

SIGNIFICANT ACTIVITY REPORT

TUESDAY, OCTOBER 24, 2017

FORMER CPS EMPLOYEES NOT ELIGIBLE FOR REHIRE WORKING AT CHARTERS AND CONTRACTS

A review conducted by the Office of Inspector General for the Chicago Public Schools discovered that 163 former CPS employees with permanent “Do Not Hire” (DNH) designations in their CPS files were working at CPS charter and contract schools. The review looked at all employees of CPS charter and contract schools working as of December 2016. Key points include:

- The 163 former CPS employees with DNH designations equals 2% of the total number of workers employed by CPS charter and contract schools.
- 98 of the 163 (60%) employees barred from returning to CPS were working in charter or contract schools as teachers.
- 34 of the 163 (21%) were employed at charter or contract schools as administrators or managers. Ten of those were given DNH designations by CPS for falsifying or forging CPS documents. Seven of the administrators and managers identified were classified as DNHs for theft, misappropriation of funds, fiscal mismanagement or waste of funds.
- Three employees found working at charter or contract schools during the 2016–17 school year were designated as DNHs by CPS for sexual abuse. Those employees are no longer working at those schools.
- 22 former CPS employees who were designated as DNHs due to improper corporal punishment or physical abuse of students were working in charter or contract schools during the 2016–17 school year. Based on their job titles, two of those former employees apparently were holding positions at those schools with increased disciplinary responsibilities.
- Former CPS employees with DNHs were found working for 33 different charter or contract operators. Four of those operators employed 11 to 27

- individuals with DNHs, 11 of the operators employed 4 to 8 of those individuals, and 18 employed 1 to 3.
- Five percent of all CPS employees who received DNH designations in the last five years were found to be working in charter or contract schools.
 - The charter and contract schools apparently did not know that they were hiring employees who had been given DNH designations by CPS, because there was no system in place by which charter or contract schools could learn whether their employees or prospective employees had received those designations.
 - On June 30, 2017, the OIG issued a summary report (OIG 16-01121) to the Chicago Board of Education that detailed its findings and recommendations. The OIG recommended that the Board develop and implement a policy or program through which charter schools could learn (1) whether their current employees or prospective hires have received DNH designations from CPS, and (2) the reasons for those designations. Additionally, in DNH cases that raise legitimate concerns about child safety and welfare, the OIG recommended that CPS should notify charter and contract schools when it becomes aware that those employees are working at those schools.
 - The Board recently advised the OIG that it took action with respect to the situations the OIG had identified as presenting the most critical danger to students. Specifically, CPS contacted the charter schools that employed individuals found by CPS to have been sexual abusers, and those individuals are no longer working at those schools. The Board also advised the OIG it is working to establish a broader method by which charter and contract schools will be able to receive DNH information from CPS.

PREVIOUS OIG INVESTIGATIONS SPURRED THIS REVIEW

In June 2016, the OIG reported to the Board that it had discovered that two former CPS employees, who had been given DNH designations, obtained positions at CPS charter or contract schools after resigning from CPS in the wake of OIG investigations. The OIG subsequently initiated this review to determine how many former CPS employees with DNH designations were working at CPS charter and contract schools.

THE REVIEW

A. METHODOLOGY

To identify former CPS employees with “Do Not Hire” (DNH) designations who were working at charter or contract schools, the OIG asked all CPS charter and contract school organizations for a list of their employees as of December 20, 2016. After receiving that information, the OIG compared the employee list against former CPS personnel with DNH designations in their electronic personnel records.

As stated above, the OIG found that 163 former Chicago Public Schools employees with permanent DNH designations in their CPS files were working at CPS charter and contract schools. The OIG then asked CPS to provide the reasons for why it placed DNH designations in those employee files. After CPS provided that information, the OIG requested additional file materials on a selection of former employees who were designated as DNHS for serious offenses. The OIG also interviewed CPS personnel to better understand the district’s policies and practices with respect to this issue.

The OIG’s new Performance-Analysis Unit contributed significantly to the work on this project. The OIG’s review began in the fall of 2016, before the Performance-Analysis Unit was established in January 2017, but after it was formed the unit contributed extensively to the work on this review.

B. TYPES OF MISCONDUCT

The table below shows the reasons why the 163 former employees identified by the OIG were given DNH designations.

Misconduct Types Associated with DNHS		Instances
1.	Incompetence/Unsatisfactory performance	43
2.	Violating school rules	33
3.	Corporal punishment/Physical abuse	22
4.	Forging or falsifying official school or Board documents	17
5.	Repeated acts of misconduct	16
6.	Employee attendance	16
7.	Residency	16
8.	An assault, threat or abuse resulting in physical contact	13
9.	Falsifying employee attendance or employment records	10
10.	Job application fraud	9
11.	Negligence/Incompetence — Students	7
12.	Theft/Misappropriation of funds	7

Misconduct Types Associated with DNHs		Instances
13.	Insubordination	6
14.	Irremediable conduct	6
15.	Policy non-compliance	6
16.	Verbal abuse	5
17.	Serious ethics violation	5
18.	Other	4
19.	Drug/Alcohol Violation	4
20.	Fiscal mismanagement or waste of funds	4
21.	Making false statements	4
22.	Negligence/Incompetence — Other Duties	4
23.	Sexual abuse	3
24.	Sexual harassment	3
25.	Conduct causing psychological or physical harm or injury to a student	2
26.	Inattention to duty, sleeping on duty	2
27.	Using cellphones, etc., while supervising students	2
28.	Using work locations or materials to conduct a secondary business	2
29.	105 ILCS 5/24A-5 Unsatisfactory evaluation	1
30.	Conviction for an enumerated crime as defined in the Illinois School Code	1
31.	Discourteous treatment	1
32.	Failure to perform duties	1
33.	Test cheating	1

* Total number of instances equals 276 because some employees with DNH designations committed more than one offense.

** Some similar misconduct types were grouped into a single category for this analysis.

C. OIG INTERVIEWS WITH CPS PERSONNEL

After discussing this matter with CPS personnel, the OIG learned that, in the past, CPS did not routinely share its DNH designations with its charter or contract schools. The OIG also learned that CPS officials have been discussing ways to address the situation since the OIG first raised this issue with the Board in June 2016. However, no plan of action had been implemented by the time the OIG issued its report in June 2017. Several CPS officials voiced concerns about the information they could or should share with charter and contract schools. For example, a CPS official suggested that CPS might not have the authority to tell charter schools who they could not hire.

Despite those reservations, the OIG learned that there were internal CPS discussions during the 2016–17 school year about implementing a first-step plan to conduct

DNH checks on pending hires at the 129 charter or contract campuses that currently use CPS to do their pre-hiring background checks (approximately half the charter and contract schools). CPS then would alert those schools if it detected any DNHs during the background checks. If the charter then asked CPS about the basis for the DNH, CPS might consider sharing that information on a case-by-case basis. One official told the OIG that the proposed screening of prospective employees at charter and contract schools might not apply to positions in network offices because they do not have contact with students.

Additionally, one official speculated that CPS probably could address this matter in future contracts with charter or contract schools. According to that official, CPS probably could include terms in those contracts regarding job-candidate waivers that would allow for the disclosure of DNH information to charters so that those schools could make informed decisions.

OIG RECOMMENDATIONS IN JUNE REPORT

Despite the Board's concerns and the lack of clear precedent in this area, the OIG concluded that the Board should find a way to ensure that its chosen charter- and contract-school operators — who teach the district's own public school students with money the district provides — know when their employees or prospective hires have received DNH designations from CPS for serious offenses. The OIG recommended that, at the very least, the Board should disclose DNH information when it involves proven sexual and physical abusers in the CPS system. The OIG further recommended that the Board also should disclose DNH information with respect to employees who have committed financial crimes, fraud and other serious misconduct so as to prevent those employees from committing similar acts at CPS charter and contract schools. Accordingly, the OIG recommended that the Board develop a policy or program that:

1. Alerts all contract and charter schools to the possibility that their existing employee rosters may contain former CPS employees who have DNH designations in their files;
2. Provides a means by which charter and contract schools can then seek from CPS, and be given, relevant information, at least in certain serious cases;
3. Provides a means by which charter and contract schools can have all potential hires screened for CPS DNH designations and be given relevant DNH information, at least in certain serious cases; and
4. Requires that in DNH cases that raise legitimate concerns about child safety and welfare, CPS immediately notify charter and contract schools when CPS

becomes aware that employees with DNH designations are working at such schools.

The OIG acknowledged that the Board reasonably may conclude that disclosure of a former employee's DNH status may not be warranted in some cases. For example, many of the DNHs the OIG found resulted from poor teaching performance by probationary teachers. With additional training, a new principal or a different setting, a rookie teacher might be ready to excel. Residency violations also may not warrant disclosure to charter or contract schools. Those schools do not have a residency requirement and may not feel the need to exclude prospective employees whom CPS designated as DNHs for failing to live in Chicago.

The OIG further advised that CPS's then-tentative plan to address DNHs of prospective employees was a good start, but that the plan should extend to existing charter and contract school employees, including those who might have received DNH designations from CPS after they had already obtained positions with charters. Furthermore, the OIG recommended that the screenings should cover all employees, including those in administrative roles at network or main offices. The OIG advised that the potential plan to amend contracts with charter and contract schools to require prospective employees to allow CPS to disclose DNH information appeared to be a promising approach. The OIG encouraged the Board to explore whether such a provision might be extended to existing employees of charter and contract schools.

RESPONSE FROM THE BOARD

The Board recently responded to the OIG's report, informing the OIG that CPS addressed the four most serious cases discussed in the OIG's report — the three former employees given DNHs for sexual abuse and the one former employee given a DNH for an enumerated offense. The OIG also learned that CPS is continuing to develop a plan to address this problem more broadly. The four pressing cases and CPS's broad plan are discussed in more detail below.

A. FOUR CASES ADDRESSED BY CPS

In its June 2017 report to the Board, the OIG stressed that the conduct associated with some of the identified employees was serious enough to warrant immediate attention. The most pressing were three charter or contract employees who had been designated as DNHs for sexual abuse.

One of those employees was a former CPS elementary school teacher who was fired and classified as a DNH for sexually abusing two of his students at his home and inappropriately touching a third student during class. The OIG discovered that he was working at a charter school as a teacher in Chicago during the 2016–17 school year. According to the Board's response, after CPS fired the employee, it notified the

Illinois State Board of Education that the teacher was terminated for “child abuse,” but the Board was not certain whether ISBE ever began the process to revoke his teaching certificate. The Board further informed the OIG that CPS has contacted the charter school about the teacher, and he has since been released by the school and is no longer working there.

The second employee who was classified as a DNH for sexual abuse was fired by CPS after it was discovered that he had a sexual relationship with a 17-year-old student. During the 2016–17 school year, that former CPS employee was working in a charter school as a teacher. The Board advised the OIG in its response that CPS contacted the charter school about this former employee, and the charter initially refused to take any action with respect to him. Apparently, the charter already was aware that the employee had been arrested for criminal sexual assault because that was discovered during the criminal background check conducted when he was hired. Despite the arrest, the charter hired him after he presented expungement paperwork showing that his criminal record was clear. In August 2017, however, CPS learned that the Illinois Department of Children and Family Services “indicated” a finding against the employee for a more recent act of misconduct against a minor. After the Board shared that new information with the charter, the school removed the employee from its worksite pending the outcome of its investigation of the matter.

The third employee with a DNH designation because of sexual abuse resigned from CPS following allegations that he hugged a student and made explicit sexual advances towards the student. During the 2016–17 school year, that former employee was working in a classroom setting at a charter school. In the Board’s response, it advised the OIG that CPS contacted the charter and learned that the employee had been released by the school in 2016.

In addition to the DNH designations resulting from sexual abuse, the OIG also raised immediate concerns about a former CPS employee who was fired and classified as a DNH after CPS discovered she had been convicted of an “enumerated offense,” a classification that bars someone from working in an Illinois public school (see 105 ILCS 5/34-18.5(c)). In this case, records indicated that the employee was convicted of a felony involving the delivery or manufacture of cocaine. The OIG discovered that this employee was working at a charter school during the 2016–17 school year. According to the Board’s response, CPS looked into this matter and learned that, although the charter hired that employee when she still had a conviction for an enumerated offense on her record, that conviction has since been expunged *and*, as a result of a recent statutory amendment, the conviction is no longer an enumerated offense barring her from working in Illinois schools, given the number of years that have elapsed. As such, CPS believes she is still employed by the charter school where she was working last year.

B. THE BOARD'S PLAN TO RESOLVE THE BROADER PROBLEM

The Board said it is developing a protocol for notifying charter and contract schools when their candidates for hire have CPS DNH designations, and also apprising those schools of the basis for those DNHs so that the schools can make an informed decision about whether to hire those candidates. The Board is working with charter and contract schools to amend their existing contracts to allow DNH information to be shared during the screening of prospective employees. This process is already underway at a few charter schools. The Board hopes to have a framework in place with certain charter and contract schools by the end of the calendar year.

Some charter schools have already agreed to include consent language in their employment applications stating that the Board is allowed to provide those schools with job candidates' DNH information, including the basis for the DNHs. The Board has completed the process changes necessary to provide DNH information to those schools that have added that consent language. Accordingly, when job candidates at those schools complete applications giving their consent, and those schools provide the Board with that documentation, the Board will inform those schools of any DNH information pertaining to the candidates, if it exists.

The Board stated that it believes there are two primary categories of concerns. First, employees who have been convicted of enumerated offenses should not be able to work at charter or contract schools. While there may be some instances when convictions are expunged or the impact of the enumerated offense changes with the passage of time, employees who continue to have an enumerated offense on their record cannot work at CPS, a charter school or a contract school. Second, some employees who have not been convicted of an enumerated offense may still have engaged in misconduct so serious that they present an unacceptable risk to students or others.

The Board intends to provide prompt notice to charter and contract schools when the Board learns that prospective employees at those schools have been convicted of sexual crimes or have indicated DCFS findings on their record. Illinois statutes, however, only prohibit schools from employing individuals who have been convicted of enumerated offenses. Beyond that prohibition, charter schools have been given considerable latitude, by statute, with respect to their hiring decisions. The Board exercises its discretion to decline hiring a broad range of persons who have not been convicted of enumerated offenses but, in the Board's judgment, still present a risk to the safety of students, staff and others. Although the Board decides not to hire those individuals, it does not have a statutory basis to require charter schools to defer to the Board's conclusions about the risks presented by those individuals.

In addition, the Board said it would prefer to expand the assistance it provides to charter and contract schools with respect to criminal background checks. The Board

already conducts background checks for prospective employees at some charter schools. However, under the current system, the Board transmits the results to the charters and those schools have the responsibility of reviewing those documents and determining whether they show convictions for enumerated offenses or other information calling a candidate's fitness into question. The Board would prefer to handle the screening process at charter schools the same way it handles the process with respect to CPS candidates. If the Board were more involved, it could identify when charter candidates were convicted of enumerated offenses and then inform those schools that they cannot hire those candidates. Furthermore, the Board could share DCFS reports and refreshed criminal background reports on current employees of the charter and contract schools, if those employees consented. The Board said it is hopeful that it can persuade charters to increase its involvement in this manner.

The Board said that, while it is prioritizing sharing information with respect to *prospective* charter and contract school employees and already has begun working with charter schools to allow for that, it fully intends to extend that process to cover *current* employees as well. Sharing information about current employees will require further amendments to contracts and an effective legal means to take employment actions where needed.

Overall, the OIG is encouraged that this issue has received substantial attention from the highest levels at CPS, and that the Board is working on a remedy to solve this problem. The OIG will continue to monitor this important issue.