

FAITH'S LAW IMPOSES NEW OBLIGATIONS ON SCHOOL DISTRICTS

To: ICRMT School District Members
From: IFMK Law, Ltd.
Re: Faith's Law
Date: July 7, 2023

Two pieces of state legislation, collectively known as "Faith's Law" amend the Illinois School Code and place new comprehensive requirements on school districts with the goal of preventing sexual misconduct. The following is a general summary of various provisions of Faith's Law.

Faith's Law amends the School Code to define sexual misconduct as verbal, nonverbal, written, or electronic communication or physical activity by an employee or agent of the school directed towards a student to establish a romantic or sexual relationship.

The law also requires districts to create an employee code of professional conduct. The policy must incorporate the Code of Ethics for Illinois Educators, the aforementioned definition of sexual misconduct, the expectations for employees and agents to maintain a professional relationship with students, and staff reporting and training requirements regarding abused and neglected children. Districts are required to post the policy on their website and must include it in any staff, student, or parent handbook. Employees will be subject to discipline or termination for violating the policy or for failing to report a violation. This portion of the law became effective last year on July 1, 2022.

Faith's Law also requires the Illinois State Board of Education (ISBE) to make a resource guide available about sexual abuse response and prevention resources. The guide is now available on the ISBE website [here](#). Starting with the 2023-2024 school year, each school district must notify students and parents that the guide is available. Districts are also required to provide a copy to students and parents upon request and must post a copy on their website.

Superintendents are now required to notify the State Superintendent of Education and the regional superintendent of schools when they have reasonable cause to believe that a license holder has committed sexual misconduct.

The law also requires school boards to implement a detailed procedure for parental and student notification when an employee, agent or contractor is alleged to have engaged in sexual misconduct and when formal action has been taken following the investigation, including whether the employee resigned or was terminated.

Schools are also required to conduct comprehensive employee history reviews on applicants for permanent and temporary employment positions as well as substitute employees. Prior to hiring an applicant, a school or school contractor must ensure that it has no knowledge or information that would disqualify an applicant from employment. In addition, applicants must affirm that they are not disqualified from employment and must complete a form (on a template prepared by ISBE) which lists their current employer and all former employers that were schools or school contractors or where they had direct contact with children. Applicants must also disclose whether they have ever been the subject of a sexual misconduct allegation or had their license suspended as a result and must authorize current and former employers to release information on their employment.

Schools and school contractors must then contact the applicant's employers and, using the template created by ISBE, request information relating to whether the applicant has been investigated, discharged, or had their license suspended, surrendered or revoked for sexual misconduct. Current and former employers of an applicant are required to disclose the requested information within 20 days of receiving a request. A district must also verify the accuracy of a licensed applicant's disclosed employers with those listed in the State Board's educator license database.

Information received as part of this employment history process is not considered a public record. Schools are to use the information obtained for the purpose of evaluating an applicant's fitness to be hired and may not hire an applicant who does not provide the required information. Schools must also complete the employment history template at the request of an employee or when an employee separates from employment and must maintain a copy in the employee's personnel file.

Also, as of July 1, 2023, a school may not enter into a contract, collective bargaining agreement, or severance agreement that has the effect of suppressing information regarding substantiated sexual misconduct or affects the ability of the school to report suspected misconduct to authorities.

ISBE has issued guidance on Faith's Law which includes FAQ's, a short webinar, the aforementioned resource guide, a template for an applicant's sexual misconduct disclosure, and an applicant's authorization for the release of sexual misconduct-related information. All of the materials can be accessed [here](#). The text of the two public acts that comprise Faith's Law can be accessed [here](#) and [here](#).