



# Illinois State Board of Education

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The Illinois State Board of Education (ISBE) does not have any positions that have a criminal records based restriction. However, ISBE's employment application does inquire regarding criminal history. See employment application (attached). Further, ISBE conducts background checks on all new employees. During the past two (2) years, ISBE has not failed to hire an individual or terminated an individual based on a criminal record.

ISBE is the licensing Agency for certain individuals, and the remaining part of this response will focus solely on those individuals.

(1) the job title, occupation, job classification, or restricted place of employment, including the range of occupations affected in such places

**RESPONSE: Any certified (or noncertified) employment position with a public school district.**

(2) the statute, regulation, policy, and procedure that authorizes the restriction of applicants for employment and licensure, current employees, and current licenses

**RESPONSE: 105 ILCS 5/10-21.9**

(3) the substance and terms of the restriction

**RESPONSE: All applicants for employment with a public school district that hold a certificate or license issued by ISBE must submit to a fingerprint-based criminal history records information check through the IL State Police and FBI, a check of the IL-SOR and the IL-MVOAY registries. The check must be initiated prior to commencing employment – in other words, this is an employment requirement, not a certification requirement, although criminal history can adversely affect someone's ability to obtain or hold a certificate.**

(A) if the statute, regulation, policy or practice enumerates disqualifying offenses, a list of each disqualifying offense, the time limits for each offense, and the point in time when the time limit begins

**RESPONSE: Section 21B-80 of the School Code [105 ILCS 5/21B-80] lists all criminal offenses that automatically prohibit an individual from obtaining or holding a certificate, or being employed in the public or ISBE-recognized nonpublic schools, including various drug, sex and violent offenses. Some Section 21B-80 offenses are felonies and others are misdemeanors. There is no "time limit" for these offenses. Aside from this list, a teacher may not be employed if he or she has been convicted for any felony within the last 7 years (see 105 ILCS 5/10-21.9).**

(B) if the statute, regulation, policy practice does not enumerate disqualifying offenses and instead provides for agency discretion in determining disqualifying offenses, the criteria the agency has adopted to apply the disqualification to individual cases. Restrictions based on agency discretion include, but are not limited to, restrictions based on an offense "related to" the practice of a given profession; an offense or act of "moral turpitude"; and an offense evincing a lack of "good moral character"

**RESPONSE: If an applicant for employment has been convicted for any offense not listed in Section B-80, the employer conducts a review to determine if the**

individual should be hired in light of the criminal history. ISBE is not involved in this employer review and so cannot describe the process. If ISBE learns of the criminal history, though, it would conduct its own review to determine whether the criminal history affects the individual's ability to continue to hold a certificate.

(4) the procedures used by the agency to identify an individual's criminal history, including but not limited to disclosures on applications and background checks conducted by law enforcement or private entities

**RESPONSE: ISBE would learn of a certificate holder's criminal history either by disclosure on applications, if notified by a district of information on a CHRI report, through reports in the news or from members of the public. The employer would learn of an employment applicant's criminal history by disclosures on the employment application or from the CHRI report.**

(5) the procedures used by the agency to determine and review whether an individual's criminal history disqualifies that individual

**RESPONSE: Again, the agency could review criminal history for impact on the certificate, and ISBE would be happy to discuss the process it uses for this purpose, but we are not aware of how each individual school district would review the applicant's criminal history.**

(6) the year the restriction was adopted, and its rationale

**RESPONSE: The background check requirement has been imposed since the 1980s, but a fingerprint-based check of criminal history was imposed in 2004 (P.A. 93-909).**

(7) any exemption, waiver, or review mechanisms available to seek relief from the disqualification based on a showing of rehabilitation or otherwise, including the terms of the mechanism, the nature of the relief it affords, and whether an administrative and judicial appeal is authorized

**RESPONSE: There is no waiver for Section 21B-80 convictions. There is no waiver for any criminal convictions, but as noted above, convictions not in Section 21B-80 are reviewed for character & rehabilitation of the individual. Nothing is "waived".**

(8) any statute, rule, policy and practice that requires an individual convicted of a felony to have his civil rights restored to become qualified for the job; and 9 copies of the following documents:

**RESPONSE: None.**

(A) forms, applications, and instructions provided to applicants and those denied or terminated from jobs or licenses based on their criminal record;

**RESPONSE: ISBE does not know what criteria an employer uses. Regarding certificate denial: the individual who is denied a certificate on grounds of criminal history is given a Notice of Denial, setting forth the agency's decision to deny the application for the certificate, and advising the applicant of his or her right to appeal that decision. See 23 Ill. Admin Code 25.490.**

(B) forms, rules, and procedures that the agency employs to provide notice of disqualification, to review applications subject to disqualification, and to provide for exemptions and appeals of disqualification;

**RESPONSE:** ISBE does not know what criteria an employer uses. If the individual already holds a certificate when he or she is convicted for a Section 21B-80 offense or the agency learns of the Section 21B-80 offense only after certification was issued, he or she is issued an order of revocation based on a certified record of the conviction. The agency may pursue suspension or revocation of a certificate pursuant to Section 21B-75 of the School Code [105 ILCS 5/21B-75]; in this case the agency issues to the certificate holder a Notice of Opportunity for Hearing and Statement of Charges and advised he or she may request a hearing pursuant to 23 Ill Admin Code 475 before action is taken on the certificate.

(C) memos, guidance, instructions to staff, scoring criteria and other materials used by the agency to evaluate the criminal histories of applicants, licensees, and employees

**RESPONSE:** ISBE does not know what criteria an employer uses. The agency uses a general set of criteria to evaluate a certificate applicant's or a certificate holder's character and rehabilitation; it is not codified in statute or rule. For example, the agency would consider factors such as whether conduct occurred during employment or involving children; recidivism or repeated conduct; integrity and temperament; teacher/student boundaries; and student health & safety.

(D) forms and notices used to explain waiver, exemption and appeals procedures for denial, suspensions and terminations of employment or licensure based on criminal history.

**RESPONSE:** ISBE does not know what criteria an employer uses. When an application for a certificate is denied, applicants are advised of their right to appeal the agency decision pursuant to 735 ILCS 5/3-101.

Regarding subsection (d), for the positions it licenses, the Agency does not maintain the data requested. As stated above, for employees of ISBE, The Illinois State Board of Education (ISBE) does not have any positions that have a criminal records based restriction.