-14. Does a school need to follow the notification procedures in every instance of alleged sexual misconduct involving a student and an employee, agent of the school, or contractor?

A-14. No. Notification procedures are not applicable if the student's parent or guardian is the alleged perpetrator of the misconduct. See [105 ILCS 5/22-85.10\(d\)](#).

Q-15. Must notice always be provided to the parents or guardians of the student regarding the allegations of sexual misconduct and whether formal action has been taken?

A-15. No. Notice to the parent or guardian is not required if the student is at least 18 years of age or emancipated. Notification procedures are not applicable if the student's parent or guardian is the alleged perpetrator of the misconduct. See [105 ILCS 5/22-85.10\(a\), \(b\), & \(d\)](#).

Q-16. Must notice always be provided to the student prior to the parents or guardians regarding the allegations of sexual misconduct and whether formal action has been taken?

A-16. No. Notification to the student prior to notification of the student's parents or guardians shall not be required to the extent an employee or agent of the school district, charter school, or nonpublic school deems it necessary to address an imminent risk of serious physical injury or death of a student or another person, including the victim. If prior notification to the student is not given, notification to the student shall be provided as soon as practicable and without delay following the notification to the student's parents or guardians. See [105 ILCS 5/25-85.10\(c\)](#).

Frequently Asked Questions Regarding Sexual Misconduct Allegation Notification Requirements

Q-17. When a governing body has taken formal action relating to the employment of the alleged perpetrator following the investigation of alleged sexual misconduct including whether employment was terminated or whether the governing body accepted the resignation of the employee, must the State Board of Education be notified?

A-17. Yes. Pursuant to Sections [10-21.9\(e-5\)](#), [34-18.5\(e-5\)](#), and [27A-5\(g\)](#) of the School Code, the superintendent of the employing school board or administrator of a charter school shall in writing notify the state superintendent of education and the applicable regional superintendent of school of any license holder whom he or she has a reasonable cause to believe has committed an act of sexual misconduct as defined in Section 22-85.5 of the School Code.

Q-18. When the school has to notify a student and parent of alleged sexual misconduct, is the school required to provide the student and parent the employee's name? If yes, how is confidentiality protected during the investigation of an employee?

A-18. The statute does not require the disclosure of the alleged perpetrator's name. Consult with your legal counsel regarding any confidentiality, privacy, and safety concerns.

Q-19. Does the employee have the right to know if the employee is the subject of a sexual misconduct investigation?

A-19. The statute only requires specific notice to the student and parents/guardians, not the employee. Any notice provided to an employee would be pursuant to board policy and collective bargaining agreements pertaining to investigation procedures for allegations of employee misconduct.

Q-20. Does Faith's Law relieve the school from the other notification requirements that may be required by other state or federal laws?

A-20. No. The requirements under Faith's Law are in addition to other requirements. They are not meant to replace any other requirements set forth in state and/or federal laws or local school policies.

Q-21. Do the notification procedures apply if a school receives an allegation of sexual misconduct but the student is no longer enrolled? What about when formal action is taken?

A-21. The notification procedures with respect to an allegation of sexual misconduct only apply if the student is enrolled with the school when the allegations are made. If the student is no longer enrolled at the time formal action is taken, sending written notice to the last known address in the student's file fulfills notification requirements.

Employment History Review Requirements

The Basics

Q-22. What are the new requirements for employers prior to hiring an applicant to work directly with children or students?

A-22. The school or contractor must ensure that the following criteria are met for each applicant:

- 1) The applicant has completed the [Illinois State Board of Education Sexual Misconduct Disclosure Template for Applicant](#);
- 2) The prospective employer and applicant have both completed the [Authorization for Release of Sexual Misconduct-Related Information and Current/Former Employer Response Template](#), and the prospective employer has forwarded the templates to the applicant's current/former employer(s).
 - a) This form must be completed multiple times if the applicant has multiple current of former employers.
- 3) The school or contractor has no knowledge or information pertaining to the applicant that would disqualify the applicant from employment;
- 4) The school or contractor shall initiate a review of the employment history of the applicant by contacting those employers listed by the applicant in the Illinois State Board of Education Sexual Misconduct Disclosure Template; and
- 5) To the extent the applicant is licensed by ISBE, the school district, charter school, or nonpublic school shall also verify the applicant's reported previous employers with previous employers in the State Board of Education's educator licensure database to ensure accuracy.⁶

See [105 ILCS 5/22-94\(c\)](#).

Q-23. For purposes of the employment history reviews, what is a "school"?

A-23. A school is a public or nonpublic elementary or secondary school. See [105 ILCS 5/22-94\(b\)](#).

Q-24. For purposes of the employment history reviews, what is a "contractor"?

A-24. A contractor is defined as a firm holding contracts 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. See [105 ILCS 5/22-94\(b\)](#).

Q-25. For purposes of the employment history review, what does "direct contact with children or students" mean?

⁶ The information contained in the Educator Licensure Information System (ELIS) is only as accurate as the information provided by each district or school in the Employee Information System (EIS). See [105 ILCS 5/22-94\(c\)](#).

A-25. Direct contact with children or students means the possibility of care, supervision, guidance, or control of children or students or routine interaction with children or students. See [105 ILCS 5/22-94\(b\)](#).

Q-26. What is meant by initiating a review of the employment history of the applicant?

A-26. A school or contractor shall initiate a review of the employment history of the applicant by contacting those employers listed by the applicant in the ISBE templates and requesting the information outlined in the template.

At a minimum, the school or contractor needs to (1) obtain from the applicant copies of the Sexual Misconduct Disclosure Template for Applicant, and Authorization for Release of Sexual Misconduct-Related Information and Current/Former Response Template, and (2) send to current and former employers the Authorization for Release of Sexual Misconduct-Related Information and Current/Former Response Template. See [105 ILCS 5/22-94\(c\)\(4\)](#).

Q-27. Which individuals are required to have the employer history reviews completed? Does this include referees/sports officials, athletic trainers, non-licensed coaches, etc.?

A-27. All permanent and temporary positions for employment with a school or a contractor of a school involving direct contact with children or students are required to have employment history reviews. In making the determination as to whether a position of employment entails "direct contact with children or students," schools should review each situation on a case-by-case basis and consider all risks associated with such a determination. See [105 ILCS 5/22-94\(a\)](#).

Q-28. Do volunteers have to complete the employment history review prior to working with students?

A-28. No. The employment history reviews only apply to permanent and temporary positions for employment with a school or a contractor of a school involving direct contact with children or students. See [105 ILCS 5/22-94\(a\)](#).

Q-29. Does the new law remove or restrict other types of background checks?

A-29. No. Public Act 102-0702 did not remove any of [the other criminal background checks required](#) that were already in effect. The law does not relieve a school, school employee, contractor of the school, or agent of the school from any legal responsibility to report sexual misconduct in accordance with state and federal reporting requirements or to implement the provisions of the [federal prohibition on aiding and abetting sexual abuse](#). See [105 ILCS 5/22-94\(l\)](#).

Q-30. Does Faith's Law prohibit or limit a prospective employer's ability to investigate a prospective employee?

A-30. No. Public Act 102-0702 does not prevent a prospective employer from conducting further investigations of prospective employees or from requiring applicants to provide additional background information or authorizations beyond what is required under the Act. Further, it does not prevent a current or former employer from disclosing more information than the Act requires.

See [105 ILCS 5/22-94\(l\)](#).

Q-31. What happens if an applicant provides false information or willfully fails to disclose information on the template?

A-31. The applicant is subject to discipline, up to and including termination or denial of employment. See [105 ILCS 5/22-94\(d\)](#).

Q-32. What does a current or former employer need to do when it is asked to complete the Authorization for Release of Sexual Misconduct-Related Information and Current/Former Employer Response Template?

A-32. An employer who has or had an employment relationship with the applicant shall disclose the information requested using Authorization for Release of Sexual Misconduct-Related Information and Current/Former Employer Response Template within 20 days after receiving the request. See [105 ILCS 5/22-94\(e\)](#).

Q-33. Are there other instances in which a current or former employer would be required to complete the Authorization for Release of Sexual Misconduct-Related Information and Current/Former Employer Response Template?

A-33. A school or contractor must also complete the template at the request of the employee, or, upon separation from employment. A school or contractor shall complete the form and maintain it as part of the employee's personnel file. If the school or contractor completes an investigation after an employee's separation from employment, the school shall update the information accordingly. See [105 ILCS 5/22-94\(e\); \(j\)](#).

Q-34. How long does an employer have to respond to a request for employment information?

A-34. The employer must respond no later than 20 days after receiving the request. See [105 ILCS 5/22-94\(e\)](#).

Q-35. What may an employer do with the information received from the Authorization for Release of Sexual Misconduct-Related Information and Current/Former Employer Response Template?

A-35. A school or contractor who receives information from the Authorization for Release of Sexual Misconduct-Related Information and Current/Former Employer Response Template may use the information for the purpose of evaluating an applicant's fitness to be hired or for continued employment and may report the information, 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. See [105 ILCS 5/22-94\(e\)](#).

Q-36. Is any of the information that a prospective employer receives from a current/former employer as part of the employment history review considered a public record?

A-36. No. Information received under Section 22-94 shall not be deemed a public record. It may not be released under a Freedom of Information Act (FOIA) request. See [105 ILCS 5/22-94\(e\)](#).

Q-37. What if the records and documents are prohibited from disclosure by another Illinois law?

A-37. An employer, school, school administrator, contractor, or applicant shall report and disclose, in accordance with Section 22-94, all relevant information, records, and documentation that may otherwise be confidential, unless there is another provision of law to the contrary. See [105 ILCS /22-94\(e\)](#).

Q-38. Does a current or former employer have any immunity when providing information or records as part of the employment history review?

A-38. Yes. An employer, school, school administrator, or contractor who provides information or records about a current or former employee or applicant under Section 22-94 is immune from criminal and civil liability for the disclosure of the information or records, unless the information or records provided were knowingly false.

This immunity shall be in addition to and not a limitation on any other immunity provided by law or any absolute or conditional privileges applicable to the disclosure by virtue of the circumstances or the applicant's consent to the disclosure and shall extend to any circumstances when the employer, school, school administrator, or contractor in good faith shares findings of sexual misconduct with another employer or potential employer. See [105 ILCS 5/22-94\(e\)](#).

Q-39. Are there any reasons why a current/former employer would not release the required information under Public Act 102-0702?

A-39. Yes. There are two specific instances under which an employer is not required to complete employment history review forms:

- 1) The laws of another state prevent the release of the information or records requested for disclosure; or
- 2) Release is restricted by the terms of a contract entered into prior to July 1, 2023. Consult with your school attorney if this exception applies to your school.

Any other provisions of law that expressly prohibit the release of relevant information, records, and documents as required under Faith's Law also apply. See [105 ILCS 5/22-94\(e\)](#).

Q-40. May an applicant be hired if they refuse to provide the information on the template?

A-40. No. A school or contractor may not hire an applicant who does not provide the information required on the templates for a position involving direct contact with children or students. See [105 ILCS 5/22-94\(f\)](#).

Q-41. How do the employment history review requirements interact with collective bargaining agreements, employment contracts, agreements for resignation or termination, severance agreements, etc.?

A-41. Beginning on July 1, 2023, a school or contractor may not enter into a collective bargaining agreement, an employment contract, an agreement for resignation or termination, a severance agreement, or any other contract or agreement or take any action that:

- 1) Has the effect of suppressing information concerning a pending investigation or a completed investigation in which an allegation was substantiated related to a report of suspected sexual misconduct by a current or former employee;
- 2) Affects the ability of the school or contractor to report suspected sexual misconduct to the appropriate authorities; or
- 3) Requires the school or contractor to expunge information about allegations or findings of suspected sexual misconduct from any documents maintained by the school or contractor, unless, after an investigation, an allegation is found to be false, unfounded, or unsubstantiated.

Any provision of an employment contract or agreement for resignation or termination or a severance agreement that is executed, amended, or entered into on or after July 1, 2023, and that is contrary to Section 22-94 is void and unenforceable.

Public Act 102-0702 does not prohibit the right of the exclusive bargaining representative under a collective bargaining agreement to grieve and arbitrate the validity of an employee's termination or discipline for just cause. See [105 ILCS 5/22-94\(g\)&\(h\)](#) and [105 ILCS 5/22-94\(l\)\(4\)](#).

Q-42. How do the employment history review requirements apply to substitute teachers or other substitute employees?

A-42. For substitute employees, all of the following apply:

- 1) The employment history review is required only prior to the initial hiring of a substitute employee or placement on a school's approved substitute list and shall remain valid as long as the substitute employee continues to be employed by the same school or remains on the school's approved substitute list.
- 2) A substitute employee seeking to be added to another school's substitute list shall undergo an additional employment history review. The appearance of a substitute employee on one school's substitute list does not relieve another school from compliance with Section 22-94.

There are two exceptions:

- a) 4) below, and
 - b) An applicant who has undergone an employment history review and seeks to transfer to or provide services to another school in the same school district, diocese, or religious jurisdiction, or to another school established and supervised by the same organization is not required to obtain additional reports before transferring.
- 4) An employment history review conducted upon initial hiring of a substitute employee by a contractor or any other entity that furnishes substitute staffing services to schools shall satisfy the requirements of Public Act 102-0702 for all schools using the services of that contractor or other entity.

- 5) A contractor or any other entity furnishing substitute staffing services to schools shall comply with the following:
- a) Prior to assigning an employee to perform work for a school in a position involving direct contact with children or students, the contractor shall inform the school of any instance known to the contractor in which the employee:
 - i) Has been the subject of a sexual misconduct allegation unless a subsequent investigation resulted in a finding that the allegation was false, unfounded, or unsubstantiated;
 - ii) Has ever been discharged, been asked to resign from, resigned from, or otherwise been separated from any employment; been removed from a substitute list; been disciplined by an employer; or had an employment contract not renewed due to an adjudication or finding of sexual misconduct or while an allegation of sexual misconduct was pending or under investigation, unless the investigation resulted in a finding that the allegation was false, unfounded, or unsubstantiated; or
 - iii) Has ever had a license or certificate suspended, surrendered, or revoked due to an adjudication or finding of sexual misconduct or while an allegation of sexual misconduct was pending or under investigation, unless the investigation resulted in a finding that the allegation was false, unfounded, or unsubstantiated.
 - b) The contractor may not assign an employee to perform work for a school in a position involving direct contact with children or students if the school objects to the assignment after being informed of an instance listed in paragraph (5)(a) under this Answer 42. See [105 ILCS 5/22-94\(i\)](#).

Q-43. What are the employment history review requirements for employees of contractors under Public Act 102-0702?

A-43. For employees of contractors, all of the following apply:

- 1) The employment history review shall be performed, either at the time of the initial hiring of an employee or prior to the assignment of an existing employee to perform work for a school in a position involving direct contact with children or students. The review shall remain valid as long as the employee remains employed by the same contractor, even if assigned to perform work for other schools.
- 2) A contractor shall maintain records documenting employment history reviews for all employees as required by Public Act 102-0702 and, upon request, shall provide a school for whom an employee is assigned to perform work access to the records pertaining to that employee.

- 3) Prior to assigning an employee to perform work for a school in a position involving direct contact with children or students, the contractor shall inform the school of any instance known to the contractor in which the employee:
 - a) Has been the subject of a sexual misconduct allegation unless a subsequent investigation resulted in a finding that the allegation was false, unfounded, or unsubstantiated;
 - b) Has ever been discharged, been asked to resign from, resigned from, or otherwise been separated from any employment; been removed from a substitute list; been disciplined by an employer; or had an employment contract not renewed due to an adjudication or finding of sexual misconduct or while an allegation of sexual misconduct was pending or under investigation, unless the investigation resulted in a finding that the allegation was false, unfounded, or unsubstantiated; or
 - c) Has ever had a license or certificate suspended, surrendered, or revoked due to an adjudication or finding of sexual misconduct or while an allegation of sexual misconduct was pending or under investigation, unless the investigation resulted in a finding that the allegation was false, unfounded, or unsubstantiated.
- 4) The contractor may not assign an employee to perform work for a school in a position involving direct contact with children or students if the school objects to the assignment after being informed of an instance listed in paragraph (3) in this Answer 43. See [105 ILCS 5/22-94\(j\)](#)

Q-44. Can an employee working at a school that belongs to a district/diocese/religious jurisdiction or organization move to another school under that same affiliation without undergoing another employment history review?

A-44. Yes. An applicant who has undergone an employment history review under Section 22-94 and seeks to transfer to or provide services to another school in the same school district, diocese, or religious jurisdiction, or to another school established and supervised by the same organization is not required to obtain additional reports before transferring. See [105 ILCS 5/22-94\(k\)](#).

Frequently Asked Questions Regarding Employment History Reviews

Q-45. Can the template requesting employment history review be emailed to employers or must it be physically mailed?

A-45. The statute does not prohibit sending the employment history reviews by email.

Q-46. The statute and templates require the disclosure of knowledge or information pertaining to the applicant that would “disqualify the applicant from employment.” What is meant by “disqualify” for purposes of this statute?

A-46. The statute does not define “disqualify” and nothing except the applicant’s failure to provide the information in the templates would disqualify an applicant from employment under Section 22-94. However, an employer should consult with legal counsel regarding what would disqualify an applicant from working in a school based on the information received from the employment history review request.

Q-47. Can an applicant still be hired if a former employer does not provide an employment history review check within 20 days of the request?

A-47. The statute does not prohibit an employer from hiring the applicant if the former or current employer does not provide an employment history review within 20 days of receiving the request.

Q-48. For substitute teachers who work at multiple school districts, can districts share the employment history reviews with each of the districts in which the substitute teacher is working?

A-48. The substitute should undergo an additional employment history review for each employer, unless the substitute is an employee of a contractor or the substitute is working within the same district, diocese, religious jurisdiction, or another school established and supervised by the same organization.

Q-49. How far back in time does an employer need to go in requesting an employment history review?

A-49. There is no time limitation in the statute. An applicant must provide the names of *all* former employers that were schools or school contractors, and *all* former employers at which the applicant had direct contact with children or students.

Q-50. For how long is an employment history review valid? For example, if an employee doesn’t work with a district/school during a portion of a school or calendar year but returns to employment the following year, must the employment history review be conducted again?

A-50. The statute neither addresses how schools should handle breaks in service nor how long the employment history reviews are valid for employees. Consult with legal counsel regarding whether employment history reviews must be completed for returning employees.

With respect to a substitute employee who is in direct contact with children, the employment history review is only required prior to the initial hiring of the substitute employee or placement on a school’s approved substitute list and shall remain valid as long as the substitute employee continues to be employed by the same school or remains on the school’s approved substitute list.

With respect to contractors, the contractor shall maintain records documenting employment history reviews for all employees who are in direct contact with children (e.g., bus drivers, food service workers) as part of the employees' personnel files and, upon request, shall provide a school for whom an employee is assigned to perform work access to the records pertaining to that employee.

Q-51. Can Regional Offices of Education/Intermediate Service Centers complete the employment history reviews for substitute teachers?

A-51. No. The statute requires schools or contractors to conduct the reviews.

Q-52. Is the potential employer required to check an applicant's employment history against the State Board of Education's educator license database?

A-52. For applicants licensed by the State Board of Education, a school district, charter school, or nonpublic school shall verify the applicant's reported previous employers with previous employers in the State Board of Education's educator licensure database to ensure accuracy.⁷

Q-53. Can a potential employee start working pending the outcome of the employment history review?

A-53. Yes. As with fingerprint based criminal background checks, the employment history review only has to be initiated prior to the person beginning their duties.

Q-54. Do we have to do employment history reviews for temporary employees?

A-54. Yes.

Q-55. Do we have to do employment history reviews for part-time employees?

A-55. Yes.

Q-56. What if the hiring school believes that, after a review of the information provided, a finding of sexual misconduct reported by the former employee is unsupported?

A-56. There is nothing in the statute that prohibits the potential employer from hiring the applicant. However, consult with legal counsel regarding any potential liabilities.

Q-57. Does the hiring school have to investigate allegations of sexual misconduct from a previous employer if one of the boxes is checked "yes"?

A-57. The new sexual misconduct laws do not necessarily trigger any new duties with respect to investigations for the hiring school. A current/former employer will have to determine whether certain allegations rise to the level of sexual misconduct as defined in Section 22-85.5 of the School Code and complete the ISBE templates. The current/former school's obligation to investigate possible employee misconduct pursuant to its board policies and Title IX remain in effect.

Q-58. What if an investigation conducted by a current or former employer resulted in a finding of insufficient evidence?

⁷ The information contained in ELIS is only as accurate as the information provided by each district or school in EIS.

A-58. If there was an investigation conducted into allegations of misconduct that would meet the definition of sexual misconduct under section 22-85.5 that resulted in a finding that the allegation was false, unfounded, or unsubstantiated, then the allegation would not need to be reported. If there was a pending allegation or an ongoing investigation that was never completed, then the employer would need to report it if contacted to provide an employment history review.

Q-59. Should we conduct the employment history review for positions that currently have no direct contact with children or students but might at a later time?

A-59. The statute requires employment history reviews for all permanent and temporary positions for employment with a school or a contractor of a school involving direct contact with children or students. For the safety of students, ISBE recommends employment history review be conducted prior to when the employee begins duties that put him/her in direct contact with a student or child.

Q-60. Must bus driver applicants go through an employment history review in addition to their required background check?

A-60. Yes. Bus drivers are in direct contact with students or children. Therefore, they must also complete the employment history reviews.

Q-61. What if someone is coming from out of state to work in Illinois? Do they still need to go through the employment history review process?

A-61. Yes.

Q-62. What if an employee has a confidentiality clause as a part of a termination/separation agreement that would prohibit disclosure of the type of information requested in an employment history review?

A-62. The statute created an exception to the disclosure requirements if disclosure is restricted by the terms of a contract entered into prior to the July 1, 2023, implementation date of Public Act 102-0702. Consult with legal counsel to determine whether a confidentiality clause is valid and enforceable.

Q-63. Do we have to update the employment history review for current employees who take on summer employment outside of their current role that involves direct contact with children or students?

A-63. The statute does not require a supplemental employment history review in these circumstances.

Q-64. What happens to the substitute employees who are currently on schools' substitute lists prior to July 1, 2023? Do they need to complete the employment history review, or will they be grandfathered in?

A-64. The employment history review is required only prior to the *initial* hiring of a substitute employee or placement on a school's approved substitute list and shall remain valid as long as the substitute employee continues to be employed by the same school or remains on the school's approved substitute list.

Q-65. Are current employees or employees of contractors required to undergo an employment history review?

A-65. No, unless otherwise required under 22-94(j) (See Q-43 and A-43(3)).

Q-66. Should the district/school maintain the employment history review documentation it provides and/or receives?

A-66. Yes. Employment history review forms shall be maintained as part of the employee's personnel file.

Q-67. Should a contractor maintain the employment history review documentation it provides and/or receives?

A-67. A contractor shall maintain records documenting employment history reviews for all employees as required by Public Act 102-0702 and, upon request, shall provide a school for whom an employee is assigned to perform work access to the records pertaining to that employee.

Q-68. Do I have to review employee misconduct investigations conducted before Public Act 102-0702 takes effect to determine whether those allegations meet the definition of sexual misconduct?

A-68. No. The law does not require an employer to review its files and determine whether past misconduct may qualify as sexual misconduct.

Q-69. Do student teachers have to undergo employment history reviews?

A-69. Based on the language in the law, unpaid student teachers are not subject to employment history reviews.

Q-70. What if a former employer requires the applicant or the potential employer to pay a fee for the completion of the employment history review forms?

A-70. There is no exemption for an employment history review if an applicant is unable to pay or refuses to pay for its completion.

Q-71. What if the school finds out later the applicant lied on their employment history review form, and the applicant was hired and has started employment with the school? What can the school do under the statute?

A-71. An applicant who provides false information or willfully fails to disclose information required under Section 5/22-94 shall be subject to discipline, up to and including termination or denial of employment. All decisions regarding discipline should be in accordance with school policies and any applicable collective bargaining agreements.

Q-72. Should a school treat employment history review records the same as other personnel records or are there more restrictions on who within the school has access to this information?

A-72. Although employment history reviews are to be maintained in the personnel file, they are not public documents. Consult with legal counsel as to who within a school should have access to the employment history review checks.

Q-73. Which current/former employers should receive the employment history review forms to complete?

A-73. The applicant should list and the prospective employer should contact the following: (1) the applicant's current employer (regardless of whether the applicant is in a position involving direct contact with children or students); (2) any previous employer for whom the employee held a position involving direct contact with children or students (regardless of whether it was a school); and (3) the applicant's prior employer if it was a school or contractor of a school (regardless of whether it was a position involving direct contact with children or students).