



Rep. Michelle Mussman

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LRB103 37153 RJT 71348 a

1 AMENDMENT TO HOUSE BILL 4896

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4896 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The School Code is amended by changing  
5 Sections 22-85.5 and 22-94 as follows:

6 (105 ILCS 5/22-85.5)

7 Sec. 22-85.5. Sexual misconduct in schools.

8 (a) This Section applies beginning on July 1, 2022.

9 (b) The General Assembly finds that:

10 (1) the success of students in school relies on safe  
11 learning environments and healthy relationships with  
12 school personnel;

13 (2) it is important for staff to maintain a  
14 professional relationship with students at all times and  
15 to define staff-student boundaries to protect students  
16 from sexual misconduct by staff and staff from the

1 appearance of impropriety;

2 (3) many breaches of staff-student boundaries do not  
3 rise to the level of criminal behavior but do pose a  
4 potential risk to student safety;

5 (4) repeated violations of staff-student boundaries  
6 can indicate the grooming of a student for sexual abuse;

7 (5) it is necessary to uphold the State Board of  
8 Education's Code of Ethics for Illinois Educators and for  
9 each school district, charter school, or nonpublic school  
10 to have an employee code of professional conduct policy;

11 (6) each school district, charter school, or nonpublic  
12 school must have the ability to discipline educators for  
13 breaches of its employee code of professional conduct  
14 policy;

15 (7) each school district, charter school, or nonpublic  
16 school must have the ability to know if any of its  
17 educators have violated professional staff-student  
18 boundaries in previous employment; and

19 (8) as bystanders, educators may have knowledge of  
20 concerning behaviors that no one else is aware of, so they  
21 need adequate training on sexual abuse, the employee code  
22 of professional conduct policy, and federal and State  
23 reporting requirements.

24 (c) In this Section, "sexual misconduct" means any act,  
25 including, but not limited to, any verbal, nonverbal, written,  
26 or electronic communication or physical activity, by an

1 employee or agent of the school district, charter school, or  
2 nonpublic school with direct contact with a student that is  
3 directed toward or with a student to establish a romantic or  
4 sexual relationship with the student. Such an act includes,  
5 but is not limited to, any of the following:

6 (1) A sexual or romantic invitation.

7 (2) Dating or soliciting a date.

8 (3) Engaging in sexualized or romantic dialog.

9 (4) Making sexually suggestive comments that are  
10 directed toward or with a student.

11 (5) Self-disclosure or physical exposure of a sexual,  
12 romantic, or erotic nature.

13 (6) A sexual, indecent, romantic, or erotic contact  
14 with the student.

15 (d) To prevent sexual misconduct with students, each  
16 school district, charter school, or nonpublic school shall  
17 develop an employee code of professional conduct policy that  
18 addresses all of the following:

19 (1) Incorporates the Code of Ethics for Illinois  
20 Educators.

21 (2) Incorporates the definition of "sexual misconduct"  
22 in this Section.

23 (3) Identifies the expectations for employees and  
24 agents of the school district, charter school, or  
25 nonpublic school regarding how to maintain a professional  
26 relationship with students, including the expectations for

1 staff-student boundaries, recognizing the age and  
2 developmental level of the students served, and  
3 establishes guidelines for all of the following  
4 situations:

5 (A) Transporting a student.

6 (B) Taking or possessing a photo or a video of a  
7 student.

8 (C) Meeting with a student or contacting a student  
9 outside of the employee's or agent's professional  
10 role.

11 (4) References the employee reporting requirements  
12 required under the Abused and Neglected Child Reporting  
13 Act and under Title IX of the federal Education Amendments  
14 of 1972.

15 (5) References required employee training that is  
16 related to child abuse and educator ethics that are  
17 applicable under State and federal law.

18 (e) The employee code of professional conduct policy,  
19 guidelines established for all of the situations identified in  
20 paragraph (3) of subsection (d), and all available methods for  
21 how to report staff-student boundary violations within a  
22 school and to external agencies must be posted on the website,  
23 if any, of each school district, charter school, or nonpublic  
24 school and must be included in any staff, student, and ~~or~~  
25 parent handbook provided by the school district, charter  
26 school, or nonpublic, ~~nonsectarian elementary or secondary~~

1 school.

2 (f) A violation of the employee code of professional  
3 conduct policy may subject an employee to disciplinary action  
4 up to and including dismissal from employment. Failure to  
5 report a violation of the employee code of professional  
6 conduct policy may subject an employee to disciplinary action  
7 up to and including dismissal from employment.

8 (Source: P.A. 102-676, eff. 12-3-21.)

9 (105 ILCS 5/22-94)

10 Sec. 22-94. Employment history review.

11 (a) This Section applies to all permanent and temporary  
12 positions for employment with a school or a contractor of a  
13 school involving direct contact with children or students.

14 (b) In this Section:

15 "Contractor" means firms holding contracts with any school  
16 including, but not limited to, food service workers, school  
17 bus drivers and other transportation employees, who have  
18 direct contact with children or students.

19 "Direct contact with children or students" means the  
20 possibility of care, supervision, guidance, or control of  
21 children or students or routine interaction with children or  
22 students.

23 "School" means a public or nonpublic elementary or  
24 secondary school.

25 "Sexual misconduct" has the meaning ascribed to it in

1 subsection (c) of Section 22-85.5 of this Code.

2 (c) Prior to hiring an applicant to work directly with  
3 children or students, a school or contractor must ensure that  
4 the following criteria are met:

5 (1) the school or contractor has no knowledge or  
6 information pertaining to the applicant that would  
7 disqualify the applicant from employment;

8 (2) the applicant swears or affirms that the applicant  
9 is not disqualified from employment;

10 (3) using the template developed by the State Board of  
11 Education, the applicant provides all of the following:

12 (A) a list, including the name, address, telephone  
13 number, and other relevant contact information of the  
14 following:

15 (i) the applicant's current employer if the  
16 applicant has direct contact with children or  
17 students at the applicant's current employer;

18 (ii) all former employers of the applicant  
19 that were schools or school contractors, as well  
20 as all former employers at which the applicant had  
21 direct contact with children or students;

22 (B) A written authorization that consents to and  
23 authorizes disclosure by the applicant's current and  
24 former employers under subparagraph (A) of this  
25 paragraph (3) of the information requested under  
26 paragraph (4) of this subsection (c) and the release

1 of related records and that releases those employers  
2 from any liability that may arise from such disclosure  
3 or release of records pursuant to subsection (e).

4 (C) A written statement of whether the applicant:

5 (i) has been the subject of a sexual  
6 misconduct allegation, unless a subsequent  
7 investigation resulted in a finding that the  
8 allegation was false, unfounded, or  
9 unsubstantiated;

10 (ii) has ever been discharged from, been asked  
11 to resign from, resigned from, or otherwise been  
12 separated from any employment, has ever been  
13 disciplined by an employer, or has ever had an  
14 employment contract not renewed due to an  
15 adjudication or finding of sexual misconduct or  
16 while an allegation of sexual misconduct was  
17 pending or under investigation, unless the  
18 investigation resulted in a finding that the  
19 allegation was false, unfounded, or  
20 unsubstantiated; or

21 (iii) has ever had a license or certificate  
22 suspended, surrendered, or revoked or had an  
23 application for licensure, approval, or  
24 endorsement denied due to an adjudication or  
25 finding of sexual misconduct or while an  
26 allegation of sexual misconduct was pending or

1 under investigation, unless the investigation  
2 resulted in a finding that the allegation was  
3 false, unfounded, or unsubstantiated.

4 (4) The school, ~~or~~ contractor, or regional office of  
5 education or intermediate service center on behalf of a  
6 school district, pursuant to paragraph (1.5) of subsection  
7 (i), shall initiate a review of the employment history of  
8 the applicant by contacting those employers listed by the  
9 applicant under subparagraph (A) of paragraph (3) of this  
10 subsection (c) and, using the template developed by the  
11 State Board of Education, request all of the following  
12 information:

13 (A) the dates of employment of the applicant;

14 (B) a statement as to whether the applicant:

15 (i) has been the subject of a sexual  
16 misconduct allegation, unless a subsequent  
17 investigation resulted in a finding that the  
18 allegation was false, unfounded, or  
19 unsubstantiated;

20 (ii) was discharged from, was asked to resign  
21 from, resigned from, or was otherwise separated  
22 from any employment, was disciplined by the  
23 employer, or had an employment contract not  
24 renewed due to an adjudication or finding of  
25 sexual misconduct or while an allegation of sexual  
26 misconduct was pending or under investigation,



1 unless the investigation resulted in a finding  
2 that the allegation was false, unfounded, or  
3 unsubstantiated; or

4 (iii) has ever had a license or certificate  
5 suspended, surrendered, or revoked due to an  
6 adjudication or finding of sexual misconduct or  
7 while an allegation of sexual misconduct was  
8 pending or under investigation, unless the  
9 investigation resulted in a finding that the  
10 allegation was false, unfounded, or  
11 unsubstantiated.

12 (C) The template shall include the following  
13 option: if the employer does not have records or  
14 evidence regarding the questions in items (i) through  
15 (iii) of subparagraph (B) of paragraph (4) of  
16 subsection (c), the employer may state that there is  
17 no knowledge of information pertaining to the  
18 applicant that would disqualify the applicant from  
19 employment.

20 (5) For applicants licensed by the State Board of  
21 Education, the school district, charter school, or  
22 nonpublic school shall verify the applicant's reported  
23 previous employers with previous employers in the State  
24 Board of Education's educator licensure database to ensure  
25 accuracy.

26 (d) An applicant who provides false information or

1 willfully fails to disclose information required in subsection  
2 (c) shall be subject to discipline, up to and including  
3 termination or denial of employment.

4 (e) No later than 20 days after receiving a request for  
5 information required under paragraph (4) of subsection (c), an  
6 employer who has or had an employment relationship with the  
7 applicant shall disclose the information requested. If the  
8 employer has an office of human resources or a central office,  
9 information shall be provided by that office. The employer who  
10 has or had an employment relationship with the applicant shall  
11 disclose the information on the template developed by the  
12 State Board of Education. For any affirmative response to  
13 items (i) through (iii) of subparagraph (B) of paragraph (4)  
14 or subsection (c), the employer who has or had an employment  
15 relationship with the applicant shall provide additional  
16 information about the matters disclosed and all related  
17 records.

18 A school shall complete the template at time of separation  
19 from employment, or at the request of the employee, and  
20 maintain it as part of the employee's personnel file. If the  
21 school completes an investigation after an employee's  
22 separation from employment, the school shall update the  
23 information accordingly.

24 Information received under this Section shall not be  
25 deemed a public record.

26 A school or contractor who receives information under this

1 subsection (e) may use the information for the purpose of  
2 evaluating an applicant's fitness to be hired or for continued  
3 employment and may report the information, as appropriate, to  
4 the State Board of Education, a State licensing agency, a law  
5 enforcement agency, a child protective services agency,  
6 another school or contractor, or a prospective employer.

7 An employer, school, school administrator, regional office  
8 of education or intermediate service center, or contractor who  
9 provides information or records about a current or former  
10 employee or applicant under this Section is immune from  
11 criminal and civil liability for the disclosure of the  
12 information or records, unless the information or records  
13 provided were knowingly false. This immunity shall be in  
14 addition to and not a limitation on any other immunity  
15 provided by law or any absolute or conditional privileges  
16 applicable to the disclosure by virtue of the circumstances or  
17 the applicant's consent to the disclosure and shall extend to  
18 any circumstances when the employer, school, school  
19 administrator, or contractor in good faith shares findings of  
20 sexual misconduct with another employer.

21 Unless the laws of another state prevent the release of  
22 the information or records requested or disclosure is  
23 restricted by the terms of a contract entered into prior to the  
24 effective date of this amendatory Act of the 102nd General  
25 Assembly, and notwithstanding any other provisions of law to  
26 the contrary, an employer, school, school administrator,

1 contractor, or applicant shall report and disclose, in  
2 accordance with this Section, all relevant information,  
3 records, and documentation that may otherwise be confidential.

4 (f) A school or contractor may not hire an applicant who  
5 does not provide the information required under subsection (c)  
6 for a position involving direct contact with children or  
7 students.

8 (g) Beginning on the effective date of this amendatory Act  
9 of the 102nd General Assembly, a school or contractor may not  
10 enter into a collective bargaining agreement, an employment  
11 contract, an agreement for resignation or termination, a  
12 severance agreement, or any other contract or agreement or  
13 take any action that:

14 (1) has the effect of suppressing information  
15 concerning a pending investigation or a completed  
16 investigation in which an allegation was substantiated  
17 related to a report of suspected sexual misconduct by a  
18 current or former employee;

19 (2) affects the ability of the school or contractor to  
20 report suspected sexual misconduct to the appropriate  
21 authorities; or

22 (3) requires the school or contractor to expunge  
23 information about allegations or findings of suspected  
24 sexual misconduct from any documents maintained by the  
25 school or contractor, unless, after an investigation, an  
26 allegation is found to be false, unfounded, or

1 unsubstantiated.

2 (h) Any provision of an employment contract or agreement  
3 for resignation or termination or a severance agreement that  
4 is executed, amended, or entered into on or after the  
5 effective date of this amendatory Act of the 102nd General  
6 Assembly and that is contrary to this Section is void and  
7 unenforceable.

8 (i) For substitute employees, all of the following apply:

9 (1) Except as otherwise provided in paragraph (1.5) of  
10 this subsection (i), the ~~The~~ employment history review  
11 required by this Section is required only prior to the  
12 initial hiring of a substitute employee or placement on a  
13 school's approved substitute list and shall remain valid  
14 as long as the substitute employee continues to be  
15 employed by the same school or remains on the school's  
16 approved substitute list.

17 (1.5) For a substitute teacher licensed under Section  
18 21B-20 and seeking employment in more than one school  
19 district, a school district's regional office of education  
20 or intermediate service center may collect and share the  
21 information and records under paragraphs (2), (3), and (4)  
22 of subsection (c). A regional office of education's or  
23 intermediate service center's participation in the  
24 employment history review shall be limited to collecting  
25 such information and records and sharing the information  
26 and records with the school district or school districts.

1 A regional office of education or intermediate service  
2 center may not use the information and records collected  
3 for the purpose of evaluating a substitute teacher  
4 applicant's fitness to be hired, and the school district  
5 shall complete all aspects of the employment history  
6 review process, unless otherwise agreed to with the  
7 regional office of education or intermediate service  
8 center. The regional office of education or intermediate  
9 service center is not responsible for the content or  
10 completeness of the information or records shared by any  
11 former employer or with the school district. A regional  
12 office of education's or intermediate service center's  
13 participation in the employment history review process  
14 shall occur only prior to the initial hiring of a  
15 substitute teacher by one of its member school districts  
16 or prior to the initial placement of a substitute teacher  
17 on the regional office of education's or intermediate  
18 service center's approved substitute list. The employment  
19 history review shall remain valid as long as the  
20 substitute teacher continues to be employed by a school  
21 district within the regional office of education's or  
22 intermediate service center's jurisdiction or remains on  
23 the regional office of education's or intermediate service  
24 center's approved substitute list. A regional office of  
25 education or intermediate service center participating in  
26 the employment history review process shall promptly

1 provide the school district in which the substitute  
2 teacher is seeking employment with the collected  
3 information and records. If the regional office of  
4 education or intermediate service center receives updated  
5 employment history review information or records, the  
6 information or records shall be shared with the applicable  
7 school districts by the regional office of education or  
8 intermediate service center as provided in this Section.  
9 If, at any time, a school district has information or  
10 records that the school district would have immunity from  
11 liability to share as part of an employment history  
12 review, then the school district and its employees are  
13 immune from liability on the same terms as provided in  
14 subsection (e) if sharing such information or records with  
15 the regional office of education or intermediate service  
16 center that maintains the applicable approved substitute  
17 list.

18 (2) Except as otherwise provided in paragraph (1.5) of  
19 this subsection (i), a ~~A~~ substitute employee seeking to be  
20 added to another school's substitute list shall undergo an  
21 additional employment history review under this Section.  
22 Except as otherwise provided in paragraph (1.5) or  
23 ~~paragraph~~ (3) of this subsection (i) or in subsection (k),  
24 the appearance of a substitute employee on one school's  
25 substitute list does not relieve another school from  
26 compliance with this Section.

1           (3) An employment history review conducted upon  
2 initial hiring of a substitute employee by a contractor or  
3 any other entity that furnishes substitute staffing  
4 services to schools shall satisfy the requirements of this  
5 Section for all schools using the services of that  
6 contractor or other entity.

7           (4) A contractor or any other entity furnishing  
8 substitute staffing services to schools shall comply with  
9 paragraphs (3) and (4) of subsection (j).

10          (j) For employees of contractors, all of the following  
11 apply:

12           (1) The employment history review required by this  
13 Section shall be performed, either at the time of the  
14 initial hiring of an employee or prior to the assignment  
15 of an existing employee to perform work for a school in a  
16 position involving direct contact with children or  
17 students. The review shall remain valid as long as the  
18 employee remains employed by the same contractor, even if  
19 assigned to perform work for other schools.

20           (2) A contractor shall maintain records documenting  
21 employment history reviews for all employees as required  
22 by this Section and, upon request, shall provide a school  
23 for whom an employee is assigned to perform work access to  
24 the records pertaining to that employee.

25           (3) Prior to assigning an employee to perform work for  
26 a school in a position involving direct contact with



1 children or students, the contractor shall inform the  
2 school of any instance known to the contractor in which  
3 the employee:

4 (A) has been the subject of a sexual misconduct  
5 allegation unless a subsequent investigation resulted  
6 in a finding that the allegation was false, unfounded,  
7 or unsubstantiated;

8 (B) has ever been discharged, been asked to resign  
9 from, resigned from, or otherwise been separated from  
10 any employment, been removed from a substitute list,  
11 been disciplined by an employer, or had an employment  
12 contract not renewed due to an adjudication or finding  
13 of sexual misconduct or while an allegation of sexual  
14 misconduct was pending or under investigation, unless  
15 the investigation resulted in a finding that the  
16 allegation was false, unfounded, or unsubstantiated;  
17 or

18 (C) has ever had a license or certificate  
19 suspended, surrendered, or revoked due to an  
20 adjudication or finding of sexual misconduct or while  
21 an allegation of sexual misconduct was pending or  
22 under investigation, unless the investigation resulted  
23 in a finding that the allegation was false, unfounded,  
24 or unsubstantiated.

25 (4) The contractor may not assign an employee to  
26 perform work for a school in a position involving direct

1 contact with children or students if the school objects to  
2 the assignment after being informed of an instance listed  
3 in paragraph (3).

4 (k) An applicant who has undergone an employment history  
5 review under this Section and seeks to transfer to or provide  
6 services to another school in the same school district,  
7 diocese, or religious jurisdiction, or to another school  
8 established and supervised by the same organization is not  
9 required to obtain additional reports under this Section  
10 before transferring.

11 (l) Nothing in this Section shall be construed:

12 (1) to prevent a prospective employer from conducting  
13 further investigations of prospective employees or from  
14 requiring applicants to provide additional background  
15 information or authorizations beyond what is required  
16 under this Section, nor to prevent a current or former  
17 employer from disclosing more information than what is  
18 required under this Section;

19 (2) to relieve a school, school employee, contractor  
20 of the school, or agent of the school from any legal  
21 responsibility to report sexual misconduct in accordance  
22 with State and federal reporting requirements;

23 (3) to relieve a school, school employee, contractor  
24 of the school, or agent of the school from any legal  
25 responsibility to implement the provisions of Section 7926  
26 of Chapter 20 of the United States Code; or

1           (4) to prohibit the right of the exclusive bargaining  
2           representative under a collective bargaining agreement to  
3           grieve and arbitrate the validity of an employee's  
4           termination or discipline for just cause.

5           (m) The State Board of Education shall develop the  
6           templates required under paragraphs (3) and (4) of subsection  
7           (c).

8           (Source: P.A. 102-702, eff. 7-1-23.)".