

2009

ILLINOIS

REGISTER RULES OF GOVERNMENTAL AGENCIES



Volume 33, Issue 27
July 6, 2009
Pages 9208-9547

Index Department
Administrative Code Division
111 East Monroe Street
Springfield, IL 62756
(217) 782-7017
<http://www.cyberdriveillinois.com>

Printed on recycled paper

PUBLISHED BY JESSE WHITE • SECRETARY OF STATE

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INTRODUCTION

The Illinois Register is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or preemptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State Statute; and activities (meeting agendas; Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State Agencies; is also published in the Register.

The Register is a weekly update of the Illinois Administrative Code (a compilation of the rules adopted by State agencies). The most recent edition of the Code, along with the Register, comprise the most current accounting of State agencies' rulemakings.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1, et seq.].

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2009

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
1	December 22, 2008	January 2, 2009
2	December 29, 2008	January 9, 2009
3	January 5, 2009	January 16, 2009
4	January 12, 2009	January 23, 2009
5	January 20, 2009	January 30, 2009
6	January 26, 2009	February 6, 2009
7	February 2, 2009	February 13, 2009
8	February 9, 2009	February 20, 2009
9	February 17, 2009	February 27, 2009
10	February 23, 2009	March 6, 2009
11	March 2, 2009	March 13, 2009
12	March 9, 2009	March 20, 2009
13	March 16, 2009	March 27, 2009
14	March 23, 2009	April 3, 2009
15	March 30, 2009	April 10, 2009
16	April 6, 2009	April 17, 2009
17	April 13, 2009	April 24, 2009
18	April 20, 2009	May 1, 2009
19	April 27, 2009	May 8, 2009
20	May 4, 2009	May 15, 2009
21	May 11, 2009	May 22, 2009
22	May 18, 2009	May 29, 2009

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
23	May 26, 2009	June 5, 2009
24	June 1, 2009	June 12, 2009
25	June 8, 2009	June 19, 2009
26	June 15, 2009	June 26, 2009
27	June 22, 2009	July 6, 2009
28	June 29, 2009	July 10, 2009
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30	July 13, 2009	July 24, 2009
31	July 20, 2009	July 31, 2009
32	July 27, 2009	August 7, 2009
33	August 3, 2009	August 14, 2009
34	August 10, 2009	August 21, 2009
35	August 17, 2009	August 28, 2009
36	August 24, 2009	September 4, 2009
37	August 31, 2009	September 11, 2009
38	September 8, 2009	September 18, 2009
39	September 14, 2009	September 25, 2009
40	September 21, 2009	October 2, 2009
41	September 28, 2009	October 9, 2009
42	October 5, 2009	October 16, 2009
43	October 13, 2009	October 23, 2009
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45	October 26, 2009	November 6, 2009
46	November 2, 2009	November 13, 2009
47	November 9, 2009	November 20, 2009
48	November 16, 2009	November 30, 2009
49	November 23, 2009	December 4, 2009
50	November 30, 2009	December 11, 2009
51	December 7, 2009	December 18, 2009
52	December 14, 2009	December 28, 2009

Editor's Note: The Secretary of State Index Department is providing this opportunity to remind you that the next filing period for your Regulatory Agenda will occur from May 11 to July 1, 2009.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Merit and Fitness
- 2) Code Citation: 80 Ill. Adm. Code 302
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
302.514	Amendment
302.520	Amendment
302.530	Amendment
302.540	Amendment
302.545	New Section
302.550	Amendment
302.560	Amendment
302.570	Amendment
302.590	Amendment
- 4) Statutory Authority: Implementing and authorized by the Personnel Code [20 ILCS 415/12f]
- 5) A Complete Description of the Subjects and Issues Involved: P.A. 93-839 amended Section 12f of the Personnel Code that addresses layoffs for merit compensation/salary grade employees. The proposed changes reflect the changes made to the statute and provide direction to State agencies conducting layoffs that impact merit compensation/salary grade employees. The proposed rulemaking clarifies the order in which certified employees will be laid off, how vacant positions will be offered to employees subject to layoff, and when notice of layoff must be given. The proposed rulemaking also outlines the order of preference for lateral transfer, defines the process used for reemployment lists for merit compensation/broad-banded employment titles, and defines the time period of how long names are placed on reemployment lists.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 11) Statement of Statewide Policy Objective: These proposed amendments neither create nor expand any State mandate on units of local government, school districts or community college districts.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after the date of publication to:

Gina Wilson
Illinois Department of Central Management Services
720 Stratton Office Building
Springfield, Illinois 62706

217/785-1793
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: State agencies subject to the Personnel Code will need to complete appropriate CMS forms for implementation of any layoffs.
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2009

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND
POSITION CLASSIFICATIONS
CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 302
MERIT AND FITNESS

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302.20	Time, Place, Conduct, Cancellation, Postponement and Suspension of Examinations
302.30	Veterans Preference
302.40	Announcement of Examination
302.52	Notice to Eligibles
302.55	Grading Examinations
302.60	Retaking or Regrading Examinations
302.70	Application and Eligibility

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302.90	Appointments
302.91	Alternative Employment
302.100	Geographic Preference
302.105	Pre-Employment Screening
302.110	Appointment From Eligible List
302.120	Responsibilities of Eligibles
302.130	Removal of Names From Eligible Lists
302.140	Replacement of Names on Eligible List
302.150	Appointment and Status
302.160	Extension of Jurisdiction B

SUBPART C: TRAINEES

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 302.170 Programs
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- 302.180 Limitations on Trainee Appointments

SUBPART D: CONTINUOUS SERVICE

- Section
- 302.190 Definitions
- 302.200 Interruptions in Continuous Service
- 302.210 Deductions From Continuous Service
- 302.215 Leave of Absence for Educational Purposes
- 302.220 Veterans Continuous Service
- 302.230 Peace or Job Corps Enrollees Continuous Service
- 302.240 Accrual and Retention of Continuous Service During Certain Leaves
- 302.250 Limitations on Continuous Service

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- 302.270 Performance Evaluation Forms

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- Section
- 302.300 Probationary Period
- 302.310 Certified Status
- 302.320 Status Change in Probationary Period
- 302.325 Intermittent Status

SUBPART G: PROMOTIONS

- Section
- 302.330 Eligibility for Promotion
- 302.335 Limitations On Promotions
- 302.340 Failure to Complete Probationary Period

SUBPART H: EMPLOYEE TRANSFERS

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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302.410	Intra-Agency Transfer
302.420	Inter-Agency Transfer
302.425	Merit System Transfer
302.430	Geographical Transfer (Agency Directed)
302.431	Geographical Transfer (Agency Directed) Procedures
302.432	Notice To Employee
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302.440	Rights of Transferred Employees
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302.460	Employee Records

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302.480	Notice to Employee
302.490	Employee Obligations
302.495	Salary and Other Benefits of Employee
302.496	Appeal by Certified Employee
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302.626	Progressive Corrective Discipline
302.628	Prohibited Disciplinary Action
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302.640	Suspension Totaling Not More Than Thirty Days in any Twelve Month Period
302.660	Suspension Totaling More than Thirty Days in any Twelve Month Period
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302.822 Appointees Under Term Appointments
302.823 No Promotion to Positions Covered by Term Appointments (Repealed)
302.824 No Reallocation to Term Positions
302.825 Reemployment Rights to Term Appointment
302.830 Expiration of Term Appointment
302.840 Renewal Procedures
302.841 Renewal Procedures for Incumbents on the Effective Date of Section 8b18 of the Personnel Code (Repealed)
302.842 Effective Date of Reappointment or Termination (Repealed)
302.846 Change in Position Factors Affecting Term Appointment Exclusion
302.850 Reconsideration Request
302.860 Renewal Procedure for Incumbents Subject to Public Act 83-1369
302.863 Renewal of Certified or Probationary Incumbents in Exempted Positions

AUTHORITY: Implementing and authorized by the Personnel Code [20 ILCS 415].

SOURCE: Filed May 29, 1975; amended at 2 Ill. Reg. 33, p. 24, effective September 1, 1978; amended at 3 Ill. Reg. 1, p. 63, effective January 1, 1979; amended at 3 Ill. Reg. 22, p. 78, effective June 1, 1979; emergency amendment at 3 Ill. Reg. 48, p. 188, effective January 1, 1980, for a maximum of 150 days; emergency amendment at 4 Ill. Reg. 1, p. 76, effective January 1, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 11, p. 67, effective March 1, 1980; amended at 4 Ill. Reg. 15, p. 216, effective March 31, 1980; amended at 4 Ill. Reg. 22, p. 227, effective June 1, 1980; amended at 5 Ill. Reg. 8029, effective August 1, 1981; amended at 7 Ill. Reg. 654, effective January 5, 1983; codified at 7 Ill. Reg. 13198; amended at 8 Ill. Reg. 7788, effective May 23, 1984; emergency amendment at 9 Ill. Reg. 241, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 7907, effective May 15, 1985; amended at 10 Ill. Reg. 13940, effective September 1, 1986; amended at 12 Ill. Reg. 5634, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 16214, effective September 23, 1988, for a

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NOTICE OF PROPOSED AMENDMENTS

maximum of 150 days; emergency expired February 20, 1989; amended at 13 Ill. Reg. 3722, effective March 13, 1989; amended at 13 Ill. Reg. 10820, effective June 23, 1989; amended at 13 Ill. Reg. 12970, effective August 1, 1989; amended at 15 Ill. Reg. 17974, effective November 27, 1991; amended at 16 Ill. Reg. 8375, effective May 21, 1992; emergency amendment at 16 Ill. Reg. 11645, effective July 6, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 13489, effective August 19, 1992; amended at 16 Ill. Reg. 17607, effective November 6, 1992; amended at 17 Ill. Reg. 3169, effective March 1, 1993; amended at 18 Ill. Reg. 1892, effective January 25, 1994; amended at 18 Ill. Reg. 17183, effective November 21, 1994; amended at 19 Ill. Reg. 8145, effective June 7, 1995; amended at 20 Ill. Reg. 3507, effective February 13, 1996; amended at 21 Ill. Reg. 15462, effective November 24, 1997; amended at 22 Ill. Reg. 14735, effective August 3, 1998; amended at 26 Ill. Reg. 15285, effective October 15, 2002; amended at 29 Ill. Reg. 11800, effective July 14, 2005; emergency amendment at 30 Ill. Reg. 12366, effective July 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18270, effective November 13, 2006; amended at 31 Ill. Reg. 15069, effective October 26, 2007; emergency amendment at 32 Ill. Reg. 19935, effective December 9, 2008, for a maximum of 150 days; amended at 33 Ill. Reg. 6495, effective April 23, 2009; amended at 33 Ill. Reg. _____, effective _____.

SUBPART J: VOLUNTARY REDUCTION, [TRANSFER](#) AND LAYOFFS**Section 302.514 Notice of Temporary Layoff**

Notice of temporary layoff shall be served on the employee by the agency ~~30ten~~ working days in advance of the effective date unless extraordinary operating conditions or events preclude such advance notice.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 302.520 Indeterminate Layoff Procedure

- a) An operating agency may request the indeterminate layoff of an employee because of lack of funds, material change in duties or organization or lack of work or the abolition of a position for any of these reasons. Based on class, [option](#), agency, county or other designation, an indeterminate layoff shall be within organizational units justified by operations and approved prior to the layoff by the Director.
- b) A proposed indeterminate layoff is subject to the approval of the Director before becoming effective and shall include the following in the organizational unit in

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NOTICE OF PROPOSED AMENDMENTS

which the indeterminate layoff is proposed.

- 1) a list of all employees showing status and total continuous service;
- 2) a listing of those employees to be laid off;
- 3) performance records of all employees affected by layoff plan;
- 4) an explanation of any layoff not in order of continuous service;
- 5) an explanation of the organizational unit selected, reflecting agency, facility, geographical, operational and other elements deemed relevant by agency head.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 302.530 Order of Layoff

- a) The following order shall be observed in making an indeterminate layoff:
 - 1) No certified, probationary, or provisional employee may be laid off until all exempt, temporary, and emergency employees in the same class, [option](#) and ~~the~~ approved layoff organizational unit are terminated;
 - 2) No certified or probationary employee may be laid off until all provisional employees in the same class, [option](#) and ~~the~~ approved layoff organizational unit are terminated;
 - 3) No certified employee may be laid off until all probationary employees in the same class, [option](#) and ~~the~~ approved layoff unit are laid off.
 - 4) [Certified employees will be laid off in reverse order of continuous service in the same class, option and approved layoff unit.](#)
- b) Within status groups and in accordance with the layoff plan submitted under Section 302.520, consideration shall be given to performance records and continuous service as defined in Section 302.190.
- c) For purpose of this Section, "certified employee" shall mean any employee who

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NOTICE OF PROPOSED AMENDMENTS

has satisfactorily completed a required period of probation and/or attained certified status in any position during the employee's most recent period of continuous service.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 302.540 Effective Date of Layoff

Merit compensation system/broad-banded employees subject to layoff shall be given 30 days notice of the layoff by the employing agency. A list of all current non-bargaining unit vacancies of all positions within the agency shall be provided to the merit compensation system/broad-banded employee with the notice of layoff. If any bargaining unit vacancy remains after all contractual obligations are fulfilled, those bargaining unit vacancies may be offered to non-bargaining unit staff to minimize the impact of the layoff. Vacancy for any employee subject to layoff is defined as the current, funded, vacant position that management has the present intention to fill. Unless extraordinary operating conditions or events are specified in the proposed layoff plan, no indeterminate layoff shall be effective until ten working days after the Director's approval of the layoff plan.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 302.545 Filling of Vacancies by Merit Compensation System/Broad-Banded Employees Subject to Layoff via Transfer

Each merit compensation system/broad-banded employee who is subject to layoff shall be offered any vacant positions for the same title held by that employee within the same agency and county from which the employee is subject to layoff and within two additional alternate counties designated by the employee. In the event the employee's facility or office is closing, the employee may designate one additional alternate county, for a total of four counties. In no event shall the vacancies include positions that are subject to collective bargaining, unless those bargaining unit vacancies remain after all contractual obligations have been fulfilled. Temporary, emergency and provisional employees shall not be granted a transfer request pursuant to Section 302.450.

(Source: Added at 33 Ill. Reg. _____, effective _____)

Section 302.550 Employee Opportunity to Seek Voluntary Reduction or Lateral Transfer

A certified employee as defined in Section 302.530 who is subject to indeterminate layoff as a

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NOTICE OF PROPOSED AMENDMENTS

result of the Director's approval of a layoff plan shall be promptly notified 30 days prior to thereof of the effective date of layoff, and shall then be advised of the opportunity to request voluntary reduction to a current vacant position in accordance with Section 302.500 or lateral transfer to a current vacant position having the same maximum permissible salary or rate in accordance with Section 302.410 or 302.435 within the agency. An employee seeking voluntary reduction must request the voluntary reductionsuch in writing to the head of the employing agency prior to the proposed effective date of layoff.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 302.560 Order of Preference in Voluntary Reduction or Lateral Transfer**a) Voluntary Reduction**

In the event a certified employee as defined in Section 302.530 requests voluntary reduction as a result of his/her pending indeterminate layoff, the certified employee shall be preferred for any current vacant position in a lower class within the same agency and location in which the employee is then incumbent at the time of thesuch layoff over any probationary or provisional employee, any employee or applicant on an eligible list for thesuch vacant position, any certified employee subject to layoff having lesser continuous service and any certified employee requesting asuch reduction who is not subject to layoff.

b) Lateral Transfer

In the event a certified employee requests a lateral transfer as a result of his/her pending indeterminate layoff, the certified employee shall be preferred for any current vacant position whose classification has the same maximum permissible salary or rate within the same agency over any probationary or provisional employee, any employee or applicant on an eligible list for the vacant position, any certified employee subject to layoff having lesser continuous service and any certified employee requesting lateral transfer who is not subject to layoff.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 302.570 Reemployment Lists**a) Employees in Titles Subject to Collective Bargaining**

The Department shall establish and maintain a reemployment list, by class, option, and agency and county, or other designated geographical area approved by the Director before layoff. A certified employee, except those who are in the

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

~~Senior Public Service Administrator or the Public Service Administrator classes who are covered by subsections (b) and (c) below,~~ who has been indeterminately laid off shall be placed in order of length of continuous service as defined in Section 302.190 on a reemployment list for recall to the first available assignment to a position in the class (or related classes with substantially similar requirements and duties), ~~option, and~~ agency, and county, or other designated geographical location or area in which the employee was assigned prior to being placed on the reemployment list. ~~When~~Where circumstances warrant, at the discretion of the Director, ~~these~~ reemployment list may be established by related classes and options whose duties are substantially similar to the class from which the employee was laid off.

- b) Employees in Merit Compensation System/Broad-banded Titles
In the event no vacancies exist as described in Section 302.545, employees in merit compensation system/broad-banded titles shall be placed on the employing agency's reemployment list for the title and option from which the employee was laid off and any other titles in which the employee was previously certified within the county from which the employee was laid off and within two additional alternate counties designated by the employee. In the event the employee's facility or office is closing, the employee may designate one additional alternate county, for a total of four counties. In no event shall the vacancies include positions that are subject to collective bargaining unless those bargaining unit vacancies remain after all contractual obligations have been fulfilled. Laid off employees shall remain on the reemployment list for three years, commencing with the effective date of layoff. Reemployment of merit compensation system/broad-banded employees to positions under term appointments is subject to the provisions of Section 302.825. Reemployment of merit compensation system/broad-banded employees to non-term appointment Senior Public Service Administrator and Public Service Administrator positions will be placed on the appropriate list for the identical classification and option designation for the position from which the employee was laid off. ~~Certified employees who have been indeterminately laid off from the Senior Public Service Administrator or the Public Administrator classifications will be placed on the appropriate reemployment list for the Senior Public Service Administrator or the Public Service Administrator based on the classification and option designation for the position from which the employee was laid off.~~ The employee shall be placed, in order of length of continuous service as defined in Section 302.190, on a reemployment list for recall to the first available assignment to a position in the class and option, agency, and county or other designated geographical location or

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area in which the employee was assigned prior to being placed on the reemployment list.

- c) [Qualifications for Reemployment](#)
An agency will not be required to consider any employee who does not have the necessary qualifications for reemployment to ~~any particular Senior Public Service Administrator or Public Service Administrator~~ position, or who was not at the same or higher organizational level as the position being filled. If an agency makes such a determination, this must be documented and submitted to the Department of Central Management Services.
- d) [Reinstatement](#)
An employee whose name has been placed on the reemployment list will also be eligible for reinstatement in accordance with Section 302.610.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 302.590 Removal of Names From Reemployment List

- a) A laid off employee's name shall be removed from the reemployment list when:
- 1) The employee is recalled from layoff;
 - 2) The employee refuses an offer of permanent reemployment;
 - 3) The employee's name has remained on the reemployment list for ~~36~~24 months;
 - 4) The employee has been reinstated in accordance with Section 302.610.
- b) Offers of temporary, exempt or emergency appointment shall not be considered as recall or reinstatement.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Foster Parent Code
- 2) Code Citation: 89 Ill. Adm. Code 340
- 3)

<u>Section Number:</u>	<u>Proposed Action:</u>
340.100	Amended
- 4) Statutory Authority: 25 USC 1901; 20 ILCS 505/5
- 5) A Complete Description of the Subjects and Issues Involved: Part 340, Foster Parent Code, is being amended to require that 2 scorers and not 3 review each implementation plan. DCFS and the Statewide Foster Care Advisory Council recommend the change in light of the resignation of one of the Council's designated scorers. No one could be found to replace the departing scorer. Members of the Council were forced to score many extra plans at approximately one hour per plan. In the past several years annual implementation plans have greatly improved. For FY09, 37 plans scored above 100 points from 107 possible. Additionally 27 plans scored between 90 and 100 points, and all 71 plans were found to be acceptable. When the process began in 1996, plans were not in compliance with statute. The Department drafted Part 340 so that 3 people scored each plan. As evidenced by the vast improvement in plan scores, it is no longer necessary for 3 people to score each plan.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain any automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

period of 45 days following publication of this Notice. Comments should be submitted to:

Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65-D
Springfield, Illinois 62701-1498

Telephone: 217/524-1983
TTY: 217/524-3715
E-Mail: cfpolicy@idcfs.state.il.us
Facsimile: .217/557-0692

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of businesses affected: The Department has determined that the proposed amendment will not have an economic impact on small businesses.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because the revisions were not anticipated at the time the regulatory agenda was completed.

The full text of the Proposed Amendment appears on the next page:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER b: PROGRAM AND TECHNICAL SUPPORT

PART 340
FOSTER PARENT CODE

SUBPART A: PURPOSE, DEFINITIONS AND INTRODUCTION

Section

- 340.10 Purpose
- 340.20 Definitions
- 340.30 Introduction

SUBPART B: FOSTER PARENT RIGHTS AND RESPONSIBILITIES

- 340.40 Foster Parent Rights
- 340.50 Foster Parent Responsibilities

SUBPART C: REQUIREMENTS FOR FOSTER PARENT ANNUAL PLAN

- 340.60 Content
- 340.70 Resolution of Foster Parent Grievances
- 340.80 Public Review
- 340.90 Annual Plan Submission

SUBPART D: REVIEW, APPROVAL, MONITORING AND REPORTING

- 340.100 Review and Approval Process
- 340.110 Monitoring
- 340.120 Reporting

SUBPART E: SEVERABILITY OF THIS PART

- 340.130 Severability of this Part
- 340.APPENDIX A Outline and Minimum Requirements for Foster Parent Law Annual Implementation Plan
- 340.APPENDIX B Rating Components for Foster Parent Law Annual Implementation Plan

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

AUTHORITY: Implementing and authorized by the Foster Parent Law [20 ILCS 520].

SOURCE: Adopted at 24 Ill. Reg. 8515, effective July 1, 2000; amended at 27 Ill. Reg. 1124, effective January 15, 2003; amended at 33 Ill. Reg. 2202, effective January 31, 2009; amended at 33 Ill. Reg. _____, effective _____.

SUBPART D: REVIEW, APPROVAL, MONITORING AND REPORTING

Section 340.100 Review and Approval Process

- a) The Department shall insure that appropriate staff are available to assist the Advisory Council in coordinating and conducting the evaluation of the Foster Parent Law implementation plans.
- b) The Department shall conduct an annual training, before any plans are scored, for Advisory Council members about how to score plans.
- c) ~~Two~~^{Three} members of the Advisory Council, or their designees, shall review annual plans within 90 days after submission.
- d) Annual plans with an average rating of the three scores of 75 or more points on the rating scale will be recommended for acceptance by the Advisory Council.
- e) The Advisory Council shall vote to accept or reject each annual plan. Approval or rejection will be determined by a majority of members of the Advisory Council present at the time of voting.
- f) Annual plans that are not accepted will be returned to the Department region or purchase of service agency with an explanation of deficiencies and a request for a revised plan to be submitted to the Department's Division of Foster Care and Permanency Services within 45 calendar days. The revised plans will be given to the Advisory Council for review.
- g) Annual plans that are determined acceptable will result in a letter being sent to the Department region or purchase of service agency with a list of strengths as determined by the Advisory Council and suggestions for improvement, if any.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Podiatric Medical Practice Act of 1987
- 2) Code Citation: 68 Ill. Adm. Code 1360
- 3) Section Number: 1360.70 Proposed Action:
Amendment
- 4) Statutory Authority: Podiatric Medical Practice Act of 1987 [225 ILCS 100]
- 5) A Complete Description of the Subjects and Issues Involved: Section 1360.70 is being amended as a result of Public Act 95-235, which increased the number of continuing education hours required for renewal from 25 to 50 hours.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking has no impact on local governments.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Interested persons may submit written comments to:

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 3rd Floor
Springfield, IL 62786

217/785-0813

Fax: 217/557-4451

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

All written comments received within 45 days after this issue of the *Illinois Register* is published will be considered.

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: Those providing podiatric services
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: Podiatric skills are required for licensure.

- 14) Regulatory Agenda on which this rulemaking was summarized: July 2008

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1360

PODIATRIC MEDICAL PRACTICE ACT OF 1987

Section

1360.10	Statutory Authority (Repealed)
1360.20	Approved Colleges of Podiatry
1360.30	Application for Examination
1360.40	Examination
1360.45	Application for Licensure on the Basis of Examination
1360.50	Endorsement
1360.55	Renewals
1360.60	Restoration
1360.65	Temporary Licenses
1360.70	Continuing Education
1360.75	Visiting Professor Permits
1360.80	Definition of "Human Foot" (Repealed)
1360.85	Advertising
1360.86	Mandatory Reporting of Impaired Podiatric Physicians by Health Care Institutions
1360.90	Granting Variances
1360.95	Dishonorable, Unprofessional and Unethical Conduct Standards
1360.APPENDIX A	Curriculum Requirements (Repealed)
1360.APPENDIX B	Clinical Training Requirements (Repealed)

AUTHORITY: Implementing the Podiatric Medical Practice Act of 1987 [225 ILCS 100] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Adopted at 4 Ill. Reg. 50, p. 58, effective December 3, 1980; codified at 5 Ill. Reg. 11053; amended at 5 Ill. Reg. 14171, effective December 3, 1981; emergency amendment at 6 Ill. Reg. 915, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; amended at 6 Ill. Reg. 8402, effective July 2, 1982; amended at 7 Ill. Reg. 7668, effective June 15, 1983; amended at 9 Ill. Reg. 5377, effective April 4, 1985; transferred from Chapter I, 68 Ill. Adm. Code 360 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1360 (Department of Professional Regulation) pursuant to P.A.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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85-225, effective January 1, 1988, at 12 Ill. Reg. 2962; amended at 13 Ill. Reg. 4234, effective March 21, 1989; amended at 14 Ill. Reg. 701, effective December 28, 1989; amended at 16 Ill. Reg. 13281, effective August 18, 1992; amended at 18 Ill. Reg. 16433, effective October 21, 1994; amended at 20 Ill. Reg. 10692, effective July 26, 1996; amended at 23 Ill. Reg. 12681, effective October 5, 1999; amended at 30 Ill. Reg. 4704, effective March 1, 2006; amended at 33 Ill. Reg. _____, effective _____.

Section 1360.70 Continuing Education

- a) Continuing Education Hour Requirements
 - 1) Every renewal applicant who applies for renewal of a license as a podiatric physician must complete 10050 hours of continuing education (CE) relevant to the practice of podiatric medicine.
 - 2) A prerenewal period is the 24 months preceding January 31 of each odd-numbered year.
 - 3) A renewal applicant is not required to comply with CE requirements for the first renewal.
 - 4) Podiatric physicians licensed in Illinois but residing and practicing in other states must comply with the CE requirements set forth in this Section.
- b) Approved Continuing Education
 - 1) All continuing education hours must be earned by verified attendance at or participation in a program or course sponsored, approved or given by a sponsor approved by the Council on Podiatric Medical Education; sponsored by the Illinois Podiatric Medical Association; or which is offered or sponsored by an approved continuing education sponsor who meets the requirements set forth in subsection (c), except for those activities provided in subsections (b)(2), (3), (4), (5), and (6).
 - 2) A maximum of 18 hours of credit per prerenewal period may be earned through postgraduate training programs (i.e., extern, residency, or fellowship programs) approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association as provided for in Section 5(G) of the Act.

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- 3) A maximum of 18 hours per prerenewal period may be earned for verified teaching in an approved podiatric medical college which meets the standards set forth in Section 1360.20 and/or as an instructor of continuing education through an approved sponsor. One hour of credit will be granted for actual presentation, plus actual preparation time of up to 2 hours for each hour of presentation. Preparation time shall not be allowed for presentations of the same course, and will only be allowed for additional study or research.
- 4) Up to 15 total credit hours per prerenewal period may be claimed for papers, publications, books, presentations and exhibits. The preparation of each published paper, book chapter or audio-visual presentation dealing with Podiatric Medicine which is made available to health professionals may be claimed as 5 hours of credit. A presentation or exhibit must be before a professional audience of podiatrists or other health professionals. Five credit hours may be claimed for only the first time the information is published or presented.
- 5) Up to 15 total credit hours per prerenewal period may be earned through nonsupervised individual activities in the following areas:
 - A) Self-Instruction – Up to 3 hours of credit may be claimed for the use of audio-visual materials, programmed education materials, electronic teaching devices and the individual reading of podiatric medical literature.
 - B) Patient Care Review – Up to 3 hours may be claimed for time spent in programs concerned with the review and evaluation of patient care. This includes such activities as peer review.
 - C) Self-assessment – Up to 3 hours of credit may be claimed for time spent in self-assessment programs. These would include, for example, quizzes completed by the podiatrist after reading professional publications of a scientific or patient-care oriented nature, or completion of aptitude questionnaires provided by various organizations and societies.
 - D) Specialty Board or Specialty Organization Preparation – Up to 6

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hours may be claimed for nonsupervised individual activities carried out in preparation for an examination or to satisfy other requirements for membership in a specialty organization. No additional credit may be claimed for taking and/or passing an examination given by the board or organization.

- 6) Up to 10 hours of credit per prerenewal period may be claimed for verified formal learning experiences sponsored by hospitals, agencies, organizations or other institutions which are not approved continuing education sponsors, in subjects that facilitate the podiatrist's performance, such as courses in computerized patient-record systems, practice management, risk management or training – including advanced degree programs in education, health administration, and similar subjects.
- c) Approved CE Sponsors and Programs
- 1) Sponsor, as used in this Section, shall mean the Council on Podiatric Medical Education and its approved sponsors, the Illinois Podiatric Medical Association, or a person, firm, association, corporation, or any other group which has been approved and authorized by the Board and validated by the Illinois Podiatric Medical Association Continuing Education Committee to coordinate and present continuing education courses or programs.
 - 2) A sponsor shall submit the fee set forth in Section 18(a)(10) of the Act, along with a sponsor application that certifies:
 - A) That all courses and programs offered by the sponsor for CE credit will comply with the criteria in subsection (c)(3) and all other criteria in this Section;
 - B) That the sponsor will be responsible for verifying attendance at each course or program, and provide a certificate of attendance as set forth in subsection (d);
 - C) That, upon request by the Division, the sponsor will submit such evidence (e.g., certificate of attendance or course materials) as is necessary to establish compliance with this Section. Such evidence shall be required when the Division has reason to believe

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that there is not full compliance with the statute and this Part and that this information is necessary to ensure compliance.

- 3) All courses and programs shall:
 - A) Contribute to the advancement, extension and enhancement of professional clinical skills and scientific knowledge in the practice of podiatric medicine;
 - B) Provide experiences which contain scientific integrity, and subject matter and course material relevant to podiatric medicine;
 - C) Be developed and presented by persons with education and/or experience in the subject matter of the program;
 - D) Specify the course objectives, course content and teaching methods to be used; and
 - E) Specify the number of CE hours that may be applied to fulfilling the Illinois CE requirements for license renewal.
- 4) All programs given by approved sponsors shall be open to all licensed podiatric physicians and not be limited to members of a single organization or group.
- 5) Continuing education credit hours used to satisfy the CE requirements of another jurisdiction may be applied to fulfill the CE requirements of the State of Illinois.
- 6) Each sponsor shall reapply by January 31 of each year. The sponsor shall submit to the Division, along with the completed sponsor application and the fee set forth in Section 18(a)(10) of the Act, a list of courses and programs offered within the last 12 months, which includes a brief description, location, date and time of the course.
- 7) Certification of Attendance. It shall be the responsibility of a sponsor to provide each participant in an approved program or course with a certificate of attendance or participation. The sponsor's certificate of attendance shall contain:

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- A) The name and address of the sponsor;
 - B) The name and address of the participant;
 - C) A brief statement of the subject matter;
 - D) The number of hours attended in each program;
 - E) The date and place of the program; and
 - F) The signature of the sponsor.
- 8) The sponsor shall maintain attendance records for not less than five years.
 - 9) The sponsor shall be responsible for assuring that no renewal applicant shall receive CE credit for time not actually spent attending the program.
 - 10) Upon the failure of any sponsor to comply with any of the foregoing requirements, the Division, after notice to the sponsor and hearing before and recommendation by the Board (see 68 Ill. Adm. Code 1110), shall thereafter refuse to accept for CE credit attendance at or participation in any of such sponsor's CE activities until such time as the Division receives assurances of compliance with this Section.
 - 11) Notwithstanding any other provision of this Section, the Division or Board may evaluate any sponsor of any approved continuing education program at any time to ensure compliance with the requirements of this Section.
- d) Certification of Compliance with CE Requirements
- 1) Each renewal applicant shall certify, on the renewal application, full compliance with the CE requirements set forth in subsections (a) and (b).
 - 2) The Division may require additional evidence demonstrating compliance with the CE requirements. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of such compliance. Such additional evidence will be required in the context of the Division's random audit.

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- 3) When there appears to be a lack of compliance with CE requirements, an applicant will be notified in writing and may request an interview with the Board.
- e) Continuing Education Earned in Other Jurisdictions
- 1) If a renewal applicant will be earning or has earned CE hours in another jurisdiction, but is not licensed in that jurisdiction and the course is not presented by an approved sponsor, the applicant shall submit an individual program approval request form, along with a \$20 processing fee, to have the program reviewed. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(5) of this Section. Applicants may seek individual program approval prior to the participation in the course or program. All individual program approval requests shall be submitted 90 days prior to the expiration date of the license.
 - 2) If a licensee fails to submit an out of state CE approval form within the required time frame, late approval may be obtained by submitting the approval request form with the \$20 processing fee plus a \$50 per credit hour late fee not to exceed \$300. The Board shall review and recommend approval and disapproval of the program using the criteria set forth in subsection (b) of this Section.
- f) Waiver of CE Requirements
- 1) Any renewal applicant seeking renewal of a license without having fully complied with these CE requirements shall file with the Division a renewal application along with the required fee set forth in Section 18(a)(3) of the Act, a statement setting forth the facts concerning such non-compliance, and request for waiver of the CE requirements on the basis of such facts. The request for waiver shall be made prior to the renewal date. If the Division, upon the written recommendation of the Board, finds from such affidavit or any other evidence submitted, that extreme hardship has been shown for granting a waiver, the Division shall waive enforcement of the requirements for the renewal period for which the applicant has applied.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

- 2) Extreme hardship shall be determined on an individual basis by the Board and be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable prerenewal period because of:
 - A) Full time service in the Armed Forces of the United States of America during a substantial part of such period;
 - B) An incapacitating illness documented by a statement from a currently licensed physician;
 - C) A physical inability to travel to the sites of approved programs documented by a currently licensed physician; or
 - D) Any other similar extenuating circumstances.
- 3) Any renewal applicant who, prior to the expiration date of a license, submits a request for a waiver, in whole or in part, pursuant to the provisions of this Section shall be deemed to be in good standing until the final Division decision on the application has been made.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3)

<u>Section Number:</u>	<u>Proposed Action:</u>
100.7300	Amendment
- 4) Statutory Authority: 35 ILCS 5/704A(b) and 5/1401
- 5) A Complete Description of the Subjects and Issues Involved: IITA Section 704A(b) provides that employer shall file withholding returns "in the form and manner required by the Department". Under this authority, this rulemaking amends Section 100.7300(a) to require payroll service providers who are required to file W-2 information electronically for federal purposes to also file their W-2 information with the Department of Revenue electronically.
- 6) Published studies or reports and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
100.3374	New Section	32 Ill. Reg. 19894; December 26, 2008
100.7300	Amendment	33 Ill. Reg. 7570; June 12, 2009
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 12) Time, Place and Manner in which interested persons may comment on this rulemaking: Persons who wish to submit comments on this rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

Paul Caselton

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

Deputy General Counsel – Income Tax
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794

217/524-3951

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking applies only to payroll service providers who are large enough (over 250 returns per year filed federally) to be required to file their federal returns electronically.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2009

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 100
INCOME TAX

SUBPART A: TAX IMPOSED

Section

- 100.2000 Introduction
100.2050 Net Income (IITA Section 202)

SUBPART B: CREDITS

Section

- 100.2100 Replacement Tax Investment Credit Prior to January 1, 1994 (IITA 201(e))
100.2101 Replacement Tax Investment Credit (IITA 201(e))
100.2110 Investment Credit; Enterprise Zone and River Edge Redevelopment Zone (IITA 201(f))
100.2120 Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone (IITA 201(g))
100.2130 Investment Credit; High Impact Business (IITA 201(h))
100.2140 Credit Against Income Tax for Replacement Tax (IITA 201(i))
100.2150 Training Expense Credit (IITA 201(j))
100.2160 Research and Development Credit (IITA 201(k))
100.2163 Environmental Remediation Credit (IITA 201(l))
100.2165 Education Expense Credit (IITA 201(m))
100.2170 Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)
100.2180 Credit for Residential Real Property Taxes (IITA 208)
100.2185 Film Production Services Credit (IITA 213)
100.2190 Tax Credit for Affordable Housing Donations (IITA Section 214)
100.2195 Dependent Care Assistance Program Tax Credit (IITA 210)
100.2196 Employee Child Care Assistance Program Tax Credit (IITA Section 210.5)
100.2197 Foreign Tax Credit (IITA Section 601(b)(3))
100.2198 Economic Development for a Growing Economy Credit (IITA 211)
100.2199 Illinois Earned Income Tax Credit (IITA Section 212)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS
OCCURRING PRIOR TO DECEMBER 31, 1986

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

Section

- 100.2200 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Scope
- 100.2210 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) – Definitions
- 100.2220 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Current Net Operating Losses: Offsets Between Members
- 100.2230 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Carrybacks and Carryforwards
- 100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Effect of Combined Net Operating Loss in Computing Illinois Base Income
- 100.2250 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS FOR LOSSES
OCCURRING ON OR AFTER DECEMBER 31, 1986

Section

- 100.2300 Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2310 Computation of the Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2320 Determination of the Amount of Illinois Net Loss for Losses Occurring On or After December 31, 1986
- 100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring On or After December 31, 1986
- 100.2340 Illinois Net Losses and Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns
- 100.2350 Illinois Net Losses and Illinois Net Loss Deductions, for Losses Occurring On or

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Changes in Membership

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS, CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

Section	
100.2405	Gross Income, Adjusted Gross Income, Taxable Income and Base Income Defined; Double Deductions Prohibited; Legislative Intention (IITA Section 203(e), (g) and (h))
100.2410	Net Operating Loss Carryovers for Individuals, and Capital Loss and Other Carryovers for All Taxpayers (IITA Section 203)
100.2430	Addition and Subtraction Modifications for Transactions with 80-20 and Noncombination Rule Companies
100.2450	IIT Refunds (IITA Section 203(a)(2)(H), (b)(2)(F), (c)(2)(J) and (d)(2)(F))
100.2455	Subtraction Modification: Federally Disallowed Deductions (IITA Sections 203(a)(2)(M), 203(b)(2)(I), 203(c)(2)(L) and 203(d)(2)(J))
100.2470	Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))
100.2480	Enterprise Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))
100.2490	Foreign Trade Zone/High Impact Business Dividend Subtraction (IITA Sections 203(a)(2)(K), 203(b)(2)(L), 203(c)(2)(O), 203(d)(2)(M))

SUBPART F: BASE INCOME OF INDIVIDUALS

Section	
100.2580	Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))
100.2590	Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

SUBPART G: BASE INCOME OF TRUSTS AND ESTATES

Section	
100.2655	Subtraction Modification for Enterprise Zone and River Edge Redevelopment Zone Interest (IITA Section 203(b)(2)(M))
100.2680	Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for

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Charity (Repealed)

SUBPART I: GENERAL RULES OF ALLOCATION AND
APPORTIONMENT OF BASE INCOME

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100.3000	Terms Used in Article 3 (IITA Section 301)
100.3010	Business and Nonbusiness Income (IITA Section 301)
100.3015	Business Income Election (IITA Section 1501)
100.3020	Resident (IITA Section 301)

SUBPART J: COMPENSATION

Section

100.3100	Compensation (IITA Section 302)
100.3110	State (IITA Section 302)
100.3120	Allocation of Compensation Paid to Nonresidents (IITA Section 302)

SUBPART K: NON-BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section

100.3200	Taxability in Other State (IITA Section 303)
100.3210	Commercial Domicile (IITA Section 303)
100.3220	Allocation of Certain Items of Nonbusiness Income by Persons Other Than Residents (IITA Section 303)

SUBPART L: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section

100.3300	Allocation and Apportionment of Base Income (IITA Section 304)
100.3310	Business Income of Persons Other Than Residents (IITA Section 304) – In General
100.3320	Business Income of Persons Other Than Residents (IITA Section 304) – Apportionment (Repealed)
100.3330	Business Income of Persons Other Than Residents (IITA Section 304) – Allocation
100.3340	Business Income of Persons Other Than Residents (IITA Section 304)
100.3350	Property Factor (IITA Section 304)
100.3360	Payroll Factor (IITA Section 304)

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100.3370	Sales Factor (IITA Section 304)
100.3371	Sales Factor for Telecommunications Services
100.3380	Special Rules (IITA Section 304)
100.3390	Petitions for Alternative Allocation or Apportionment (IITA Section 304(f))
100.3400	Apportionment of Business Income of Financial Organizations (IITA Section 304(c))
100.3420	Apportionment of Business Income of Insurance Companies (IITA Section 304(b))
100.3500	Allocation and Apportionment of Base Income by Nonresident Partners

SUBPART M: ACCOUNTING

Section	
100.4500	Carryovers of Tax Attributes (IITA Section 405)

SUBPART N: TIME AND PLACE FOR FILING RETURNS

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100.5000	Time for Filing Returns: Individuals (IITA Section 505)
100.5010	Place for Filing Returns: All Taxpayers (IITA Section 505)
100.5020	Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)
100.5030	Taxpayer's Notification to the Department of Certain Federal Changes Arising in Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years (IITA Section 506)
100.5040	Innocent Spouses
100.5050	Frivolous Returns
100.5060	Reportable Transactions
100.5070	List of Investors in Potentially Abusive Tax Shelters and Reportable Transactions
100.5080	Registration of Tax Shelters (IITA Section 1405.5)

SUBPART O: COMPOSITE RETURNS

Section	
100.5100	Composite Returns: Eligibility
100.5110	Composite Returns: Responsibilities of Authorized Agent
100.5120	Composite Returns: Individual Liability
100.5130	Composite Returns: Required forms and computation of Income
100.5140	Composite Returns: Estimated Payments
100.5150	Composite Returns: Tax, Penalties and Interest

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- 100.5160 Composite Returns: Credits on Separate Returns
- 100.5170 Composite Returns: Definition of a "Lloyd's Plan of Operation"
- 100.5180 Composite Returns: Overpayments and Underpayments

SUBPART P: COMBINED RETURNS

Section

- 100.5200 Filing of Combined Returns
- 100.5201 Definitions and Miscellaneous Provisions Relating to Combined Returns
- 100.5205 Election to File a Combined Return
- 100.5210 Procedures for Elective and Mandatory Filing of Combined Returns
- 100.5215 Filing of Separate Unitary Returns
- 100.5220 Designated Agent for the Members
- 100.5230 Combined Estimated Tax Payments
- 100.5240 Claims for Credit of Overpayments
- 100.5250 Liability for Combined Tax, Penalty and Interest
- 100.5260 Combined Amended Returns
- 100.5265 Common Taxable Year
- 100.5270 Computation of Combined Net Income and Tax
- 100.5280 Combined Return Issues Related to Audits

SUBPART Q: REQUIREMENT AND AMOUNT OF WITHHOLDING

Section

- 100.7000 Requirement of Withholding (IITA Section 701)
- 100.7010 Compensation Paid in this State (IITA Section 701)
- 100.7020 Transacting Business Within this State (IITA Section 701)
- 100.7030 Payments to Residents (IITA Section 701)
- 100.7035 Nonresident Partners, Subchapter S Corporation Shareholders, and Trust Beneficiaries (IITA Section 709.5)
- 100.7040 Employer Registration (IITA Section 701)
- 100.7050 Computation of Amount Withheld (IITA Section 702)
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- 100.7070 Voluntary Withholding (IITA Section 701)
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- 100.7090 Reciprocal Agreement (IITA Section 701)
- 100.7095 Cross References

SUBPART R: AMOUNT EXEMPT FROM WITHHOLDING

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- 100.7100 Withholding Exemption (IITA Section 702)
- 100.7110 Withholding Exemption Certificate (IITA Section 702)
- 100.7120 Exempt Withholding Under Reciprocal Agreements (IITA Section 702)

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Section

- 100.7200 Reports for Employee (IITA Section 703)

SUBPART T: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section

- 100.7300 Returns and Payments of Income Tax Withheld from Wages (IITA Sections 704 and 704A)
- 100.7310 Returns Filed and Payments Made on Annual Basis (IITA Section 704)
- 100.7320 Time for Filing Returns and Making Payments for Taxes Required to Be Withheld Prior to January 1, 2008 (IITA Section 704)
- 100.7325 Time for Filing Returns and Making Payments for Taxes Required to Be Withheld On or After January 1, 2008 (IITA Section 704A)
- 100.7330 Payment of Tax Required to be Shown Due on a Return (IITA Sections 704 and 704A)
- 100.7340 Correction of Underwithholding or Overwithholding (IITA Section 704)
- 100.7350 Domestic Service Employment (IITA Sections 704 and 704A)
- 100.7360 Definitions and Special Provisions Relating to Reporting and Payment of Income Tax Withheld (IITA Sections 704 and 704A)
- 100.7370 Penalty and Interest Provisions Relating to Reporting and Payment of Income Tax Withheld (IITA Sections 704 and 704A)

SUBPART U: COLLECTION AUTHORITY

Section

- 100.9000 General Income Tax Procedures (IITA Section 901)
- 100.9010 Collection Authority (IITA Section 901)
- 100.9020 Child Support Collection (IITA Section 901)

SUBPART V: NOTICE AND DEMAND

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Section
100.9100 Notice and Demand (IITA Section 902)

SUBPART W: ASSESSMENT

Section
100.9200 Assessment (IITA Section 903)
100.9210 Waiver of Restrictions on Assessment (IITA Section 907)

SUBPART X: DEFICIENCIES AND OVERPAYMENTS

Section
100.9300 Deficiencies and Overpayments (IITA Section 904)
100.9310 Application of Tax Payments Within Unitary Business Groups (IITA Section 603)
100.9320 Limitations on Notices of Deficiency (IITA Section 905)
100.9330 Further Notices of Deficiency Restricted (IITA Section 906)

SUBPART Y: CREDITS AND REFUNDS

Section
100.9400 Credits and Refunds (IITA Section 909)
100.9410 Limitations on Claims for Refund (IITA Section 911)
100.9420 Recovery of Erroneous Refund (IITA Section 912)

SUBPART Z: INVESTIGATIONS AND HEARINGS

Section
100.9500 Access to Books and Records (IITA Section 913)
100.9505 Access to Books and Records – 60-Day Letters (IITA Section 913) (Repealed)
100.9510 Taxpayer Representation and Practice Requirements
100.9520 Conduct of Investigations and Hearings (IITA Section 914)
100.9530 Books and Records

SUBPART AA: JUDICIAL REVIEW

Section
100.9600 Administrative Review Law (IITA Section 1201)

SUBPART BB: DEFINITIONS

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Section

100.9700	Unitary Business Group Defined (IITA Section 1501)
100.9710	Financial Organizations (IITA Section 1501)
100.9720	Nexus
100.9730	Investment Partnerships (IITA Section 1501(a)(11.5))
100.9750	Corporation, Subchapter S Corporation, Partnership and Trust Defined (IITA Section 1501)

SUBPART CC: LETTER RULING PROCEDURES

Section

100.9800	Letter Ruling Procedures
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SUBPART DD: MISCELLANEOUS

Section

100.9900	Tax Shelter Voluntary Compliance Program
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100.APPENDIX A Business Income Of Persons Other Than Residents

100.TABLE A	Example of Unitary Business Apportionment
100.TABLE B	Example of Unitary Business Apportionment for Groups Which Include Members Using Three-Factor and Single-Factor Formulas

AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49, p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941,

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effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687, effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001; amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective June 20, 2002; amended at 26 Ill. Reg. 13237, effective August 23, 2002; amended at 26 Ill. Reg. 15304, effective October 9, 2002; amended at 26 Ill. Reg. 17250, effective November 18, 2002; amended at 27 Ill. Reg. 13536, effective July 28, 2003; amended at 27 Ill. Reg. 18225, effective November 17, 2003; emergency amendment at 27 Ill. Reg. 18464, effective November 20, 2003, for a maximum of 150 days; emergency expired April 17, 2004; amended at 28 Ill. Reg. 1378, effective January 12, 2004; amended at 28 Ill. Reg. 5694, effective March 17, 2004; amended at 28 Ill. Reg. 7125, effective April 29, 2004; amended at 28 Ill. Reg. 8881, effective June 11,

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2004; emergency amendment at 28 Ill. Reg. 14271, effective October 18, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 14868, effective October 26, 2004; emergency amendment at 28 Ill. Reg. 15858, effective November 29, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 2420, effective January 28, 2005; amended at 29 Ill. Reg. 6986, effective April 26, 2005; amended at 29 Ill. Reg. 13211, effective August 15, 2005; amended at 29 Ill. Reg. 20516, effective December 2, 2005; amended at 30 Ill. Reg. 6389, effective March 30, 2006; amended at 30 Ill. Reg. 10473, effective May 23, 2006; amended by 30 Ill. Reg. 13890, effective August 1, 2006; amended at 30 Ill. Reg. 18739, effective November 20, 2006; amended at 31 Ill. Reg. 16240, effective November 26, 2007; amended at 32 Ill. Reg. 872, effective January 7, 2008; amended at 32 Ill. Reg. 1407, effective January 17, 2008; amended at 32 Ill. Reg. 3400, effective February 25, 2008; amended at 32 Ill. Reg. 6055, effective March 25, 2008; amended at 32 Ill. Reg. 10170, effective June 30, 2008; amended at 32 Ill. Reg. 13223, effective July 24, 2008; amended at 32 Ill. Reg. 17492, effective October 24, 2008; amended at 33 Ill. Reg. 1195, effective December 31, 2008; amended at 33 Ill. Reg. 2306, effective January 23, 2009; amended at 33 Ill. Reg. _____, effective _____.

SUBPART T: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section 100.7300 Returns and Payments of Income Tax Withheld from Wages (IITA Sections 704 and 704A)

- a) Quarterly returns. Except as otherwise provided in Section 100.7310 or 100.7350, every employer required to deduct and withhold tax on compensation paid in Illinois shall make a return for the first calendar quarter in which the tax is deducted and withheld and for each subsequent calendar quarter (whether or not compensation is paid in that quarter) until a final return is filed. (See IITA Sections 704(c) and 704A(b).)
- b) Filing and retention~~Retention~~ of copies of combined W-2.
 - 1) For calendar years prior to 2008.
 - A) Every employer required under this Section or Section 100.7310 or 100.7350 to make a return of tax withheld from compensation for a period ending December 31, or for any period for which a return is made as a final return, shall retain a copy of each wage and tax statement on the combined W-2 required under Section 100.7200 to be furnished by the employer with respect to compensation paid during the calendar year. For calendar years prior to 2008, every

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employer shall maintain copies of the combined W-2 forms for three years from the due date of the IL-W-3 for that period. For each calendar year after 2007, every employer shall maintain copies of the combined W-2 forms until January 31 of the fourth year following that calendar year. If the Department makes a written request for copies of the combined W-2 forms, the copies shall be forwarded to the Department within 30 days after the written request.

- B) If an employer issues a corrected copy of a combined W-2 to an employee for a prior calendar year (see Section 100.7200(d) above), a copy shall be retained for a period of four years from the date fixed for filing the employer's return of tax withheld for the period ending December 31 of the year in which the correction is made, or for any period in the year for which the return is made as a final return. A statement explaining the corrections shall also be retained and, if the Department requests, a copy of the corrected W-2 shall be submitted within 30 days after the written request.
- C) Each year, the Department will contact a sample of Illinois employers and require those employers to provide copies of their employee W-2s. Employers chosen by the Department will be required to file W-2s in the same manner they are required to file W-2s federally.
 - i) Employers with more than 250 employees in the State of Illinois will be required to provide the W-2s on magnetic tape, diskette, or cartridge meeting the specifications required by the Social Security Administration (see 26 CFR 301.6011-2).
 - ii) All other employers may provide the W-2s on magnetic media or paper.
- D) An extension of time for providing statements requested by the Department shall be granted upon a showing of good cause.

- 2) The following persons, if they~~For calendar years after 2007, payroll providers who withhold Illinois income tax for employers during the year~~

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~~and who~~ are required to file copies of the W-2s on magnetic media under 26 CFR 301.6011-2, shall file copies of the W-2s with the Department using the same magnetic media used for their federal filing no later than March 31 of the year following the year of the withholding, unless a later due date is prescribed under federal law for filing the copies of the W-2, in which case filing of copies with the Department shall be due on the same date. ~~(see~~ See IITA Sections 704(f) and 704A(f)).

A) for calendar years after 2007, payroll providers who withhold Illinois income tax for employers during the year; and

B) for calendar years after 2008, all employers.

- 3) For calendar years after 2007, with respect to copies of W-2s other than those required to be filed on magnetic media under subsection (b)(2):
- A) Every employer required under this Section or Section 100.7310 or 100.7350 to make a return of tax withheld from compensation for a period ending December 31, or for any period for which a return is made as a final return, shall retain a copy of each wage and tax statement on the combined W-2 required under Section 100.7200 to be furnished by the employer with respect to compensation paid during the calendar year. Every employer shall maintain copies of the combined W-2 forms until January 31 of the fourth year following that calendar year. If the Department makes a written request for copies of the combined W-2 forms, the copies shall be forwarded to the Department within 30 days after the written request.
- B) If an employer issues a corrected copy of a combined W-2 to an employee for a prior calendar year (see Section 100.7200(d)), a copy shall be retained for a period of four years from the date fixed for filing the employer's return of tax withheld for the period ending December 31 of the year in which the correction is made, or for any period in the year for which the return is made as a final return. A statement explaining the corrections shall also be retained and, if the Department requests, a copy of the corrected W-2 shall be submitted within 30 days after the written request.

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- C) Each year, the Department will contact a sample of Illinois employers and require those employers to provide copies of their employee W-2s.
 - D) An extension of time for providing statements requested by the Department shall be granted upon a showing of good cause.
- c) Payments of amounts withheld prior to January 1, 2008. Except as otherwise provided in Section 100.7310 or 100.7350, with respect to amounts withheld or required to be withheld prior to January 1, 2008:
- 1) Quarter-monthly tax payments. Every employer required to file a quarterly return under subsection (a) shall also file a quarter-monthly tax payment form if the amount of tax deducted and withheld during any quarter-monthly period plus the amount previously withheld and not remitted to the Department exceeds \$1,000. An employer need not file a quarter-monthly form if no quarter-monthly payment is due. Certain taxpayers with tax liabilities exceeding statutory thresholds are required to pay their tax liabilities by electronic funds transfer. 86 Ill. Adm. Code 750 sets forth the rules of the Department concerning payment of taxes by electronic funds transfer, as well as the statutory payment thresholds.
 - 2) Monthly tax payments. Every employer required to file a quarterly return under subsection (a) shall also file a monthly tax payment form if the amount of tax deducted and withheld during any calendar month plus the amount previously withheld and not remitted to this Department exceeds \$500 including amounts previously withheld and not remitted to the Department, but does not exceed \$1,000. An employer need not file a monthly form if no monthly payment is due. No monthly form is required for the third month in any calendar quarter. The information otherwise required to be reported on the monthly form for the third month in a calendar quarter shall be reported on the quarterly return filed for that quarter and no monthly form need be filed for that month.
- d) Payments of amounts withheld on or after January 1, 2008. Except as provided in Section 100.7310 or 100.7350, with respect to amounts withheld or required to be withheld on or after January 1, 2008:
- 1) Semi-weekly tax payments.

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- A) An employer who withheld or was required to withhold more than \$12,000 during the look-back period for a calendar year must make semi-weekly payments for the entire calendar year.
 - B) An employer who withholds or is required to withhold more than \$12,000 in any quarter of a calendar year is required to make semi-weekly payments of amounts withheld or required to be withheld during each remaining quarter of that calendar year and for the subsequent calendar year. (See IITA Section 704A(c)(1).)
- 2) Monthly tax payments. An employer who is not required to make semi-weekly payments shall make monthly payments of taxes withheld or required to be withheld. (See IITA Section 704A(c)(3).)

(Source: Amended at 33 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 130
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
130.502	Amendment
130.510	Amendment
- 4) Statutory Authority: 35 ILCS 120/12; 20 ILCS 2505/2505-795
- 5) A Complete Description of the Subjects and Issues Involved: These regulations amend Sections 130.502 and 130.510, which govern, respectively, quarterly and annual tax filing procedures and restrictions. Currently, these regulations each provide that a taxpayer must file monthly returns for a period of one year before the Department will authorize him to switch to quarterly or annual filing status. It has been the Department's experience, however, that it is able to determine the filing frequency appropriate for a taxpayer from other information, such as registration or audit information. As a result, it is not necessary for taxpayers to file monthly returns for one year before being authorized to switch to a less frequent filing status. The Department is amending these regulations to remove language requiring a taxpayer to file monthly for one year before being switched to a less frequent filing status. Instead, the proposed regulations state that the Department will base a taxpayer's filing status upon information that is available to it, including information from the registration process, or from audit. The regulations also provide that the Department shall periodically review taxpayer information to determine if changes have occurred that require the taxpayer to switch his or her filing status. In case the Department determines a change is necessary, the rules provide that it shall notify the taxpayer of its determination.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No

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- 11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

Jerilynn Troxell Gorden
Dep. Gen. Cnsl. – Sales & Excise Taxes
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794

217/782-2844
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking will affect small businesses that are required to register to report Retailers' Occupation Tax or Use Tax.
 - B) Reporting, bookkeeping or other procedures required for compliance: This regulation involves activities associated with bookkeeping.
 - C) Types of professional skills necessary for compliance: Bookkeeping skills
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2009

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 130
RETAILERS' OCCUPATION TAX

SUBPART A: NATURE OF TAX

Section	
130.101	Character and Rate of Tax
130.105	Responsibility of Trustees, Receivers, Executors or Administrators
130.110	Occasional Sales
130.111	Sale of Used Motor Vehicles, Aircraft, or Watercraft by Leasing or Rental Business
130.115	Habitual Sales
130.120	Nontaxable Transactions

SUBPART B: SALE AT RETAIL

Section	
130.201	The Test of a Sale at Retail
130.205	Sales for Transfer Incident to Service
130.210	Sales of Tangible Personal Property to Purchasers for Resale
130.215	Further Illustrations of Sales for Use or Consumption Versus Sales for Resale
130.220	Sales to Lessors of Tangible Personal Property
130.225	Drop Shipments

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section	
130.305	Farm Machinery and Equipment
130.310	Food, Drugs, Medicines and Medical Appliances
130.315	Fuel Sold for Use in Vessels on Rivers Bordering Illinois
130.320	Gasohol, Majority Blended Ethanol, Biodiesel Blends, and 100% Biodiesel
130.321	Fuel Used by Air Common Carriers in International Flights
130.325	Graphic Arts Machinery and Equipment Exemption
130.330	Manufacturing Machinery and Equipment
130.331	Manufacturer's Purchase Credit
130.332	Automatic Vending Machines
130.335	Pollution Control Facilities and Low Sulfur Dioxide Emission Coal-Fueled

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	Devices
130.340	Rolling Stock
130.341	Commercial Distribution Fee Sales Tax Exemption
130.345	Oil Field Exploration, Drilling and Production Equipment
130.350	Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment
130.351	Aggregate Manufacturing

SUBPART D: GROSS RECEIPTS

Section	
130.401	Meaning of Gross Receipts
130.405	How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser
130.410	Cost of Doing Business Not Deductible
130.415	Transportation and Delivery Charges
130.420	Finance or Interest Charges – Penalties – Discounts
130.425	Traded-In Property
130.430	Deposit or Prepayment on Purchase Price
130.435	State and Local Taxes Other Than Retailers' Occupation Tax
130.440	Penalties
130.445	Federal Taxes
130.450	Installation, Alteration and Special Service Charges
130.455	Motor Vehicle Leasing and Trade-In Allowances

SUBPART E: RETURNS

Section	
130.501	Monthly Tax Returns – When Due – Contents
130.502	Quarterly Tax Returns
130.505	Returns and How to Prepare
130.510	Annual Tax Returns
130.515	First Return
130.520	Final Returns When Business is Discontinued
130.525	Who May Sign Returns
130.530	Returns Covering More Than One Location Under Same Registration – Separate Returns for Separately Registered Locations
130.535	Payment of the Tax, Including Quarter Monthly Payments in Certain Instances
130.540	Returns on a Transaction by Transaction Basis
130.545	Registrants Must File a Return for Every Return Period

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130.550	Filing of Returns for Retailers by Suppliers Under Certain Circumstances
130.551	Prepayment of Retailers' Occupation Tax on Motor Fuel
130.552	Alcoholic Liquor Reporting
130.555	Vending Machine Information Returns
130.560	Verification of Returns

SUBPART F: INTERSTATE COMMERCE

Section	
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- 130.1601 When Returns are Required After a Business is Discontinued
- 130.1605 When Returns Are Not Required After Discontinuation of a Business
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- 130.1701 Bulk Sales: Notices of Sales of Business Assets

SUBPART R: POWER OF ATTORNEY

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- 130.1801 When Powers of Attorney May be Given
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- 130.1810 Filing of Papers by Agent Under Power of Attorney

SUBPART S: SPECIFIC APPLICATIONS

Section

- 130.1901 Addition Agents to Plating Baths
- 130.1905 Agricultural Producers

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- 130.1910 Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage Stamps and Like Articles
- 130.1915 Auctioneers and Agents
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- 130.1952 Sales of Building Materials to a High Impact Business
- 130.1953 Sales of Building Materials to be Incorporated into a Redevelopment Project Area within an Intermodal Terminal Facility Area
- 130.1955 Farm Chemicals
- 130.1960 Finance Companies and Other Lending Agencies – Installment Contracts – Bad Debts
- 130.1965 Florists and Nurserymen
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- 130.1995 Personalizing Tangible Personal Property
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- 130.2006 Sales by Teacher-Sponsored Student Organizations
- 130.2007 Exemption Identification Numbers
- 130.2008 Sales by Nonprofit Service Enterprises
- 130.2009 Personal Property Purchased Through Certain Fundraising Events for the Benefit of Certain Schools
- 130.2010 Persons Who Rent or Lease the Use of Tangible Personal Property to Others
- 130.2011 Sales to Persons Who Lease Tangible Personal Property to Exempt Hospitals
- 130.2012 Sales to Persons Who Lease Tangible Personal Property to Governmental Bodies
- 130.2013 Persons in the Business of Both Renting and Selling Tangible Personal Property –

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	Tax Liabilities, Credit
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130.2020	Physicians and Surgeons
130.2025	Picture-Framers
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130.2050	Sales and Gifts By Employers to Employees
130.2055	Sales by Governmental Bodies
130.2060	Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products
130.2065	Sales of Automobiles for Use In Demonstration (Repealed)
130.2070	Sales of Containers, Wrapping and Packing Materials and Related Products
130.2075	Sales To Construction Contractors, Real Estate Developers and Speculative Builders
130.2076	Sales to Purchasers Performing Contracts with Governmental Bodies
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130.2085	Sales to or by Banks, Savings and Loan Associations and Credit Unions
130.2090	Sales to Railroad Companies
130.2095	Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles
130.2100	Sellers of Feeds and Breeding Livestock
130.2101	Sellers of Floor Coverings
130.2105	Sellers of Newspapers, Magazines, Books, Sheet Music and Musical Recordings, and Their Suppliers; Transfer of Data Downloaded Electronically
130.2110	Sellers of Seeds and Fertilizer
130.2115	Sellers of Machinery, Tools and Special Order Items
130.2120	Suppliers of Persons Engaged in Service Occupations and Professions
130.2125	Trading Stamps, Discount Coupons, Automobile Rebates and Dealer Incentives
130.2130	Undertakers and Funeral Directors
130.2135	Vending Machines
130.2140	Vendors of Curtains, Slip Covers and Other Similar Items Made to Order
130.2145	Vendors of Meals
130.2150	Vendors of Memorial Stones and Monuments
130.2155	Tax Liability of Sign Vendors
130.2156	Vendors of Steam
130.2160	Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.
130.2165	Veterinarians

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130.2170 Warehousemen

SUBPART T: DIRECT PAYMENT PROGRAM

Section

130.2500 Direct Payment Program
130.2505 Qualifying Transactions, Non-transferability of Permit
130.2510 Permit Holder's Payment of Tax
130.2515 Application for Permit
130.2520 Qualification Process and Requirements
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130.2530 Recordkeeping Requirements
130.2535 Revocation and Withdrawal

130.ILLUSTRATION A Examples of Tax Exemption Card

130.ILLUSTRATION B Example of Notice of Revocation of Certificate of Registration

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 2505-25 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-25].

SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987;

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amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 24 Ill. Reg. 18376, effective December 1, 2000; amended at 25 Ill. Reg. 941, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1792, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 4674, effective March 15, 2001; amended at 25 Ill. Reg. 4950, effective March 19, 2001; amended at 25 Ill. Reg. 5398, effective April 2, 2001; amended at 25 Ill. Reg. 6515, effective May 3, 2001; expedited correction at 25 Ill. Reg. 15681, effective May 3, 2001; amended at 25 Ill. Reg. 6713, effective May 9, 2001; amended at 25 Ill. Reg. 7264, effective May 25, 2001; amended at 25 Ill. Reg. 10917, effective August 13, 2001; amended at 25 Ill. Reg. 12841, effective October 1, 2001; amended at 26 Ill. Reg. 958, effective January 15, 2002; amended at 26 Ill. Reg. 1303, effective January 17, 2002; amended at 26 Ill. Reg. 3196, effective February 13, 2002; amended at 26 Ill. Reg. 5369, effective April 1, 2002; amended at 26 Ill. Reg. 5946, effective April 15, 2002; amended at 26 Ill. Reg. 8423, effective May 24, 2002; amended at 26 Ill. Reg. 9885, effective June 24, 2002; amended at 27 Ill. Reg. 795, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 11099, effective July 7, 2003,

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for a maximum of 150 days; emergency expired December 3, 2003; amended at 27 Ill. Reg. 17216, effective November 3, 2003; emergency amendment at 27 Ill. Reg. 18911, effective November 26, 2003, for a maximum of 150 days; emergency expired April 23, 2004; amended at 28 Ill. Reg. 9121, effective June 18, 2004; amended at 28 Ill. Reg. 11268, effective July 21, 2004; emergency amendment at 28 Ill. Reg. 15193, effective November 3, 2004, for a maximum of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 7004, effective April 26, 2005; amended at 31 Ill. Reg. 3574, effective February 16, 2007; amended at 31 Ill. Reg. 5621, effective March 23, 2007; amended at 31 Ill. Reg. 13004, effective August 21, 2007; amended at 31 Ill. Reg. 14091, effective September 21, 2007; amended at 32 Ill. Reg. 4226, effective March 6, 2008; emergency amendment at 32 Ill. Reg. 8785, effective May 29, 2008, for a maximum of 150 days; emergency expired October 25, 2008; amended at 32 Ill. Reg. 10207, effective June 24, 2008; amended at 32 Ill. Reg. 17228, effective October 15, 2008; amended at 32 Ill. Reg. 17519, effective October 24, 2008; amended at 32 Ill. Reg. 19128, effective December 1, 2008; amended at 33 Ill. Reg. 1762, effective January 13, 2009; amended at 33 Ill. Reg. 2345, effective January 23, 2009; amended at 33 Ill. Reg. 3999, effective February 23, 2009; amended at 33 Ill. Reg. _____, effective _____.

SUBPART E: RETURNS

Section 130.502 Quarterly Tax Returns

- a) If ~~the retailer is otherwise required to file a monthly return and if the~~ retailer's average monthly tax liability to the Department does not exceed \$200.00, the Department may authorize his returns to be filed on a quarter-annual basis, with the return for January, February and March of a given year being due by April 20 of such year; with the return for April, May and June of a given year being due by July 20 of such year; with the return for July, August and September of a given year being due by October 20 of such year, and with the return for October, November and December of a given year being due by January 20 of the following year.
- b) The decision to permit quarterly filing will be based on information obtained by the Department, including, but not limited to, registration and audit information regarding the retailer's~~the taxpayer's~~ average monthly liability ~~during the first year of registration~~. The Department shall periodically review taxpayer information, including returns filed by the taxpayer, to determine if any changes have occurred that require the taxpayer to file returns on other than a quarterly basis. If the Department determines that a change is required in filing frequency, it shall notify the taxpayer of its determination.~~All taxpayers are required to file monthly returns~~

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~~unless authorized or required to file on a quarterly or annual basis.~~

- c) ~~Quarterly~~Such quarterly returns, as to form and substance, shall be subject to the same requirements as monthly returns.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 130.510 Annual Tax Returns

- a) If ~~at the~~ retailer's average monthly tax liability to the Department does not exceed \$50.00, the Department may authorize ~~his~~ returns to be filed on an annual basis, with the return for a given year being due by January 20 of the following year. The decision to permit annual filing will be based upon information obtained by the Department, including, but not limited to, registration and audit information regarding the retailer's~~the taxpayer's~~ average monthly liability ~~during the first year of registration, or the first quarter of registration if the average monthly liability is less than \$12.00. All taxpayers are required to file monthly returns unless authorized or required to file on a quarterly or an annual basis.~~
- b) The Department shall periodically review taxpayer information, including returns filed by the taxpayer, to determine if any changes have occurred that require the taxpayer to file returns on other than an annual basis. If the Department determines that a change is required in filing frequency, it shall notify the taxpayer of its determination~~Such annual returns, as to form and substance, shall be subject to the same requirements as monthly returns.~~
- c) Annual returns, as to form and substance, shall be subject to the same requirements as monthly returns.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Pupil Transportation Reimbursement
- 2) Code Citation: 23 Ill. Adm. Code 120
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
120.30	Amendment
120.50	Amendment
120.90	Amendment
120.110	Amendment
- 4) Statutory Authority: 105 ILCS 5/Art. 29
- 5) A Complete Description of the Subjects and Issues Involved: Part 120 rules currently allow school districts to consider child care locations when determining whether a student's location for transportation purposes is more than 1½ miles from the school attended. Lack of specificity in the rules has led to situations where districts pick up and drop off students from some but not all child care locations within the district. These amendments are being proposed to require consistent actions on the part of school districts choosing to provide transportation for students in such locations.

In addition, unrelated changes are being proposed to these rules for purposes of clarification only. References to Part 110 of the State Board's rules (Program Accounting Manual) need to be replaced in Sections 120.50 and 120.90 by references to the new rules covering the same topics (Part 100; Requirements for Accounting, Budgeting, Financial Reporting, and Auditing). Changes are being made to Section 120.110(a)(1) to place the two categories of reimbursable pupil transportation expenses before the expenses that cannot be claimed. In Section 120.110(a)(3)(C), the phrase "general education" will be added to distinguish these pre-kindergarten students from those who receive special education transportation services.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No

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NOTICE OF PROPOSED AMENDMENTS

- 11) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this Notice to:

Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street (S-493)
Springfield, Illinois 62777

217/782-5270

Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2009

The full text of the Proposed Amendments begins on the next page:

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER c: FINANCEPART 120
PUPIL TRANSPORTATION REIMBURSEMENT

SUBPART A: SCHOOL REIMBURSEMENT

Section

120.10	Definitions
120.20	Transportation and Student Discipline
120.30	Pupil Transportation Services Eligible for Reimbursement
120.40	Pupil Transportation Services and Costs Not Eligible for Reimbursement
120.50	Reimbursable Direct Operating Costs
120.60	Reimbursable Annual Depreciation Allowances
120.70	Deductions from Direct Operating Costs
120.80	Reimbursable Indirect Cost for Pupil Transportation Services
120.90	Cost Proration Related to Pupil Transportation
120.100	Reimbursement Formulas
120.110	Reporting Requirements
120.115	Fully Allocated Costs of Transportation
120.120	Bus Scheduling Services and Software
120.130	Seat Back Reimbursement (Repealed)

SUBPART B: CUSTODIAN REIMBURSEMENT FOR PUPIL TRANSPORTATION

Section

120.200	Definitions
120.210	Custodians Eligible for Reimbursement
120.220	Custodians Not Eligible for Reimbursement
120.230	Responsibilities of Schools
120.235	Responsibilities of Public and Nonpublic Chief Administrative Officers (Repealed)
120.240	Reimbursement
120.245	Responsibilities of the Regional Superintendents of Schools
120.250	Dispute Resolution
120.260	Audit and Enforcement

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AUTHORITY: Implementing and authorized by Article 29 of the School Code [105 ILCS 5/Art. 29].

SOURCE: Adopted at 10 Ill. Reg. 19438, effective October 31, 1986; amended at 10 Ill. Reg. 21675, effective December 11, 1986; amended at 12 Ill. Reg. 4147, effective February 5, 1988; amended at 13 Ill. Reg. 7731, effective May 8, 1989; amended at 16 Ill. Reg. 10213, effective June 10, 1992; emergency amendment at 18 Ill. Reg. 12853, effective August 9, 1994, for a maximum of 150 days; emergency expired January 6, 1995; amended at 21 Ill. Reg. 2165, effective February 1, 1997; amended at 26 Ill. Reg. 1169, effective January 16, 2002; amended at 28 Ill. Reg. 4575, effective February 24, 2004; amended at 29 Ill. Reg. 12422, effective July 28, 2005; amended at 33 Ill. Reg. _____, effective _____.

SUBPART A: SCHOOL REIMBURSEMENT

Section 120.30 Pupil Transportation Services Eligible for Reimbursement

Each school district that files a claim for State reimbursement for pupil transportation shall be subject to the requirements of this Subpart A in order to be eligible for such reimbursement. Pupil transportation services eligible for reimbursement are listed below:

- a) Regular Pupil Transportation Services for Pupils in Kindergarten or Any of Grades 1 through 12
 - 1) Transportation services provided for pupils residing at a distance of 1½one and one-half miles or more from the attendance center to which they are assigned.
 - A) *The distance shall be measured from the exit of the property where the pupil resides to the point where pupils are normally unloaded at the attendance center to which they are assigned (Section 29-3 of the School Code [105 ILCS 5/29-3]).*
 - B) *If a pupil is at a location within the school district other than his/her residence for child care purposes at the time for transportation to and/or from school, that location may be considered for purposes of determining the 1½ miles from the school attended (Section 29-5 of the School Code). A district that chooses to consider locations other than individual students' residences shall adopt a written policy establishing this practice. At the district's discretion, its policy may limit pick-up and drop-*

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off to students in day care locations along the district's regular routes, or it may extend services via newly established routes. In either case, the district shall not discriminate among types of locations where day care is provided, which may include, but need not be limited to, the premises of licensed providers, the homes of relatives, or the homes of neighbors, any of which must be located within the district's boundaries.

- C) ~~Asuch~~ school board may comply with the provisions of this Section by providing free transportation for pupils to and from an assigned school and a pick-up point located not more than one and one-half miles from the home of each pupil assigned to such point (Section 29-3 of the School Code).
- 2) Transportation services provided for pupils residing within a distance of ~~1½one and one-half~~ miles from the attendance center to which they are assigned from pickup points at the beginning of the school day and back again at the close of the school day, effective on the date that the Illinois Department of Transportation grants written approval pursuant to 92 Ill. Adm. Code 556 (Rules on Transporting Pupils Where Walking Constitutes a Serious Safety Hazard) that a serious safety hazard exists due to vehicular traffic, for specific areas and specific ages.
- 3) Transportation services provided for nonpublic school pupils when pupil transportation services for the nonpublic school pupils are provided on the same basis as the transportation services for public school pupils as provided in Section 29-4 of the School Code.
- 4) Transportation services provided to a pupil who is required to be transported but is also required for disciplinary reasons to serve a detention period either before or after the regular school day.
- 5) Transportation which is provided prior to or following voluntary, extracurricular and/or cocurricular activities, including sport practices, club meetings, drama rehearsals, or choral and band practices where such activities are scheduled before or after the school day, qualifies as transportation provided at the beginning or end of the school day and is therefore subject to reimbursement with respect to students who are required to be transported.

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- 6) Transportation services provided for pupils between attendance centers during the school day. This includes transportation of vocational pupils between attendance centers or a building or other trades skill development site of less than one and one-half miles.
- b) Vocational pupil transportation services provided during the school day for vocational pupils transported one and one-half miles or more one way from their assigned attendance center to a vocational program located at:
 - 1) An area vocational center;
 - 2) Another school district; or
 - 3) A building or other trades skill development site.
- c) Special education pupil transportation services, including field trips, provided for special education pupils in accordance with Sections 14-7.02 and 14-13.01(b) of the School Code [105 ILCS 5/14-7.02 and 14-13.01(b)] and with 23 Ill. Adm. Code 226 (Special Education). This includes field trips (community based instruction) when approved by the district's state approved director of special education as defined in 23 Ill. Adm. Code 226.
- d) Transportation provided to any student in connection with a field trip:
 - 1) that occurs during a day of student attendance included on the official school calendar of the school district;
 - 2) whose hours are part of the claimable clock hours on the General State Aid Claim (i.e., the destination of the trip is considered to be the assigned attendance center for all students enrolled in the class);
 - 3) that is provided free of charge to the pupil;
 - 4) that is part of the school's curriculum for which pupils earn credit for graduation; and
 - 5) that is not listed in Section 120.40(a)(1) or (2) of this Part.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

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Section 120.50 Reimbursable Direct Operating Costs

All reimbursable direct operating costs must be paid from the Transportation Fund of a school district, except for those items required by Section 17-7 of the School Code to be paid from the Operation and Maintenance Fund and IMRF payments made for transportation supervisory salaries. All reimbursable direct operating costs of a cooperative for special education or vocational education must be paid from function 2550 (Pupil Transportation Services; see 23 Ill. Adm. Code ~~100.Table D+10.Table D~~). Reimbursable direct operating costs are listed below:

- a) District owned and operated pupil transportation services, including districts which make payments to other LEAs.
 - 1) *The cost of physical examinations for school bus drivers required for their employment* (Section 29-5 of the School Code) ~~pursuant to 23 Ill. Adm. Code 275 (Pupil Transportation)~~.
 - 2) Salaries and/or wages for the following employees:
 - A) School bus drivers;
 - B) School bus maintenance personnel;
 - C) Chief mechanic;
 - D) Special education attendants or aides for that portion of time they assist special education pupils, i.e., for transit time only;
 - E) Transportation supervisory salary costs as defined in Section 120.10 of this Part when paid from the Transportation Fund as set forth in Section 120.90(b) and (c) of this Part; and
 - F) Dispatchers and clerical workers who support the transportation functions, when their positions are documented and records support the percentage of time claimed for each position.
 - 3) The cost of the following benefits for the employees enumerated in subsection (a)(2) of this Section (if proration is necessary for salaries and/or wages, benefits shall be prorated in the same manner):
 - A) Health insurance;

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- B) Life insurance;
 - C) Dental insurance;
 - D) Vision insurance;
 - E) Annuities in lieu of health, life, dental, or vision insurance;
 - F) Municipal retirement contribution, if paid by the employer as part of the transportation supervisory salary costs; and
 - G) Teacher retirement contributions, if paid by the employer from the Transportation Fund as part of the transportation supervisory salary costs.
- 4) Payments made to other school districts for providing pupil transportation services and expenditures consistent with this Part.
 - 5) Payments made to other agencies for computerized bus scheduling; to companies for the purchase of computer software used to establish school bus routes; and to companies for maps that identify vehicular traffic hazards.
 - 6) Payments made for fuel, oil, tires, and other supplies that are necessary for the operation of pupil transportation vehicles.
 - 7) The total cost of converting school bus gasoline engines to more fuel efficient engines or to engines which use alternate energy sources.
 - 8) Expenditures (according to a school district's written travel reimbursement policies) for travel to workshops or meetings conducted by the regional superintendent or the State Superintendent of Education designed to improve the driving skills of school bus drivers or travel to other training programs that are for the enhancement of skills necessary to operate vehicles safely, manage student behavior, or address specific student needs (excluding competitions).
 - 9) Expenditures for contractual maintenance services including materials, parts, supplies and labor necessary for the operation of pupil transportation

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vehicles or equipment used in the transportation program not exceeding \$2,500 per service.

- 10) Expenditures for lease agreements for pupil transportation vehicles, for lease/rental of less than 30 days.
- 11) Expenditures for insurance, license plates, and inspection fees pertaining to pupil transportation vehicles.
- 12) Expenditures for the rental of pupil transportation equipment for fewer than 30 days.
- 13) Transportation related building, land and building maintenance costs. The prorated costs of operation and maintenance of buildings, as set forth in Section 120.90(g) of this Part, when directly related to pupil transportation services including:
 - A) Utility costs;
 - B) Custodial supplies and services;
 - C) Insurance for buildings and/or for site improvements;
 - D) Security services;
 - E) Telephone charges incurred for the transportation program; and
 - F) Lease or rental of land or buildings for storing or maintaining transportation vehicles when leased for less than 30 days.
- 14) Expenditures for items that enhance transportation safety, costing less than \$2,500 and not funded by any other federal or State source of funding, including but not limited to:
 - A) federally approved child safety restraint systems;
 - B) reflective tape;
 - C) alarm/warning systems for child safety;

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- D) cameras used on school buses specifically for security purposes.
- b) Contractual pupil transportation services
- 1) The cost of contractual pupil transportation services, which shall be limited to the following types:
 - A) Payments to independent carriers whose drivers and vehicles comply with the Illinois Vehicle Code (e.g., to bus companies, taxi companies, limousine services, and medical transportation carriers qualifying as independent carriers); and
 - B) Payments to parents or guardians for transporting their own children when the district has an obligation to provide free pupil transportation services.
 - 2) Payments made for fuel, oil, tires, and other supplies that are necessary for the operation of pupil transportation vehicles.
 - 3) Transportation supervisory salary costs as allowed in subsections (a)(2)(E) and (a)(3)(E) and (F) of this Section.
 - 4) Transportation related building, land and building maintenance costs as allowed in Sections 120.50(a)(13) and 120.60(d) and (e) of this Part.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 120.90 Cost Proration Related to Pupil Transportation

- a) When costs or depreciation allowances are to be prorated among pupil transportation services and other nontransportation related activities, the categories used shall constitute:
- 1) Regular pupil transportation services;
 - 2) Vocational pupil transportation services;
 - 3) Special education pupil transportation services;
 - 4) Nonreimbursable pupil transportation services; and

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- 5) Nontransportation related activities.
- b) If an employee performs multiple job duties (e.g., district/cooperatives employing a part-time transportation supervisor/director) and at least one job duty is reimbursable under pupil transportation, the salary and district paid employee benefits for such employee shall be prorated to each type of job duty based on the ratio of the number of hours worked in each job to the total hours worked.
 - c) The formula for computing the district superintendent and/or joint agreement director expenses as permitted in Section 120.50(a)(2)(E) or 120.50(a)(3) of this Part is listed in this subsection (c).
 - 1) The district superintendent allowable expenditures shall be prorated based on the ratio of the total transportation fund expenditures to the district's total expenditures of all funds. The district's expenditures are to be calculated in the Illinois Local Education Agency Annual Financial Report pursuant to 23 Ill. Adm. Code [100 \(Requirements for Accounting, Budgeting, Financial Reporting, and Auditing\)](#)-110 (~~Program Accounting Manual~~).
 - 2) The joint agreement/cooperative director allowable expenditures shall be prorated based on the ratio of total expenditures/disbursements and transfers for transportation to the total expenditures/disbursements and transfers of the joint agreement. The joint agreement/cooperative total expenditures/disbursements and transfers are to be calculated in the Joint Agreement Annual Financial Report.
 - d) District owned/operated transportation systems must prorate all expenses based on the ratios of miles traveled in each category to the total miles traveled in all categories operated by the district. This method of proration includes Salaries and Employee Benefits, unless the district can document the number of hours worked per category to the total number of hours worked per person.
 - e) Payments for all contractual transportation services must be prorated based on miles per contractor across all types of transportation provided (i.e., regular, vocational, special education, and/or non-reimbursable), with the exception of the following:
 - 1) Payments to a contractor that provides only one type of transportation

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service;

- 2) Payments by a district to a contractor that provides multiple types of transportation service, a contract for each of which was separately executed on or after July 1, 2004, based on the lowest bid among at least two bids tendered, as reflected in the district's records on the procurement of these services;
 - 3) Payments to a contractor by a district for costs that are part of a contractual agreement between a cooperative or joint agreement and the contractor; and
 - 4) Payments by one district to another district for one type of transportation service.
- f) If a pupil transportation vehicle is used for more than one category of transportation service, the depreciation allowance shall be prorated based on the ratio of the number of miles traveled in each category of service to the total miles traveled in all categories.
- g) Expenditures charged to the Operations and Maintenance Fund and/or the Education Fund that are directly related to the Pupil Transportation Program Services may be claimed as direct cost reimbursement from the Transportation Program. When the district or joint agreement cannot substantiate the portion of the cost applicable to the pupil transportation program, the expenditures shall be allocated according to the square footage of the bus garage divided by the total square footage of all the district owned buildings and that result multiplied by the total expenditures of each allowable cost. The transportation portion of each allowable cost that is under \$2,500 or which has a useful life less than one year is claimed under Section 120.50(a)(13).

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 120.110 Reporting Requirements

According to the date set forth in Section 29-5 of the School Code, districts shall annually transmit the information described in subsections (a) through (e) of this Section to the State Superintendent of Education via electronic means.

- a) For regular pupil transportation services, the school districts shall annually,

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pursuant to Section 29-5 of the School Code, report the following items:

- 1) Total number of enrolled pupil days in the regular pupil transportation service for each of the following:
 - A) Pupils residing 1½~~one and one-half~~ miles or more from their respective assigned attendance center~~center~~;
 - B) Pupils residing less than 1½ miles from their respective assigned attendance centers but where approval of serious safety hazards has been granted as discussed in Section 120.30(a)(2) of this Part~~one and one-half miles from their assigned attendance center~~; and
 - C) Pupils residing less than 1½ miles from their respective assigned attendance centers and without approval of serious safety hazards~~one and one-half miles from their assigned attendance center with vehicular hazard approval~~.
- 2) Total number of student attendance days on the official school calendar.
- 3) Total number of pupils in the following categories:
 - A) Public school pupils transported during the regular school term;
 - B) Nonpublic school pupils transported during the regular school term;
 - C) General education prekindergarten~~Pre-kindergarten~~ pupils transported during the regular school term on regular routes for grades kindergarten-12; and
 - D) Pupils transported on reimbursable field trips who are not enrolled to be transported on a reimbursable regular route.
- 4) Total number of vehicle miles traveled to and from school during the regular school term, including the total mileage traveled during the regular school term for reimbursable regular field trips.
- 5) Expenditures and deductions as set forth in Sections 120.50 through

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120.80 of this Part.

- b) For vocational pupil transportation services, the school districts shall annually report the following items:
 - 1) Total number of pupils transported during the regular school term;
 - 2) Total number of vehicular miles traveled during the regular school term, including the total mileage traveled during the regular school term for reimbursable vocational field trips; and
 - 3) Expenditures and deductions as set forth in Sections 120.50 through 120.80 of this Part.

- c) For special education pupil transportation services, the school districts shall annually report the following information:
 - 1) Total number of special education pupils transported during the regular and summer school terms;
 - 2) Total number of vehicular miles traveled during the regular and summer school terms, including the total mileage traveled for reimbursable special education field trips; and
 - 3) Expenditures and deductions as set forth in Sections 120.50 through 120.80 of this Part.

- d) For nonreimbursable pupil transportation services, the school districts shall annually report the:
 - 1) Total number of vehicle miles traveled during the regular and summer school terms; and
 - 2) Expenditures as set forth in Sections 120.50 through 120.80 of this Part.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Health/Life Safety Code for Public Schools
- 2) Code Citation: 23 Ill. Adm. Code 180
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
180.60	Amendment
180.540	Amendment
- 4) Statutory Authority: 105 ILCS 5/2-3.12, 2-3.25, 2-3.137, and 17-2.11
- 5) A Complete Description of the Subjects and Issues Involved: The major thrust of these amendments is to incorporate by reference the newest editions of the International Building Code and its sub-codes as the requirements for school construction in Illinois. This change would affect projects for which design contracts are executed on or after January 1, 2010. In addition, a technical correction is being made to eliminate an outdated reference to the Fall Enrollment and Housing Report.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes; please see Section 180.60.
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this Notice to:

Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education

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100 North First Street (S-493)
Springfield, Illinois 62777

217/782-5270

Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: Charter schools, which are organized as not-for-profit corporations, are subject to Part 180.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2009

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER d: CONSTRUCTION AND BUILDING MAINTENANCE

PART 180

HEALTH/LIFE SAFETY CODE FOR PUBLIC SCHOOLS

SUBPART A: GENERAL PROVISIONS

Section

180.10	Purpose and Scope
180.20	Severability
180.30	Definitions
180.40	Responsibilities of Local School Board
180.50	Responsibilities of Regional Superintendent
180.60	Applicability
180.70	Variances and Waivers
180.80	Vehicular Facilities

SUBPART B: REQUIRED QUALIFICATIONS

Section

180.100	Approval Procedure
180.110	Specific Requirements for Plan Reviewers
180.120	Specific Requirements for Inspectors

SUBPART C: CONSTRUCTION AND LIKE ACTIVITIES

Section

180.200	Application for Building Permit
180.210	Issuance of Building Permit
180.220	Inspections During and Upon Completion of Construction
180.225	Application for Certificate of Occupancy
180.230	Certificate of Occupancy
180.240	Demolition or Movement of Buildings or Other Structures
180.250	Sprinkler Systems
180.260	Sprinkler System Requirements and Applicability (Repealed)
180.270	Standards for Sprinkler Systems (Repealed)

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180.280 Standards for Sprinkler System Plans and Specifications (Repealed)

SUBPART D: INSPECTIONS

Section

180.300 Annual Building and Fire Safety Inspections
180.310 Decennial Inspections
180.320 Safety Survey Report
180.330 Safety Reference Plans
180.340 Local Board Action and Approval of Safety Survey Reports

SUBPART E: ADDRESSING VIOLATIONS

Section

180.400 Violations
180.410 Unsafe Conditions
180.420 Temporary Closing and Condemnation

SUBPART F: FIRE PREVENTION AND SAFETY FINANCING

Section

180.500 Request for Authorization
180.510 Initiation of Work (Repealed)
180.520 Accounting for Fire Prevention and Safety Funds (Repealed)
180.530 Emergencies
180.540 Cost Estimates

AUTHORITY: Implementing and authorized by Sections 2-3.12, 2-3.25, 2-3.137, and 17-2.11 of the School Code [105 ILCS 5/2-3.12, 2-3.25, 2-3.137, and 17-2.11].

SOURCE: Adopted at 19 Ill. Reg. 5004, effective March 24, 1995; amended at 22 Ill. Reg. 12514, effective July 6, 1998; amended at 29 Ill. Reg. 15904, effective October 3, 2005; amended at 31 Ill. Reg. 14296, effective September 25, 2007; amended at 32 Ill. Reg. 13351, effective July 25, 2008; amended at 33 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 180.60 Applicability

- a) Except as provided in subsection (b) of this Section, every facility other than a

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vehicular facility shall conform to the standards identified in this subsection (a) and published by the International Code Council, Inc., 4051 W. Flossmoor Road, Country Club Hills, Illinois 60478-5795, unless a variance or waiver is obtained pursuant to Section 180.70 of this Part or use of a temporary facility is authorized pursuant to Section 180.230 of this Part. No later amendments to or editions of these standards are incorporated by this Section. The effective date called for in Section 3410.2 of the International Building Code (IBC) shall be the effective date shown for this Section 180.60. Except for the "minimum conditions" presented in the International Property Maintenance Code and the International Fire Code, the IBC permits a facility constructed prior to its effective date to be maintained in compliance with the building code that previously applied to the facility, and provides separate provisions governing the alteration, repair, change of occupancy, replacement of component parts or systems, and enlargement of an existing facility. (IBC, Section 102.6; Chapter 34, and the International Existing Building Code)

1) Through December 31, 2009, the~~The~~ applicable standards shall be the 2006 International Building Code and its subcodes as follows:

A~~1~~) the 2006 International Energy Conservation Code (IECC);

B~~2~~) the 2006 International Existing Building Code (IEBC);

C~~3~~) the 2006 International Fire Code (IFC), excluding Chapter 4;

D~~4~~) the 2006 International Fuel Gas Code (IFGC);

E~~5~~) the 2006 International Mechanical Code (IMC); and

F~~6~~) the 2006 International Property Maintenance Code (IPMC).

2) With respect to any project for which the design contract is executed on or after January 1, 2010, the applicable standards shall be the 2009 International Building Code and its subcodes, as follows:

A) the 2009 International Energy Conservation Code (IECC);

B) the 2009 International Existing Building Code (IEBC);

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- C) [the 2009 International Fire Code \(IFC\), excluding Chapter 4;](#)
- D) [the 2009 International Fuel Gas Code \(IFGC\);](#)
- E) [the 2009 International Mechanical Code \(IMC\); and](#)
- F) [the 2009 International Property Maintenance Code \(IPMC\).](#)

- b) The applicability of the codes listed in subsection (a) of this Section shall be limited as set forth in this subsection (b).
- 1) The provisions of 29 Ill. Adm. Code 1500 (Joint Rules of the Office of the State Fire Marshal and the Illinois State Board of Education: School Emergency and Crisis Response Plans) shall apply instead of Chapter 4 of the International Fire Code.
 - 2) The administrative provisions of this Part shall apply instead of the administrative provisions contained in Sections 101.4.4, 103-108, 110-113, and 115 of Chapter 1 of the International Building Code.
 - 3) The Illinois Accessibility Code (71 Ill. Adm. Code 400) shall apply instead of the accessibility provisions set forth in Chapter 11 of the International Building Code.
 - 4) The requirements set forth in the Illinois Plumbing Code (77 Ill. Adm. Code 890) shall apply instead of those expressed in Section 101.4.4 of Chapter 1 and incorporated in Chapter 35 of the International Building Code.
 - 5) The requirements set forth in the Illinois State Fire Marshal's rules titled Boiler and Pressure Vessel Safety (41 Ill. Adm. Code 120) shall apply instead of those expressed in the Boiler and Pressure Vessel Safety Code (ASME 98) published by the American Society of Mechanical Engineers and incorporated in Chapter 35 of the International Building Code.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

SUBPART F: FIRE PREVENTION AND SAFETY FINANCING

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Section 180.540 Cost Estimates

- a) Administration and implementation of this Subpart require that many costs be estimated and certified as a prerequisite to approval of proposed work or determination of the applicability of particular rules. The following standards and procedures are to be used where certification of cost estimates is required.
- b) All cost estimates shall be based upon published price guides such as those compiled by R. S. Means Company, Inc., Frank Walker Company, and McGraw-Hill Cost Information Systems.
 - 1) The source of the cost figures shall be specifically identified by title, ~~publisher~~[publisher](#), and period of effectiveness.
 - 2) The cost factors to be used shall be the mean or median costs published for such construction nationally.
 - 3) These raw cost estimates shall be adjusted by applying the appropriate inflation factors, size adjustment factors, and regional cost adjustment factors.
 - 4) The estimate shall be based upon the work to be performed as described in the violation and recommendation schedule.
 - 5) The estimate shall specify the unit or units of measure, the quantity of such units necessary, and the unit cost installed.
 - 6) A total of estimated costs must be provided, along with a general breakdown.
 - 7) The resulting figure shall be referred to as the Adjusted Gross Estimated Cost.
- c) Estimates of the replacement cost of a school shall be based upon the cost of constructing a new building of equal size, serving like grades, and for the same programmatic purposes as the facility to be replaced. The procedure is as follows.
 - 1) Determine the type of school to be built based upon its classification as [derived from the school's enrollment reported as of the last school day in](#)

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~~September of the immediately preceding school year reflected in the most recent Fall Enrollment and Housing Report filed with the State Board of Education.~~

- 2) Determine the size of the school to be built, based upon the square footage of the school to be replaced.
- 3) Multiply the square footage of the school to be built by the appropriate square-foot cost factor.
 - A) The published cost factor for elementary schools shall be used for preschools, kindergartens, and elementary schools.
 - B) The published cost factor for junior high/middle schools shall be used for schools housing various combinations of grades 5 through 9.
 - C) The published cost factor for high schools shall be used for schools housing combinations of grades 9 through 12.
- 4) The resulting figure shall be referred to as the Adjusted Gross Estimated Replacement Cost of the school.
- d) For purposes of estimating costs related to energy conservation measures, the procedures outlined in "ASTM Standards on Building Economics, Fifth Edition," published by the American Society for Testing and Materials (2004; 1916 Race Street, Philadelphia, Pennsylvania 19103-1187), shall be used. No later amendments to or editions of these standards are incorporated by this rule.
 - 1) In addition, the sources of heating degree days, cooling degree days, and energy consumption data, and the basis for determining the efficiency of existing systems and equipment and their useful lifetimes shall be noted.
 - 2) Where Fire Prevention and Safety Funds are to be used to finance all or part of energy conservation measures, the payback period calculations must show that payback can be achieved over the useful lifetime of the proposed measure or 20 years, whichever is less.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Driver Education
- 2) Code Citation: 23 Ill. Adm. Code 252
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
252.20	Amendment
252.30	Amendment
252.40	Amendment
- 4) Statutory Authority: 105 ILCS 5/27-23 and 27-24 through 27-24.8
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments to rules governing Driver Education (Part 252) include three changes, each of which is described below.

New Section 252.20(f) is being added to provide flexibility for school districts with students who require adaptive driver's education for the behind-the-wheel component of the course. Currently, the rules prohibit a school district from providing either component of its driver education program (i.e., classroom or behind the wheel) through a contract with an individual or commercial driving school. A contractual arrangement may only be used if the district first secures relief from the regulatory requirement using the waiver process set forth in Section 2-3.25g of the School Code.

In drafting the proposed amendments, staff worked with the Secretary of State's (SOS) office and with two facilities that offer adaptive driver's education. Each facility is approved by SOS as a commercial driving school to provide the program of instruction required under Section 27-23 of the School Code and the Driver Education Act (105 ILCS 5/23-24 through 24.8). Each also employs one or more instructors who have been certified as "driver rehabilitation specialists" by a national organization called ADED – the Association for Driver Rehabilitation Specialists. Both of these criteria have been placed in the proposed amendments.

Districts wishing to enter into a contract with a facility that does not meet the requirements as set forth in the proposed amendments may submit a waiver under Section 2-3.25g of the School Code seeking permission to do so.

A companion change is being made in Section 252.30 to explicitly state that districts may receive reimbursement for those students successfully completing the course under an allowable contractual arrangement. (See Section 252.30(d).)

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The final change being proposed adds a cross-reference in Section 252.40(a) to the new requirements for the endorsement in safety and driver education that the Board considered at its meeting in May. Instructors in both public and nonpublic schools must meet these requirements.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days of the publication of this Notice to:

Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
Springfield, Illinois 62777-0001

217/782-5270

Comments may also be submitted electronically, addressed to:

rules@isbe.net

- 13) Initial Regulatory Flexibility Analysis:

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- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Commercial driving schools that are approved by the Secretary of State and offer adaptive driver's education instruction.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: Not applicable
- 14) Regulatory Agenda on which this rulemaking was summarized: The need to amend Part 252 to address these concerns came to the State Board's attention after the regulatory agenda was published in January 2009.

The full text of the Proposed Amendments begins on the next page:

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TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER g: SPECIAL COURSES OF STUDY

PART 252

DRIVER EDUCATION

Section

252.10	Definitions
252.20	Administration and Procedures
252.25	Eligibility of Students
252.30	The Terms of Reimbursement for Public School Participation in the Course
252.40	Driver Education Personnel Requirements
252.50	Commercial Schools (Transferred)

AUTHORITY: Implementing and authorized by Section 27-23 of the School Code and the Driver Education Act [105 ILCS 5/27-23 and 27-24 through 27-24.8].

SOURCE: Adopted September 4, 1975; codified at 8 Ill. Reg. 1585; emergency amendment at 9 Ill. Reg. 15558, effective October 1, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 12922, effective July 22, 1986; Section 252.50 transferred to 92 Ill. Adm. Code 1060.240 (Secretary of State) pursuant to Section 5-80(d) of the Illinois Administrative Procedure Act [5 ILCS 100/5-80(d)] and Section 6-411 of the Illinois Driver License Law [625 ILCS 5/6-411] at 11 Ill. Reg. 1631; amended at 18 Ill. Reg. 16307, effective October 25, 1994; amended at 22 Ill. Reg. 7577, effective April 17, 1998; amended at 26 Ill. Reg. 10476, effective July 1, 2002; amended at 28 Ill. Reg. 15481, effective November 22, 2004; amended at 29 Ill. Reg. 15936, effective October 3, 2005; amended at 32 Ill. Reg. 10922, effective July 7, 2008; amended at 33 Ill. Reg. _____, effective _____.

Section 252.20 Administration and Procedures

- a) Availability of the Course – Any public school district maintaining grades 9 through 12 must provide the driver education course for any legal resident of the district between the ages of 15 and 21 years who requests the course, provided such resident is eligible as set forth in Sections 27-23 and 27-24.2 of the School Code. All eligible students who reside in a school district must be provided an equal opportunity to enroll in driver education, and school districts are obligated to make the driver education course available within a reasonable length of time

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after each individual's declaration of intent is made. A "reasonable length of time" shall be determined based on the student's individual needs and the school district's ability to meet those needs, provided that the course must be offered within 12 months after the declaration of intent.

- 1) Public school districts that include high schools must provide the driver education course for all eligible students of the district who attend a nonpublic school that does not offer the course.
 - 2) Nonpublic schools may offer a driver education course at their own expense.
 - 3) Public school districts that include high schools must provide the driver education course for all eligible Illinois students, regardless of the district of their residence, who attend a nonpublic school located within that school district's boundaries when application is made by the administrators of the nonpublic school. Such an application shall constitute a declaration of intent by the affected student or students. *By April 1, the nonpublic school shall notify the district offering the course of the names and district numbers of the nonresident students desiring to take such a course the next school year. The district offering the course shall notify the district of residence of those students affected by April 15.* [105 ILCS 5/27-24.4]
 - 4) An eligible student may elect to enroll in a driver education course at a commercial driver training school at his or her expense.
- b) When to Offer the Course – Any school district that includes one or more high schools offering a driver education course must offer both portions of the course during the school day and may offer either or both portions at other times.
- 1) Enrollment in a driver education course must be closed at the inception of the course, except as provided in subsection (b)(2) of this Section. Another course may be started when enrollment warrants.
 - 2) A student who transfers to a new school after the inception of the driver education course at that school may be allowed to enroll in the course under the following conditions.
 - A) The driver education course in which the student was enrolled at

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the previous school offered 30 clock hours of classroom instruction and 6 clock hours of behind-the-wheel instruction.

- B) The length of time the student previously participated in the driver education course (prior to his or her transfer) is sufficient to allow the student to complete the course at the new school within the time during which it is offered.
 - C) The new school has received verification, either by mail or in an electronic format, of the student's previous participation in the driver education course (i.e., length of time in the course, grade(s) received). The verification shall be placed in the student's temporary school record as defined in 23 Ill. Adm. Code 375.10.
- 3) *A high school student may be allowed to commence the classroom instruction part of the driver education course prior to reaching age 15 if the student will be eligible to complete the entire course within 12 months after being allowed to commence classroom instruction. (See Section 27-24.2 of the School Code.)*
- c) Course Organization – Driver education courses must be organized according to the standards established in the Driver Education Act [105 ILCS 5/27-23 through 27-24.8] and this Part.
- 1) The classroom and the behind-the-wheel instruction each must be scheduled regularly throughout a period of not less than six complete weeks (four weeks allowable in summer courses and for schools using block scheduling).
 - 2) Behind-the-wheel instruction shall not begin until the student has started classroom instruction; however, a student may be enrolled in both portions of the course on a concurrent basis.
 - 3) At least one but not more than three student observers must be in the car during behind-the-wheel instruction. At least one hour of observation time is required for each hour of behind-the-wheel instruction.
- d) Dual-Control Cars – The instructor shall occupy the front passenger seat. The driver education car is to be used for instructional purposes. A school district

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may not use the driver education car for purposes other than those designated by agreement or contract.

- e) Contracting – In fulfilling the requirements of the Driver Education Act, a public school district must either offer the course in its own school or must provide the course for its students, and any other legal residents of the school district who request the course, through a joint agreement with another public school district or through the provisions of cooperative school district programs. Schools offering a driver education course shall not contract for the course from any individual or commercial driver training school, except as provided in subsection (f) of this Section.
- f) A public school district may contract for the provision of the behind-the-wheel portion of the course for students who have physical limitations that would require the use of a specially equipped car or for students who require other specialized instruction (e.g., vision or hearing impairments, cognitive disabilities) provided that:
- 1) the facility is approved by the Illinois Secretary of State (SOS) as meeting all of the requirements of Chapter 6, Article IV of the Illinois Vehicle Code [625 ILCS 5/Art. IV] and of rules promulgated by SOS (92 Ill. Adm. Code 1030 (Issuance of Licenses));
 - 2) each instructor providing instruction to the public school district's students is certified as a Driver Rehabilitation Specialist by the ADED – the Association for Driver Rehabilitation Specialists (see <http://www.driver-ed.org/i4a/pages/index.cfm?pageid=1>), 2425 N. Center Street, #369, Hickory, North Carolina 28601; and
 - 3) the facility conducts an evaluation of the student's physical and cognitive abilities to determine the individualized course of instruction.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 252.30 The Terms of Reimbursement for Public School Participation in the Course

- a) Claims for Reimbursement – *These shall be made under oath or affirmation of the chief school administrator for the district employed by the school board or authorized driver education personnel employed by the school board* [105 ILCS

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5/27-24.6].

- 1) Reimbursement shall be determined in accordance with the provisions of Sections 27-24.4 and 27-24.5 of the School Code [105 ILCS 5/27-24.4 and 27-24.5].
- 2) *The school district that is the residence of an eligible pupil who attends a nonpublic school in another district that has furnished the driver education course shall reimburse the district offering the course the difference between the actual per capita cost of giving the course the previous school year and the amount reimbursed by the State (Section 27-24.4 of the School Code). This arrangement shall also apply in the case of tuition students who receive driver education from the districts where they are enrolled rather than from their respective districts of residence.*
- 3) The district may charge a reasonable fee not to exceed the amount specified in Section 27-23 of the School Code to students who participate in a driver education course approved in accordance with this Part. No other fee or portion thereof shall be charged to students and attributed to the driver education course. As used in this Part, "reasonable fee" means a fee calculated by dividing the sum of documented annual district costs for items such as instructional materials (if not included in the district's textbook rental fee), the cost of driver education cars, car maintenance costs, fuel, and insurance by the number of students enrolled or participating in the driver education course. The district's costs used in this calculation shall not include any portion of the salaries or benefits of school district personnel. For purposes of this calculation, the cost of driver education cars that are purchased by the district shall be amortized over a five-year period, and the cost of leasing cars shall be included in the fee calculation in the year the costs are incurred.
- 4) The driver education fee shall be waived with respect to any student who applies pursuant to this subsection and who is eligible for free lunches or breakfasts pursuant to the School Breakfast and Lunch Program Act [105 ILCS 125], and with respect to other students in accordance with the district's policy adopted in accordance with Section 1.245 (Waiver of School Fees) of the rules of the State Board of Education (see 23 Ill. Adm. Code 1, Public Schools Evaluation, Recognition and Supervision).

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- b) Transfer Student – For any transfer student as defined in Section 252.20(b)(2) of this Part, reimbursement shall be claimed only by the school district to which the student has transferred.
- c) Cooperative School Programs – In fulfilling the requirements for reimbursement, a school district must provide a driver education course or participate in a special education cooperative or be part of an approved joint school agreement with another public school district.
- d) Contracting – School districts providing the driver education course through a contract, as provided under Section 252.20(f) of this Part or under a waiver granted pursuant to Section 2-3.25g of the School Code [105 ILCS 5/2-3.25g], shall make a claim for reimbursement by submitting, in a format specified by the State Superintendent of Education, the names of the students successfully completing the course and the date of course completion for each.
- e) Records – Daily attendance records shall be kept by the teachers in the manner prescribed in Section 27-24.6 of the School Code and are to be used to certify claims made under the Act.
- 1) Records in either paper or electronic format must be maintained by the school to substantiate daily lessons, time behind the wheel, observation time, and periodic as well as final evaluation of each student. Also recorded shall be the beginning and ending dates of classroom and behind-the-wheel instruction. Students are to be identified by their instructional permit number, name, address and other personal information.
 - 2) Such records are to be on file in the office of the driver education supervisor, principal, or other manager at the time reimbursement and/or certification is requested.
 - 3) Driver education participation records are to be kept and be readily available for a period of not less than three years.
 - 4) All records are subject to yearly audit by State auditors.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 252.40 Driver Education Personnel Requirements

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- a) Qualifications of Teachers – All persons who teach a driver education course must meet the applicable standards of this subsection (a).
- 1) A driver education instructor who teaches in a public school district shall hold a secondary teaching certificate and either have an endorsement for safety and driver education or meet the requirements of 23 Ill. Adm. Code 1.730(q) through January 31, 2012. Each individual first assigned to teach safety and driver education on or after February 1, 2012 shall be required to hold a certificate valid for the secondary grades and an endorsement received pursuant to 23 Ill. Adm. Code 25.100(n).
 - 2) A driver education instructor who teaches in a nonpublic school is not required to be certified but must hold a baccalaureate degree, or equivalent as determined by the employing school, and meet the requirements of 23 Ill. Adm. Code 1.730(q) through January 31, 2012. Each individual first assigned to teach safety and driver education on or after February 1, 2012 shall meet the course requirements of 23 Ill. Adm. Code 25.100(n).
 - 3) A driver education instructor who teaches in either a public school district or in a nonpublic school must:
 - A) possess good physical health as determined in accordance with Section 24-5 of the School Code [105 ILCS 5/24-5]; and
 - B) hold a valid driver's license in good standing that has been issued by the state in which he or she resides. For the purposes of this subsection (a)(3)(B), a driver's license issued in Illinois shall not be considered valid and in good standing if it is revoked, suspended, expired or cancelled as described in Sections 6-201 through 6-209 of the Illinois Driver Licensing Law [625 ILCS 5/6-201 through 6-209] or if restrictions have been placed on driving privileges through either a restricted driving permit under Section 6-205 or judicial driving permit under Section 6-206.1.
 - 4) Additional requirements will not be retroactive as pertaining to those qualified under standards applicable prior to September 1, 1962, so long as they continue to teach driver education in the same district, except in the event the method of instruction has been changed to include simulation

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and/or multiple-car laboratory instruction. (See 23 Ill. Adm. Code 1.730(q).) The prescribed additional requirements effective July 1, 1969, must be met.

- 5) When schools have a department chairman or a person designated to supervise the driver education program, this person must be qualified as described in this Section.
- b) Invalid Driver's License – The State Board of Education, using information provided by the Secretary of State, shall on a regular basis provide to school districts and nonpublic schools employing driver education instructors who possess Illinois driver's licenses a list of driver education instructors who are in possession of an invalid driver's license as described in subsection (a)(3)(B) of this Section. It shall be the responsibility of the school district or nonpublic school employing an instructor who holds an out-of-state license to ensure that that license is valid and in good standing (e.g., has not been revoked, suspended, expired, or cancelled or is restricted by the state issuing the license).
- 1) After receiving the list, or confirmation that an out-of-state license is invalid, the school district or nonpublic school shall inform each of the instructors in writing of the determination that he or she is in possession of an invalid license and that he or she has no more than five school days to provide evidence to the school district or nonpublic school disputing the determination.
 - 2) If the initial determination is found to be correct (i.e., the instructor's license is not valid), then the driver education instructor shall be removed from the driver education program immediately.
 - 3) A driver education instructor who is removed from his or her teaching position due to an invalid license shall not be allowed to teach a driver education course for three years following the reinstatement of a valid driver's license.
 - 4) For the purposes of this subsection (b), a driver education instructor shall not be subject to the three-year suspension described in subsection (b)(3) of this Section if:
 - A) the invalid license is restored to good standing; and

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- B) the reason that the license was invalidated is due to a non-serious violation not related to driving ability or performance (e.g., failure to renew a license, failure to pay traffic fines, not possessing a mandatory insurance card).
- c) Administrators and teachers of State-approved high school driver education courses shall not acquire an interest in, teach in, or solicit for a commercial driver training school.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Special Education Facilities Under Section 14-7.02 of the School Code
- 2) Code Citation: 23 Ill. Adm. Code 401
- 3) Section Number: 401.270 Proposed Action: Amendment
- 4) Statutory Authority: 105 ILCS 5/14-7.02 and 14-8.01
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking represents technical corrections only. One update to terminology and one update to a cross-reference to Part 226 (Special Education) are being made.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this Notice to:

Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street (S-493)
Springfield, Illinois 62777

217/782-5270

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Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Some of the entities that operate facilities that are subject to this Part may be small businesses or not-for-profit corporations.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2009

The full text of the Proposed Amendment begins on the next page:

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NOTICE OF PROPOSED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER 1: NONPUBLIC ELEMENTARY AND SECONDARY SCHOOLS

PART 401
SPECIAL EDUCATION FACILITIES UNDER
SECTION 14-7.02 OF THE SCHOOL CODE

SUBPART A: APPROVAL OF PROGRAMS

Section	
401.5	Definitions
401.10	Application for Eligibility
401.20	Notification Requirements
401.30	Changes in Approval Status

SUBPART B: PLACEMENT AND EDUCATION OF STUDENTS

Section	
401.110	Use by School Districts
401.120	Placement Procedures
401.130	Operating Schedule
401.140	Provision of Educational Program
401.145	Administration of State Assessment
401.150	Classroom Records

SUBPART C: OPERATIONAL REQUIREMENTS

Section	
401.210	General Requirements
401.220	Health and Safety Requirements
401.230	Student Progress Reports and Reviews
401.240	Staffing Requirements
401.250	Staff Training
401.260	Staff Records
401.270	Student Records
401.280	Fiscal Provisions

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AUTHORITY: Implementing and authorized by Sections 14-7.02 and 14-8.01 of the School Code [105 ILCS 5/14-7.02 and 14-8.01].

SOURCE: Adopted July 25, 1973; emergency amendment at 4 Ill. Reg. 39, p. 323, effective September 15, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 4576, effective April 9, 1981; codified at 7 Ill. Reg. 14966; Part repealed, new Part adopted at 19 Ill. Reg. 7185, effective May 10, 1995; amended at 30 Ill. Reg. 8818, effective April 25, 2006; amended at 31 Ill. Reg. 14050, effective September 24, 2007; emergency amendment at 32 Ill. Reg. 4843, effective March 21, 2008, for a maximum of 150 days; emergency amendment suspended at 32 Ill. Reg. 9764, effective June 17, 2008; suspension withdrawn at 32 Ill. Reg. 13093, effective July 16, 2008; emergency amendments repealed by emergency rulemaking at 32 Ill. Reg. 13079, effective July 16, 2008, for the remainder of the 150 days; amended at 33 Ill. Reg. _____, effective _____.

SUBPART C: OPERATIONAL REQUIREMENTS

Section 401.270 Student Records

- a) A separate student record file shall be maintained for each student served under Section 14-7.02 of the School Code. Such files shall be maintained in a central location on the premises of the facility. Each student's file shall contain the information listed below, or the information shall be made readily accessible for inspection.
 - 1) Documentation of the date of the student's most recent enrollment in the program in question under Section 14-7.02 of the School Code.
 - 2) Copies of the most recent reports that address the domains covered in the student's most recent ~~ease study~~ evaluation, documentation of the IEP Team's determination of the domains that would be included (see 23 Ill. Adm. Code ~~226.110~~~~226.120~~ [226.75 and 226.110](#)), and a copy of the most recent eligibility determination.
 - 3) Evidence of compliance with 23 Ill. Adm. Code 226.330(d).
 - 4) The student's current IEP developed for the placement in accordance with 23 Ill. Adm. Code 226, Subpart C (The Individualized Education Program (IEP)).

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- 5) Reports of review procedures conducted with respect to the student's progress as specified in Section 401.230(b) of this Part, including copies of all progress reports provided to parents and the sending school district.
- b) All material in the student record file shall be signed as required, dated, and placed in chronological order for the purpose of inspection and evaluation by representatives of the State Board of Education and the public school district of the student's residence.
- c) The record of a student enrolled in a program at a facility subject to this Part pursuant to Section 14-7.02 of the School Code shall be the property of the student's public school district of residence and shall be subject to the policies and procedures established by that school district to govern school student records and to the provisions of the Illinois School Student Records Act [105 ILCS 10] regarding confidentiality of such records.
- d) When a student is no longer served in a facility under this Part for any reason, and regardless of any monetary amount due to the provider from the public school district that placed the student, all the student's records shall be returned or provided to the district within 30 calendar days, and staff of the facility shall maintain a record of having returned them. The records to be returned include, but are not limited to:
 - 1) The temporary public school records that were provided by the district at the time of the student's placement.
 - 2) Other records of an academic or instructional nature that have accumulated during the student's enrollment at the nonpublic facility, including:
 - A) Records of behavior management plans; and
 - B) Records of all psychological and social work and any therapeutic tests related to goals and objectives included in the student's IEP.
 - 3) A transcript of any academic credits earned while the student was served at the facility.
 - 4) Records of the student's attendance while served at the facility.

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(Source: Amended at 33 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Providers of Supplemental Educational Services
- 2) Code Citation: 23 Ill. Adm. Code 675
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
675.50	Amendment
675.APPENDIX B	Amendment
- 4) Statutory Authority: 105 ILCS 5/2-3.6
- 5) A Complete Description of the Subjects and Issues Involved: It has come to our attention that one provision relating to certain providers is not necessary and may be counterproductive. Consequently the requirement for experience serving youth in the same community where SES will be offered should be deleted from Section 675.50(b)(2)(B)(i). In addition, one change is needed in two places within Appendix B (Evaluation Rubric). As part of the amendments to Part 675 that were recently completed, this same change was made in the discussion of parental satisfaction, under the heading "Below Standards". However, it was erroneously omitted from the columns for "Meets Standards" and "Above Standards". This amendment will simply repair that omission.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this Notice to:

STATE BOARD OF EDUCATION

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Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street (S-493)
Springfield, Illinois 62777

217/782-5270

Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Some providers of supplemental educational services are small businesses, while others are not.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2009

The full text of the Proposed Amendments begins on the next page:

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER 6: MISCELLANEOUS

PART 675

PROVIDERS OF SUPPLEMENTAL EDUCATIONAL SERVICES

SUBPART A: GENERAL PROVISIONS

Section

- 675.10 Purpose and Scope
- 675.20 Definitions
- 675.30 Code of Ethics
- 675.40 Programmatic Requirements
- 675.50 Application Requirements
- 675.60 Application Process
- 675.65 Mid-Year Changes
- 675.70 Reporting Requirement
- 675.80 Retention of Records; Access to Premises
- 675.90 Evaluation of Providers' Performance, Providers' Status, Sanctions, and Removal
- 675.100 Public Information
- 675.110 Removal When No Services Offered
- 675.150 Provider's Relationship with District
- 675.175 Timetable for Implementation of the Program

SUBPART B: FINANCIAL REQUIREMENTS

Section

- 675.200 Financial Framework for SES
- 675.210 District Program Cost
- 675.220 Non-Reimbursable Expenses and Revenue Offsets
- 675.230 Reports of Actual Costs
- 675.240 Establishment of Contract Amount and Payment Provisions
- 675.245 Basis for Invoices and Payments
- 675.250 Appeals

675.APPENDIX A Calculation of Effect Size

675.APPENDIX B Evaluation Rubric

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675.APPENDIX C Decision Matrix

AUTHORITY: Implementing Section 1116(e) of Public Law 107-110, the No Child Left Behind Act of 2001 (20 USC 6316(e)) (34 CFR 200.45 through 200.48), and authorized by Section 2-3.6 of the School Code [105 ILCS 5/2-3.6].

SOURCE: Emergency rules adopted at 29 Ill. Reg. 9516, effective June 17, 2005, for a maximum of 150 days; emergency expired November 13, 2005; adopted at 29 Ill. Reg. 19942, effective November 23, 2005; amended at 30 Ill. Reg. 14325, effective August 18, 2006; amended at 32 Ill. Reg. 4046, effective February 26, 2008; amended at 33 Ill. Reg. 8497, effective June 1, 2009; amended at 33 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 675.50 Application Requirements

Each application for approval to provide SES in Illinois shall consist of the components described in this Section and shall be submitted as specified by the State Superintendent.

- a) A summary of services that indicates:
 - 1) the subject areas available;
 - 2) the grade levels served;
 - 3) the total program hours per student, provided that, for any program proposing fewer than 30 instructional hours per subject, the applicant must supply specific evidence that the program has resulted in increased student achievement in that subject, including verification from school district administrators in which the program has been previously provided;
 - 4) the proposed locations of service delivery;
 - 5) the minimum number of students required by the eligible applicant in order to offer SES to a district and an indication of any districts in which that minimum will apply to each site served rather than to the district in the aggregate;

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- 6) whether the eligible applicant can provide services to students of limited English proficiency and, if so, the languages in which the eligible applicant provides instruction and the maximum number of LEP students the eligible applicant can serve in each district;
 - 7) whether the eligible applicant can provide services to students with disabilities and, if so, the accommodations or modifications the eligible applicant can offer and the maximum number of students with disabilities the eligible applicant can serve in each district;
 - 8) the time of day and months during which SES will be offered;
 - 9) the ratio of instructors to children, as determined by the provider; and
 - 10) the districts the eligible applicant seeks to serve.
- b) A rationale for the eligible applicant's SES program, including:
- 1) Evidence that the program complies with Section 675.40 of this Part; and
 - 2) Evidence of effectiveness that complies with either subsection (b)(2)(A) or subsection (b)(2)(B) of this Section.
 - A) General Method
 - i) Evidence that the curriculum and pedagogy proposed for each subject encompassed in the application have a positive impact on students' achievement in that subject, particularly for low-income, underachieving students, as demonstrated by scores on the State assessment or on a nationally recognized assessment; and
 - ii) At least five but no more than ten letters of reference from previous clients (families, districts, or teachers) offering testimonial information on the positive impact of the program proposed in the application and including contact information, starting and ending dates of service provided, and school and district names for each reference.

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- B) Alternate Method
- i) Evidence that the eligible applicant has a minimum of three years' experience serving youth ~~in the community where the eligible applicant intends to offer SES~~, through activities such as tutoring, mentoring or other extracurricular programs;
 - ii) Evidence that the curriculum and pedagogy to be used by the eligible applicant in a given subject have been demonstrated to have a positive impact on students' achievement in that subject, particularly for low-income, underachieving students, as demonstrated by scores on the State assessment or on a nationally recognized assessment;
 - iii) At least five but no more than ten letters of reference from previous clients (families, districts, or teachers) offering testimonial information on the positive impact of the youth services provided by the eligible applicant and including contact information, starting and ending dates of service provided, and school and district names for each reference; and
 - iv) An agreement to limit services to no more than 200 children during the first two years of SES.
- c) The specific procedures to be used and frequency of reports of student progress to teachers, district staff, and parents/families (including a description of how information will be provided to parents and families in a format and language they can understand).
- d) A description of the qualifications of instructional staff, including such resumes and other information on qualifications as ISBE may require. If the applicant intends to assign tutors who reside outside the United States, the application shall identify their countries of residence and, for each of those countries, the national and either regional or local law enforcement authorities from which fingerprint-based checks of criminal history records will be obtained that will be comparable to those required under Section 10-21.9 of the School Code [105 ILCS 5/10-21.9].

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Individuals residing in countries where checks of these types are not available shall not be assigned as tutors.

- e) Proof of liability insurance in amounts deemed sufficient by ISBE to protect the district and ISBE in light of the number of students to be served by the provider.
- f) Evidence that the eligible applicant possesses a sound management structure.
- g) Evidence that the provider has adequate financial, organizational and technical resources to administer the proposed program. This evidence shall include, but need not be limited to, completed federal tax returns (or the equivalent for non-profit entities) for the two most recent years and either an audit report or audited financial statements completed within two years prior to submission of the application.
- h) Proof of legal authority to conduct business in Illinois.
- i) Information on the eligible applicant's estimated per-pupil program cost, calculated as set forth in Section 675.210 of this Part for a sample or hypothetical district for which the provider assumes cost factors to be representative. If the provider's costs will vary based on the number of students enrolled, costs must be provided for various enrollment ranges. Providers must specify the assumptions upon which occupancy costs are shown for services in district facilities.
- j) Such certifications, assurances, and/or additional information as ISBE may require in order to verify any information reported by the eligible applicant or otherwise to fulfill its duties with respect to the administration of SES.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

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Section 675.APPENDIX B Evaluation Rubric

Criterion	Insufficient Information	Below Standards	Meets Standards	Above Standards
Student Achievement (See Note 1)	There is insufficient information available to determine student achievement outcomes.	The effect size for students in the provider's program can be identified and does not demonstrate any gains that can be attributed to tutoring received from the provider.	The effect size for students in the provider's program can be identified and does demonstrate gains that can be attributed to tutoring received from the provider.	The effect size for students in the provider's program can be identified and is in the top one-third of those providers demonstrating gains that can be attributed to tutoring received from the provider.
Attendance (See Notes 2 and 3)	Not applicable. Providers that do not submit attendance data will not be included on the list of eligible providers for the following SES reporting period.	(1) The provider's average attendance is one full standard deviation below the overall average attendance; and (2) The provider cannot demonstrate satisfactorily that it has made dedicated efforts to encourage student attendance.	The provider's average attendance is between one full standard deviation below and one full standard deviation above the overall average attendance.	The provider's average attendance is one standard deviation or more above the overall average attendance.

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<p>Parent Satisfaction</p>	<p>There is insufficient information available to determine parent satisfaction outcomes.</p>	<p>More than 25% of respondents indicate: (1) overall dissatisfaction with the provider; or (2) the provider did not consult with the parent regarding results of the student's diagnostic test and plans for the program of the student's study.</p>	<p>More than 10% but no more than 25% of respondents indicate: (1) overall dissatisfaction with the provider; and (2) <u>the provider did not consult with the parent regarding results of the student's diagnostic test and plans for the program of the student's study</u> they were not consulted in the development of the student's individual learning plan.</p>	<p>No more than 10% of respondents indicate: (1) overall dissatisfaction with the provider; and (2) <u>the provider did not consult with the parent regarding results of the student's diagnostic test and plans for the program of the student's study</u> they were not consulted in the development of the student's individual learning plan.</p>
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Note 1: The evaluation shall be limited to students who have received at least 18 hours of instruction from a given provider.

Note 2: Calculated based on attendance rate for sessions scheduled by the provider.

Note 3: A "provider's average attendance" is calculated by dividing the total number of hours the provider served by the total number of students the provider served. The "overall average attendance" is calculated by dividing the sum of all the "provider's average attendances" by the total number of providers.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Credit for Reinsurance Ceded
- 2) Code Citation: 50 Ill. Adm. Code 1104
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
1104.15	New Section
1104.20	Amendment
1104.30	Amendment
1104.40	Amendment
1104.50	Amendment
1104.60	Amendment
1104.70	Amendment
1104.80	Amendment
1104.100	Amendment
1104.APPENDIX A	Amendment
- 4) Statutory Authority: Implementing Sections 173 and 173.1 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/173, 173.1 and 401]
- 5) Effective Date of Rulemaking: June 18, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes. Please see Section 1104.80 of this Part.
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the principal office of the Department of Financial and Professional Regulation and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 32 Ill. Reg. 14621; September 12, 2008
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version:
 - a) In Section 1104.15, add "ICC means the International Chamber of Commerce".

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- b) In Section 1104.80 (e) & (f), following "July 2007" add ", 1212 Avenue of the Americas, New York, NY 10036 (no later amendments or editions)".
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The specific purpose for this amendment is to update an International Chamber of Commerce (ICC) publication incorporated by reference in Section 1104.80. Additionally, the Division has also made a number of housekeeping changes to remaining Sections identified above to accurately reflect the consolidation of our agency under IDFPR. To that end, a definition section which identifies terms that were not previously described has been added.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Mindy Lucht
Department of Financial and Professional Regulation
320 West Washington Street
Springfield, Illinois 62767-0001

217/785-4079

The full text of the Adopted Amendments begins on the next page:

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TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF [FINANCIAL AND PROFESSIONAL
REGULATION](#)~~INSURANCE~~SUBCHAPTER ~~o~~: REINSURANCE

PART 1104

CREDIT FOR REINSURANCE CEDED

Section

1104.10	Purpose
1104.15	Definitions
1104.20	Credit for Reinsurance – Reinsurer Licensed in this State
1104.30	Credit for Reinsurance – Accredited Reinsurers
1104.40	Credit for Reinsurance – Reinsurers Maintaining Trust Funds
1104.50	Credit for Reinsurance Required by Law
1104.60	Reduction from Liability for Reinsurance Ceded to an Unauthorized Assuming Insurer
1104.70	Trust Agreements Qualified Under Section 1104.60 of this Part
1104.80	Letters of Credit Qualified Under Section 1104.60 of this Part
1104.90	Other Security
1104.100	Reinsurance Contract
1104.110	Contracts Affected
1104.120	Severability
1104.APPENDIX A	Form AR-1 Certificate of Assuming Insurer

AUTHORITY: Implementing Sections 173 and 173.1 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/173, 173.1 and 401].

SOURCE: Adopted at 20 Ill. Reg. 368, effective January 1, 1996; amended at 33 Ill. Reg. 9314, effective June 18, 2009.

[Section 1104.15 Definitions](#)

[Code means the Illinois Insurance Code \[215 ILCS 5\].](#)

[Department means the Department of Financial and Professional Regulation.](#)

[Director means the Director of the Department of Financial and Professional Regulation-Division of Insurance.](#)

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[Division means the Illinois Department of Financial and Professional Regulation-Division of Insurance.](#)

[ICC means the International Chamber of Commerce.](#)

[Secretary means the Secretary of the Department of Financial and Professional Regulation.](#)

(Source: Added at 33 Ill. Reg. 9314, effective June 18, 2009)

Section 1104.20 Credit for Reinsurance – Reinsurer Licensed in this State

Pursuant to Section 173.1(1)(A) of the ~~Illinois Insurance Code [215 ILCS 5/173.1(1)(A)]~~, the Director shall allow credit for reinsurance ceded by a domestic insurer to assuming insurers which were licensed in this State as of the date of the ceding insurer's most recent statutory financial statement.

(Source: Amended at 33 Ill. Reg. 9314, effective June 18, 2009)

Section 1104.30 Credit for Reinsurance – Accredited Reinsurers

a) Pursuant to Section 173.1(1)(B) of the ~~Illinois Insurance Code [215 ILCS 5/173.1(1)(B)]~~, the Director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which is accredited as a reinsurer in this State as of the date of the ceding insurer's most recent statutory financial statement. An accredited reinsurer is one which:

- 1) Files a properly executed Form AR-1 Certificate of Assuming Insurer found in Appendix A of this Part as evidence of its submission to this State's jurisdiction and to this State's authority to examine its books and records; and
- 2) Files with the Director a certified copy of a letter or a certificate of authority or of compliance as evidence that it is licensed to transact insurance or reinsurance in at least one state, or, in the case of a United States branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one state; and

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- 3) Files annually with the Director a copy of its annual financial statement filed with the insurance department of its state of domicile or, in the case of an alien assuming insurer, with the state through which it is entered and in which it is licensed to transact insurance or reinsurance, and a copy of its most recent audited financial statement; and
 - 4) Maintains a surplus as regards policyholders in an amount not less than \$20,000,000 and whose accreditation has been approved by the Director.
- b) If the Director determines that the assuming insurer has failed to meet or maintain any of these qualifications, the Director may upon written notice and hearing revoke the accreditation.

(Source: Amended at 33 Ill. Reg. 9314, effective June 18, 2009)

Section 1104.40 Credit for Reinsurance – Reinsurers Maintaining Trust Funds

- a) Pursuant to Section 173.1(1)(C) of the ~~Illinois Insurance Code [215 ILCS 5/173.1(1)(C)]~~, the Director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer ~~that~~^{which}, as of the date of the ceding insurer's most recent statutory financial statement, maintains a trust fund in an amount prescribed in subsection (b) ~~below~~ in a qualified United States financial institution as defined in Section 173.1(3)(B) of the ~~Illinois Insurance Code [215 ILCS 5/173.1(3)(B)]~~, for the payment of the valid claims of its United States policyholders and ceding insurers, their assigns and successors in interest. The assuming insurer shall report annually to the Director substantially the same information as that required to be reported on the NAIC annual statement form by licensed insurers, to enable the Director to determine the sufficiency of the trust fund.
- b) The following requirements apply to the following categories of assuming insurer:
 - 1) The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's gross liabilities attributable to business written in the United States, and in addition, a trusteed surplus of not less than \$20,000,000. The assuming insurer shall file a properly executed Form AR-1 Certificate of Assuming Insurer found in Appendix A of this Part as evidence of the submission to this State's authority to examine its books and records and shall certify that it will

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bear the expense of any such examination.

- 2) The trust fund for a group including incorporated and unincorporated individual underwriters shall consist of funds in trust in an amount not less than the group's aggregate gross liabilities attributable to business written in the United States and, in addition, the group shall maintain a trustee surplus of which \$100,000,000 shall be held jointly for the benefit of the United States ceding insurers of any member of the group. The group shall file a properly executed Form AR-1 Certificate of Assuming Insurer found in Appendix A of this Part as evidence of the submission to this State's authority to examine the books and records of any of its members and shall certify that any member examined will bear the expense of any such examination. The group shall make available to the Director annual certifications by the group's domiciliary regulator and its independent public accountants of the solvency of each underwriter member of the group.
- 3) The trust fund for a group of incorporated insurers under common administration, whose members possess aggregate policyholders surplus of \$10,000,000,000 (calculated and reported in substantially the same manner as prescribed by the annual statement instructions and Accounting Practices and Procedures Manual of the National Association of Insurance Commissioners) and which has continuously transacted an insurance business outside the United States for at least ~~three (3)~~ years immediately prior to making application for accreditation, shall consist of funds in trust in an amount not less than the assuming insurers' gross liabilities attributable to business ceded by United States ceding insurers to any members of the group pursuant to reinsurance contracts issued in the name of such group and, in addition, the group shall maintain a joint trustee surplus of which \$100,000,000 shall be held jointly for the benefit of United States ceding insurers of any member of the group. The group shall file a properly executed Form AR-1 Certificate of Assuming Insurer found in Appendix A of this Part as evidence of the submission to this State's authority to examine the books and records of any of its members and shall certify that any member examined will bear the expense of any such examination. The group shall make available to the Director annual certifications by the members' domiciliary regulators and their independent public accountants of the solvency of each member of the group.

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- c) The trust shall be established in a form approved by the Director and complying with Section 173.1(1) of the ~~Illinois Insurance Code [215 ILCS 5/173.1(1)]~~ and this Part. The trust instrument shall provide that:
- 1) Contested claims shall be valid and enforceable out of funds in trust to the extent remaining unsatisfied ~~thirty (30)~~ days after entry of the final order of any court of competent jurisdiction in the United States.
 - 2) Legal title to the assets of the trust shall be vested in the trustee for the benefit of the grantor's United States policyholders and ceding insurers, their assigns and successors in interest.
 - 3) The trust shall be subject to examination as determined by the Director.
 - 4) The trust shall remain in effect for as long as the assuming insurer, or any member or former member of a group of insurers, shall have outstanding obligations under reinsurance agreements subject to the trust.
 - 5) No later than February 28 of each year the trustees of the trust shall report to the Director in writing setting forth the balance in the trust and listing the trust's investments at the preceding year end, and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31.
 - 6) No amendment to the trust shall be effective unless reviewed and approved in advance by the Director.

(Source: Amended at 33 Ill. Reg. 9314, effective June 18, 2009)

Section 1104.50 Credit for Reinsurance Required by Law

Pursuant to Section 173.1(1)(D) of the ~~Illinois Insurance Code [215 ILCS 5/173.1(1)(D)]~~, the Director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of Section 173.1(1)(A), (B) or (C) of the ~~Illinois Insurance Code [215 ILCS 5/173.1(1)(A), (B) or (C)]~~ but only with respect to the insurance of risks located in jurisdictions where that reinsurance is required by applicable law or regulation of that jurisdiction. As used in this Section, "jurisdiction" means any state, district or territory of the United States and any lawful national government.

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(Source: Amended at 33 Ill. Reg. 9314, effective June 18, 2009)

Section 1104.60 Reduction from Liability for Reinsurance Ceded to an Unauthorized Assuming Insurer

Pursuant to Section 173.1(2) of the ~~Illinois Insurance Code [215 ILCS 5/173.1(2)]~~, the Director shall allow a reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of Section 173.1(1) of the ~~Illinois Insurance Code [215 ILCS 5/173.1(1)]~~ in an amount not exceeding the liabilities carried by the ceding insurer. Such reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the exclusive benefit of the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations thereunder. Such security must be held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer or, in the case of a trust, held in a qualified United States financial institution as defined in Section 173.1(3)(B) of the ~~Illinois Insurance Code [215 ILCS 5/173.1(3)(B)]~~.

- a) This security may be in the form of any of the following:
 - 1) Cash.
 - 2) Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners and qualifying as admitted assets under Article VIII of the ~~Illinois Insurance Code~~.
 - 3) Clean, irrevocable, unconditional and "evergreen" letters of credit issued or confirmed by a qualified United States institution, as defined in Section 173.1(3)(A) of the ~~Illinois Insurance Code [215 ILCS 5/173.1(3)(A)]~~, effective no later than December 31 of the year for which filing is being made, and in the possession of the ceding company on or before the filing date of its annual financial statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance (or confirmation) shall, notwithstanding the issuing (or confirming) institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs.
 - 4) Any other form of security acceptable to the Director.

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- b) An admitted asset or a reduction from liability for reinsurance ceded to an unauthorized assuming insurer pursuant to subsections (a)(1), (2) and (3) ~~above~~ shall be allowed only when the requirements of Section 1104.70, 1104.80 or 1104.90 of this Part are met.

(Source: Amended at 33 Ill. Reg. 9314, effective June 18, 2009)

Section 1104.70 Trust Agreements Qualified Under Section 1104.60 of this Part

- a) As used in this Section:
- 1) Beneficiary means the entity for whose sole benefit the trust has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver (including conservator, rehabilitator or liquidator).
 - 2) Grantor means the entity that has established a trust for the sole benefit of the beneficiary. When established in conjunction with a reinsurance agreement, the grantor is the unlicensed, unaccredited assuming insurer.
 - 3) Obligations, as used in subsection (b)(11) ~~below~~, means:
 - A) Reinsured losses and allocated loss adjustment expenses paid by the ceding company, but not recovered from the assuming insurer;
 - B) Reserves for reinsured losses reported and outstanding;
 - C) Reserves for reinsured losses incurred but not reported; and
 - D) Reserves for allocated reinsured loss adjustment expenses and unearned premiums.
- b) Required Conditions.
- 1) The trust agreement shall be entered into between the beneficiary, the grantor and a trustee ~~that~~ ~~which~~ shall be a qualified United States financial institution as defined in Section 173.1(3)(B) of the ~~Illinois Insurance~~ Code

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~~[215 ILCS 5/173.1(3)(B)].~~

- 2) The trust agreement shall create a trust account into which assets shall be deposited.
- 3) All assets in the trust account shall be held by the trustee at the trustee's office in the United States, except that a bank may apply for the Director's permission to use a foreign branch office of ~~thesueh~~ bank as trustee for trust agreements established pursuant to this Section. If the Director approves the use of ~~thesueh~~ foreign branch office as trustee, then its use must be approved by the beneficiary in writing and the trust agreement must provide that the written notice described in subsection (b)(4)(A) ~~below~~ must also be presentable, as a matter of legal right, at the trustee's principal office in the United States.
- 4) The trust agreement shall provide that:
 - A) The beneficiary shall have the right to withdraw assets from the trust account at any time, without notice to the grantor, subject only to written notice from the beneficiary to the trustee;
 - B) No other statement or document is required to be presented in order to withdraw assets, except that the beneficiary may be required to acknowledge receipt of withdrawn assets;
 - C) It is not subject to any conditions or qualifications outside of the trust agreement; and
 - D) It shall not contain references to any other agreements or documents except as provided for under subsection (b)(11) ~~below~~.
- 5) The trust agreement shall be established for the sole benefit of the beneficiary.
- 6) The trust agreement shall require the trustee to:
 - A) Receive assets and hold all assets in a safe place;
 - B) Determine that all assets are in such form that the beneficiary, or

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the trustee upon direction by the beneficiary, may whenever necessary negotiate any such assets, without consent or signature from the grantor or any other person or entity;

- C) Furnish to the grantor and the beneficiary a statement of all assets in the trust account upon its inception and at intervals no less frequent than the end of each calendar quarter;
 - D) Notify the grantor and the beneficiary, within ~~ten~~(10) days, of any deposits to or withdrawals from the trust account;
 - E) Upon written demand of the beneficiary, immediately take any and all steps necessary to transfer absolutely and unequivocally all right, title and interest in the assets held in the trust account to the beneficiary and deliver physical custody of the assets to the beneficiary; and
 - F) Allow no substitutions or withdrawals of assets from the trust account, except on written instructions from the beneficiary, except that the trustee may, without the consent of but with notice to the beneficiary, upon call or maturity of any trust asset, withdraw ~~thesueh~~ asset upon condition that the proceeds are paid into the trust account.
- 7) The trust agreement shall provide that at least ~~thirty~~(30) days, but not more than ~~forty five~~(45) days, prior to termination of the trust account, written notification of termination shall be delivered by the trustee to the beneficiary.
 - 8) The trust agreement shall be made subject to and governed by the laws of the state in which the trust is established.
 - 9) The trust agreement shall prohibit invasion of the trust corpus for the purpose of paying compensation to, or reimbursing the expenses of, the trustee.
 - 10) The trust agreement shall provide that the trustee shall be liable for its own negligence, willful misconduct or lack of good faith.

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- 11) Notwithstanding other provisions of this Part, when a trust agreement is established in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, where it is customary practice to provide a trust agreement for a specific purpose, such a trust agreement may, notwithstanding any other conditions in this Part, provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, for the following purposes:
- A) To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement regarding any losses and allocated loss expenses paid by the ceding insurer, but not recovered from the assuming insurer, or for unearned premiums due to the ceding insurer if not otherwise paid by the assuming insurer;
 - B) To make payment to the assuming insurer of any amounts held in the trust account that exceed ~~one hundred and two percent (102%)~~ of the actual amount required to fund the assuming insurer's obligations under the specific reinsurance agreement; or
 - C) Where the ceding insurer has received notification of termination of the trust account and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ~~ten (10)~~ days prior to the termination date, to withdraw amounts equal to the obligations and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified United States financial institution as defined in Section 173.1(3)(B) of the ~~Illinois Insurance Code [215 ILCS 5/173.1(3)(B)]~~ apart from its general assets, in trust for such uses and purposes specified in subsections (b)(11)(A) and (B) ~~above~~ as may remain executory after such withdrawal and for any period after the termination date.
- 12) The reinsurance agreement entered into in conjunction with the trust agreement may, but need not, contain the provisions required by subsection (d)(1)(B) ~~below~~, so long as these required conditions are included in the trust agreement.

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- c) Permitted Conditions.
- 1) The trust agreement may provide that the trustee may resign upon delivery of a written notice of resignation, effective not less than ~~ninety (90)~~ days after receipt by the beneficiary and grantor of the notice, and that the trustee may be removed by the grantor by delivery to the trustee and the beneficiary of a written notice of removal, effective not less than ~~ninety (90)~~ days after receipt by the trustee and the beneficiary of the notice, provided that no such resignation or removal shall be effective until a successor trustee has been duly appointed and approved by the beneficiary and the grantor and all assets in the trust have been duly transferred to the new trustee.
 - 2) The grantor may have the full and unqualified right to vote any shares of stock in the trust account and to receive from time to time payments of any dividends or interest upon any shares of stock or obligations included in the trust account. Any such interest or dividends shall be either forwarded promptly upon receipt to the grantor or deposited in a separate account established in the grantor's name.
 - 3) The trustee may be given authority to invest, and accept substitutions of, any funds in the account, provided that no investment or substitution shall be made without prior approval of the beneficiary, unless the trust agreement specifies categories of investments acceptable to the beneficiary and authorizes the trustee to invest funds and to accept substitutions which the trustee determines are at least equal in market value to the assets withdrawn and that are consistent with the restrictions in subsection (d)(1)(B) ~~below~~.
 - 4) The trust agreement may provide that the beneficiary may at any time designate a party to which all or part of the trust assets are to be transferred. ~~The Such~~ transfer may be conditioned upon the trustee receiving, prior to or simultaneously, other specified assets.
 - 5) The trust agreement may provide that, upon termination of the trust account, all assets not previously withdrawn by the beneficiary shall, with written approval by the beneficiary, be delivered over to the grantor.
- d) Additional Conditions Applicable to Reinsurance Agreements.

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- 1) A reinsurance agreement ~~that, which~~ is entered into in conjunction with a trust agreement and the establishment of a trust account~~;~~ must contain provisions that:
 - A) Require the assuming insurer to enter into a trust agreement and to establish a trust account for the benefit of the ceding insurer, and specifying what the agreement is to cover;
 - B) Stipulate that assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash (United States legal tender), certificates of deposit (issued by a United States bank and payable in United States legal tender), and investments of the types permitted by the Illinois Insurance Code or any combination of the ~~three~~above, provided that ~~thesuch~~ investments are issued by an institution that is not the parent, subsidiary or affiliate of either the grantor or the beneficiary. The reinsurance agreement may further specify the types of investments to be deposited. ~~When~~Where a trust agreement is entered into in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, then the trust agreement may contain the provisions required by this ~~subsection (d)(1)(B)~~subparagraph in lieu of including ~~thosesuch~~ provisions in the reinsurance agreement;
 - C) Require the assuming insurer, prior to depositing assets with the trustee, to execute assignments or endorsements in blank, or to transfer legal title to the trustee of all shares, obligations or any other assets requiring assignments, in order that the ceding insurer, or the trustee upon the direction of the ceding insurer, may whenever necessary negotiate these assets without consent or signature from the assuming insurer or any other entity;
 - D) Require that all settlements of account between the ceding insurer and the assuming insurer be made in cash or its equivalent; and
 - E) Stipulate that the assuming insurer and the ceding insurer agree that the assets in the trust account, established pursuant to the provisions of the reinsurance agreement, may be withdrawn by the

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ceding insurer at any time, notwithstanding any other provisions in the reinsurance agreement, and be utilized and applied by the ceding insurer or its successors in interest by operation of law, including without limitation any liquidator, rehabilitator, receiver or conservator of ~~thesueh~~ company, without diminution because of insolvency on the part of the ceding insurer or the assuming insurer, only for the following purposes:

- i) To reimburse the ceding insurer for the assuming insurer's share of premiums returned to the owners of policies reinsured under the reinsurance agreement because of cancellations of ~~thosesueh~~ policies;
 - ii) To reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer pursuant to the provisions of the policies reinsured under the reinsurance agreement;
 - iii) To fund an account with the ceding insurer in an amount at least equal to the deduction, for reinsurance ceded, from the ceding insurer liabilities for policies ceded under the agreement. The account shall include, but not be limited to, amounts for policy reserves, claims and losses incurred (including losses incurred but not reported), loss adjustment expenses and unearned premium reserves; and
 - iv) To pay any other amounts the ceding insurer claims are due under the reinsurance agreement.
- 2) The reinsurance agreement may also contain provisions that:
- A) Give the assuming insurer the right to seek approval from the ceding insurer (the ceding insurer shall not unreasonably or arbitrarily withhold its approval) to withdraw from the trust account all or any part of the trust assets and transfer those assets to the assuming insurer, provided:
 - i) The assuming insurer shall, at the time of withdrawal, replace the withdrawn assets with other qualified assets

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having a market value equal to the market value of the assets withdrawn so as to maintain at all times the deposit in the required amount; or

- ii) After withdrawal and transfer, the market value of the trust account is no less than ~~one hundred and two percent~~ (102%) of the required amount.

B) Provide for:

- i) The return of any amount withdrawn in excess of the actual amounts required for subsections (d)(1)(E)(i), (ii) and (iii) of this Section, or in the case of subsection (d)(1)(E)(iv), any amounts that are subsequently determined not to be due; and
- ii) Interest payments, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to subsection (d)(1)(E)(iii).

C) Permit the award by any arbitration panel or court of competent jurisdiction of:

- i) Interest at a rate different from that provided in subsection (d)(2)(B)(ii) of this Section;
- ii) Court of arbitration costs;
- iii) Attorney's fees; and
- iv) Any other reasonable expenses.

- 3) Financial reporting. A trust agreement may be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with this ~~Division~~Department in compliance with the provisions of this Part when established on or before the date of filing of the financial statement of the ceding insurer. Further, the reduction for the existence of an acceptable trust account may be up to the current fair market value of acceptable assets available to be

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withdrawn from the trust account at that time, but ~~the~~^{such} reduction shall be no greater than the specific obligations under the reinsurance agreement that the trust account was established to secure.

4) ~~Existing agreements. Notwithstanding the effective date of this Part, any trust agreement or underlying reinsurance agreement in existence prior to January 1, 1996 which complies with Section 173.1 of the Insurance Code [215 ILCS 5/173.1] will continue to be acceptable until January 1, 1997 at which time the agreements will have to be in full compliance with this Part for the trust agreement to be acceptable.~~

45) The failure of any trust agreement to specifically identify the beneficiary as defined in subsection (a) ~~above~~ shall not be construed to affect any actions or rights which the Director may take or possess pursuant to the provisions of the laws of this State.

(Source: Amended at 33 Ill. Reg. 9314, effective June 18, 2009)

Section 1104.80 Letters of Credit Qualified Under Section 1104.60 of this Part

- a) The letter of credit must be clean, irrevocable and unconditional and issued or confirmed by a qualified United States financial institution as defined in Section 173.1(3)(A) of the ~~Illinois Insurance Code [215 ILCS 5/173.1(3)(A)]~~. The letter of credit shall contain an issue date and date of expiration and shall stipulate that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds and that no other document need be presented. The letter of credit shall also indicate that it is not subject to any condition or qualifications outside of the letter of credit. In addition, the letter of credit itself shall not contain reference to any other agreements, documents or entities, except as provided in subsection (i)(1) ~~below~~. As used in this Section, "beneficiary" means the domestic insurer for whose benefit the letter of credit has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver (including conservator, rehabilitator or liquidator).
- b) The heading of the letter of credit may include a boxed section ~~that~~^{which} contains the name of the applicant and other appropriate notations to provide a reference for the letter of credit. The boxed section shall be clearly marked to indicate that

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~~thesueh~~ information is for internal identification purposes only.

- c) The letter of credit shall contain a statement to the effect that the obligation of the qualified United States financial institution under the letter of credit is in no way contingent upon reimbursement ~~of the letter of credit with respect thereto~~.
- d) The term of the letter of credit shall be for at least one year and shall contain an "evergreen clause" ~~thatwhich~~ prevents the expiration of the letter of credit without due notice from the issuer. The "evergreen clause" shall provide for a period of no less than ~~thirty (30)~~ days notice prior to the expiration date or nonrenewal.
- e) The letter of credit shall state whether it is subject to and governed by the laws of this State or the ICC Uniform Customs and Practice for Documentary Credits (ICC Publication No. ~~600, July 2007, 1212 Avenue of the Americas, New York NY 10036 (no later amendments or editions)500, May 1993~~), and all drafts drawn ~~under the letter of creditthereunder~~ shall be presentable at an office in the United States of a qualified United States financial institution.
- f) If the letter of credit is made subject to the ICC Uniform Customs and Practice for Documentary Credits (ICC Publication No. ~~600, July 2007, 1212 Avenue of the Americas, New York NY 10036 (no later amendments or editions)500, May 1993~~), then the letter of credit shall specifically address and make provision for an extension of time to draw against the letter of credit in the event that one or more of the occurrences specified in Article ~~3617~~ of Publication ~~600500~~ occur.
- g) The letter of credit shall be issued or confirmed by a qualified United States financial institution authorized to issue letters of credit, pursuant to Section 173.1(3)(A) of the ~~Illinois Insurance~~ Code ~~[215 ILCS 5/173.1(3)(A)]~~.
- h) If the letter of credit is issued by a nonqualified financial institution and is confirmed by a qualified United States financial institution as described in subsection (g) ~~above~~, then the following additional requirements shall be met:
- 1) The issuing financial institution shall formally designate the confirming qualified United States financial institution as its agent for the receipt and payment of the drafts; and
 - 2) The "evergreen clause" shall provide for not less than 60 days notice of nonrenewal prior to the expiration date.

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- i) Reinsurance Agreement Provisions.
 - 1) The reinsurance agreement in conjunction with which the letter of credit is obtained must contain provisions ~~that~~which:
 - A) Require the assuming insurer to provide letters of credit to the ceding insurer and specify what they are to cover.
 - B) Stipulate that the assuming insurer and ceding insurer agree that the letter of credit provided by the assuming insurer pursuant to the provisions of the reinsurance agreement may be drawn upon at any time, notwithstanding any other provisions in the agreement, and be utilized by the ceding insurer or its successors in interest only for one or more of the following reasons:
 - i) To reimburse the ceding insurer for the assuming insurer's share of premiums returned to the owners of policies reinsured under the reinsurance agreement on account of cancellations of ~~those~~such policies;
 - ii) To reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer under the terms and provisions of the policies reinsured under the reinsurance agreement;
 - iii) To fund an account with the ceding insurer in an amount at least equal to the deduction, for reinsurance ceded, from the ceding insurer's liabilities for policies ceded under the agreement. The amount shall include, but not be limited to, amounts for policy reserves, claims and losses incurred (including losses incurred but not reported) and unearned premium reserves;
 - iv) To pay any other amounts the ceding insurer claims are due under the reinsurance agreement; and
 - v) To pay existing liabilities between the insurer and the reinsurer upon commutation of one or more reinsurance

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contracts.

- C) All of the foregoing provisions of subsection (i)(1)-~~above~~ should be applied without diminution because of insolvency on the part of the ceding insurer or assuming insurer.
- 2) Nothing contained in subsection (i)(1)-~~above~~ shall preclude the ceding insurer and assuming insurer from providing for:
- A) An interest payment, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to subsection (i)(1)(B)(iii) ~~above~~; and/or
- B) The return of any amounts drawn down on the letters of credit in excess of the actual amounts required for the above or, in the case of subsection (i)(1)(B)(iv)-~~above~~, any amounts that are subsequently determined not to be due.
- 3) When a letter of credit is obtained in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, ~~whenwhere~~ it is customary practice to provide a letter of credit for a specific purpose, then the reinsurance agreement may, in lieu of subsection (i)(1)(B)-~~above~~, require that the parties enter into a "Trust Agreement" ~~thatwhich~~ may be incorporated into the reinsurance agreement or be a separate document.
- j) A letter of credit may not be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with this ~~Division~~Department unless an acceptable letter of credit with the filing ceding insurer as beneficiary has been issued on or before the date of filing of the financial statement. Further, the reduction for the letter of credit may be up to the amount available under the letter of credit but no greater than the specific obligation under the reinsurance agreement ~~thatwhich~~ the letter of credit was intended to secure.

(Source: Amended at 33 Ill. Reg. 9314, effective June 18, 2009)

Section 1104.100 Reinsurance Contract

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Credit will not be granted to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of ~~Section~~Sections 1104.20, 1104.30, 1104.40 or 1104.60 of this Part or otherwise in compliance with Section 173.1(1) of the ~~Illinois Insurance Code~~[215 ILCS 5/173.1(1)] after January 1, 1996 unless the reinsurance agreement:

- a) Includes a proper insolvency clause pursuant to Section 173.2 of the ~~Illinois Insurance Code~~[215 ILCS 5/173.2]; and
- b) Includes a provision pursuant to Section 173.1(1)(E) of the ~~Illinois Insurance Code~~ under which~~[215 ILCS 5/173.1(1)(E)]~~ whereby the assuming insurer, if an unauthorized assuming insurer, has submitted to the jurisdiction of an alternative dispute resolution panel or court of competent jurisdiction within the United States, has agreed to comply with all requirements necessary to give ~~the~~such court or panel jurisdiction, has designated an agent upon whom service of process may be effected, and has agreed to abide by the final decision of ~~the~~such court or panel.

(Source: Amended at 33 Ill. Reg. 9314, effective June 18, 2009)

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Section 1104.APPENDIX A Form AR-1 Certificate of Assuming Insurer

FORM AR-1
CERTIFICATE OF ASSUMING INSURER

I, _____, _____
(name of officer) (title of officer)
of _____, the assuming insurer under a
(name of assuming insurer)
reinsurance agreement(s) with one or more insurers domiciled in Illinois, hereby certify
that _____ ("Assuming Insurer"):
(name of assuming insurer)

1. Submits to the jurisdiction of any court of competent jurisdiction in Illinois for the adjudication of any issues arising out of the reinsurance agreement(s), agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by final decision of such court or any appellate court in the event of an appeal. Nothing in this paragraph constitutes or should be understood to constitute a waiver of Assuming Insurer's rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement(s) to arbitrate their disputes if such an obligation is created in the agreement(s).
2. Designates the Director of the [Division Illinois Department](#) of Insurance as its lawful attorney upon whom may be served any lawful process in any action, suit or proceeding arising out of the reinsurance agreement(s) instituted by or on behalf of the ceding insurer.
3. Submits to the authority of the Director of the [Division Illinois Department](#) of Insurance to examine its books and records and agrees to bear the expense of any such examination.
4. Submits with this form a current list of insurers domiciled in Illinois reinsured by Assuming Insurer and undertakes to submit additions to or deletions from the list to the Director at least once per calendar quarter.

Date: _____

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(name of assuming insurer)

BY:

(name of officer)

(title of officer)

(Source: Amended at 33 Ill. Reg. 9314, effective June 18, 2009)

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- 1) Heading of the Part: Reimbursement for Nursing Costs for Geriatric Facilities
- 2) Code Citation: 89 Ill. Adm. Code 147
- 3) Section Number: 147.150 Adopted Action: Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendment: July 1, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: December 12, 2008; 32 Ill. Reg. 18921
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences Between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: This rulemaking implements that portion of Public Act 95-744 (Fiscal Year 2009 Budget Implementation Plan) that provides additional funds for the Minimum Data Set (MDS)-based reimbursement methodology for nursing facilities. In addition, the amendment deletes reference to a proposed MDS-based reimbursement methodology for Class I Institutions for Mental Diseases (IMDs) because a separate rulemaking added Section 147.5, "Minimum Data Set-Mental Health (MDS-MH) Based Reimbursement System", at 32 Ill. Reg. 8654, effective June 11, 2007.

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- 16) Information and questions regarding this adopted amendment shall be directed to:

Tamara Tanzillo Hoffman
Chief of Staff
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/557-7157

The full text of the Adopted Amendment begins on the next page:

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 147

REIMBURSEMENT FOR NURSING COSTS FOR GERIATRIC FACILITIES

Section

147.5	Minimum Data Set-Mental Health (MDS-MH) Based Reimbursement System
147.15	Comprehensive Resident Assessment (Repealed)
147.25	Functional Needs and Restorative Care (Repealed)
147.50	Service Needs (Repealed)
147.75	Definitions (Repealed)
147.100	Reconsiderations (Repealed)
147.105	Midnight Census Report
147.125	Nursing Facility Resident Assessment Instrument
147.150	Minimum Data Set (MDS) Based Reimbursement System
147.175	Minimum Data Set (MDS) Integrity
147.200	Minimum Data Set (MDS) On-Site Review Documentation
147.205	Nursing Rates (Repealed)
147.250	Costs Associated with the Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203) (Repealed)
147.300	Payment to Nursing Facilities Serving Persons with Mental Illness
147.301	Sanctions for Noncompliance
147.305	Psychiatric Rehabilitation Service Requirements for Individuals With Mental Illness in Residential Facilities (Repealed)
147.310	Inspection of Care (IOC) Review Criteria for the Evaluation of Psychiatric Rehabilitation Services in Residential Facilities for Individuals with Mental Illness (Repealed)
147.315	Comprehensive Functional Assessments and Reassessments (Repealed)
147.320	Interdisciplinary Team (IDT) (Repealed)
147.325	Comprehensive Program Plan (CPP) (Repealed)
147.330	Specialized Care – Administration of Psychopharmacologic Drugs (Repealed)
147.335	Specialized Care – Behavioral Emergencies (Repealed)
147.340	Discharge Planning (Repealed)
147.345	Reimbursement for Program Costs in Nursing Facilities Providing Psychiatric Rehabilitation Services for Individuals with Mental Illness (Repealed)
147.350	Reimbursement for Additional Program Costs Associated with Providing Specialized Services for Individuals with Developmental Disabilities in Nursing

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Facilities

147.TABLE A	Staff Time (in Minutes) and Allocation by Need Level
147.TABLE B	MDS-MH Staff Time (in Minutes and Allocation by Need Level)
147.TABLE C	Comprehensive Resident Assessment (Repealed)
147.TABLE D	Functional Needs and Restorative Care (Repealed)
147.TABLE E	Service (Repealed)
147.TABLE F	Social Services (Repealed)
147.TABLE G	Therapy Services (Repealed)
147.TABLE H	Determinations (Repealed)
147.TABLE I	Activities (Repealed)
147.TABLE J	Signatures (Repealed)
147.TABLE K	Rehabilitation Services (Repealed)
147.TABLE L	Personal Information (Repealed)

AUTHORITY: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Recodified from 89 Ill. Adm. Code 140.900 thru 140.912 and 140.Table H and 140.Table I at 12 Ill. Reg. 6956; amended at 13 Ill. Reg. 559, effective January 1, 1989; amended at 13 Ill. Reg. 7043, effective April 24, 1989; emergency amendment at 13 Ill. Reg. 10999, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 16796, effective October 13, 1989; amended at 14 Ill. Reg. 210, effective December 21, 1989; emergency amendment at 14 Ill. Reg. 6915, effective April 19, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 9523, effective June 4, 1990, for a maximum of 150 days; emergency expired November 1, 1990; emergency amendment at 14 Ill. Reg. 14203, effective August 16, 1990, for a maximum of 150 days; emergency expired January 13, 1991; emergency amendment at 14 Ill. Reg. 15578, effective September 11, 1990, for a maximum of 150 days; emergency expired February 8, 1991; amended at 14 Ill. Reg. 16669, effective September 27, 1990; amended at 15 Ill. Reg. 2715, effective January 30, 1991; amended at 15 Ill. Reg. 3058, effective February 5, 1991; amended at 15 Ill. Reg. 6238, effective April 18, 1991; amended at 15 Ill. Reg. 7162, effective April 30, 1991; amended at 15 Ill. Reg. 9001, effective June 17, 1991; amended at 15 Ill. Reg. 13390, effective August 28, 1991; emergency amendment at 15 Ill. Reg. 16435, effective October 22, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 4035, effective March 4, 1992; amended at 16 Ill. Reg. 6479, effective March 20, 1992; emergency amendment at 16 Ill. Reg. 13361, effective August 14, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 14233, effective August 31, 1992; amended at 16 Ill. Reg. 17332, effective November 6, 1992; amended at 17 Ill. Reg. 1128, effective January 12, 1993; amended at 17 Ill. Reg. 8486, effective June 1, 1993; amended at 17 Ill. Reg. 13498, effective August 6, 1993; emergency amendment at 17 Ill. Reg. 15189, effective

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September 2, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 2405, effective January 25, 1994; amended at 18 Ill. Reg. 4271, effective March 4, 1994; amended at 19 Ill. Reg. 7944, effective June 5, 1995; amended at 20 Ill. Reg. 6953, effective May 6, 1996; amended at 21 Ill. Reg. 12203, effective August 22, 1997; amended at 26 Ill. Reg. 3093, effective February 15, 2002; emergency amendment at 27 Ill. Reg. 10863, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18680, effective November 26, 2003; expedited correction at 28 Ill. Reg. 4992, effective November 26, 2003; emergency amendment at 29 Ill. Reg. 10266, effective July 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 18913, effective November 4, 2005; amended at 30 Ill. Reg. 15141, effective September 11, 2006; expedited correction at 31 Ill. Reg. 7409, effective September 11, 2006; amended at 31 Ill. Reg. 8654, effective June 11, 2007; emergency amendment at 32 Ill. Reg. 415, effective January 1, 2008, for a maximum of 150 days; emergency amendment suspended at 32 Ill. Reg. 3114, effective February 13, 2008; emergency suspension withdrawn in part at 32 Ill. Reg. 4399, effective February 26, 2008 and 32 Ill. Reg. 4402, effective March 11, 2008 and 32 Ill. Reg. 9765, effective June 17, 2008; amended at 32 Ill. Reg. 8614, effective May 29, 2008; amended at 33 Ill. Reg. 9337, effective July 1, 2009.

Section 147.150 Minimum Data Set (MDS) Based Reimbursement System

- a) Public Act 94-0964 requires the Department to implement, effective January 1, 2007, a payment methodology for the nursing component of the rate paid to nursing facilities. Except for nursing facilities that are defined as Class I Institutions for Mental Diseases (IMDs) pursuant to 89 Ill. Adm. Code 145.30, reimbursement for the nursing component shall be calculated using the Minimum Data Set (MDS). Increased reimbursement under this payment methodology shall be paid only if specific appropriation for this purpose is enacted by the General Assembly. ~~For Class I IMDs, the nursing component shall be the rate in effect on June 30, 2005 until a payment methodology using the Illinois Minimum Data Set-Mental Health (IL MDS-MH), appropriate for the care needs of the IMD resident population, is implemented. The payment methodology using the IL MDS-MH shall be implemented no later than July 1, 2007.~~
- b) The nursing component of the rate shall be calculated annually and may be adjusted quarterly. The determination of rates shall be based upon a composite of MDS data collected from each eligible resident in accordance with Section 147. Table A for those eligible residents who are recorded in the Department's Medicaid Management Information System as of 30 days prior to the rate period as present in the facility on the last day of the second quarter preceding the rate period. Residents for whom MDS resident identification information is missing

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or inaccurate, or for whom there is no current MDS record for that quarter, shall be placed in the lowest MDS acuity level for calculation purposes for that quarter. The nursing component of the rate may be adjusted on a quarterly basis if any of the following conditions are met:

- 1) Total variable nursing time for a rate quarter as calculated in subsection (c)(1) of this Section exceeds total variable nursing time calculated for the previous rate quarter by more than five percent.
 - 2) Total variable nursing time for a rate quarter as calculated in subsection (c)(1) of this Section exceeds total variable nursing time as calculated for the annual rate period by more than ten percent.
 - 3) Total variable nursing time for a rate quarter as calculated in subsection (c)(1) of this Section declines from the total variable nursing time as calculated for the annual period by more than five percent. No quarterly nursing component rate reduction shall exceed five percent from the previous rate quarter.
- c) Per diem reimbursement rates for nursing care in nursing facilities consist of three elements: variable time reimbursement; fringe benefit reimbursement; and reimbursement for supplies, consultants, medical directors and nursing directors.
- 1) Variable Time Reimbursement.
Variable nursing time is that time necessary to meet the major service needs of residents that vary due to their physical or mental conditions. Each need level or specific nursing service measured by the Resident Assessment Instrument is associated with an amount of time and staff level (Section 147. Table A). Reimbursement is developed by multiplying the time for each service by the ~~wages~~wage(s) of the type of staff performing the service except for occupational therapy, physical therapy and speech therapy. If more than one level of staff are involved in delivering a service, reimbursement for that service will be weighted by the wage and number of minutes allocated to each staff type. In calculating a facility's rate, the figures used by the Department for wages will be determined in the following manner:
 - A) The mean wages for the applicable staff levels (RNs, LPNs, certified nursing assistants (CNAs), activity staff, social workers),

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as reported on the cost reports and determined by regional rate area, will be the mean wages.

- B) Fringe benefits will be the average percentage of benefits to actual salaries of all nursing facilities based upon cost reports filed pursuant to 89 Ill. Adm. Code 140.543. Fringe benefits will be added to the mean wage.
- C) The base wage, including fringe benefits, will then be updated for inflation from the time period for which the wage data are available to the midpoint of the rate year to recognize projected base wage changes.
- D) Special minimum wage factor. The process used in subsection (c)(1)(A) of this Section to determine regional mean wages for RNs, LPNs and CNAs will include a minimum wage factor. For those facilities below 90% of the Statewide average, the wage is replaced by 90% of the Statewide average.
- E) Beginning January 1, 2007, facilities shall be paid a rate based upon the sum of the following:
 - i) the facility MDS-based rate multiplied by the ratio the numerator of which is the quotient obtained by dividing the additional funds appropriated specifically to pay for rates based upon the MDS nursing component methodology above the December 31, 2006 funding by the total number of Medicaid patient days utilized by facilities covered by the MDS-based system and the denominator of which is the difference between the weighted mean rate obtained by the MDS-based methodology and the weighted mean rate in effect on December 31, 2006.
 - ii) the facility rate in effect on December 31, 2006, which is defined as the facility rate in effect on December 31, 2006 plus the exceptional care reimbursement per diem computed in 89 Ill. Adm. Code 140.569(a)(1), multiplied by one minus the ratio computed in Section 147.150(c)(1)(E)(i). The exceptional care reimbursement

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per diem effective January 1, 2007 computed in 89 Ill. Adm. Code 140.569 shall be included in the nursing component of the June 30, 2006 rate unless the total variable nursing time for a rate quarter as calculated in subsection (c)(1) of this Section is more than a five percent drop from the total variable nursing time calculated for the June 30, 2006 rate quarter. Then the facility will receive for the rate period zero percent of the exceptional care reimbursement per diem computed in 89 Ill. Adm. Code 140.569

- iii) For facilities in which the number of ventilator care residents in any quarter has increased over the number used to compute the exceptional care per diem as specified in 89 Ill. Adm. Code 140.569(a)(1), the rate computed in ~~subsections~~[subsection](#) (c)(1)(E)(i) and (c)(1)(E)(ii) shall add the sum of total variable time reimbursement for the ventilator care add-on, vacation time, the average facility special patient need factors, and supply, consultant, and Director of Nursing factors for each resident receiving ventilator care in excess of the number used to compute the exceptional care per diem as specified in 89 Ill. Adm. Code 140.569(a)(1) divided by the total number of residents used to compute the MDS portion of the paid rate for that quarter. The resulting ventilator add-on shall be multiplied by one minus the ratio computed in Section 147.150(c)(1)(E)(i). This addition to the rate shall apply for each quarter regardless of the facility's eligibility for use of that quarter's MDS rate for computation of the paid facility rate as defined in subsection (b) of this Section.

- F) The annual amount of new funds allocated for MDS reimbursement methodology beginning January 1, 2007 is \$60 million. The annual amount of new funds allocated for MDS reimbursement methodology beginning January 1, 2008 is \$50 million. [The annual amount of new funds for MDS reimbursement methodology beginning January 1, 2009 is \\$84 million.](#)

- 2) Vacation, Sick Leave and Holiday Time.

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The time to be added for vacation, sick leave, and holidays will be determined by multiplying the total of variable time by 5%.

- 3) Special Supplies, Consultants and the Director of Nursing. Reimbursement will be made for health care and program supplies, consultants required by the Department of Public Health (including the Medical Director), and the Director of Nursing by applying a factor to variable time and vacation, sick leave and holiday time. (A list of consultants required by the Department of Public Health can be found in 77 Ill. Adm. Code 300.830.)
- A) Supplies will be updated for inflation using the General Services Inflator (see 89 Ill. Adm. Code 140.551). Health care and program salaries shall be updated for inflation using the Nursing and Program Inflator (see 89 Ill. Adm. Code 140.552). A factor for supplies will be the Statewide mean of the ratio of total facility health care and programs supply costs to total facility health care and programs salaries.
 - B) The Director of Nursing and the consultants will be updated for inflation using the Nursing and Program Inflator (see 89 Ill. Adm. Code 140.552). A factor for the Director of Nursing and consultant costs shall be the Statewide mean of the ratio of all facilities' Director of Nursing and consultant costs to total facility health care and programs salaries.
 - C) These costs shall be updated pursuant to cost reports as referenced in 89 Ill. Adm. Code 153.125(f).
- d) Determination of Facility Rates.
An amount for each resident will be calculated by multiplying the number of minutes from the assessment by the appropriate wages for each assessment item (see subsection (c)(1) of this Section), adding the amounts for vacation, sick and holiday time (see subsection (c)(2) of this Section), and supplies, consultants, and the Director of Nursing (see subsection (c)(3) of this Section). The average of the rates for eligible residents assessed will become the facility's per diem reimbursement rate for each eligible resident in the facility.

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- e) A transition period from the payment methodology in effect on June 30, 2003 to the payment methodology in effect July 1, 2003 shall be provided for a period not exceeding December 31, 2006, as follows:
- 1) MDS-based rate adjustments under this Section shall not be effective until the attainment of a threshold. The threshold shall be attained at the earlier of either:
 - A) when all nursing facilities have established a rate (sum of all components) which is no less than the rate effective June 30, 2002, or
 - B) January 1, 2007.
 - 2) For a facility that would receive a lower nursing component rate per resident day under the payment methodology effective July 1, 2003 than the facility received June 30, 2003, the nursing component rate per resident day for the facility shall be held at the level in effect on June 30, 2003 until a higher nursing component rate of reimbursement is achieved by that facility.
 - 3) For a facility that would receive a higher nursing component rate per resident day under the payment methodology in effect on July 1, 2003 than the facility received June 30, 2003, the nursing component rate per resident day for the facility shall be adjusted based on the payment methodology in effect July 1, 2003.
 - 4) Notwithstanding subsections (e)(2) and (3) of this Section, the nursing component rate per resident day for the facility shall be adjusted in accordance with subsection (c)(1)(E) of this Section.

(Source: Amended at 33 Ill. Reg. 9337, effective July 1, 2009)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Long Term Care Reimbursement Changes
- 2) Code Citation: 89 Ill. Adm. Code 153
- 3) Section Number: 153.125 Adopted Action:
Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendment: July 1, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: January 24, 2009; 33 Ill. Reg. 1413
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences Between Proposal and Final Version: In Section 153.125(w), added before the period "described in Sections 140.533, 140.551, 140.553 and 140.561".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this amendment replace emergency amendments currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: The amendment implements the following provisions of Public Act 95-744, the Fiscal Year 2009 Budget Implementation Act:
 - Effective August 1, 2008, socio-development component for IMDs to be equal to 6.6% of the facility's nursing component rate as of January 1, 2006, multiplied by a factor of 3.53.

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- For skilled and intermediate care facilities, effective January 1, 2009, the per diem support component of the rates effective on January 1, 2008, computed using the most recent cost reports on file with the Department no later than April 1, 2005, updated for inflation to January 1, 2006, shall be increased to the amount that would have been derived using standard methods, procedures, and inflators.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Tamara Tanzillo Hoffman
Chief of Staff
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/557-7157

The full text of the Adopted Amendment begins on the next page:

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER e: GENERAL TIME-LIMITED CHANGES

PART 153

LONG TERM CARE REIMBURSEMENT CHANGES

Section

153.100	Reimbursement for Long Term Care Services
153.125	Long Term Care Facility Rate Adjustments
153.126	Long Term Care Facility Medicaid Per Diem Adjustments
153.150	Quality Assurance Review (Repealed)

AUTHORITY: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13].

SOURCE: Emergency rules adopted at 18 Ill. Reg. 2159, effective January 18, 1994, for maximum of 150 days; adopted at 18 Ill. Reg. 10154, effective June 17, 1994; emergency amendment at 18 Ill. Reg. 11380, effective July 1, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16669, effective November 1, 1994; emergency amendment at 19 Ill. Reg. 10245, effective June 30, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16281, effective November 27, 1995; emergency amendment at 20 Ill. Reg. 9306, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14840, effective November 1, 1996; emergency amendment at 21 Ill. Reg. 9568, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13633, effective October 1, 1997; emergency amendment at 22 Ill. Reg. 13114, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16285, effective August 28, 1998; amended at 22 Ill. Reg. 19872, effective October 30, 1998; emergency amendment at 23 Ill. Reg. 8229, effective July 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12794, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13638, effective November 1, 1999; emergency amendment at 24 Ill. Reg. 10421, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15071, effective October 1, 2000; emergency amendment at 25 Ill. Reg. 8867, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 14952, effective November 1, 2001; emergency amendment at 26 Ill. Reg. 6003, effective April 11, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 12791, effective August 9, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11087, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17817, effective November 27, 2002; emergency amendment at 27 Ill. Reg. 11088, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18880, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 10218,

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effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 15584, effective November 24, 2004; emergency amendment at 29 Ill. Reg. 1026, effective January 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 4740, effective March 18, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 6979, effective May 1, 2005; amended at 29 Ill. Reg. 12452, effective August 1, 2005; emergency amendment at 30 Ill. Reg. 616, effective January 1, 2006, for a maximum of 150 days; emergency amendment modified pursuant to the Joint Committee on Administrative Rules Objection at 30 Ill. Reg. 7817, effective April 7, 2006, for the remainder of the maximum 150 days; amended at 30 Ill. Reg. 10417, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 11853, effective July 1, 2006, for a maximum of 150 days; emergency expired November 27, 2006; amended at 30 Ill. Reg. 14315, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 18779, effective November 28, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 6954, effective April 26, 2007; emergency amendment at 32 Ill. Reg. 535, effective January 1, 2008, for a maximum of 150 days; emergency amendment at 32 Ill. Reg. 4105, effective March 1, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 7761, effective May 5, 2008; amended at 32 Ill. Reg. 9972, effective June 27, 2008; amended at 33 Ill. Reg. 9347, effective July 1, 2009.

Section 153.125 Long Term Care Facility Rate Adjustments

- a) Notwithstanding the provisions set forth in Section 153.100, long term care facility (SNF/ICF and ICF/MR) rates established on July 1, 1996 shall be increased by 6.8 percent for services provided on or after January 1, 1997.
- b) Notwithstanding the provisions set forth in Section 153.100, long term care facility (SNF/ICF and ICF/MR) rates and developmental training rates established on July 1, 1998, for services provided on or after that date, shall be increased by three percent. For nursing facilities (SNF/ICF) only, \$1.10 shall also be added to the nursing component of the rate.
- c) Notwithstanding the provisions set forth in Section 153.100, long term care facility (SNF/ICF and ICF/MR) rates and developmental training rates established on July 1, 1999, for services provided on or after that date, shall include:
 - 1) an increase of 1.6 percent for SNF/ICF, ICF/MR and developmental training rates;
 - 2) an additional increase of \$3.00 per resident day for ICF/MR rates; and
 - 3) an increase of \$10.02 per person, per month for developmental training

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rates.

- d) Notwithstanding the provisions set forth in Section 153.100, SNF/ICF rates shall be increased by \$4.00 per resident day for services provided on or after October 1, 1999.
- e) Notwithstanding the provisions set forth in Section 153.100, SNF/ICF, ICF/MR and developmental training rates shall be increased 2.5 percent per resident day for services provided on or after July 1, 2000.
- f) Notwithstanding the provisions set forth in Section 153.100, nursing facility (SNF/ICF) rates effective on July 1, 2001 shall be computed using the most recent cost reports on file with the Department no later than April 1, 2000, updated for inflation to January 1, 2001.
 - 1) The Uniform Building Value shall be as defined in 89 Ill. Adm. Code 140.570(b)(10), except that, as of July 1, 2001, the definition of current year is the year 2000.
 - 2) The real estate tax bill that was due to be paid in 1999 by the nursing facility shall be used in determination of the capital component of the rate. The real estate tax component shall be removed from the capital rate if the facility's status changes so as to be exempt from assessment to pay real estate taxes.
 - 3) For rates effective July 1, 2001 only, rates shall be the greater of the rate computed for July 1, 2001 or the rate effective on June 30, 2001.
 - 4) All accounting records and other documentation necessary to support the costs and other information reported on the cost report to be used in accordance with rate setting under Section 153.125(f) shall be kept for a minimum of two years after the Department's final payment using rates that were based in part on that cost report.
- g) Notwithstanding the provisions set forth in Section 153.100, intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled nursing facilities for persons under 22 years of age (SNF/Ped), shall receive an increase in rates for residential services equal to a statewide average of 7.85 percent. Residential rates taking effect March 1, 2001, for services provided on or

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after that date, shall include an increase of 11.01 percent to the residential program rate component and an increase of 3.33 percent to the residential support rate component, each of which shall be adjusted by the geographical area adjuster, as defined by the Department of Human Services (DHS).

- h) For developmental training services provided on or after March 1, 2001, for residents of long term care facilities, rates shall include an increase of 9.05 percent and rates shall be adjusted by the geographical area adjuster, as defined by DHS.
- i) Notwithstanding the provisions set forth in Section 153.100, daily rates for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), shall be increased by 2.247 percent for services provided during the period beginning on April 11, 2002, and ending on June 30, 2002.
- j) Notwithstanding the provisions set forth in Section 153.100, daily rates effective on July 1, 2002, for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), shall be reduced to the level of the rates in effect on April 10, 2002.
- k) Notwithstanding the provisions set forth in Section 153.100, nursing facility (SNF/ICF) rates effective on July 1, 2002 will be 5.9 percent less than the rates in effect on June 30, 2002.
- l) Notwithstanding the provisions set forth in Section 153.100, daily rates effective on July 1, 2003, for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), shall be increased by 3.59 percent.
- m) Notwithstanding the provisions set forth in Section 153.100, developmental training rates effective on July 1, 2003 shall be increased by 4 percent.
- n) Notwithstanding the provisions set forth in Section 153.100, pending the approvals described in this subsection (n), nursing facility (SNF/ICF) rates effective July 1, 2004 shall be 3.0 percent greater than the rates in effect on June 30, 2004. The increase is contingent on approval of both the payment

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methodologies required under Article 5A-12 of the Public Aid Code [305 ILCS 5/5A-12] and the waiver granted under 42 CFR 433.68.

- o) Notwithstanding the provisions set forth in Section 153.100, the "Original Building Base Cost" for nursing facilities (SNF/ICF) which have been rented continuously from an unrelated party since prior to January 1, 1978, effective on July 1, 2004, shall be added to the capital rate calculation using the most recent cost reports on file with the Department no later than June 30, 2004. The "Original Building Base Cost" as defined in 89 Ill. Adm. Code 140.570 shall be calculated from the original lease information that is presently on file with the Department. This original lease information will be used to capitalize the oldest available lease payment from the unrelated party lease that has been in effect since prior to January 1, 1978, and continued to be in effect on December 31, 1999. Before the lease payment is capitalized, a 15 percent portion will be removed from the oldest available lease payment for movable equipment costs. After the lease payment is capitalized, a portion of the capitalized amount will be removed for land cost. The land cost portion is 4.88 percent. The remaining amount will be the facility's building cost. The construction/acquisition year for the building will be the date the pre-1978 lease began. The allowable cost of subsequent improvements to the building will be included in the original building base cost. The original building base cost will not change due to sales or leases of the facility after January 1, 1978.
- p) Notwithstanding the provisions set forth in Section 153.100, nursing facility (SNF/ICF) rates effective on January 1, 2005 will be 3.0 percent more than the rates in effect on December 31, 2004.
- q) Notwithstanding the provisions set forth in Section 153.100, nursing facility (SNF/ICF) rates shall be increased by the difference between a facility's per diem property, liability and malpractice insurance costs as reported in the cost report that was filed with the Department and used to establish rates effective July 1, 2001, and those same costs as reported in the facility's 2002 cost report. These costs shall be passed through to the facility without caps or limitations.
- r) Notwithstanding the provisions set forth in Section 153.100, daily rates effective on January 1, 2006 for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), shall be increased by 3 percent.

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- s) Notwithstanding the provisions set forth in Section 153.100, developmental training rates for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), effective on January 1, 2006 shall be increased by 3 percent.
- t) Notwithstanding the provisions set forth in Section 153.100, for facilities that are federally defined as Institutions for Mental Disease (see Section 145.30), a socio-development component rate equal to 6.6% of the nursing component rate as of January 1, 2006 shall be established and paid effective July 1, 2006. This rate shall become a part of the facility's nursing component of the Medicaid rate. While this rate may be adjusted by the Department, the rate shall not be reduced.
- u) Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, the support component of the rates taking effect on January 1, 2008 shall be computed using the most recent cost reports on file with the Department of Healthcare and Family Services no later than April 1, 2005, updated for inflation to January 1, 2006.
- 1) Support rates taking effect on January 1, 2008 shall be adjusted based on audits of cost report data in accordance with 89 Ill. Adm. Code 140.582(b) and 140.590. The audited cost report data will be used to retroactively update the resulting support rate effective January 1, 2008, after the 45-day appeal period from Section 140.582(b) has passed.
- 2) All accounting records and other documentation necessary to support the costs and other information reported on the cost report to be used in accordance with rate setting under this subsection (u) shall be kept for a minimum of two years after the Department's final payment using rates that were based in part on that cost report.
- v) Notwithstanding the provisions set forth in Section 153.100, pursuant to Public Act 95-0744, for services beginning August 1, 2008, the socio-development component for facilities that are federally defined as Institutions for Mental Disease (see 89 Ill. Adm. Code 145.30) shall equal 6.6% of the facility's nursing component rate as of January 1, 2006, multiplied by a factor of 3.53.

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- w) Notwithstanding the provisions set forth in Section 153.100, pursuant to Public Act 95-0744, for services beginning January 1, 2009, the support component for skilled and intermediate care facilities that was effective on January 1, 2008, computed using the most recent cost reports on file with the Department of Healthcare and Family Services no later than April 1, 2005, updated for inflation to January 1, 2006, shall be increased to the amount that would have been derived using standard Department of Healthcare and Family Services methods, procedures and inflators described in Sections 140.533, 140.551, 140.553 and 140.561.

(Source: Amended at 33 Ill. Reg. 9347, effective July 1, 2009)

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- 1) Heading of the Part: Skilled Nursing and Intermediate Care Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 300
- 3) Section Number: 300.690 Adopted Action: Amend
- 4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
- 5) Effective Date of Rulemaking: June 17, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: September 12, 2008; 32 Ill. Reg. 14644
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: The following changes were made in response to comments received during the first notice or public comment period:

In Section 300.690, all existing text was stricken, all underlined text was deleted, and new text was added as follows:

- a) The facility shall maintain a file of all written reports of each serious incident and accident affecting a resident that is not the expected outcome of a resident's condition or disease process. A descriptive summary of each serious incident or accident affecting a resident shall also be recorded in the progress notes or nurse's notes of that resident.
- b) The facility shall notify the Department of any serious incident or accident that causes physical harm or injury to a resident.
- c) The facility shall, by fax or phone, notify the Regional Office within 24 hours after each reportable serious incident or accident. If the facility is

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unable to contact the Regional Office, it shall notify the Department's toll-free complaint registry hotline. The facility shall send a narrative summary of each reportable accident or incident to the Department within seven days after the occurrence."

The following changes were made in response to comments and suggestions of the JCAR:

1. In the table of contents for Section 300.690 and the heading at Section 300.690, "Serious" was stricken.
2. In Section 300.690(a), lines 1 and 3, "serious" was deleted.
3. In Section 300.690(b), "For purposes of this Section, "serious" means any incident or accident" was added after "accident".
4. In Section 300.690(c), "serious" was deleted.

In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of the Rulemaking: Part 300 regulates skilled nursing and intermediate care facilities, including establishing requirements for reporting serious incidents and accidents. The purpose of the adopted amendment is to clarify the specific situations that would require a facility to report an incident or accident to the Department. Section 300.690 (Serious Incidents and Accidents) is amended to clarify the reporting requirements for incidents and accidents that affect individuals.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Susan Meister
Division of Legal Services

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Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761

217/782-2043
e-mail: dph.rules@illinois.gov

The full text of the Adopted Amendment begins on the next page:

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIESPART 300
SKILLED NURSING AND INTERMEDIATE CARE FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section	
300.110	General Requirements
300.120	Application for License
300.130	Licensee
300.140	Issuance of an Initial License for a New Facility
300.150	Issuance of an Initial License Due to a Change of Ownership
300.160	Issuance of a Renewal License
300.163	Alzheimer's Special Care Disclosure
300.165	Criteria for Adverse Licensure Actions
300.170	Denial of Initial License
300.175	Denial of Renewal of License
300.180	Revocation of License
300.190	Experimental Program Conflicting With Requirements
300.200	Inspections, Surveys, Evaluations and Consultation
300.210	Filing an Annual Attested Financial Statement
300.220	Information to Be Made Available to the Public By the Department
300.230	Information to Be Made Available to the Public By the Licensee
300.240	Municipal Licensing
300.250	Ownership Disclosure
300.260	Issuance of Conditional Licenses
300.270	Monitor and Receivership
300.271	Presentation of Findings
300.272	Determination to Issue a Notice of Violation or Administrative Warning
300.274	Determination of the Level of a Violation
300.276	Notice of Violation
300.277	Administrative Warning
300.278	Plans of Correction
300.280	Reports of Correction
300.282	Conditions for Assessment of Penalties
300.284	Calculation of Penalties
300.286	Determination to Assess Penalties

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300.288	Reduction or Waiver of Penalties
300.290	Quarterly List of Violators (Repealed)
300.300	Alcoholism Treatment Programs In Long-Term Care Facilities
300.310	Department May Survey Facilities Formerly Licensed
300.315	Supported Congregate Living Arrangement Demonstration
300.320	Waivers
300.330	Definitions
300.340	Incorporated and Referenced Materials

SUBPART B: ADMINISTRATION

Section	
300.510	Administrator

SUBPART C: POLICIES

Section	
300.610	Resident Care Policies
300.615	Determination of Need Screening and Request for Resident Criminal History Record Information
300.620	Admission, Retention and Discharge Policies
300.624	Criminal History Background Checks for Persons Who Were Residents on May 10, 2006
300.625	Identified Offenders
300.626	Discharge Planning for Identified Offenders
300.627	Transfer of an Identified Offender
300.630	Contract Between Resident and Facility
300.640	Residents' Advisory Council
300.650	Personnel Policies
300.655	Initial Health Evaluation for Employees
300.660	Nursing Assistants
300.661	Health Care Worker Background Check
300.662	Resident Attendants
300.663	Registry of Certified Nursing Assistants
300.665	Student Interns
300.670	Disaster Preparedness
300.680	Restraints
300.682	Nonemergency Use of Physical Restraints
300.684	Emergency Use of Physical Restraints

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300.686	Unnecessary, Psychotropic, and Antipsychotic Drugs
300.690	Serious Incidents and Accidents
300.695	Contacting Local Law Enforcement
300.696	Infection Control

SUBPART D: PERSONNEL

Section	
300.810	General
300.820	Categories of Personnel
300.830	Consultation Services
300.840	Personnel Policies

SUBPART E: MEDICAL AND DENTAL CARE OF RESIDENTS

Section	
300.1010	Medical Care Policies
300.1020	Communicable Disease Policies
300.1025	Tuberculin Skin Test Procedures
300.1030	Medical Emergencies
300.1035	Life-Sustaining Treatments
300.1040	Behavior Emergencies (Repealed)
300.1050	Dental Standards
300.1060	Vaccinations

SUBPART F: NURSING AND PERSONAL CARE

Section	
300.1210	General Requirements for Nursing and Personal Care
300.1220	Supervision of Nursing Services
300.1230	Staffing
300.1240	Additional Requirements

SUBPART G: RESIDENT CARE SERVICES

Section	
300.1410	Activity Program
300.1420	Specialized Rehabilitation Services
300.1430	Work Programs

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- 300.1440 Volunteer Program
- 300.1450 Language Assistance Services

SUBPART H: MEDICATIONS

Section

- 300.1610 Medication Policies and Procedures
- 300.1620 Compliance with Licensed Prescriber's Orders
- 300.1630 Administration of Medication
- 300.1640 Labeling and Storage of Medications
- 300.1650 Control of Medications

SUBPART I: RESIDENT AND FACILITY RECORDS

Section

- 300.1810 Resident Record Requirements
- 300.1820 Content of Medical Records
- 300.1830 Records Pertaining to Residents' Property
- 300.1840 Retention and Transfer of Resident Records
- 300.1850 Other Resident Record Requirements
- 300.1860 Staff Responsibility for Medical Records
- 300.1870 Retention of Facility Records
- 300.1880 Other Facility Record Requirements

SUBPART J: FOOD SERVICE

Section

- 300.2010 Director of Food Services
- 300.2020 Dietary Staff in Addition to Director of Food Services
- 300.2030 Hygiene of Dietary Staff
- 300.2040 Diet Orders
- 300.2050 Meal Planning
- 300.2060 Therapeutic Diets (Repealed)
- 300.2070 Scheduling Meals
- 300.2080 Menus and Food Records
- 300.2090 Food Preparation and Service
- 300.2100 Food Handling Sanitation
- 300.2110 Kitchen Equipment, Utensils, and Supplies

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SUBPART K: MAINTENANCE, HOUSEKEEPING, AND LAUNDRY

Section

- 300.2210 Maintenance
- 300.2220 Housekeeping
- 300.2230 Laundry Services

SUBPART L: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section

- 300.2410 Furnishings
- 300.2420 Equipment and Supplies
- 300.2430 Sterilization of Equipment and Supplies

SUBPART M: WATER SUPPLY AND SEWAGE DISPOSAL

Section

- 300.2610 Codes
- 300.2620 Water Supply
- 300.2630 Sewage Disposal
- 300.2640 Plumbing

SUBPART N: DESIGN AND CONSTRUCTION STANDARDS
FOR NEW INTERMEDIATE CARE AND SKILLED NURSING FACILITIES

Section

- 300.2810 Applicability of these Standards
- 300.2820 Codes and Standards
- 300.2830 Preparation of Drawings and Specifications
- 300.2840 Site
- 300.2850 Administration and Public Areas
- 300.2860 Nursing Unit
- 300.2870 Dining, Living, Activities Rooms
- 300.2880 Therapy and Personal Care
- 300.2890 Service Departments
- 300.2900 General Building Requirements
- 300.2910 Structural
- 300.2920 Mechanical Systems
- 300.2930 Plumbing Systems

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300.2940 Electrical Systems

SUBPART O: DESIGN AND CONSTRUCTION STANDARDS
FOR EXISTING INTERMEDIATE CARE AND SKILLED NURSING FACILITIES

Section

300.3010 Applicability
300.3020 Codes and Standards
300.3030 Preparation of Drawings and Specifications
300.3040 Site
300.3050 Administration and Public Areas
300.3060 Nursing Unit
300.3070 Living, Dining, Activities Rooms
300.3080 Treatment and Personal Care
300.3090 Service Departments
300.3100 General Building Requirements
300.3110 Structural
300.3120 Mechanical Systems
300.3130 Plumbing Systems
300.3140 Electrical Requirements

SUBPART P: RESIDENT'S RIGHTS

Section

300.3210 General
300.3220 Medical and Personal Care Program
300.3230 Restraints (Repealed)
300.3240 Abuse and Neglect
300.3250 Communication and Visitation
300.3260 Resident's Funds
300.3270 Residents' Advisory Council
300.3280 Contract With Facility
300.3290 Private Right of Action
300.3300 Transfer or Discharge
300.3310 Complaint Procedures
300.3320 Confidentiality
300.3330 Facility Implementation

SUBPART Q: SPECIALIZED LIVING FACILITIES FOR THE MENTALLY ILL

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Section

- 300.3410 Application of Other Sections of These Minimum Standards (Repealed)
- 300.3420 Administrator (Repealed)
- 300.3430 Policies (Repealed)
- 300.3440 Personnel (Repealed)
- 300.3450 Resident Living Services Medical and Dental Care (Repealed)
- 300.3460 Resident Services Program (Repealed)
- 300.3470 Psychological Services (Repealed)
- 300.3480 Social Services (Repealed)
- 300.3490 Recreational and Activities Services (Repealed)
- 300.3500 Individual Treatment Plan (Repealed)
- 300.3510 Health Services (Repealed)
- 300.3520 Medical Services (Repealed)
- 300.3530 Dental Services (Repealed)
- 300.3540 Optometric Services (Repealed)
- 300.3550 Audiometric Services (Repealed)
- 300.3560 Podiatric Services (Repealed)
- 300.3570 Occupational Therapy Services (Repealed)
- 300.3580 Nursing and Personal Care (Repealed)
- 300.3590 Resident Care Services (Repealed)
- 300.3600 Record Keeping (Repealed)
- 300.3610 Food Service (Repealed)
- 300.3620 Furnishings, Equipment and Supplies (New and Existing Facilities) (Repealed)
- 300.3630 Design and Construction Standards (New and Existing Facilities) (Repealed)

SUBPART R: DAYCARE PROGRAMS

Section

- 300.3710 Day Care in Long-Term Care Facilities

SUBPART S: PROVIDING SERVICES TO PERSONS WITH SERIOUS MENTAL ILLNESS

Section

- 300.4000 Applicability of Subpart S
- 300.4010 Comprehensive Assessments for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S
- 300.4020 Reassessments for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S

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- 300.4030 Individualized Treatment Plan for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S
- 300.4040 General Requirements for Facilities Subject to Subpart S
- 300.4050 Psychiatric Rehabilitation Services for Facilities Subject to Subpart S
- 300.4060 Discharge Plans for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S
- 300.4070 Work Programs for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S
- 300.4080 Community-Based Rehabilitation Programs for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S
- 300.4090 Personnel for Providing Services to Persons with Serious Mental Illness for Facilities Subject to Subpart S

SUBPART T: FACILITIES PARTICIPATING IN ILLINOIS DEPARTMENT OF
PUBLIC AID'S DEMONSTRATION PROGRAM FOR PROVIDING
SERVICES TO PERSONS WITH SERIOUS MENTAL ILLNESS

Section

- 300.6000 Applicability of Subpart T
- 300.6005 Quality Assessment and Improvement for Facilities Subject to Subpart T
- 300.6010 Comprehensive Assessments for Residents of Facilities Subject to Subpart T
- 300.6020 Reassessments for Residents of Facilities Subject to Subpart T
- 300.6030 Individualized Treatment Plan for Residents of Facilities Subject to Subpart T
- 300.6040 General Requirements for Facilities Subject to Subpart T
- 300.6045 Serious Incidents and Accidents in Facilities Subject to Subpart T
- 300.6047 Medical Care Policies for Facilities Subject to Subpart T
- 300.6049 Emergency Use of Restraints for Facilities Subject to Subpart T
- 300.6050 Psychiatric Rehabilitation Services for Facilities Subject to Subpart T
- 300.6060 Discharge Plans for Residents of Facilities Subject to Subpart T
- 300.6070 Work Programs for Residents of Facilities Subject to Subpart T
- 300.6080 Community-Based Rehabilitation Programs for Residents of Facilities Subject to Subpart T
- 300.6090 Personnel for Providing Services to Residents of Facilities Subject to Subpart T
- 300.6095 Training and Continuing Education for Facilities Subject to Subpart T

SUBPART U: ALZHEIMER'S SPECIAL CARE UNIT OR CENTER PROVIDING
CARE TO PERSONS WITH ALZHEIMER'S DISEASE OR OTHER DEMENTIA

Section

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300.7000	Applicability
300.7010	Admission Criteria
300.7020	Assessment and Care Planning
300.7030	Ability-Centered Care
300.7040	Activities
300.7050	Staffing
300.7060	Environment
300.7070	Quality Assessment and Improvement
300.7080	Variances to Enhance Residents' Quality of Life
300.APPENDIX A	Interpretation, Components, and Illustrative Services for Intermediate Care Facilities and Skilled Nursing Facilities (Repealed)
300.APPENDIX B	Classification of Distinct Part of a Facility for Different Levels of Service (Repealed)
300.APPENDIX C	Federal Requirements Regarding Patients'/Residents' Rights (Repealed)
300.APPENDIX D	Forms for Day Care in Long-Term Care Facilities
300.APPENDIX E	Criteria for Activity Directors Who Need Only Minimal Consultation (Repealed)
300.APPENDIX F	Guidelines for the Use of Various Drugs
300.APPENDIX G	Facility Report
300.TABLE A	Sound Transmission Limitations in New Skilled Nursing and Intermediate Care Facilities
300.TABLE B	Pressure Relationships and Ventilation Rates of Certain Areas for New Intermediate Care Facilities and Skilled Nursing Facilities
300.TABLE C	Construction Types and Sprinkler Requirements for Existing Skilled Nursing Facilities/Intermediate Care Facilities
300.TABLE D	Heat Index Table/Apparent Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 1066, effective March 1, 1980, for a maximum of 150 days; adopted at 4 Ill. Reg. 30, p. 311, effective July 28, 1980; emergency amendment at 6 Ill. Reg. 3229, effective March 8, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 6454, effective May 14, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 11631, effective September 14, 1982; amended at 6 Ill. Reg. 14550 and 14554, effective November 8, 1982; amended at 6 Ill. Reg. 14684, effective November 15, 1982; amended at 7 Ill. Reg. 285, effective December 22, 1982; amended at 7 Ill. Reg. 1972, effective January 28, 1983; amended at 7 Ill. Reg. 8579, effective July 11, 1983; amended at 7 Ill. Reg. 15831, effective November 10, 1983;

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amended at 7 Ill. Reg. 15864, effective November 15, 1983; amended at 7 Ill. Reg. 16992, effective December 14, 1983; amended at 8 Ill. Reg. 15599, 15603, and 15606, effective August 15, 1984; amended at 8 Ill. Reg. 15947, effective August 17, 1984; amended at 8 Ill. Reg. 16999, effective September 5, 1984; codified at 8 Ill. Reg. 19766; amended at 8 Ill. Reg. 24186, effective November 29, 1984; amended at 8 Ill. Reg. 24668, effective December 7, 1984; amended at 8 Ill. Reg. 25102, effective December 14, 1984; amended at 9 Ill. Reg. 132, effective December 26, 1984; amended at 9 Ill. Reg. 4087, effective March 15, 1985; amended at 9 Ill. Reg. 11049, effective July 1, 1985; amended at 11 Ill. Reg. 16927, effective October 1, 1987; amended at 12 Ill. Reg. 1052, effective December 24, 1987; amended at 12 Ill. Reg. 16811, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18477, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 4684, effective March 24, 1989; amended at 13 Ill. Reg. 5134, effective April 1, 1989; amended at 13 Ill. Reg. 20089, effective December 1, 1989; amended at 14 Ill. Reg. 14950, effective October 1, 1990; amended at 15 Ill. Reg. 554, effective January 1, 1991; amended at 16 Ill. Reg. 681, effective January 1, 1992; amended at 16 Ill. Reg. 5977, effective March 27, 1992; amended at 16 Ill. Reg. 17089, effective November 3, 1992; emergency amendment at 17 Ill. Reg. 2420, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 8026, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15106, effective September 3, 1993; amended at 17 Ill. Reg. 16194, effective January 1, 1994; amended at 17 Ill. Reg. 19279, effective October 26, 1993; amended at 17 Ill. Reg. 19604, effective November 4, 1993; amended at 17 Ill. Reg. 21058, effective November 20, 1993; amended at 18 Ill. Reg. 1491, effective January 14, 1994; amended at 18 Ill. Reg. 15868, effective October 15, 1994; amended at 19 Ill. Reg. 11600, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 567, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10142, effective July 15, 1996; amended at 20 Ill. Reg. 12208, effective September 10, 1996; amended at 21 Ill. Reg. 15000, effective November 15, 1997; amended at 22 Ill. Reg. 4094, effective February 13, 1998; amended at 22 Ill. Reg. 7218, effective April 15, 1998; amended at 22 Ill. Reg. 16609, effective September 18, 1998; amended at 23 Ill. Reg. 1103, effective January 15, 1999; amended at 23 Ill. Reg. 8106, effective July 15, 1999; amended at 24 Ill. Reg. 17330, effective November 1, 2000; amended at 25 Ill. Reg. 4911, effective April 1, 2001; amended at 26 Ill. Reg. 3113, effective February 15, 2002; amended at 26 Ill. Reg. 4846, effective April 1, 2002; amended at 26 Ill. Reg. 10523, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 2181, effective February 1, 2003, for a maximum of 150 days; emergency expired June 30, 2003; emergency amendment at 27 Ill. Reg. 5452, effective March 25, 2003, for a maximum of 150 days; emergency expired August 21, 2003; amended at 27 Ill. Reg. 5862, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 14204, effective August 15, 2003, for a maximum of 150 days; emergency expired January 11, 2004; amended at 27 Ill. Reg. 15855, effective September 25, 2003; amended at 27 Ill. Reg. 18105, effective

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November 15, 2003; expedited correction at 28 Ill. Reg. 3528, effective November 15, 2003; amended at 28 Ill. Reg. 11180, effective July 22, 2004; amended at 28 Ill. Reg. 14623, effective October 20, 2004; amended at 29 Ill. Reg. 876, effective December 22, 2004; emergency amendment at 29 Ill. Reg. 11824, effective July 12, 2005, for a maximum of 150 days; emergency rule modified in response to JCAR Recommendation at 29 Ill. Reg. 15101, effective September 23, 2005, for the remainder of the maximum 150 days; emergency amendment expired December 8, 2005; amended at 29 Ill. Reg. 12852, effective August 2, 2005; amended at 30 Ill. Reg. 1425, effective January 23, 2006; amended at 30 Ill. Reg. 5213, effective March 2, 2006; amended at 31 Ill. Reg. 6044, effective April 3, 2007; amended at 31 Ill. Reg. 8813, effective June 6, 2007; amended at 33 Ill. Reg. 9356, effective June 17, 2009.

SUBPART C: POLICIES

Section 300.690 ~~Serious~~ Incidents and Accidents

- a) The facility shall maintain a file of all written reports of each incident and accident affecting a resident that is not the expected outcome of a resident's condition or disease process. A descriptive summary of each incident or accident affecting a resident shall also be recorded in the progress notes or nurse's notes of that resident.
- b) The facility shall notify the Department of any serious incident or accident. For purposes of this Section, "serious" means any incident or accident that causes physical harm or injury to a resident.
- c) The facility shall, by fax or phone, notify the Regional Office within 24 hours after each reportable incident or accident. If the facility is unable to contact the Regional Office, it shall notify the Department's toll-free complaint registry hotline. The facility shall send a narrative summary of each reportable accident or incident to the Department within seven days after the occurrence.
- a) ~~The facility shall notify the Department of any incident or accident which has, or is likely to have, a significant effect on the health, safety, or welfare of a resident or residents. Incidents and accidents requiring the services of a physician, hospital, police or fire department, coroner, or other service provider on an emergency basis shall be reported to the Department.~~
- b) ~~A descriptive summary of each incident or accident shall be recorded in the progress notes or nurse's notes for each resident involved.~~

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- e) ~~The facility shall maintain a file of all written reports of serious incidents or accidents involving residents.~~
 - 1) ~~Notification shall be made by a phone call to the Regional Office within 24 hours of each serious incident or accident. If the facility is unable to contact the Regional Office, notification shall be made by a phone call to the Department's toll-free complaint registry number.~~
 - 2) ~~A narrative summary of each accident or incident occurrence shall be sent to the Department within seven days of the occurrence.~~

(Source: Amended at 33 Ill. Reg. 9356, effective June 17, 2009)

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- 1) Heading of the Part: Sheltered Care Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 330
- 3) Section Number: 330.780 Adopted Action: Amend
- 4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
- 5) Effective Date of Rulemaking: June 17, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: September 12, 2008; 32 Ill. Reg. 14658
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: The following changes were made in response to comments received during the first notice or public comment period:

In Section 330.780, all existing text was stricken, all underlined text was deleted, and new text was added as follows:

- a) The facility shall maintain a file of all written reports of each serious incident and accident affecting a resident that is not the expected outcome of a resident's condition or disease process. A descriptive summary of each serious incident or accident affecting a resident shall also be recorded in the progress notes or nurse's notes of that resident.
- b) The facility shall notify the Department of any serious incident or accident that causes physical harm or injury to a resident.
- c) The facility shall, by fax or phone, notify the Regional Office within 24 hours after each reportable serious incident or accident. If the facility is

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unable to contact the Regional Office, it shall notify the Department's toll-free complaint registry hotline. The facility shall send a narrative summary of each reportable accident or incident to the Department within seven days after the occurrence."

The following changes were made in response to comments and suggestions of the JCAR:

1. In the table of contents for Section 330.780 and the heading at 330.780, "Serious" was stricken.
2. In Section 330.780(a), lines 1 and 3, "serious" was deleted.
3. In Section 330.780(b), "For purposes of this Section, "serious" means any incident or accident" was added after "accident".
4. In Section 330.780(c), "serious" was deleted.

In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of the Rulemaking: Part 330 regulates sheltered care facilities, including establishing requirements for reporting serious incidents and accidents. The purpose of the adopted amendment is to clarify the specific situations that would require a facility to report an incident or accident to the Department. Section 330.780 (Serious Incidents and Accidents) is amended to clarify the reporting requirements for incidents or accidents that affect individuals.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Susan Meister
Division of Legal Services

DEPARTMENT OF PUBLIC HEALTH

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Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761

217/782-2043
e-mail: dph.rules@illinois.gov

The full text of the Adopted Amendment begins on the next page:

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NOTICE OF ADOPTED AMENDMENT

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIESPART 330
SHELTERED CARE FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section	
330.110	General Requirements
330.120	Application for License
330.130	Licensee
330.140	Issuance of an Initial License For a New Facility
330.150	Issuance of an Initial License Due to a Change of Ownership
330.160	Issuance of a Renewal License
330.163	Alzheimer's Special Care Disclosure
330.165	Criteria for Adverse Licensure Actions
330.170	Denial of Initial License
330.175	Denial of Renewal of License
330.180	Revocation of License
330.190	Experimental Program Conflicting With Requirements
330.200	Inspections, Surveys, Evaluations and Consultation
330.210	Filing an Annual Attested Financial Statement
330.220	Information to be Made Available to the Public By the Department
330.230	Information to be Made Available to the Public By the Licensee
330.240	Municipal Licensing
330.250	Ownership Disclosure
330.260	Issuance of Conditional Licenses
330.270	Monitoring and Receivership
330.271	Presentation of Findings
330.272	Determination to Issue a Notice of Violation or Administrative Warning
330.274	Determination of the Level of a Violation
330.276	Notice of Violation
330.277	Administrative Warning
330.278	Plans of Correction
330.280	Reports of Correction
330.282	Conditions for Assessment of Penalties
330.284	Calculation of Penalties

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330.286	Determination to Assess Penalties
330.288	Reduction or Waiver of Penalties
330.290	Quarterly List of Violators (Repealed)
330.300	Alcoholism Treatment Programs In Long-Term Care Facilities
330.310	Department May Survey Facilities Formerly Licensed
330.315	Supported Congregate Living Arrangement Demonstration
330.320	Waivers
330.330	Definitions
330.340	Incorporated and Referenced Materials

SUBPART B: ADMINISTRATION

Section	
330.510	Administrator

SUBPART C: POLICIES

Section	
330.710	Resident Care Policies
330.715	Request for Resident Criminal History Record Information
330.720	Admission and Discharge Policies
330.724	Criminal History Background Checks for Persons Who Were Residents on May 10, 2006
330.725	Identified Offenders
330.726	Discharge Planning for Identified Offenders
330.727	Transfer of an Identified Offender
330.730	Contract Between Resident and Facility
330.740	Residents' Advisory Council
330.750	General Policies
330.760	Personnel Policies
330.765	Initial Health Evaluation for Employees
330.770	Disaster Preparedness
330.780	Serious Incidents and Accidents
330.785	Contacting Local Law Enforcement
330.790	Infection Control
330.795	Language Assistance Services

SUBPART D: PERSONNEL

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Section

330.910	Personnel
330.911	Health Care Worker Background Check
330.913	Nursing and Personal Care Assistants (Repealed)
330.916	Student Interns (Repealed)
330.920	Consultation Services
330.930	Personnel Policies

SUBPART E: HEALTH SERVICES AND MEDICAL CARE OF RESIDENTS

Section

330.1110	Medical Care Policies
330.1120	Personal Care
330.1125	Life Sustaining Treatments
330.1130	Communicable Disease Policies
330.1135	Tuberculin Skin Test Procedures
330.1140	Behavior Emergencies (Repealed)
330.1145	Restraints
330.1150	Emergency Use of Physical Restraints
330.1155	Unnecessary, Psychotropic, and Antipsychotic Drugs
330.1160	Vaccinations

SUBPART F: RESTORATIVE SERVICES

Section

330.1310	Activity Program
330.1320	Work Programs
330.1330	Written Policies for Restorative Services
330.1340	Volunteer Program

SUBPART G: MEDICATIONS

Section

330.1510	Medication Policies
330.1520	Administration of Medication
330.1530	Labeling and Storage of Medications

SUBPART H: RESIDENT AND FACILITY RECORDS

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Section

- 330.1710 Resident Record Requirements
- 330.1720 Content of Medical Records
- 330.1730 Records Pertaining to Residents' Property
- 330.1740 Retention and Transfer of Resident Records
- 330.1750 Other Resident Record Requirements
- 330.1760 Retention of Facility Records
- 330.1770 Other Facility Record Requirements

SUBPART I: FOOD SERVICE

Section

- 330.1910 Director of Food Services
- 330.1920 Dietary Staff in Addition to Director of Food Services
- 330.1930 Hygiene of Dietary Staff
- 330.1940 Diet Orders
- 330.1950 Meal Planning
- 330.1960 Therapeutic Diets (Repealed)
- 330.1970 Scheduling of Meals
- 330.1980 Menus and Food Records
- 330.1990 Food Preparation and Service
- 330.2000 Food Handling Sanitation
- 330.2010 Kitchen Equipment, Utensils, and Supplies

SUBPART J: MAINTENANCE, HOUSEKEEPING AND LAUNDRY

Section

- 330.2210 Maintenance
- 330.2220 Housekeeping
- 330.2230 Laundry Services

SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section

- 330.2410 Furnishings
- 330.2420 Equipment and Supplies

SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

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Section

330.2610	Codes
330.2620	Water Supply
330.2630	Sewage Disposal
330.2640	Plumbing

SUBPART M: DESIGN AND CONSTRUCTION STANDARDS FOR
NEW SHELTERED CARE FACILITIES

Section

330.2810	Applicable Requirements (Repealed)
330.2820	Applicability of These Standards
330.2830	Submission of a Program Narrative
330.2840	New Constructions, Additions, Conversions, and Alterations
330.2850	Preparation and Submission of Drawings and Specifications
330.2860	First Stage Drawings
330.2870	Second Stage Drawings
330.2880	Architectural Drawings
330.2890	Structural Drawings
330.3000	Mechanical Drawings
330.3010	Electrical Drawings
330.3020	Additions to Existing Structures
330.3030	Specifications
330.3040	Building Codes
330.3050	Site
330.3060	General Building Requirements
330.3070	Administration
330.3080	Corridors
330.3090	Bath and Toilet Rooms
330.3100	Living, Dining, Activity Rooms
330.3110	Bedrooms
330.3120	Special Care Room
330.3130	Kitchen
330.3140	Laundry
330.3150	Housekeeping, Service, and Storage
330.3160	Plumbing
330.3170	Heating
330.3180	Electrical

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SUBPART N: FIRE PROTECTION STANDARDS FOR
NEW SHELTERED CARE FACILITIES

Section

330.3310	Applicable Requirements (Repealed)
330.3320	Applicability of These Standards
330.3330	Fire Protection
330.3340	Fire Department Service and Water Supply
330.3350	General Building Requirements
330.3360	Exit Facilities and Subdivision of Floor Areas
330.3370	Stairways, Vertical Openings, and Doorways
330.3380	Corridors
330.3390	Exit Lights and Directional Signs
330.3400	Hazardous Areas and Combustible Storage
330.3410	Fire Alarm and Detection System
330.3420	Fire Extinguishers, Electric Wiring, and Miscellaneous
330.3430	Use of Fire Extinguishers, Evacuation Plan, and Fire Drills

SUBPART O: DESIGN AND CONSTRUCTION STANDARDS FOR
EXISTING SHELTERED CARE FACILITIES

Section

330.3610	Site
330.3620	General Building Requirements
330.3630	Administration
330.3640	Corridors
330.3650	Bath and Toilet Rooms
330.3660	Living, Dining, and Activity Rooms
330.3670	Bedrooms
330.3680	Special Care Room
330.3690	Kitchen
330.3700	Laundry Room
330.3710	Housekeeping and Service Rooms and Storage Space
330.3720	Plumbing and Heating
330.3730	Electrical

SUBPART P: FIRE PROTECTION STANDARDS FOR
EXISTING SHELTERED CARE FACILITIES

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Section

330.3910	Fire Protection
330.3920	Fire Department Service and Water Supply
330.3930	Occupancy and Fire Areas
330.3940	Exit Facilities and Subdivision of Floor Areas
330.3950	Stairways, Vertical Openings, and Doorways
330.3960	Exit and Fire Escape Lights and Directional Signs
330.3970	Hazardous Areas and Combustible Storage
330.3980	Fire Alarm and Detection System
330.3990	Fire Extinguishers, Electric Wiring, and Miscellaneous
330.4000	Use of Fire Extinguishers, Evacuation Plan, and Fire Drills

SUBPART Q: RESIDENT'S RIGHTS

Section

330.4210	General
330.4220	Medical and Personal Care Program
330.4230	Restraints (Repealed)
330.4240	Abuse and Neglect
330.4250	Communication and Visitation
330.4260	Resident's Funds
330.4270	Residents' Advisory Council
330.4280	Contract With Facility
330.4290	Private Right of Action
330.4300	Transfer or Discharge
330.4310	Complaint Procedures
330.4320	Confidentiality
330.4330	Facility Implementation

SUBPART R: DAY CARE PROGRAMS

Section

330.4510	Day Care in Long-Term Care Facilities
330.APPENDIX A	Interpretation, Components, and Illustrative Services for Sheltered Care Facilities (Repealed)
330.APPENDIX B	Classification of Distinct Part of a Facility For Different Levels of Service (Repealed)
330.APPENDIX C	Forms for Day Care in Long-Term Care Facilities

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- 330.APPENDIX D Criteria for Activity Directors Who Need Only Minimal Consultation
(Repealed)
- 330.APPENDIX E Guidelines for the Use of Various Drugs
- 330.TABLE A Heat Index Table/Apparent Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 807, effective March 1, 1980, for a maximum of 150 days; adopted at 4 Ill. Reg. 30, p. 933, effective July 28, 1980; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 14547, effective November 8, 1982; amended at 6 Ill. Reg. 14681, effective November 15, 1982; amended at 7 Ill. Reg. 1963, effective January 28, 1983; amended at 7 Ill. Reg. 6973, effective May 17, 1983; amended at 7 Ill. Reg. 15825, effective November 15, 1983; amended at 8 Ill. Reg. 15596, effective August 15, 1984; amended at 8 Ill. Reg. 15941, effective August 17, 1984; codified at 8 Ill. Reg. 19790; amended at 8 Ill. Reg. 24241, effective November 28, 1984; amended at 8 Ill. Reg. 24696, effective December 7, 1984; amended at 9 Ill. Reg. 2952, effective February 25, 1985; amended at 9 Ill. Reg. 10974, effective July 1, 1985; amended at 11 Ill. Reg. 16879, effective October 1, 1987; amended at 12 Ill. Reg. 1017, effective December 24, 1987; amended at 12 Ill. Reg. 16870, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18939, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6562, effective April 17, 1989; amended at 13 Ill. Reg. 19580, effective December 1, 1989; amended at 14 Ill. Reg. 14928, effective October 1, 1990; amended at 15 Ill. Reg. 516, effective January 1, 1991; amended at 16 Ill. Reg. 651, effective January 1, 1992; amended at 16 Ill. Reg. 14370, effective September 3, 1992; emergency amendment at 17 Ill. Reg. 2405, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 8000, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15089, effective September 3, 1993; amended at 17 Ill. Reg. 16180, effective January 1, 1994; amended at 17 Ill. Reg. 19258, effective October 26, 1993; amended at 17 Ill. Reg. 19576, effective November 4, 1993; amended at 17 Ill. Reg. 21044, effective November 20, 1993; amended at 18 Ill. Reg. 1475, effective January 14, 1994; amended at 18 Ill. Reg. 15851, effective October 15, 1994; amended at 19 Ill. Reg. 11567, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 552, effective January 1, 1996, for a maximum of 150 days; emergency expired on May 29, 1996; amended at 20 Ill. Reg. 10125, effective July 15, 1996; amended at 20 Ill. Reg. 12160, effective September 10, 1996; amended at 22 Ill. Reg. 4078, effective February 13, 1998; amended at 22 Ill. Reg. 7203, effective April 15, 1998; amended at 22 Ill. Reg. 16594, effective September 18, 1998; amended at 23 Ill. Reg. 1085, effective January 15, 1999; amended at 23 Ill. Reg. 8064, effective July 15, 1999; amended at 24 Ill. Reg. 17304, effective November 1, 2000; amended at 25 Ill. Reg. 4901, effective April 1,

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2001; amended at 26 Ill. Reg. 4859, effective April 1, 2002; amended at 26 Ill. Reg. 10559, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 2202, effective February 1, 2003, for a maximum of 150 days; emergency expired June 30, 2003; emergency amendment at 27 Ill. Reg. 5473, effective March 25, 2003, for a maximum of 150 days; emergency expired August 21, 2003; amended at 27 Ill. Reg. 5886, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 14218, effective August 15, 2003, for a maximum of 150 days; emergency expired January 11, 2004; amended at 27 Ill. Reg. 15880, effective September 25, 2003; amended at 27 Ill. Reg. 18130, effective November 15, 2003; expedited correction at 28 Ill. Reg. 3541, effective November 15, 2003; amended at 28 Ill. Reg. 11195, effective July 22, 2004; emergency amendment at 29 Ill. Reg. 11879, effective July 12, 2005, for a maximum of 150 days; emergency rule modified in response to JCAR Recommendation at 29 Ill. Reg. 15156, effective September 23, 2005, for the remainder of the maximum 150 days; emergency amendment expired December 8, 2005; amended at 29 Ill. Reg. 12891, effective August 2, 2005; amended at 30 Ill. Reg. 1439, effective January 23, 2006; amended at 30 Ill. Reg. 5260, effective March 2, 2006; amended at 31 Ill. Reg. 6072, effective April 3, 2007; amended at 31 Ill. Reg. 8828, effective June 6, 2007; amended at 33 Ill. Reg. 9371, effective June 17, 2009.

SUBPART C: POLICIES

Section 330.780 ~~Serious~~ Incidents and Accidents

- a) The facility shall maintain a file of all written reports of each incident and accident affecting a resident that is not the expected outcome of a resident's condition or disease process. A descriptive summary of each incident or accident affecting a resident shall also be recorded in the progress notes or nurse's notes of that resident.
- b) The facility shall notify the Department of any serious incident or accident. For purposes of this Section, "serious" means any incident or accident that causes physical harm or injury to a resident.
- c) The facility shall, by fax or phone, notify the Regional Office within 24 hours after each reportable incident or accident. If the facility is unable to contact the Regional Office, it shall notify the Department's toll-free complaint registry hotline. The facility shall send a narrative summary of each reportable accident or incident to the Department within seven days after the occurrence.
- a) ~~The facility shall notify the Department of any incident or accident which has, or is likely to have, a significant effect on the health, safety, or welfare of a resident~~

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~~or residents. Incidents and accidents requiring the services of a physician, hospital, police or fire department, coroner, or other service provider on an emergency basis shall be reported to the Department.~~

- b) ~~A descriptive summary of each incident or accident shall be recorded in the progress notes or nurses' notes for each resident involved.~~
- e) ~~The facility shall maintain a file of all written reports of serious incidents or accidents involving residents.~~
 - 1) ~~Notification shall be made by a phone call to the Regional Office within 24 hours of each serious incident or accident. If the facility is unable to contact the Regional Office, notification shall be made by a phone call to the Department's toll-free complaint registry number.~~
 - 2) ~~A narrative summary of each serious accident or incident occurrence shall be sent to the Department within seven days of the occurrence.~~

(Source: Amended at 33 Ill. Reg. 9371, effective June 17, 2009)

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- 1) Heading of the Part: Illinois Veterans' Homes Code
- 2) Code Citation: 77 Ill. Adm. Code 340
- 3) Section Number: 340.1330 Adopted Action:
Amend
- 4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
- 5) Effective Date of Rulemaking: June 17, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: September 12, 2008; 32 Ill. Reg. 14670
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: The following changes were made in response to comments received during the first notice or public comment period:

In Section 340.1330, all existing text was stricken, all underlined text was deleted, and new text was added as follows:

- a) The facility shall maintain a file of all written reports of each serious incident and accident affecting a resident that is not the expected outcome of a resident's condition or disease process. A descriptive summary of each serious incident or accident affecting a resident shall also be recorded in the progress notes or nurse's notes of that resident.
- b) The facility shall notify the Department of any serious incident or accident that causes physical harm or injury to a resident.
- c) The facility shall, by fax or phone, notify the Regional Office within 24 hours after each reportable serious incident or accident. If the facility is unable to contact the Regional Office, it shall notify the Department's toll-

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free complaint registry hotline. The facility shall send a narrative summary of each reportable accident or incident to the Department within seven days after the occurrence."

The following changes were made in response to comments and suggestions of the JCAR:

- 1) In the table of contents for Section 340.1330 and in the heading for Section 340.1330, "Serious" was stricken.
- 2) In Section 340.1330(a), lines 1 and 3, "serious" was deleted.
- 3) In Section 340.1330(b), ". For the purposes of this Section, "serious" means any incident or accident" was added after "accident".
- 4) In Section 340.1330(c), "serious" was deleted.

In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of the Rulemaking: Part 340 regulates veterans' homes, including establishing requirements for reporting serious incidents and accidents. The purpose of the adopted amendment is to clarify the specific situations that would require a facility to report an incident or accident to the Department. Section 340.1330 (Serious Incidents and Accidents) is amended to clarify the reporting requirements for incidents and accidents that affect individuals.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Susan Meister
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

Springfield, Illinois 62761

217/782-2043

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The full text of the Adopted Amendment begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIESPART 340
ILLINOIS VETERANS' HOMES CODE

SUBPART A: GENERAL PROVISIONS

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340.1000	Definitions
340.1010	Incorporated and Referenced Materials
340.1110	General Requirements
340.1115	Federal Veterans' Regulations
340.1120	Application for License
340.1125	Alzheimer's Special Care Disclosure
340.1130	Criteria for Adverse Licensure Actions
340.1140	Denial of Initial License
340.1150	Revocation or Denial of Renewal of License
340.1160	Inspections, Surveys, Evaluations, and Consultations
340.1170	Presentation of Findings by the Department
340.1190	Ownership Disclosure
340.1200	Monitor and Receivership
340.1210	Determination of a Violation
340.1220	Determination of the Level of a Violation
340.1230	Plans of Correction and Reports of Correction
340.1240	Calculation of Penalties
340.1245	Conditions for Assessment of Penalties
340.1250	Reduction or Waiver of Penalties
340.1255	Supported Congregate Living Arrangement Demonstration
340.1260	Waivers

SUBPART B: POLICIES AND FACILITY RECORDS

Section

340.1300	Facility Policies
340.1305	Request for Resident Criminal History Record Information
340.1310	Admission, Retention and Discharge Policies
340.1314	Criminal History Background Checks for Persons Who Were Residents on May 10, 2006

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340.1315	Identified Offenders
340.1316	Discharge Planning for Identified Offenders
340.1317	Transfer of an Identified Offender
340.1320	Disaster Preparedness
340.1330	Serious Incidents and Accidents
340.1335	Infection Control
340.1340	Facility Record Requirements
340.1350	Personnel Policies
340.1360	Initial Health Evaluation for Employees
340.1370	Administrator
340.1375	Personnel Requirements
340.1376	Registry of Certified Nursing Assistants
340.1377	Health Care Worker Background Check
340.1378	Resident Attendants
340.1380	Contacting Local Law Enforcement

SUBPART C: RESIDENT RIGHTS

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340.1400	Implementation of Resident Rights and Facility Responsibilities
340.1410	General
340.1420	Contract Between Resident and Facility
340.1430	Residents' Advisory Council
340.1440	Abuse and Neglect
340.1450	Communication and Visitation
340.1460	Resident's Funds
340.1470	Transfer or Discharge
340.1480	Complaint Procedures
340.1490	Private Right of Action

SUBPART D: HEALTH SERVICES

Section	
340.1500	Medical Care Policies
340.1505	Medical, Nursing and Restorative Services
340.1510	Communicable Disease Policies
340.1520	Tuberculin Skin Test Procedures
340.1530	Physician Services
340.1535	Dental Programs
340.1540	Life-Sustaining Treatments

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340.1550	Obstetrical and Gynecological Care
340.1560	Nursing Personnel
340.1570	Personal Care
340.1580	Restraints
340.1590	Nonemergency Use of Physical Restraints
340.1600	Emergency Use of Physical Restraints
340.1610	Unnecessary, Psychotropic, and Antipsychotic Drugs
340.1620	Medication Administration (Repealed)
340.1630	Self-Administration of Medication (Renumbered)
340.1640	Vaccinations
340.1645	Language Assistance Services

SUBPART E: MEDICATIONS

Section

340.1650	Medication Policies and Procedures
340.1655	Compliance with Licensed Prescriber's Orders
340.1660	Administration of Medication
340.1665	Control of Medication
340.1670	Labeling and Storage of Medication
340.1675	Self-Administration of Medication

SUBPART F: RESIDENT LIVING SERVICES

Section

340.1700	Recreational and Activity Programs
340.1710	Social Services
340.1720	Work Programs
340.1730	Volunteer Program

SUBPART G: RESIDENT RECORDS

Section

340.1800	Resident Record Requirements
340.1810	Content of Medical Records
340.1820	Records Pertaining to Resident's Property
340.1830	Retention, Transfer, and Inspection of Records
340.1840	Confidentiality of Resident's Records

SUBPART H: FOOD SERVICE

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Section

340.1900	Food Service Staff
340.1910	Diet Orders
340.1920	Meal Planning
340.1930	Therapeutic Diets (Repealed)
340.1940	Menus and Food Records
340.1950	Food Preparation and Service
340.1960	Kitchen Equipment, Utensils and Supplies

SUBPART I: PHYSICAL PLANT SERVICES,
FURNISHINGS, EQUIPMENT AND SUPPLIES

Section

340.2000	Maintenance
340.2010	Water Supply, Sewage Disposal and Plumbing
340.2020	Housekeeping
340.2030	Laundry Services
340.2040	Furnishings
340.2050	Equipment and Supplies

340.TABLE A	Heat Index Table/Apparent Temperature
340.TABLE B	Guidelines for the Use of Various Drugs

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rule adopted at 18 Ill. Reg. 10391, effective June 21, 1994, for a maximum of 150 days; emergency rule expired November 18, 1994; adopted at 19 Ill. Reg. 5679, effective April 3, 1995; emergency amendment at 20 Ill. Reg. 496, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10045, effective July 15, 1996; amended at 20 Ill. Reg. 12013, effective September 10, 1996; amended at 22 Ill. Reg. 3959, effective February 13, 1998; amended at 22 Ill. Reg. 7162, effective April 15, 1998; amended at 23 Ill. Reg. 1038, effective January 15, 1999; amended at 23 Ill. Reg. 7931, effective July 15, 1999; amended at 24 Ill. Reg. 17225, effective November 1, 2000; amended at 25 Ill. Reg. 4869, effective April 1, 2001; amended at 26 Ill. Reg. 4870, effective April 1, 2002; amended at 26 Ill. Reg. 10589, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 2222, effective February 1, 2003, for a maximum of 150 days; emergency expired June 30, 2003; amended at 27 Ill. Reg. 5903, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 14230, effective August 15, 2003, for a maximum of 150 days; emergency expired January 11, 2004; amended at 27 Ill. Reg. 15904, effective September

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25, 2003; amended at 27 Ill. Reg. 18148, effective November 15, 2003; amended at 28 Ill. Reg. 11209, effective July 22, 2004; emergency amendment at 29 Ill. Reg. 11931, effective July 12, 2005, for a maximum of 150 days; emergency rule modified in response to JCAR Recommendation at 29 Ill. Reg. 15208, effective September 23, 2005, for the remainder of the maximum 150 days; emergency amendment expired December 8, 2005; amended at 29 Ill. Reg. 12924, effective August 2, 2005; amended at 30 Ill. Reg. 1452, effective January 23, 2006; amended at 30 Ill. Reg. 5303, effective March 2, 2006; amended at 31 Ill. Reg. 6098, effective April 3, 2007; amended at 31 Ill. Reg. 8841, effective June 6, 2007; amended at 33 Ill. Reg. 9384, effective June 17, 2009.

SUBPART B: POLICIES AND FACILITY RECORDS

Section 340.1330 ~~Serious~~ Incidents and Accidents

- a) The facility shall maintain a file of all written reports of each incident and accident affecting a resident that is not the expected outcome of a resident's condition or disease process. A descriptive summary of each incident or accident affecting a resident shall also be recorded in the progress notes or nurse's notes of that resident.
- b) The facility shall notify the Department of any serious incident or accident. For purposes of this Section, "serious" means any incident or accident that causes physical harm or injury to a resident.
- c) The facility shall, by fax or phone, notify the Regional Office within 24 hours after each reportable incident or accident. If the facility is unable to contact the Regional Office, it shall notify the Department's toll-free complaint registry hotline. The facility shall send a narrative summary of each reportable accident or incident to the Department within seven days after the occurrence.
- a) ~~The facility shall notify the Department of any incident or accident that has, or is likely to have, a significant effect on the health, safety, or welfare of a resident or residents. Incidents and accidents requiring the services of a physician, hospital, police or fire department, coroner, or other service provider on an emergency basis shall be reported to the Department.~~
- b) ~~A descriptive summary of each incident or accident shall be recorded in the progress notes or nurse's notes for each resident involved.~~
- e) ~~The facility shall maintain a file of all written reports of serious incidents or~~

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~~accidents involving residents.~~

- 1) ~~Notification shall be made by a phone call to the Regional Office within 24 hours of each serious incident or accident. If the facility is unable to contact the Regional Office, notification shall be made by a phone call to the Department's toll-free complaint registry number.~~
- 2) ~~A narrative summary of each serious accident or incident occurrence shall be sent to the Department within seven days of the occurrence.~~

(Source: Amended at 33 Ill. Reg. 9384, effective June 17, 2009)

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- 1) Heading of the Part: Intermediate Care for the Developmentally Disabled Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 350
- 3) Section Number: 350.700 Adopted Action: Amend
- 4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
- 5) Effective Date of Rulemaking: June 17, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 9) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: September 12, 2008; 32 Ill. Reg. 14678
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version:

The following changes were made in response to comments received during the first notice or public comment period:

In Section 350.700, all existing text was stricken, all underlined text was deleted, and new text was added as follows:

- "a) The facility shall maintain a file of all written reports of each serious incident and accident affecting a resident that is not the expected outcome of a resident's condition or disease process. A descriptive summary of each serious incident or accident affecting a resident shall also be recorded in the progress notes or nurse's notes of that resident.
- b) The facility shall notify the Department of any serious incident or accident that causes physical harm or injury to a resident.

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- c) The facility shall, by fax or phone, notify the Regional Office within 24 hours after each reportable serious incident or accident. If the facility is unable to contact the Regional Office, it shall notify the Department's toll-free complaint registry hotline. The facility shall send a narrative summary of each reportable accident or incident to the Department within seven days after the occurrence."

The following changes were made in response to comments and suggestions of the JCAR:

- 1) In the table of contents for Section 350.700 and in the heading at Section 350.700, "Serious" was stricken.
- 2) In Section 350.700(a), lines 1 and 3, "serious" was deleted.
- 3) In Section 350.700(b), ". For purposes of this Section, "serious" means any incidents or accident" was added after "accident".
- 4) In Section 350.700(c), "serious" was deleted.

In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Part 350 regulates facilities that provide intermediate care for the developmentally disabled, including establishing requirements for reporting serious incidents and accidents. The purpose of the adopted amendment is to clarify the specific situations that would require a facility to report an incident or accident to the Department. Section 350.700 (Serious Incidents and Accidents) is amended to clarify the reporting requirements for incidents or accidents that affect individuals.
- 16) Information and questions regarding this adopted amendment shall be directed to:

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Susan Meister
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761

217/782-2043
e-mail: dph.rules@illinois.gov

The full text of the Adopted Amendment begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 350

INTERMEDIATE CARE FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section	
350.110	General Requirements
350.120	Application for License
350.130	Licensee
350.140	Issuance of an Initial License for a New Facility
350.150	Issuance of an Initial License Due to a Change of Ownership
350.160	Issuance of a Renewal License
350.165	Criteria for Adverse Licensure Actions
350.170	Denial of Initial License
350.175	Denial of Renewal of License
350.180	Revocation of License
350.190	Experimental Program Conflicting With Requirements
350.200	Inspections, Surveys, Evaluations and Consultation
350.210	Filing an Annual Attested Financial Statement
350.220	Information to Be Made Available to the Public By the Department
350.230	Information to Be Made Available to the Public By the Licensee
350.240	Municipal Licensing
350.250	Ownership Disclosure
350.260	Issuance of Conditional Licenses
350.270	Monitor and Receivership
350.271	Presentation of Findings
350.272	Determination to Issue a Notice of Violation or Administrative Warning
350.274	Determination of the Level of a Violation
350.276	Notice of Violation
350.277	Administrative Warning
350.278	Plans of Correction
350.280	Reports of Correction
350.282	Conditions for Assessment of Penalties
350.284	Calculation of Penalties
350.286	Determination to Assess Penalties
350.288	Reduction or Waiver of Penalties

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350.290	Quarterly List of Violators (Repealed)
350.300	Alcoholism Treatment Programs In Long-Term Care Facilities
350.310	Department May Survey Facilities Formerly Licensed
350.315	Supported Congregate Living Arrangement Demonstration
350.320	Waivers
350.330	Definitions
350.340	Incorporated and Referenced Materials

SUBPART B: ADMINISTRATION

Section	
350.510	Administrator

SUBPART C: POLICIES

Section	
350.610	Management Policies
350.620	Resident Care Policies
350.625	Determination of Need Screening and Request for Resident Residents Criminal History Record Information
350.630	Admission, Retention and Discharge Policies
350.634	Criminal History Background Checks for Persons Who Were Residents on May 1019, 2006
350.635	Identified Offenders
350.636	Discharge Planning for Identified Offenders
350.637	Transfer of an Identified Offender
350.640	Contract Between Resident and Facility
350.650	Residents' Advisory Council
350.660	General Policies
350.670	Personnel Policies
350.675	Initial Health Evaluation for Employees
350.680	Developmental Disabilities Aides
350.681	Health Care Worker Background Check
350.682	Resident Attendants
350.683	Registry of Developmental Disabilities Aides
350.685	Student Interns
350.690	Disaster Preparedness
350.700	Serious Incidents and Accidents
350.750	Contacting Local Law Enforcement
350.760	Infection Control

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SUBPART D: PERSONNEL

Section	
350.810	Personnel
350.820	Consultation Services
350.830	Personnel Policies (Repealed)

SUBPART E: RESIDENT LIVING SERVICES

Section	
350.1010	Service Programs
350.1020	Psychological Services
350.1030	Social Services
350.1040	Speech Pathology and Audiology Services
350.1050	Recreational and Activities Services
350.1055	Volunteer Program
350.1060	Training and Habilitation Services
350.1070	Training and Habilitation Staff
350.1080	Restraints
350.1082	Nonemergency Use of Physical Restraints
350.1084	Emergency Use of Physical Restraints
350.1086	Unnecessary, Psychotropic, and Antipsychotic Drugs
350.1088	Language Assistance Services

SUBPART F: HEALTH SERVICES

Section	
350.1210	Health Services
350.1220	Physician Services
350.1223	Communicable Disease Policies
350.1225	Tuberculin Skin Test Procedures
350.1230	Nursing Services
350.1235	Life-Sustaining Treatments
350.1240	Dental Services
350.1250	Physical and Occupational Therapy Services
350.1260	Vaccinations

SUBPART G: MEDICATIONS

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Section

- 350.1410 Medication Policies and Procedures
- 350.1420 Compliance with Licensed Prescriber's Orders
- 350.1430 Administration of Medication
- 350.1440 Labeling and Storage of Medications
- 350.1450 Control of Medications

SUBPART H: RESIDENT AND FACILITY RECORDS

Section

- 350.1610 Resident Record Requirements
- 350.1620 Content of Medical Records
- 350.1630 Confidentiality of Resident's Records
- 350.1640 Records Pertaining to Residents' Property
- 350.1650 Retention and Transfer of Resident Records
- 350.1660 Other Resident Record Requirements
- 350.1670 Staff Responsibility for Medical Records
- 350.1680 Retention of Facility Records
- 350.1690 Other Facility Record Requirements

SUBPART I: FOOD SERVICE

Section

- 350.1810 Director of Food Services
- 350.1820 Dietary Staff in Addition to Director of Food Services
- 350.1830 Hygiene of Dietary Staff
- 350.1840 Diet Orders
- 350.1850 Meal Planning
- 350.1860 Therapeutic Diets (Repealed)
- 350.1870 Scheduling Meals
- 350.1880 Menus and Food Records
- 350.1890 Food Preparation and Service
- 350.1900 Food Handling Sanitation
- 350.1910 Kitchen Equipment, Utensils, and Supplies

SUBPART J: MAINTENANCE, HOUSEKEEPING AND LAUNDRY

Section

- 350.2010 Maintenance
- 350.2020 Housekeeping

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350.2030 Laundry Services

SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section

350.2210 Furnishings

350.2220 Equipment and Supplies

SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

Section

350.2410 Codes

350.2420 Water Supply

350.2430 Sewage Disposal

350.2440 Plumbing

SUBPART M: CONSTRUCTION STANDARDS FOR NEW INTERMEDIATE CARE
FACILITIES FOR THE DEVELOPMENTALLY DISABLED

Section

350.2610 Applicability of These Standards

350.2620 Codes and Standards

350.2630 Preparation of Drawings and Specifications

350.2640 Site

350.2650 Administration and Public Areas

350.2660 Nursing Unit

350.2670 Dining, Living, Activities Rooms

350.2680 Therapy and Personal Care

350.2690 Service Departments

350.2700 General Building Requirements

350.2710 Structural

350.2720 Mechanical Systems

350.2730 Plumbing Systems

350.2740 Electrical Systems

SUBPART N: CONSTRUCTION STANDARDS FOR EXISTING INTERMEDIATE CARE
FACILITIES FOR THE DEVELOPMENTALLY DISABLED

Section

350.2910 Applicability

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350.2920	Codes and Standards
350.2930	Preparation of Drawings and Specifications
350.2940	Site
350.2950	Administration and Public Areas
350.2960	Nursing Unit
350.2970	Living, Dining, Activities Rooms
350.2980	Treatment and Personal Care
350.2990	Service Department
350.3000	General Building Requirements
350.3010	Structural
350.3020	Mechanical Systems
350.3030	Plumbing Systems
350.3040	Electrical Requirements

SUBPART O: RESIDENT'S RIGHTS

Section	
350.3210	General
350.3220	Medical and Personal Care Program
350.3230	Restraints (Repealed)
350.3240	Abuse and Neglect
350.3250	Communication and Visitation
350.3260	Resident's Funds
350.3270	Residents' Advisory Council
350.3280	Contract With Facility
350.3290	Private Right of Action
350.3300	Transfer or Discharge
350.3310	Complaint Procedures
350.3320	Confidentiality
350.3330	Facility Implementation

SUBPART P: SPECIAL STANDARDS FOR INTERMEDIATE CARE FACILITIES FOR
THE DEVELOPMENTALLY DISABLED OF 16 BEDS OR LESS

Section	
350.3710	Applicability of Other Provisions of this Part
350.3720	Administration
350.3730	Admission and Discharge Policies
350.3740	Personnel
350.3750	Consultation Services and Nursing Services

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350.3760	Medication Policies
350.3770	Food Services
350.3780	Codes and Standards
350.3790	Administration and Public Areas
350.3800	Bedrooms
350.3810	Nurses Station
350.3820	Bath and Toilet Rooms
350.3830	Utility Rooms
350.3840	Living, Dining, Activity Rooms
350.3850	Therapy and Personal Care
350.3860	Kitchen
350.3870	Laundry Room
350.3880	General Building Requirements
350.3890	Corridors
350.3900	Special Care Room
350.3910	Exit Facilities and Subdivision of Floor Areas
350.3920	Stairways, Vertical Openings and Doorways
350.3930	Hazardous Areas and Combustible Storage
350.3940	Mechanical Systems
350.3950	Heating, Cooling, and Ventilating Systems
350.3960	Plumbing Systems
350.3970	Electrical Systems
350.3980	Fire Alarm and Detection System
350.3990	Emergency Electrical System
350.4000	Fire Protection
350.4010	Construction Types
350.4020	Equivalencies
350.4030	New Construction Requirements

SUBPART Q: DAY CARE PROGRAMS

Section

350.4210	Day Care in Long-Term Care Facilities
350.APPENDIX A	Classification of Distinct Part of a Facility for Different Levels of Service (Repealed)
350.APPENDIX B	Federal Requirements Regarding Residents' Rights (Repealed)
350.APPENDIX C	Seismic Zone Map
350.APPENDIX D	Forms For Day Care in Long-Term Care Facilities
350.APPENDIX E	Guidelines for the Use of Various Drugs

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350.TABLE A	Sound Transmission Limitations in New Intermediate Care Facilities for the Developmentally Disabled
350.TABLE B	Pressure Relationships and Ventilation Rate of Certain Areas for the New Intermediate Care Facilities for the Developmentally Disabled
350.TABLE C	Construction Types and Sprinkler Requirements for Existing Intermediate Care Facilities for the Developmentally Disabled
350.TABLE D	Food Service Sanitation Rules, 77 Illinois Admin. Code 750, 1983 Applicable for New Intermediate Care Facilities for the Developmentally Disabled of 16 Beds or Less
350.TABLE E	Construction Types and Sprinkler Requirements for New Intermediate Care Facilities for the Developmentally Disabled of Sixteen (16) Beds or Less
350.TABLE F	Heat Index Table/Apparent Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 495, effective March 1, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 30, p. 1, effective July 28, 1980; amended at 5 Ill. Reg. 1657, effective February 4, 1981; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 6453, effective May 14, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 14544, effective November 8, 1982; amended at 6 Ill. Reg. 14675, effective November 15, 1982; amended at 6 Ill. Reg. 15556, effective December 15, 1982; amended at 7 Ill. Reg. 278, effective December 22, 1982; amended at 7 Ill. Reg. 1919 and 1945, effective January 28, 1983; amended at 7 Ill. Reg. 7963, effective July 1, 1983; amended at 7 Ill. Reg. 15817, effective November 15, 1983; amended at 7 Ill. Reg. 16984, effective December 14, 1983; amended at 8 Ill. Reg. 15574 and 15578 and 15581, effective August 15, 1984; amended at 8 Ill. Reg. 15935, effective August 17, 1984; amended at 8 Ill. Reg. 16980, effective September 5, 1984; codified at 8 Ill. Reg. 19806; amended at 8 Ill. Reg. 24214, effective November 29, 1984; amended at 8 Ill. Reg. 24680, effective December 7, 1984; amended at 9 Ill. Reg. 142, effective December 26, 1984; amended at 9 Ill. Reg. 331, effective December 28, 1984; amended at 9 Ill. Reg. 2964, effective February 25, 1985; amended at 9 Ill. Reg. 10876, effective July 1, 1985; amended at 11 Ill. Reg. 14795, effective October 1, 1987; amended at 11 Ill. Reg. 16830, effective October 1, 1987; amended at 12 Ill. Reg. 979, effective December 24, 1987; amended at 12 Ill. Reg. 16838, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18705, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6040, effective April 17, 1989; amended at 13 Ill. Reg. 19451, effective December 1, 1989; amended at 14 Ill. Reg. 14876, effective October 1, 1990; amended at 15 Ill. Reg. 466, effective January 1, 1991; amended at 16 Ill. Reg. 594, effective January 1, 1992; amended at 16 Ill. Reg. 13910, effective September 1, 1992; amended at 17 Ill. Reg. 2351, effective February 10, 1993; emergency amendment at 17

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Ill. Reg. 2373, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 7948, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; emergency amendment at 17 Ill. Reg. 9105, effective June 7, 1993, for a maximum of 150 days; emergency expired on November 4, 1993; amended at 17 Ill. Reg. 15056, effective September 3, 1993; amended at 17 Ill. Reg. 16153, effective January 1, 1994; amended at 17 Ill. Reg. 19210, effective October 26, 1993; amended at 17 Ill. Reg. 19517, effective November 4, 1993; amended at 17 Ill. Reg. 21017, effective November 20, 1993; amended at 18 Ill. Reg. 1432, effective January 14, 1994; amended at 18 Ill. Reg. 15789, effective October 15, 1994; amended at 19 Ill. Reg. 11481, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 512, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10065, effective July 15, 1996; amended at 20 Ill. Reg. 12049, effective September 10, 1996; amended at 21 Ill. Reg. 14990, effective November 15, 1997; amended at 22 Ill. Reg. 4040, effective February 13, 1998; amended at 22 Ill. Reg. 7172, effective April 15, 1998; amended at 22 Ill. Reg. 16557, effective September 18, 1998; amended at 23 Ill. Reg. 1052, effective January 15, 1999; amended at 23 Ill. Reg. 7970, effective July 15, 1999; amended at 24 Ill. Reg. 17254, effective November 1, 2000; amended at 25 Ill. Reg. 4879, effective April 1, 2001; amended at 25 Ill. Reg. 6499, effective May 15, 2001; amended at 26 Ill. Reg. 4878, effective April 1, 2002; amended at 26 Ill. Reg. 10611, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 2238, effective February 1, 2003, for a maximum of 150 days; emergency expired June 30, 2003; emergency amendment at 27 Ill. Reg. 5489, effective March 25, 2003, for a maximum of 150 days; emergency expired August 21, 2003; amended at 27 Ill. Reg. 5924, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 14237, effective August 15, 2003, for a maximum of 150 days; emergency expired January 11, 2004; amended at 27 Ill. Reg. 15924, effective September 25, 2003; amended at 27 Ill. Reg. 18160, effective November 15, 2003; expedited correction at 28 Ill. Reg. 3552, effective November 15, 2003; amended at 28 Ill. Reg. 7653, effective May 24, 2004; amended at 28 Ill. Reg. 11217, effective July 22, 2004; emergency amendment at 29 Ill. Reg. 11971, effective July 12, 2005, for a maximum of 150 days; emergency rule modified in response to JCAR Recommendation at 29 Ill. Reg. 15247, effective September 23, 2005, for the remainder of the maximum 150 days; emergency expired December 8, 2005; amended at 29 Ill. Reg. 12954, effective August 2, 2005; amended at 30 Ill. Reg. 1460, effective January 23, 2006; amended at 30 Ill. Reg. 5338, effective March 2, 2006; amended at 30 Ill. Reg. 13876, effective August 7, 2006; amended at 31 Ill. Reg. 6119, effective April 3, 2007; amended at 31 Ill. Reg. 8850, effective June 6, 2007; amended at 33 Ill. Reg. 9393, effective June 17, 2009.

SUBPART C: POLICIES

| **Section 350.700** ~~Serious Incidents and Accidents~~

- | a)
- The facility shall maintain a file of all written reports of each incident and

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accident affecting a resident that is not the expected outcome of a resident's condition or disease process. A descriptive summary of each incident or accident affecting a resident shall also be recorded in the progress notes or nurse's notes of that resident

- b) The facility shall notify the Department of any serious incident or accident. For purposes of this Section, "serious" means any incident or accident that causes physical harm or injury to a resident.
- c) The facility shall, by fax or phone, notify the Regional Office within 24 hours after each reportable incident or accident. If the facility is unable to contact the Regional Office, it shall notify the Department's toll-free complaint registry hotline. The facility shall send a narrative summary of each reportable accident or incident to the Department within seven days after the occurrence.
- a) ~~The facility shall notify the Department of any incident or accident which has, or is likely to have, a significant effect on the health, safety, or welfare of a resident or residents. Incidents and accidents requiring the services of a physician, hospital, police or fire department, coroner, or other service provider on an emergency basis shall be reported to the Department.~~
- b) ~~A descriptive summary of each incident or accident shall be recorded in the progress notes or nurses' notes for each resident involved.~~
- e) ~~The facility shall maintain a file of all written reports of serious incidents or accidents involving residents.~~
 - 1) ~~Notification shall be made by a phone call to the Regional Office within 24 hours of each serious incident or accident. If the facility is unable to contact the Regional Office, notification shall be made by a phone call to the Department's toll-free complaint registry number.~~
 - 2) ~~A narrative summary of each serious accident or incident occurrence shall be sent to the Department within seven days of the occurrence.~~

(Source: Amended at 33 Ill. Reg. 9393, effective June 17, 2009)

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NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Long-Term Care for Under Age 22 Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 390
- 3) Section Number: 390.700 Adopted Action: Amend
- 4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
- 5) Effective Date of Rulemaking: June 17, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: September 12, 2008; 32 Ill. Reg. 14691
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: The following changes were made in response to comments received during the first notice or public comment period:

In Section 390.700, all existing text was stricken, all underlined text was deleted, and new text was added as follows:

- a) The facility shall maintain a file of all written reports of each serious incident and accident affecting a resident that is not the expected outcome of a resident's condition or disease process. A descriptive summary of each serious incident or accident affecting a resident shall also be recorded in the progress notes or nurse's notes of that resident.
- b) The facility shall notify the Department of any serious incident or accident that causes physical harm or injury to a resident.

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- c) The facility shall, by fax or phone, notify the Regional Office within 24 hours after each reportable serious incident or accident. If the facility is unable to contact the Regional Office, it shall notify the Department's toll-free complaint registry hotline. The facility shall send a narrative summary of each reportable accident or incident to the Department within seven days after the occurrence."

The following changes were made in response to comments and suggestions of the JCAR:

1. In the table of contents for Section 390.700 and in the heading at Section 390.700, "Serious" was stricken.
2. In Section 390.700(a), line 1 and 3, "serious" was deleted.
3. In Section 390.700(b), "For purposes of this Section, "serious" means any incident or accident" was added after "accident".
4. In Section 390.700(c), "serious" was deleted.

In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of the Rulemaking: Part 390 regulates facilities that provide long-term care to residents under 22 years old, including establishing minimum requirements for reporting serious incidents and accidents. The purpose of the adopted amendment is to clarify the specific situations that would require a facility to report an incident or accident to the Department. Section 390.700 (Serious Incidents and Accidents) is amended to clarify the specific situations that would require a facility to report an incident or accident to the Department.
- 16) Information and questions regarding this adopted amendment shall be directed to:

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Susan Meister
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761

217/782-2043
e-mail: dph.rules@illinois.gov

The full text of the Adopted Amendment begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIESPART 390
LONG-TERM CARE FOR UNDER AGE 22 FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section	
390.110	General Requirements
390.120	Application for License
390.130	Licensee
390.140	Issuance of an Initial License for a New Facility
390.150	Issuance of an Initial License Due to a Change of Ownership
390.160	Issuance of a Renewal License
390.165	Criteria for Adverse Licensure Actions
390.170	Denial of Initial License
390.175	Denial of Renewal of License
390.180	Revocation of License
390.190	Experimental Program Conflicting With Requirements
390.200	Inspections, Surveys, Evaluations and Consultation
390.210	Filing an Annual Attested Financial Statement
390.220	Information to be Made Available to the Public by the Department
390.230	Information to Be Made Available to the Public By the Licensee
390.240	Municipal Licensing
390.250	Ownership Disclosure
390.260	Issuance of Conditional Licenses
390.270	Monitor and Receivership
390.271	Presentation of Findings
390.272	Determination to Issue a Notice of Violation or Administrative Warning
390.274	Determination of the Level of a Violation
390.276	Notice of Violation
390.277	Administrative Warning
390.278	Plans of Correction
390.280	Reports of Correction
390.282	Conditions for Assessment of Penalties
390.284	Calculation of Penalties
390.286	Determination to Assess Penalties

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390.288	Reduction or Waiver of Penalties
390.290	Quarterly List of Violators (Repealed)
390.300	Alcoholism Treatment Programs in Long-Term Care Facilities
390.310	Department May Survey Facilities Formerly Licensed
390.315	Supported Congregate Living Arrangement Demonstration
390.320	Waivers
390.330	Definitions
390.340	Incorporated and Referenced Materials

SUBPART B: ADMINISTRATION

Section	
390.500	Administrator

SUBPART C: POLICIES

Section	
390.610	Management Policies
390.620	Resident Care Policies
390.625	Pre-admission Assessment and Request for Criminal History Record Information (Repealed)
390.630	Admission, Retention and Discharge Policies
390.635	Identified Offenders (Repealed)
390.636	Discharge Planning for Identified Offenders (Repealed)
390.637	Transfer of an Identified Offender (Repealed)
390.640	Contract Between Resident and Facility
390.650	Residents' Advisory Council
390.660	General Policies
390.670	Personnel Policies
390.675	Initial Health Evaluation for Employees
390.680	Child Care/Habilitation Aides
390.681	Health Care Worker Background Check
390.682	Resident Attendants
390.683	Registry of Child Care/Habilitation Aides
390.685	Student Interns
390.690	Disaster Preparedness
390.700	Serious Incidents and Accidents
390.750	Contacting Local Law Enforcement
390.760	Infection Control

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SUBPART D: PERSONNEL

Section	
390.810	General
390.820	Categories of Personnel
390.830	Consultation Services

SUBPART E: HEALTH AND DEVELOPMENTAL SERVICES

Section	
390.1010	Service Programs
390.1020	Medical Services
390.1025	Life-Sustaining Treatments
390.1030	Physician Services
390.1035	Tuberculin Skin Test Procedures
390.1040	Nursing Services
390.1050	Dental Care Services
390.1060	Physical and Occupational Therapy Services
390.1070	Psychological Services
390.1080	Social Services
390.1090	Speech Pathology and Audiology Services
390.1100	Recreational and Activity Services
390.1110	Educational Services
390.1120	Work Activity and Prevocational Training Services
390.1130	Communicable Disease Policies
390.1140	Vaccinations
390.1150	Language Assistance Services

SUBPART F: RESTRAINTS AND BEHAVIOR MANAGEMENT

Section	
390.1310	Restraints
390.1312	Nonemergency Use of Physical Restraints
390.1314	Emergency Use of Physical Restraints
390.1316	Unnecessary, Psychotropic, and Antipsychotic Drugs
390.1320	Behavior Management
390.1330	Behavior Emergencies (Repealed)

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SUBPART G: MEDICATIONS

Section

- 390.1410 Medication Policies and Procedures
- 390.1420 Compliance with Licensed Prescriber's Orders
- 390.1430 Administration of Medication
- 390.1440 Labeling and Storage of Medications
- 390.1450 Control of Medications

SUBPART H: RESIDENT AND FACILITY RECORDS

Section

- 390.1610 Resident Record Requirements
- 390.1620 Content of Medical Records
- 390.1630 Confidentiality of Resident's Records
- 390.1640 Records Pertaining to Residents' Property
- 390.1650 Retention and Transfer of Resident Records
- 390.1660 Other Resident Record Requirements
- 390.1670 Staff Responsibility for Medical Records
- 390.1680 Retention of Facility Records
- 390.1690 Other Facility Record Requirements

SUBPART I: FOOD SERVICE

Section

- 390.1810 Director of Food Services
- 390.1820 Dietary Staff in Addition to Director of Food Services
- 390.1830 Hygiene of Dietary Staff
- 390.1840 Diet Orders
- 390.1850 Meal Planning
- 390.1860 Infant and Therapeutic Diets
- 390.1870 Scheduling Meals
- 390.1880 Menus and Food Records
- 390.1890 Food Preparation and Service
- 390.1900 Preparation of Infant Formula
- 390.1910 Food Handling Sanitation
- 390.1920 Kitchen Equipment, Utensils, and Supplies

SUBPART J: MAINTENANCE, HOUSEKEEPING, AND LAUNDRY

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Section

390.2010 Maintenance
390.2020 Housekeeping
390.2030 Laundry Services

SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section

390.2210 Furnishings
390.2220 Equipment and Supplies
390.2230 Sterilization of Supplies and Equipment

SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

Section

390.2410 Codes
390.2420 Water Supply
390.2430 Sewage Disposal
390.2440 Plumbing

SUBPART M: DESIGN AND CONSTRUCTION STANDARDS FOR NEW FACILITIES

Section

390.2610 Applicability of these Standards
390.2620 Codes and Standards
390.2630 Preparation of Drawings and Specifications
390.2640 Site
390.2650 Administration and Public Areas
390.2660 Nursing Unit
390.2670 Dining, Play, Activity/Program Rooms
390.2680 Therapy and Personal Care
390.2690 Service Departments
390.2700 General Building Requirements
390.2710 Structural
390.2720 Mechanical Systems
390.2730 Plumbing Systems
390.2740 Electrical Systems

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SUBPART N: DESIGN AND CONSTRUCTION STANDARDS FOR EXISTING FACILITIES

Section	
390.2910	Applicability
390.2920	Codes and Standards
390.2930	Preparation of Drawings and Specifications
390.2940	Site
390.2950	Administration and Public Areas
390.2960	Nursing Unit
390.2970	Play, Dining, Activity/Program Rooms
390.2980	Treatment and Personal Care
390.2990	Service Department
390.3000	General Building Requirements
390.3010	Structural
390.3020	Mechanical Systems
390.3030	Plumbing Systems
390.3040	Electrical Requirements

SUBPART O: RESIDENT'S RIGHTS

Section	
390.3210	General
390.3220	Medical and Personal Care Program
390.3230	Restraints (Repealed)
390.3240	Abuse and Neglect
390.3250	Communication and Visitation
390.3260	Resident's Funds
390.3270	Residents' Advisory Council
390.3280	Contract With Facility
390.3290	Private Right of Action
390.3300	Transfer or Discharge
390.3310	Complaint Procedures
390.3320	Confidentiality
390.3330	Facility Implementation

SUBPART P: DAY CARE PROGRAMS

Section	
390.3510	Day Care in Long-Term Care Facilities

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390.APPENDIX A	Interpretation and Illustrative Services for Long-Term Care Facility for Residents Under 22 Years of Age (Repealed)
390.APPENDIX B	Forms for Day Care in Long-Term Care Facilities
390.APPENDIX C	Guidelines for the Use of Various Drugs
390.TABLE A	Infant Feeding
390.TABLE B	Daily Nutritional Requirements By Age Group
390.TABLE C	Sound Transmissions Limitations
390.TABLE D	Pressure Relationships and Ventilation Rates of Certain Areas for New Long-Term Care Facilities for Persons Under Twenty-Two (22) Years of Age
390.TABLE E	Sprinkler Requirements
390.TABLE F	Heat Index Table/Apparent Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Adopted at 6 Ill. Reg. 1658, effective February 1, 1982; emergency amendment at 6 Ill. Reg. 3223, effective March 8, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11622, effective September 14, 1982; amended at 6 Ill. Reg. 14557 and 14560, effective November 8, 1982; amended at 6 Ill. Reg. 14678, effective November 15, 1982; amended at 7 Ill. Reg. 282, effective December 22, 1982; amended at 7 Ill. Reg. 1927, effective January 28, 1983; amended at 7 Ill. Reg. 8574, effective July 11, 1983; amended at 7 Ill. Reg. 15821, effective November 15, 1983; amended at 7 Ill. Reg. 16988, effective December 14, 1983; amended at 8 Ill. Reg. 15585, 15589, and 15592, effective August 15, 1984; amended at 8 Ill. Reg. 16989, effective September 5, 1984; codified at 8 Ill. Reg. 19823; amended at 8 Ill. Reg. 24159, effective November 29, 1984; amended at 8 Ill. Reg. 24656, effective December 7, 1984; amended at 8 Ill. Reg. 25083, effective December 14, 1984; amended at 9 Ill. Reg. 122, effective December 26, 1984; amended at 9 Ill. Reg. 10785, effective July 1, 1985; amended at 11 Ill. Reg. 16782, effective October 1, 1987; amended at 12 Ill. Reg. 931, effective December 24, 1987; amended at 12 Ill. Reg. 16780, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18243, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6301, effective April 17, 1989; amended at 13 Ill. Reg. 19521, effective December 1, 1989; amended at 14 Ill. Reg. 14904, effective October 1, 1990; amended at 15 Ill. Reg. 1878, effective January 25, 1991; amended at 16 Ill. Reg. 623, effective January 1, 1992; amended at 16 Ill. Reg. 14329, effective September 3, 1992; emergency amendment at 17 Ill. Reg. 2390, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 7974, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15073, effective September 3, 1993; amended at 17 Ill. Reg. 16167, effective January 1, 1994; amended at 17 Ill.

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Reg. 19235, effective October 26, 1993; amended at 17 Ill. Reg. 19547, effective November 4, 1993; amended at 17 Ill. Reg. 21031, effective November 20, 1993; amended at 18 Ill. Reg. 1453, effective January 14, 1994; amended at 18 Ill. Reg. 15807, effective October 15, 1994; amended at 19 Ill. Reg. 11525, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 535, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10106, effective July 15, 1996; amended at 20 Ill. Reg. 12101, effective September 10, 1996; amended at 22 Ill. Reg. 4062, effective February 13, 1998; amended at 22 Ill. Reg. 7188, effective April 15, 1998; amended at 22 Ill. Reg. 16576, effective September 18, 1998; amended at 23 Ill. Reg. 1069, effective January 15, 1999; amended at 23 Ill. Reg. 8021, effective July 15, 1999; amended at 24 Ill. Reg. 17283, effective November 1, 2000; amended at 25 Ill. Reg. 4890, effective April 1, 2001; amended at 26 Ill. Reg. 4890, effective April 1, 2002; amended at 26 Ill. Reg. 10645, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 2258, effective February 1, 2003, for a maximum of 150 days; emergency expired June 30, 2003; emergency amendment at 27 Ill. Reg. 5509, effective March 25, 2003, for a maximum of 150 days; emergency expired August 21, 2003; amended at 27 Ill. Reg. 5947, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 14250, effective August 15, 2003, for a maximum of 150 days; emergency expired January 12, 2004; amended at 27 Ill. Reg. 15949, effective September 25, 2003; amended at 27 Ill. Reg. 18204, effective November 15, 2003; expedited correction at 28 Ill. Reg. 3565, effective November 15, 2003; amended at 28 Ill. Reg. 11231, effective July 22, 2004; emergency amendment at 29 Ill. Reg. 12025, effective July 12, 2005, for a maximum of 150 days; emergency rule modified in response to JCAR Recommendation at 29 Ill. Reg. 15301, effective September 23, 2005, for the remainder of the maximum 150 days; emergency amendment expired December 8, 2005; amended at 29 Ill. Reg. 12988, effective August 2, 2005; amended at 30 Ill. Reg. 1473, effective January 23, 2006; amended at 30 Ill. Reg. 5383, effective March 2, 2006; amended at 31 Ill. Reg. 6145, effective April 3, 2007; amended at 31 Ill. Reg. 8864, effective June 6, 2007; amended at 33 Ill. Reg. 9406, effective June 17, 2009.

SUBPART C: POLICIES

Section 390.700 ~~Serious~~ Incidents and Accidents

- a) The facility shall maintain a file of all written reports of each incident and accident affecting a resident that is not the expected outcome of a resident's condition or disease process. A descriptive summary of each incident or accident affecting a resident shall also be recorded in the progress notes or nurse's notes of that resident.
- b) The facility shall notify the Department of any serious incident or accident. For purposes of this Section, "serious" means any incident or accident that causes

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physical harm or injury to a resident.

- c) The facility shall, by fax or phone, notify the Regional Office within 24 hours after each reportable incident or accident. If the facility is unable to contact the Regional Office, it shall notify the Department's toll-free complaint registry hotline. The facility shall send a narrative summary of each reportable accident or incident to the Department within seven days after the occurrence.
- a) ~~The facility shall notify the Department of any incident or accident which has, or is likely to have, a significant effect on the health, safety, or welfare of a resident or residents. Incidents and accidents requiring the services of a physician, hospital, police or fire department, coroner, or other service provider on an emergency basis shall be reported to the Department.~~
- 1) ~~Notification shall be made by a phone call to the Regional Office within 24 hours of each serious incident or accident. If the facility is unable to contact the Regional Office, notification shall be made by a phone call to the Department's toll-free complaint registry number.~~
- 2) ~~A narrative summary of each serious accident or incident occurrence shall be sent to the Department within seven days of the occurrence.~~
- b) ~~A descriptive summary of each incident or accident shall be recorded in the progress notes or nurse's notes for each resident involved.~~
- e) ~~The facility shall maintain a file of all written reports of serious incidents or accidents involving residents.~~

(Source: Amended at 33 Ill. Reg. 9406, effective June 17, 2009)

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Calculation of Excess Cost Under Section 18-3 of the School Code
- 2) Code Citation: 23 Ill. Adm. Code 140
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
140.10	Amendment
140.20	Amendment
140.30	Amendment
140.40	Amendment
- 4) Statutory Authority: 105 ILCS 5/18-3
- 5) Effective Date of Rulemaking: June 22, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: March 6, 2009; 33 Ill. Reg. 3973
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested by JCAR, and no agreements letter was issued.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other proposed rulemakings pending on this Part? No
- 15) Summary and Purpose of Amendments: Portions of these amendments respond to Public Act 95-793, which revised Section 18-3 of the School Code (Tuition of Children from Orphanages and Children's Homes). That statute provides for State reimbursement to school districts for the cost of serving students who would not be residents but for the fact

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that they live in orphanages, children's homes, detention centers, or penal institutions. These students either attend the regular classes of the district or are educated in general education classes provided to them at the facility where they reside. Formula-based reimbursement is provided for programs serving those students, equivalent to 120 percent of the serving district's per capita tuition charge. However, Section 18-3 also provides for reimbursement of costs in excess of that amount that are attributable to individual students who need more intensive services. Part 140 addresses only the claiming of this additional reimbursement.

Prior to the advent of P.A. 95-793, expenses for the summer term were claimed on the same basis as those for the regular school term. Now those claims will be separate, with costs for the summer session reimbursed based on actual expenditures. This means that Part 140 is no longer relevant to reimbursement for the summer term, leading to minor technical revisions in the rules. The deadline for submission of claims for the regular term has also been changed from July 30 to July 15, in keeping with the statutory change.

The other portions of the amendments are intended to clarify more specifically the information that districts submit as part of their claims, as well as the exact basis for identifying excess cost to be reimbursed. In particular, the method of calculation is somewhat different depending upon whether students are served at an attendance center operated by the district or are served at the facility where they reside. The distinction has to do with the fact that costs for programs that are operated by a district at an off-site facility are readily identifiable, while costs associated with students served as part of the general student body are not so readily apparent. Thus, Section 140.40(b) explains that the district's per capita tuition charge is used as the main cost element attributable to students in that situation (in place of the cost per student in average daily attendance in the program, which is used otherwise). Other information being added to Section 140.40 simply makes the mathematical calculations more explicit. The definitions being added to Section 140.10 are further components of this approach.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Tim Imler
Funding and Disbursements Division
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777-0001

217/782-5256

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The full text of the Adopted Amendments begins on the next page:

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NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER c: FINANCE

PART 140

CALCULATION OF EXCESS COST UNDER SECTION 18-3 OF THE SCHOOL CODE

Section

140.10	Purpose and Applicability
140.20	Allowable Costs
140.30	Requirements for Submission of Claims
140.40	Calculation of Reimbursement

AUTHORITY: Implementing and authorized by Section 18-3 of the School Code [105 ILCS 5/18-3].

SOURCE: Adopted at 23 Ill. Reg. 7882, effective July 1, 1999; amended at 25 Ill. Reg. 14122, effective October 22, 2001; amended at 26 Ill. Reg. 8100, effective May 20, 2002; amended at 33 Ill. Reg. 9418, effective June 22, 2009.

Section 140.10 Purpose and Applicability

Section 18-3 of the School Code [105 ILCS 5/18-3] provides for the reimbursement to school districts of the cost of the regular program provided to the students described in that Section during both the regular and summer terms. It also provides for the reimbursement of excess costs incurred by a district during the regular school term for that provides to such students services to those students beyond those encompassed by the district's regular program. This Part establishes the requirements applicable to claims for reimbursement of such excess costs. For purposes of this Part:

- a) The "regular school term" is the time period reflected on the calendar prepared for the school year by the school board to meet the requirements of Sections 10-19 and 18-8.05 of the School Code [105 ILCS 5/10-19 and 18-8.05] and maintained in the main office of the school district.
- b) The basis for identifying and documenting excess cost will vary according to whether a student is served in one of a district's attendance centers or on the premises of a facility where he or she resides or that is otherwise physically

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separate from district facilities. For purposes of this Part: The "summer term" consists of school days in excess of the regular term.

- 1) a program provided in one of a district's attendance centers is an "on-site program"; and
- 2) a program provided elsewhere is an "off-site program".
- c) "Regular program" means the normal configuration of services generally provided to students.
- d) "Individual cost" means the cost of any services provided to an individual student that are not included in the regular program or that are provided at a greater level of intensity than in the regular program, as recorded pursuant to Section 140.30(a)(4) of this Part.

(Source: Amended at 33 Ill. Reg. 9418, effective June 22, 2009)

Section 140.20 Allowable Costs

- a) The reimbursement that is the subject of this Part shall be available only with respect to individual ~~students~~pupils who are:
 - 1) enrolled full-time in a claiming district's ~~general~~regular education program; and
 - 2) served at a cost that exceeds 120 percent of the district's per capita tuition charge calculated as specified in Section 18-3 of the School Code.
- b) Claims may be submitted pursuant to this Part only with respect to costs incurred in the provision of equipment, diagnostic and other services, or materials that are not part of or that exceed the regular program provided to other students who are served in the district's schools.
 - 1) Special equipment used for only one ~~student~~pupil may be claimed only if it will move with the student if ~~he or she~~the student changes districts or programs.
 - 2) Specific, unique services provided for an individual ~~student~~pupil may be

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claimed only if they exceed or are not part of the normal configuration of services and if their costs are not already included in the cost of the regular program for which the district also claims reimbursement under Section 18-3 of the School Code.

(Source: Amended at 33 Ill. Reg. 9418, effective June 22, 2009)

Section 140.30 Requirements for Submission of Claims

Each school district shall certify to the State Superintendent of Education, using a format specified by the State Superintendent, its report of claims for tuition payments no later than July 15³¹. Failure on the part of the school board to certify its claim on July 31 shall constitute a forfeiture by the district of its right to the payment of any such tuition claim for the school year just ended. (Section 18-3 of the School Code) No payment shall be made for any mailed claim that is postmarked later than July 31 of the relevant year or for any claim filed electronically (when such filing has been authorized by the State Superintendent) or otherwise delivered after that date. Claims shall reflect the costs incurred by the school district for the regular school term year (July 1 through June 30), ~~inclusive of regular and summer term expenditures during that time period.~~

- a) When a district files a claim for excess costs relative to individual students~~pupils~~ who are served in an off-site~~a~~ program ~~that is provided solely on the premises of the facility where they reside or is otherwise physically separate~~, the claim must include:
 - 1) a description of the regular program for which the district also claims reimbursement under Section 18-3 of the School Code that includes:
 - A) The name and address of the off-site program;
 - B) The total number of students who received any services in the regular program;
 - C) The total days of attendance of all the students claimed;
 - D) The total number of days for which the program was in session;
 - E) The amount of instruction time offered daily;

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- F) The name, certificate number, and assignment of each professional staff member who served the students being claimed; and
 - G) A brief description of the curriculum and support services that are offered in the regular program;
- 2) a report of the expenditures incurred by the district for the regular off-site program described pursuant to subsection (a)(1) of this Section, on forms supplied by the State Superintendent of Education;
 - 3) the number of studentspupils in average daily attendance in the regular off-site program described in subsection (a)(1) of this Section during the term to which the claim applies;
 - 4) a record for each student with respect to whom excess cost is being claimed, indicating:
 - A) the student'spupil's name and date of birth,
 - B) the services provided to the studentpupil that are not included in or that exceed the level provided in the regular off-site program,
 - C) the amount, intensity, and/or frequency of the services,
 - D) the total hours of service provision, and
 - E) the total cost of the services.
- b) When a district files a claim for excess costs relative to studentspupils who are served in the district's on-site programsregular attendance centers, the claim must include:
 - 1) a description of the services provided thatwhich exceed those otherwise provided to students served in the regular program within the attendance center in question, e.g., services not provided to the other students in that attendance center or services provided for more time than to other students within that attendance center; and
 - 2) a record for each student containing the information specified in

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subsection (a)(4) of this Section.

- c) ~~Each~~ ~~No later than ten days after receipt of a request for additional information, a~~ district shall submit ~~any additional~~ ~~such~~ information ~~as~~ the State Superintendent of Education may require for the purposes of clarifying the basis for its claim.

(Source: Amended at 33 Ill. Reg. 9418, effective June 22, 2009)

Section 140.40 Calculation of Reimbursement

- a) The cost per student in average daily attendance ("ADA") in the regular off-site program provided to students pursuant to Section 18-3 of the School Code will be calculated by dividing the total cost of that program as reported under Section 140.30(a)(2) of this Part by the number of students in average daily attendance in the program.
- b) ~~Reimbursable excess cost shall exist with respect to a given student only if the total costs attributable to that student exceed 120 percent of the district's per capita tuition charge. The total costs attributable to a student who is served in an off-site program consist of the cost per student in ADA in the program the student attends, derived from the information called for in Section 140.30(a)(1)-(3) of this Part, plus any individual cost for that student. The total costs attributable to a student who is served in an on-site program consist of the district's per capita tuition charge plus any individual cost for that student. The cost per student in ADA will be compared to the amount that represents 120 percent of the district's per capita tuition charge. 1) If the cost per student in ADA is equal to or greater than 120 percent of the district's per capita tuition charge, the State Superintendent will reimburse the district for 100 percent of the individual costs claimed pursuant to Section 140.30 of this Part. 2) If the cost per student in ADA is less than 120 percent of the district's per capita tuition charge, a calculation will be performed to offset the amount the district is allowed to claim for the regular program pursuant to Section 18-3 of the School Code. The excess cost amount claimed for serving a particular student will be added to the cost per student in ADA. From the sum of those two amounts, the amount that represents 120 percent of the per capita charge will be subtracted. The State Superintendent will reimburse the district for 100 percent of the remainder.~~ In other words:

Cost per student in ADA in the program or district's per capita tuition charge, as applicable

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+ ~~Individual~~Excess cost for Student X

= Subtotal

Subtotal from above

- 120% of district's per capita charge

= ~~Excess cost~~Reimbursable amount for Student X

c) If the remainder resulting from the calculation set forth in subsection (b) of this Section is a positive number, that number represents excess cost and shall be reimbursed. If the remainder is a negative number, the district's cost has been captured by the reimbursement at 120 percent of the per capita tuition charge provided under Section 18-3 of the School Code, and no reimbursable excess cost exists.

d) The State Superintendent may decline to reimburse costs that are not adequately documented or are inappropriate to a particular student's placement.

(Source: Amended at 33 Ill. Reg. 9418, effective June 22, 2009)

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NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Alternative Learning Opportunities Program
- 2) Code Citation: 23 Ill. Adm. Code 240
- 3) Section Number: 240.80 Adopted Action: Amendment
- 4) Statutory Authority: 105 ILCS 5/Art. 13B
- 5) Effective Date of Rulemaking: June 22, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: March 6, 2009; 33 Ill. Reg. 3982
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested by JCAR, and no agreements letter was issued.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other proposed rulemakings pending on this Part? No
- 15) Summary and Purpose of Amendment: This amendment represents technical updating only. A reference to the now-repealed Program Accounting Manual (formerly Part 110 of ISBE's rules) is being replaced with a reference to the new rules covering the same topics (Part 100; Requirements for Accounting, Budgeting, Financial Reporting, and Auditing).
- 16) Information and questions regarding this adopted amendment shall be directed to:

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Patrick Murphy
Educator and School Development Division
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777-0001

217/782-2948

The full text of the Adopted Amendment begins on the next page:

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NOTICE OF ADOPTED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER f: INSTRUCTION FOR SPECIFIC STUDENT POPULATIONS

PART 240
ALTERNATIVE LEARNING OPPORTUNITIES PROGRAM

SUBPART A: PROGRAM APPROVAL

Section

240.10	Purpose
240.20	Requirements for Student Participation
240.25	Enrollment of Students with Individualized Education Programs
240.30	Program Requirements
240.40	Student Success Plan
240.50	Requirements for Returning the Student to the Regular School Program
240.60	Supplemental Services and Instructional Time
240.70	Application for Program Approval
240.75	Program Approval Criteria
240.80	Application for Program Continuation
240.90	Program Funding
240.100	Suspension and Revocation of Program Approval
240.110	Terms and Conditions of Approval

SUBPART B: ALTERNATIVE LEARNING OPPORTUNITIES PROGRAM GRANTS

240.200	Purpose (Repealed)
240.210	Eligible Applicants (Repealed)
240.220	Planning Grants (Repealed)
240.230	Implementation Grants (Repealed)
240.240	Supplemental Grants (Repealed)
240.250	Grant Awards (Repealed)
240.260	Terms of the Grant (Repealed)

AUTHORITY: Implementing and authorized by Article 13B of the School Code [105 ILCS 5/Art. 13B].

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SOURCE: Adopted at 26 Ill. Reg. 11888, effective July 22, 2002; amended at 27 Ill. Reg. 10004, effective June 23, 2003; amended at 29 Ill. Reg. 18451, effective October 31, 2005; amended at 33 Ill. Reg. 9427, effective June 22, 2009.

SUBPART A: PROGRAM APPROVAL

Section 240.80 Application for Program Continuation

- a) In order to continue to operate an Alternative Learning Opportunities Program approved pursuant to Article 13B of the School Code and this Part, the school district shall annually submit an application for continuation, on a form supplied by the State Board of Education, that shall include the following:
 - 1) a description of proposed changes in any of the elements of the district plan for the Alternative Learning Opportunities Program (see Section 240.70(c) of this Part);
 - 2) the results of the evaluation of the previous year's program conducted pursuant to Section 240.70(c)(12) of this Part, including the educational outcomes achieved by the students enrolled in the program;
 - 3) the activities proposed for the continuation period in light of the evaluation of the preceding year's project, including the identification of each unmet objective and the rationale for its continued inclusion or its deletion from the program;
 - 4) an expenditure report, on a form supplied by the State Board of Education, for the previous school year; and
 - 5) updated information regarding any subcontracts, contracts, or cooperative or intergovernmental agreements into which the district has entered to operate the program or provide services, including any changes to the entities involved or in their roles and responsibilities.
- b) Pursuant to Section 13B-30.20 of the School Code [105 ILCS 5/13B-30.20], an Alternative Learning Opportunities Program shall be approved for continuation provided that it:
 - 1) submits evidence that it is meeting the educational outcomes specified in

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the district plan, including the educational outcomes identified for the individual students served;

- 2) continues to comply with all applicable State and federal laws;
 - 3) in the year previous to the continuation application, complied with:
 - A) the terms and conditions of any grant it received pursuant to Subpart B of this Part;
 - B) the plan submitted for program approval pursuant to Section 240.70 of this Part; and
 - C) any updates to that plan subsequently submitted to the State Board of Education pursuant to subsection (a) of this Section; and
 - 4) maintains financial records in accordance with [the requirements of 23 Ill. Adm. Code 100 \(Requirements for Accounting, Budgeting, Financial Reporting, and Auditing\)](#) ~~procedures specified in 23 Ill. Adm. Code 110 (Program Accounting Manual)~~.
- c) An Alternative Learning Opportunities Program that is not approved for continuation shall be subject to the requirements of Section 240.100 of this Part.

(Source: Amended at 33 Ill. Reg. 9427, effective June 22, 2009)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Pay Plan
- 2) Code Citation: 80 Ill. Adm. Code 310
- 3)

<u>Section Numbers:</u>	<u>Emergency Action:</u>
310.450	Amendment
310.540	Amendment
- 4) Statutory Authority: Authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 20 ILCS 415/8a]
- 5) Effective Date of Amendments: July 1, 2009
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency amendment is not to expire prior to the end of the 150-day period unless the accompanying proposed amendments are adopted prior to the end of the 150-day period.
- 7) Date filed with the Index Department: June 22, 2009
- 8) This and other Pay Plan amendments are on file and available in the Division of Technical Services and Agency Training and Development of the Bureau of Personnel.
- 9) Reasons for Emergency: The reason for the emergency amendments is the worldwide recession exacerbated reduced State revenues forcing fiscal cuts throughout State government in order to balance the budget. The fiscal cuts include annual merit increases and bonuses to State employees effective July 1, 2009.
- 10) A complete Description of the Subjects and Issues Involved: In Section 310.450 subsections (d) and (e), the annual merit increases and bonuses are suspended effective July 1, 2009, and annual merit performance reviews continue.

In Section 310.540 and effective July 1, 2009, the increase and bonus money associated with annual merit performance review categories is zero.
- 11) Are there any proposed amendments to this Part pending? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
310.47	Amendment	33 Ill. Reg. 4588; April 3, 2009

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

310.80	Amendment	33 Ill. Reg. 4588; April 3, 2009
310.100	Amendment	33 Ill. Reg. 4588; April 3, 2009
310.130	Amendment	33 Ill. Reg. 4588; April 3, 2009
310.220	Amendment	33 Ill. Reg. 4588; April 3, 2009
310.260	Amendment	33 Ill. Reg. 4588; April 3, 2009
310.270	Amendment	33 Ill. Reg. 4588; April 3, 2009
310.410	Amendment	33 Ill. Reg. 4588; April 3, 2009
310.490	Amendment	33 Ill. Reg. 4588; April 3, 2009
310.500	Amendment	33 Ill. Reg. 4588; April 3, 2009
310.APPENDIX A TABLE A	Amendment	33 Ill. Reg. 4588; April 3, 2009
310.APPENDIX A TABLE B	Amendment	33 Ill. Reg. 4588; April 3, 2009
310.APPENDIX A TABLE D	Amendment	33 Ill. Reg. 4588; April 3, 2009
310.APPENDIX A TABLE F	Amendment	33 Ill. Reg. 4588; April 3, 2009
310.APPENDIX A TABLE H	Amendment	33 Ill. Reg. 4588; April 3, 2009
310.APPENDIX A TABLE I	Amendment	33 Ill. Reg. 4588; April 3, 2009
310.APPENDIX A TABLE J	Amendment	33 Ill. Reg. 4588; April 3, 2009
310.APPENDIX A TABLE K	Amendment	33 Ill. Reg. 4588; April 3, 2009
310.APPENDIX A TABLE N	Amendment	33 Ill. Reg. 4588; April 3, 2009
310.APPENDIX A TABLE O	Amendment	33 Ill. Reg. 4588; April 3, 2009
310.APPENDIX A TABLE R	Amendment	33 Ill. Reg. 4588; April 3, 2009
310.APPENDIX A TABLE V	Amendment	33 Ill. Reg. 4588; April 3, 2009
310.APPENDIX A TABLE W	Amendment	33 Ill. Reg. 4588; April 3, 2009
310.APPENDIX A TABLE X	Amendment	33 Ill. Reg. 4588; April 3, 2009
310.APPENDIX A TABLE Y	Amendment	33 Ill. Reg. 4588; April 3, 2009
310.APPENDIX A TABLE Z	Amendment	33 Ill. Reg. 4588; April 3, 2009
310.APPENDIX D	Amendment	33 Ill. Reg. 4588; April 3, 2009
310.APPENDIX G	Amendment	33 Ill. Reg. 4588; April 3, 2009

12) Statement of Statewide Policy Objectives: These amendments to the Pay Plan affect only the employees subject to the Personnel Code and do not set out any guidelines that affect local or other jurisdictions in the State.

13) Information and questions regarding these emergency amendments shall be directed to:

Mr. Jason Doggett
 Manager
 Compensation Section
 Division of Technical Services and Agency Training and Development
 Bureau of Personnel

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

Department of Central Management Services
504 William G. Stratton Building
Springfield IL 62706

Telephone: 217/782-7964
Fax: 217/524-4570
CMS.PayPlan@Illinois.gov

- 14) Does this rulemaking require the review of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 500/5-25]? No

The full text of the Emergency Amendments begins on the next page:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND
POSITION CLASSIFICATIONS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310
PAY PLAN

SUBPART A: NARRATIVE

Section	
310.20	Policy and Responsibilities
310.30	Jurisdiction
310.40	Pay Schedules
310.45	Comparison of Pay Grades or Salary Ranges Assigned to Classifications
310.47	In-Hiring Rate
310.50	Definitions
310.60	Conversion of Base Salary to Pay Period Units
310.70	Conversion of Base Salary to Daily or Hourly Equivalents
310.80	Increases in Pay
310.90	Decreases in Pay
310.100	Other Pay Provisions
310.110	Implementation of Pay Plan Changes
310.120	Interpretation and Application of Pay Plan
310.130	Effective Date
310.140	Reinstitution of Within Grade Salary Increases (Repealed)
310.150	Fiscal Year 1985 Pay Changes in Schedule of Salary Grades, effective July 1, 1984 (Repealed)

SUBPART B: SCHEDULE OF RATES

Section	
310.205	Introduction
310.210	Prevailing Rate
310.220	Negotiated Rate
310.230	Part-Time Daily or Hourly Special Services Rate (Repealed)
310.240	Daily or Hourly Rate Conversion
310.250	Member, Patient and Inmate Rate
310.260	Trainee Rate

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310.270	Legislated and Contracted Rate
310.280	Designated Rate
310.290	Out-of-State Rate (Repealed)
310.295	Foreign Service Rate (Repealed)
310.300	Educator Schedule for RC-063 and HR-010
310.310	Physician Specialist Rate
310.320	Annual Compensation Ranges for Executive Director and Assistant Executive Director, State Board of Elections (Repealed)
310.330	Excluded Classes Rate (Repealed)

SUBPART C: MERIT COMPENSATION SYSTEM

Section

310.410	Jurisdiction
310.415	Merit Compensation Salary Range Assignments
310.420	Objectives
310.430	Responsibilities
310.440	Merit Compensation Salary Schedule
310.450	Procedures for Determining Annual Merit Increases and Bonuses

EMERGENCY

310.455	Intermittent Merit Increase
310.456	Merit Zone (Repealed)
310.460	Other Pay Increases
310.470	Adjustment
310.480	Decreases in Pay
310.490	Other Pay Provisions
310.495	Broad-Band Pay Range Classes
310.500	Definitions
310.510	Conversion of Base Salary to Pay Period Units (Repealed)
310.520	Conversion of Base Salary to Daily or Hourly Equivalent
310.530	Implementation
310.540	Annual Merit Increase and Bonus Guidechart

EMERGENCY

310.550	Fiscal Year 1985 Pay Changes in Merit Compensation System, effective July 1, 1984 (Repealed)
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310.APPENDIX A Negotiated Rates of Pay

310.TABLE A	RC-104 (Conservation Police Supervisors, Laborers' – ISEA Local #2002)
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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

310.TABLE B	VR-706 (Assistant Automotive Shop Supervisors, Automotive Shop Supervisors and Meat and Poultry Inspector Supervisors, Laborers' – ISEA Local #2002)
310.TABLE C	RC-056 (Site Superintendents and Natural Resource, Historic Preservation and Agriculture Managers, IFPE)
310.TABLE D	HR-001 (Teamsters Local #726)
310.TABLE E	RC-020 (Teamsters Local #330)
310.TABLE F	RC-019 (Teamsters Local #25)
310.TABLE G	RC-045 (Automotive Mechanics, IFPE)
310.TABLE H	RC-006 (Corrections Employees, AFSCME)
310.TABLE I	RC-009 (Institutional Employees, AFSCME)
310.TABLE J	RC-014 (Clerical Employees, AFSCME)
310.TABLE K	RC-023 (Registered Nurses, INA)
310.TABLE L	RC-008 (Boilermakers)
310.TABLE M	RC-110 (Conservation Police Lodge)
310.TABLE N	RC-010 (Professional Legal Unit, AFSCME)
310.TABLE O	RC-028 (Paraprofessional Human Services Employees, AFSCME)
310.TABLE P	RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, IFPE)
310.TABLE Q	RC-033 (Meat Inspectors, IFPE)
310.TABLE R	RC-042 (Residual Maintenance Workers, AFSCME)
310.TABLE S	VR-704 (Corrections, Juvenile Justice and State Police Supervisors, Laborers' – ISEA Local #2002)
310.TABLE T	HR-010 (Teachers of Deaf, IFT)
310.TABLE U	HR-010 (Teachers of Deaf, Extracurricular Paid Activities)
310.TABLE V	CU-500 (Corrections Meet and Confer Employees)
310.TABLE W	RC-062 (Technical Employees, AFSCME)
310.TABLE X	RC-063 (Professional Employees, AFSCME)
310.TABLE Y	RC-063 (Educators, AFSCME)
310.TABLE Z	RC-063 (Physicians, AFSCME)
310.TABLE AA	NR-916 (Department of Natural Resources, Teamsters)
310.TABLE AB	VR-007 (Plant Maintenance Engineers, Operating Engineers) (Repealed)
310.APPENDIX B	Schedule of Salary Grade Pay Grades – Monthly Rates of Pay
310.APPENDIX C	Medical Administrator Rates (Repealed)
310.APPENDIX D	Merit Compensation System Salary Schedule
310.APPENDIX E	Teaching Salary Schedule (Repealed)
310.APPENDIX F	Physician and Physician Specialist Salary Schedule (Repealed)
310.APPENDIX G	Broad-Band Pay Range Classes Salary Schedule

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11299, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9420, effective June 7, 1985; amended at 9 Ill. Reg. 10663, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 3325, effective January 22, 1986; amended at 10 Ill. Reg. 3230, effective January 24, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 8928, effective May 13, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 13675, effective July 31, 1986; preemptory amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 19132, effective October 28, 1986; preemptory amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill. Reg. 648, effective December 22, 1986; preemptory amendment at 11 Ill. Reg. 3363, effective February 3, 1987; preemptory amendment at 11 Ill. Reg. 4388, effective February 27, 1987; preemptory amendment at 11 Ill. Reg. 6291, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; preemptory amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; preemptory amendment at 11

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Ill. Reg. 15273, effective September 1, 1987; preemptory amendment at 11 Ill. Reg. 17919, effective October 19, 1987; preemptory amendment at 11 Ill. Reg. 19812, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; preemptory amendment at 12 Ill. Reg. 3811, effective January 27, 1988; preemptory amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; preemptory amendment at 12 Ill. Reg. 7783, effective April 14, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988, for a maximum of 150 days; preemptory amendment at 12 Ill. Reg. 8135, effective April 22, 1988; preemptory amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July 18, 1988, for a maximum of 150 days; preemptory amendment at 12 Ill. Reg. 13306, effective July 27, 1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; preemptory amendment at 12 Ill. Reg. 20584, effective November 28, 1988; preemptory amendment at 13 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; preemptory amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; emergency amendment expired on November 17, 1989; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; preemptory amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 19221, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 2, 1990; preemptory amendment at 14 Ill. Reg. 1627, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; preemptory amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14 Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14361, effective August 24, 1990; emergency amendment at 14 Ill. Reg. 15570, effective September 11, 1990, for a maximum of 150 days; emergency amendment expired on February 8, 1991; corrected at 14 Ill. Reg. 16092; preemptory amendment at 14 Ill. Reg. 17098, effective September 26, 1990; amended at 14 Ill. Reg. 17189, effective October 2, 1990; amended at 14 Ill. Reg. 17189, effective October 19, 1990; amended at 14 Ill. Reg. 18719, effective November 13, 1990; preemptory amendment at 14 Ill. Reg. 18854, effective November 13, 1990; preemptory amendment at 15 Ill. Reg. 663, effective January 7, 1991; amended at 15 Ill. Reg. 3296, effective February 14, 1991; amended at 15 Ill. Reg. 4401, effective March 11, 1991; preemptory amendment at 15 Ill. Reg. 5100, effective March 20, 1991; preemptory amendment at 15 Ill. Reg. 5465, effective April 2, 1991; emergency amendment at 15 Ill. Reg. 10485, effective July 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 11080, effective July 19, 1991; amended at 15 Ill. Reg. 13080, effective August 21, 1991; amended at 15 Ill. Reg.

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14210, effective September 23, 1991; emergency amendment at 16 Ill. Reg. 711, effective December 26, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3450, effective February 20, 1992; preemptory amendment at 16 Ill. Reg. 5068, effective March 11, 1992; preemptory amendment at 16 Ill. Reg. 7056, effective April 20, 1992; emergency amendment at 16 Ill. Reg. 8239, effective May 19, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 8382, effective May 26, 1992; emergency amendment at 16 Ill. Reg. 13950, effective August 19, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14452, effective September 4, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 238, effective December 23, 1992; preemptory amendment at 17 Ill. Reg. 498, effective December 18, 1992; amended at 17 Ill. Reg. 590, effective January 4, 1993; amended at 17 Ill. Reg. 1819, effective February 2, 1993; amended at 17 Ill. Reg. 6441, effective April 8, 1993; emergency amendment at 17 Ill. Reg. 12900, effective July 22, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13409, effective July 29, 1993; emergency amendment at 17 Ill. Reg. 13789, effective August 9, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 14666, effective August 26, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19103, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 21858, effective December 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 22514, effective December 15, 1993; amended at 18 Ill. Reg. 227, effective December 17, 1993; amended at 18 Ill. Reg. 1107, effective January 18, 1994; amended at 18 Ill. Reg. 5146, effective March 21, 1994; preemptory amendment at 18 Ill. Reg. 9562, effective June 13, 1994; emergency amendment at 18 Ill. Reg. 11299, effective July 1, 1994, for a maximum of 150 days; preemptory amendment at 18 Ill. Reg. 13476, effective August 17, 1994; emergency amendment at 18 Ill. Reg. 14417, effective September 9, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16545, effective October 31, 1994; preemptory amendment at 18 Ill. Reg. 16708, effective October 28, 1994; amended at 18 Ill. Reg. 17191, effective November 21, 1994; amended at 19 Ill. Reg. 1024, effective January 24, 1995; preemptory amendment at 19 Ill. Reg. 2481, effective February 17, 1995; preemptory amendment at 19 Ill. Reg. 3073, effective February 17, 1995; amended at 19 Ill. Reg. 3456, effective March 7, 1995; preemptory amendment at 19 Ill. Reg. 5145, effective March 14, 1995; amended at 19 Ill. Reg. 6452, effective May 2, 1995; preemptory amendment at 19 Ill. Reg. 6688, effective May 1, 1995; amended at 19 Ill. Reg. 7841, effective June 1, 1995; amended at 19 Ill. Reg. 8156, effective June 12, 1995; amended at 19 Ill. Reg. 9096, effective June 27, 1995; emergency amendment at 19 Ill. Reg. 11954, effective August 1, 1995, for a maximum of 150 days; preemptory amendment at 19 Ill. Reg. 13979, effective September 19, 1995; preemptory amendment at 19 Ill. Reg. 15103, effective October 12, 1995; amended at 19 Ill. Reg. 16160, effective November 28, 1995; amended at 20 Ill. Reg. 308, effective December 22, 1995; emergency amendment at 20 Ill. Reg. 4060, effective February 27, 1996, for a maximum of 150 days; preemptory amendment at 20 Ill. Reg. 6334, effective April 22, 1996; preemptory amendment at 20 Ill. Reg. 7434, effective May 14, 1996; amended at 20 Ill. Reg. 8301, effective June 11, 1996; amended at 20 Ill. Reg. 8657, effective June 20, 1996; amended at 20 Ill. Reg.

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9006, effective June 26, 1996; amended at 20 Ill. Reg. 9925, effective July 10, 1996; emergency amendment at 20 Ill. Reg. 10213, effective July 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 10841, effective August 5, 1996; preemptory amendment at 20 Ill. Reg. 13408, effective September 24, 1996; amended at 20 Ill. Reg. 15018, effective November 7, 1996; preemptory amendment at 20 Ill. Reg. 15092, effective November 7, 1996; emergency amendment at 21 Ill. Reg. 1023, effective January 6, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 1629, effective January 22, 1997; amended at 21 Ill. Reg. 5144, effective April 15, 1997; amended at 21 Ill. Reg. 6444, effective May 15, 1997; amended at 21 Ill. Reg. 7118, effective June 3, 1997; emergency amendment at 21 Ill. Reg. 10061, effective July 21, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 12859, effective September 8, 1997, for a maximum of 150 days; preemptory amendment at 21 Ill. Reg. 14267, effective October 14, 1997; preemptory amendment at 21 Ill. Reg. 14589, effective October 15, 1997; preemptory amendment at 21 Ill. Reg. 15030, effective November 10, 1997; amended at 21 Ill. Reg. 16344, effective December 9, 1997; preemptory amendment at 21 Ill. Reg. 16465, effective December 4, 1997; preemptory amendment at 21 Ill. Reg. 17167, effective December 9, 1997; preemptory amendment at 22 Ill. Reg. 1593, effective December 22, 1997; amended at 22 Ill. Reg. 2580, effective January 14, 1998; preemptory amendment at 22 Ill. Reg. 4326, effective February 13, 1998; preemptory amendment at 22 Ill. Reg. 5108, effective February 26, 1998; preemptory amendment at 22 Ill. Reg. 5749, effective March 3, 1998; amended at 22 Ill. Reg. 6204, effective March 12, 1998; preemptory amendment at 22 Ill. Reg. 7053, effective April 1, 1998; preemptory amendment at 22 Ill. Reg. 7320, effective April 10, 1998; preemptory amendment at 22 Ill. Reg. 7692, effective April 20, 1998; emergency amendment at 22 Ill. Reg. 12607, effective July 2, 1998, for a maximum of 150 days; preemptory amendment at 22 Ill. Reg. 15489, effective August 7, 1998; amended at 22 Ill. Reg. 16158, effective August 31, 1998; preemptory amendment at 22 Ill. Reg. 19105, effective September 30, 1998; preemptory amendment at 22 Ill. Reg. 19943, effective October 27, 1998; preemptory amendment at 22 Ill. Reg. 20406, effective November 5, 1998; amended at 22 Ill. Reg. 20581, effective November 16, 1998; amended at 23 Ill. Reg. 664, effective January 1, 1999; preemptory amendment at 23 Ill. Reg. 730, effective December 29, 1998; emergency amendment at 23 Ill. Reg. 6533, effective May 10, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7065, effective June 3, 1999; emergency amendment at 23 Ill. Reg. 8169, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 11020, effective August 26, 1999; amended at 23 Ill. Reg. 12429, effective September 21, 1999; preemptory amendment at 23 Ill. Reg. 12493, effective September 23, 1999; amended at 23 Ill. Reg. 12604, effective September 24, 1999; amended at 23 Ill. Reg. 13053, effective September 27, 1999; preemptory amendment at 23 Ill. Reg. 13132, effective October 1, 1999; amended at 23 Ill. Reg. 13570, effective October 26, 1999; amended at 23 Ill. Reg. 14020, effective November 15, 1999; amended at 24 Ill. Reg. 1025, effective January 7, 2000; preemptory amendment at 24 Ill. Reg. 3399, effective February 3, 2000; amended at 24 Ill. Reg. 3537, effective February 18, 2000; amended at 24 Ill. Reg. 6874, effective April 21, 2000;

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amended at 24 Ill. Reg. 7956, effective May 23, 2000; emergency amendment at 24 Ill. Reg. 10328, effective July 1, 2000, for a maximum of 150 days; emergency expired November 27, 2000; preemptory amendment at 24 Ill. Reg. 10767, effective July 3, 2000; amended at 24 Ill. Reg. 13384, effective August 17, 2000; preemptory amendment at 24 Ill. Reg. 14460, effective September 14, 2000; preemptory amendment at 24 Ill. Reg. 16700, effective October 30, 2000; preemptory amendment at 24 Ill. Reg. 17600, effective November 16, 2000; amended at 24 Ill. Reg. 18058, effective December 4, 2000; preemptory amendment at 24 Ill. Reg. 18444, effective December 1, 2000; amended at 25 Ill. Reg. 811, effective January 4, 2001; amended at 25 Ill. Reg. 2389, effective January 22, 2001; amended at 25 Ill. Reg. 4552, effective March 14, 2001; preemptory amendment at 25 Ill. Reg. 5067, effective March 21, 2001; amended at 25 Ill. Reg. 5618, effective April 4, 2001; amended at 25 Ill. Reg. 6655, effective May 11, 2001; amended at 25 Ill. Reg. 7151, effective May 25, 2001; preemptory amendment at 25 Ill. Reg. 8009, effective June 14, 2001; emergency amendment at 25 Ill. Reg. 9336, effective July 3, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 9846, effective July 23, 2001; amended at 25 Ill. Reg. 12087, effective September 6, 2001; amended at 25 Ill. Reg. 15560, effective November 20, 2001; preemptory amendment at 25 Ill. Reg. 15671, effective November 15, 2001; amended at 25 Ill. Reg. 15974, effective November 28, 2001; emergency amendment at 26 Ill. Reg. 223, effective December 21, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 1143, effective January 17, 2002; amended at 26 Ill. Reg. 4127, effective March 5, 2002; preemptory amendment at 26 Ill. Reg. 4963, effective March 15, 2002; amended at 26 Ill. Reg. 6235, effective April 16, 2002; emergency amendment at 26 Ill. Reg. 7314, effective April 29, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 10425, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 10952, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13934, effective September 10, 2002; amended at 26 Ill. Reg. 14965, effective October 7, 2002; emergency amendment at 26 Ill. Reg. 16583, effective October 24, 2002, for a maximum of 150 days; emergency expired March 22, 2003; preemptory amendment at 26 Ill. Reg. 17280, effective November 18, 2002; amended at 26 Ill. Reg. 17374, effective November 25, 2002; amended at 26 Ill. Reg. 17987, effective December 9, 2002; amended at 27 Ill. Reg. 3261, effective February 11, 2003; expedited correction at 28 Ill. Reg. 6151, effective February 11, 2003; amended at 27 Ill. Reg. 8855, effective May 15, 2003; amended at 27 Ill. Reg. 9114, effective May 27, 2003; emergency amendment at 27 Ill. Reg. 10442, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; preemptory amendment at 27 Ill. Reg. 17433, effective November 7, 2003; amended at 27 Ill. Reg. 18560, effective December 1, 2003; preemptory amendment at 28 Ill. Reg. 1441, effective January 9, 2004; amended at 28 Ill. Reg. 2684, effective January 22, 2004; amended at 28 Ill. Reg. 6879, effective April 30, 2004; preemptory amendment at 28 Ill. Reg. 7323, effective May 10, 2004; amended at 28 Ill. Reg. 8842, effective June 11, 2004; preemptory amendment at 28 Ill. Reg. 9717, effective June 28, 2004; amended at 28 Ill. Reg. 12585, effective August 27, 2004; preemptory amendment at 28 Ill. Reg. 13011, effective September 8, 2004; preemptory amendment at 28 Ill. Reg. 13247,

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effective September 20, 2004; preemptory amendment at 28 Ill. Reg. 13656, effective September 27, 2004; emergency amendment at 28 Ill. Reg. 14174, effective October 15, 2004, for a maximum of 150 days; emergency expired March 13, 2005; preemptory amendment at 28 Ill. Reg. 14689, effective October 22, 2004; preemptory amendment at 28 Ill. Reg. 15336, effective November 15, 2004; preemptory amendment at 28 Ill. Reg. 16513, effective December 9, 2004; preemptory amendment at 29 Ill. Reg. 726, effective December 15, 2004; amended at 29 Ill. Reg. 1166, effective January 7, 2005; preemptory amendment at 29 Ill. Reg. 1385, effective January 4, 2005; preemptory amendment at 29 Ill. Reg. 1559, effective January 11, 2005; preemptory amendment at 29 Ill. Reg. 2050, effective January 19, 2005; preemptory amendment at 29 Ill. Reg. 4125, effective February 23, 2005; amended at 29 Ill. Reg. 5375, effective April 4, 2005; preemptory amendment at 29 Ill. Reg. 6105, effective April 14, 2005; preemptory amendment at 29 Ill. Reg. 7217, effective May 6, 2005; preemptory amendment at 29 Ill. Reg. 7840, effective May 10, 2005; amended at 29 Ill. Reg. 8110, effective May 23, 2005; preemptory amendment at 29 Ill. Reg. 8214, effective May 23, 2005; preemptory amendment at 29 Ill. Reg. 8418, effective June 1, 2005; amended at 29 Ill. Reg. 9319, effective July 1, 2005; preemptory amendment at 29 Ill. Reg. 12076, effective July 15, 2005; preemptory amendment at 29 Ill. Reg. 13265, effective August 11, 2005; amended at 29 Ill. Reg. 13540, effective August 22, 2005; preemptory amendment at 29 Ill. Reg. 14098, effective September 2, 2005; amended at 29 Ill. Reg. 14166, effective September 9, 2005; amended at 29 Ill. Reg. 19551, effective November 21, 2005; emergency amendment at 29 Ill. Reg. 20554, effective December 2, 2005, for a maximum of 150 days; preemptory amendment at 29 Ill. Reg. 20693, effective December 12, 2005; preemptory amendment at 30 Ill. Reg. 623, effective December 28, 2005; preemptory amendment at 30 Ill. Reg. 1382, effective January 13, 2006; amended at 30 Ill. Reg. 2289, effective February 6, 2006; preemptory amendment at 30 Ill. Reg. 4157, effective February 22, 2006; preemptory amendment at 30 Ill. Reg. 5687, effective March 7, 2006; preemptory amendment at 30 Ill. Reg. 6409, effective March 30, 2006; amended at 30 Ill. Reg. 7857, effective April 17, 2006; amended at 30 Ill. Reg. 9438, effective May 15, 2006; preemptory amendment at 30 Ill. Reg. 10153, effective May 18, 2006; preemptory amendment at 30 Ill. Reg. 10508, effective June 1, 2006; amended at 30 Ill. Reg. 11336, effective July 1, 2006; emergency amendment at 30 Ill. Reg. 12340, effective July 1, 2006, for a maximum of 150 days; preemptory amendment at 30 Ill. Reg. 12418, effective July 1, 2006; amended at 30 Ill. Reg. 12761, effective July 17, 2006; preemptory amendment at 30 Ill. Reg. 13547, effective August 1, 2006; preemptory amendment at 30 Ill. Reg. 15059, effective September 5, 2006; preemptory amendment at 30 Ill. Reg. 16439, effective September 27, 2006; emergency amendment at 30 Ill. Reg. 16626, effective October 3, 2006, for a maximum of 150 days; preemptory amendment at 30 Ill. Reg. 17603, effective October 20, 2006; amended at 30 Ill. Reg. 18610, effective November 20, 2006; preemptory amendment at 30 Ill. Reg. 18823, effective November 21, 2006; preemptory amendment at 31 Ill. Reg. 230, effective December 20, 2006; emergency amendment at 31 Ill. Reg. 1483, effective January 1, 2007, for a maximum of 150 days; preemptory amendment at 31 Ill. Reg. 2485,

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effective January 17, 2007; preemptory amendment at 31 Ill. Reg. 4445, effective February 28, 2007; amended at 31 Ill. Reg. 4982, effective March 15, 2007; preemptory amendment at 31 Ill. Reg. 7338, effective May 3, 2007; amended at 31 Ill. Reg. 8901, effective July 1, 2007; emergency amendment at 31 Ill. Reg. 10056, effective July 1, 2007, for a maximum of 150 days; preemptory amendment at 31 Ill. Reg. 10496, effective July 6, 2007; preemptory amendment at 31 Ill. Reg. 12335, effective August 9, 2007; emergency amendment at 31 Ill. Reg. 12608, effective August 16, 2007, for a maximum of 150 days; emergency amendment at 31 Ill. Reg. 13220, effective August 30, 2007, for a maximum of 150 days; preemptory amendment at 31 Ill. Reg. 13357, effective August 29, 2007; amended at 31 Ill. Reg. 13981, effective September 21, 2007; preemptory amendment at 31 Ill. Reg. 14331, effective October 1, 2007; amended at 31 Ill. Reg. 16094, effective November 20, 2007; amended at 31 Ill. Reg. 16792, effective December 13, 2007; preemptory amendment at 32 Ill. Reg. 598, effective December 27, 2007; amended at 32 Ill. Reg. 1082, effective January 11, 2008; preemptory amendment at 32 Ill. Reg. 3095, effective February 13, 2008; preemptory amendment at 32 Ill. Reg. 6097, effective March 25, 2008; preemptory amendment at 32 Ill. Reg. 7154, effective April 17, 2008; expedited correction at 32 Ill. Reg. 9747, effective April 17, 2008; preemptory amendment at 32 Ill. Reg. 9360, effective June 13, 2008; amended at 32 Ill. Reg. 9881, effective July 1, 2008; preemptory amendment at 32 Ill. Reg. 12065, effective July 9, 2008; preemptory amendment at 32 Ill. Reg. 13861, effective August 8, 2008; preemptory amendment at 32 Ill. Reg. 16591, effective September 24, 2008; preemptory amendment at 32 Ill. Reg. 16872, effective October 3, 2008; preemptory amendment at 32 Ill. Reg. 18324, effective November 14, 2008; preemptory amendment at 33 Ill. Reg. 98, effective December 19, 2008; amended at 33 Ill. Reg. 2148, effective January 26, 2009; preemptory amendment at 33 Ill. Reg. 3530, effective February 6, 2009; preemptory amendment at 33 Ill. Reg. 4202, effective February 26, 2009; preemptory amendment at 33 Ill. Reg. 5501, effective March 25, 2009; preemptory amendment at 33 Ill. Reg. 6354, effective April 15, 2009; preemptory amendment at 33 Ill. Reg. 6724, effective May 1, 2009; preemptory amendment at 33 Ill. Reg. 9138, effective June 12, 2009; emergency amendment at 33 Ill. Reg. 9432, effective July 1, 2009, for a maximum of 150 days.

SUBPART C: MERIT COMPENSATION SYSTEM

Section 310.450 Procedures for Determining Annual Merit Increases and Bonuses**EMERGENCY**

- a) Definitions –
 - 1) Annual Merit Increase – An annual merit increase is an in-range salary adjustment for demonstrated performance.

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- 2) Annual Merit Bonus – An annual merit bonus is a percentage of the employee's annualized base salary that is paid once for demonstrated performance and separately from the base salary.
- b) Eligibility Conditions – Eligibility for an annual merit increase and bonus shall be determined by the following conditions:
- 1) 12 Months Creditable Service or from the Last Officially Scheduled Performance Review and Performance Review Discussion – Each employee will be eligible for a performance review: after attaining 12 months creditable service if new to the position; if continually in the one position for longer than 12 months from the last officially scheduled performance review (80 Ill. Adm. Code 302.270(d)); if continually in the one Trainee Program (80 Ill. Adm. Code 302.170) position for 12 months and each subsequent 12 months in the same position; if continually in the one position which is Personnel Code [20 ILCS 415] Section 4(d) exempt or otherwise partially, Jurisdiction B, exempt from the Personnel Code and each subsequent 12 months in the same position; if the combined time in the position and in a completed interim assignment is longer than 12 months from the last officially scheduled performance review; or if in interim assignment and the employee's creditable service date is 12 months or more ago, the employee shall return from a leave to serve in interim assignment for the employee's Performance Review and discussion. The employee's immediate supervisor shall prepare a Merit Compensation and Performance System form prior to the Performance Review Date or if the employee just returned from a leave to serve in interim assignment for the purpose of receiving the Performance Review, the employee's immediate supervisor shall prepare a Merit Compensation and Performance System form on the date the employee returned with input from the employee's immediate supervisor while in interim assignment. The employee's immediate supervisor shall discuss the results with the employee.
 - 2) Guidechart Category Amount, Salary Range Maximum in Relation to Base Salary Increase and Current Base Salary –
 - A) Annual Merit Increase – Should the performance review result in the employee not being eligible for an annual merit increase due to provisions of Section 310.450(d), or should the employee's base

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rate be at the maximum rate of pay of the salary range assigned to the employee's position, the employee will not be eligible for an annual merit increase until 12 months of additional creditable service has been accrued. (Interim Assignment Pay shall never be used to determine eligibility for an annual merit increase.)

- B) Annual Merit Bonus – Should the performance review result in the employee not being eligible for an annual merit bonus due to provisions of Section 310.450(d), the employee will not be eligible for an annual merit bonus until 12 months of additional creditable service has been accrued. (Interim Assignment Pay shall never be used to determine eligibility for an annual merit bonus.)
- c) Immediate Supervisor Determination of Performance Category – Based upon the results of the performance review, the employees' immediate supervisor shall determine whether the employee's performance warrants or does not warrant an annual merit increase and bonus.
- d) Amount Restrictions – The amount of an annual merit increase and bonus recommendation shall be determined by use of the Merit Increase and Bonus Guidechart of Section 310.540 if the employee's performance review has on the Performance Review Date been evaluated at a Category 3 or higher level. An employee whose performance review has on the Performance Review Date been evaluated at Category 4 shall not receive an increase in the present base salary or a bonus. However, in no event is the resulting salary to be lower than the minimum or higher than the maximum rate of pay of the respective salary range assigned to the employee's position. (Interim Assignment Pay shall never be used to determine an annual merit increase or bonus.) [Effective July 1, 2009, annual merit increases and bonuses are suspended, and annual merit performance reviews continue.](#)
- e) Immediate Supervisor Indication of Eligibility and Amount – The employee's immediate supervisor shall prepare a Performance Certification and Merit Increase Recommendation form indicating whether or not the employee is eligible for an annual merit increase and bonus and the amounts thereof. [Effective July 1, 2009, annual merit increases and bonuses are suspended, and annual merit performance reviews continue.](#)
- f) Review and Approval – The employee's immediate supervisor shall forward the

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completed Merit Compensation and Performance System and Performance Certification and Merit Increase Recommendation forms to the agency head or a designated authority for review and approval.

- g) Effective Date and New Creditable Service Date – The annual merit increase and bonus shall become effective the first day of the month in which the employee's Performance Review Date occurs. The employee's new creditable service date shall be the first day of the month in which the employee's Performance Review Date occurred or would have occurred if the employee had not been in interim assignment on that date.

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 9432, effective July 1, 2009, for a maximum of 150 days)

Section 310.540 Annual Merit Increase and Bonus Guidechart**EMERGENCY**Effective July 1, 2009

<u>Category</u>	<u>Definition</u>	<u>Increase</u>	<u>Bonus</u>
<u>Category 1</u>	<u>Exceptional</u>	<u>\$0</u>	<u>0%</u>
<u>Category 2</u>	<u>Accomplished</u>	<u>\$0</u>	<u>0%</u>
<u>Category 3</u>	<u>Acceptable</u>	<u>\$0</u>	<u>0%</u>
<u>Category 4</u>	<u>Unacceptable</u>	<u>\$0</u>	<u>0%</u>

Effective July 1, 2003

<u>Category</u>	<u>Definition</u>	<u>Increase</u>
<u>Category 1</u>	<u>Exceptional</u>	<u>\$0</u>
<u>Category 2</u>	<u>Accomplished</u>	<u>\$0</u>
<u>Category 3</u>	<u>Acceptable</u>	<u>\$0</u>
<u>Category 4</u>	<u>Unacceptable</u>	<u>\$0</u>

Effective January 1, 2007

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Category	Definition	Increase	Bonus
Category 1	Exceptional	\$200/month	0%—7%
Category 2	Accomplished	\$150/month	0%—3%
Category 3	Acceptable	\$100/month	0%
Category 4	Unacceptable	\$0	0%

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 9432, effective July 1, 2009, for a maximum of 150 days)

STATE EMPLOYEES RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: The Administration and Operation of the State Employees' Retirement System of Illinois
- 2) Code Citation: 80 Ill. Adm. Code 1540
- 3)

<u>Section Numbers:</u>	<u>Emergency Action:</u>
1540.90	Amendment
1540.330	Amendment
1540.360	New Section
- 4) Statutory Authority: 40 ILCS 5/14-129, 40 ILCS 5/14-135.03, 40 ILCS 5/14-119
- 5) Effective Date of Emergency: June 19, 2009
- 6) If this emergency rule is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency rulemaking will expire at the end of the 150 day period or upon adoption of permanent rules, whichever comes first.
- 7) Date Filed with the Index Department: June 19, 2009
- 8) A copy of the emergency amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: Recent Legislation and Public Acts.
- 10) A Complete Description of the Subjects and Issues Involved:

Section 1540. 90 is being amended to reflect recent legislation allowing retirees to elect to remove the Social Security offset from their survivors benefit.

Section 1540.300 is being amended to reflect the special Board of Trustees election mandated by Public Act 96-0006.

Section 1540.360 is being added to specify conditions for certain General Assembly appointees to become SERS members and the duration of their membership.
- 11) Are there any proposed rulemakings to this Part pending? No

STATE EMPLOYEES RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF EMERGENCY AMENDMENTS

- 12) Statement of Statewide Policy Objective: The rulemaking will not affect units of local government.
- 13) Information and questions regarding these emergency amendments shall be directed to:

Tim Blair
Acting Executive Secretary
2101 South Veterans Parkway
P.O. Box 19255

217/785-7260

The full text of the Emergency Amendments begin on the next page:

STATE EMPLOYEES RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF EMERGENCY AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE D: RETIREMENT SYSTEMS

CHAPTER I: STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

PART 1540

THE ADMINISTRATION AND OPERATION OF THE
STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

Section

1540.5	Introduction
1540.10	Appointment of Retirement System Coordinator
1540.20	Member's Contribution and Service Credit
1540.30	Determination of Rate of Compensation
1540.40	Prior Service Credit
1540.50	Credit for Service for Which Contributions are Permitted
1540.60	Severance of Employment – A Condition to the Payment of a Refund or Retirement Annuity
1540.70	Death Benefits
1540.80	Disability Claims
1540.90	Benefit Offset
<u>EMERGENCY</u>	
1540.100	Birth Date Verification
1540.110	Marriage Verification
1540.120	Level Income Option
1540.130	Pension Credit for Unused Sick Leave
1540.140	Removal of Children from Care of Surviving Spouse
1540.150	Proof of Dependency
1540.160	Investigations of Benefit Recipients
1540.170	Interest on Member Contributions
1540.180	Date of Application – Retirement Annuity, Occupational and Nonoccupational and Temporary Disability Benefits, and Resignation Refund Payments
1540.190	Lump Sum Salary Payments
1540.200	Removal from the Payroll
1540.210	Latest Date of Membership
1540.220	Period for Payment and Amount of Payment of Contributions
1540.230	Contributions by the State (Repealed)
1540.240	Actuarially Funded Basis (Repealed)
1540.250	Payments to Establish Credit for Service for Which Contributions are Permitted
1540.255	Pick-up Option for Optional Service Contributions

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- 1540.260 Contributions and Service Credit During Nonwork Periods
1540.270 Written Appeals and Hearings
1540.280 Availability for Public Inspection (Recodified)
1540.290 Procedure for Submission, Consideration and Disposition of Petitions Seeking the Promulgation, Amendment or Repeal of these Rules and Regulations (Recodified)
1540.300 Organization of the State Employees' Retirement System (Recodified)
1540.310 Amendments
1540.320 Optional Forms of Benefits – Basis of Computation
1540.330 Board Elections

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- 1540.340 Excess Benefit Arrangement
1540.350 Qualified Illinois Domestic Relations Orders (QILDRO)
1540.360 Election to be an Employee under Section 14-103.05(b)(3) of the Illinois Pension Code

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- 1540.TABLE A Optional Forms of Benefits – Basis of Computation

AUTHORITY: Implementing and authorized by Article 14 of the Illinois Pension Code [40 ILCS 5/Art. 14].

SOURCE: Filed December 20, 1977, effective December 31, 1977; filed and effective February 28, 1978; emergency rule at 4 Ill. Reg. 2, page 246, effective January 1, 1980; amended at 4 Ill. Reg. 12, pages 530, 532, 534, effective March 11, 1980; emergency rule at 4 Ill. Reg. 46, page 1300, effective November 1, 1980; amended at 5 Ill. Reg. 3454, effective March 19, 1981; amended at 5 Ill. Reg. 7225, effective July 1, 1981; amended at 5 Ill. Reg. 12846, effective October 30, 1981; amended at 6 Ill. Reg. 2114, effective January 29, 1982; amended at 6 Ill. Reg. 5505, effective April 16, 1982; codified at 6 Ill. Reg. 10935; emergency amendment at 6 Ill. Reg. 11084, effective August 31, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 677, effective December 30, 1982; amended at 7 Ill. Reg. 8831, effective July 15, 1983; emergency amendment at 8 Ill. Reg. 359, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 4144, effective March 26, 1984; Sections 1540.280, 1540.290 and 1540.300 recodified to 2 Ill. Adm. Code 2375 at 8 Ill. Reg. 15902; amended at 9 Ill. Reg. 12375, effective July 30, 1985; emergency amendment at 9 Ill. Reg. 19752, effective December 5, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 8889, effective May 14, 1986; amended at 11 Ill. Reg. 11155, effective June 15, 1987; amended at 14 Ill. Reg. 10498, effective June 19, 1990; amended at 15 Ill. Reg. 7379, effective April 26, 1991; amended at 16 Ill. Reg. 14407, effective September 4, 1992; amended at 20 Ill. Reg. 8033, effective June 15, 1996; emergency amendment at 21 Ill. Reg. 476, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4992, effective April 1, 1997; emergency amendment at 21 Ill. Reg. 13187,

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effective September 15, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 967, effective December 22, 1997; amended at 22 Ill. Reg. 15363, effective August 10, 1998; amended at 23 Ill. Reg. 3824, effective March 9, 1999; amended at 23 Ill. Reg. 11313, effective September 1, 1999; amended at 24 Ill. Reg. 6975, effective April 20, 2000; amended at 24 Ill. Reg. 18090, effective December 1, 2000; amended at 25 Ill. Reg. 5632, effective April 4, 2001; emergency amendment at 26 Ill. Reg. 11133, effective June 28, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16575, effective October 22, 2002; emergency amendment at 28 Ill. Reg. 8775, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 15628, effective November 18, 2004; amended at 29 Ill. Reg. 15554, effective October 1, 2005; amended at 30 Ill. Reg. 12303, effective July 1, 2006; amended at 31 Ill. Reg. 211, effective December 21, 2006; amended at 32 Ill. Reg. 17779, effective October 29, 2008; emergency amendment at 33 Ill. Reg. 9449, effective June 19, 2009, for a maximum of 150 days.

Section 1540.90 Benefit Offset**EMERGENCY**

- a) Occupational Disability and Occupational Death
Benefits received under Workers' Compensation Act [820 ILCS 305] or Workers' Occupational Diseases Act [820 ILCS 310] with respect to disability or death of a member shall be applied as an offset against any occupational disability or death benefit provided under the Retirement System with respect to the same disability or death. The Workers' Compensation average weekly wage will be converted to a monthly rate for use as an offset to the Retirement System monthly benefit.
 - 1) If the amount of compensation received is less than the monthly benefit provided under the Pension Code, only the amount of the excess of such monthly benefit over the amount of such compensation shall be payable by the Retirement System, subject, in the case of occupational death, to any minimum benefit provided by Section 14-103.18 and Section 14-121(h) of the Pension Code. If the amount of compensation received equals or exceeds the monthly benefit provided under the Pension Code, no benefit shall be payable by the Retirement System during the period compensation is paid under the Workers' Compensation Act or Workers' Occupational Diseases Act.
 - 2) If the compensation for disability or death is received in a commuted lump sum or partly in a commuted lump sum and partly in monthly or weekly sums, the Retirement System shall, for offset purposes, consider the compensation as if it had been paid using the average weekly wage as

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prescribed under the Workers' Compensation Act or Workers' Occupational Diseases Act. Salary or wages paid beyond date of disability shall not be considered part of the Workers' Compensation offset.

- 3) In the event the whole or any part of the benefits received under the Workers' Compensation Act or Workers' Occupational Diseases Act is commuted into one sum, the aggregate sum of the benefits so commuted and not the commuted value thereof shall be used for purposes of ascertaining the amount of offset.
- 4) No such offset or compensation shall be made after retirement of a member of a retirement annuity.
- 5) The amount considered for offset purposes shall be reduced by any legal expenses granted in the award.
- 6) No offset shall be made with respect to amounts received or paid under the Workers' Compensation Act or Workers' Occupational Diseases Act for medical, hospital, or burial expenses.
- 7) That portion of the occupational death benefit consisting of accumulated contributions of a member shall not be subject to any offset mentioned in this section.
- 8) The termination of death benefits under the Workers' Compensation Act or Workers' Occupational Diseases Act due to remarriage of the benefit recipient shall cause the offset to the Occupational Death Benefit applicable to the remarried benefit recipient to terminate effective with the last month of eligibility represented in the final benefit payment under the Workers' Compensation Act or Workers' Occupational Diseases Act.
- 9) In those cases where the injury or death, for which an occupational disability or death benefit is payable, creates a legal liability for damages on the part of some person other than the employer to pay damages, the Workers' Compensation offset shall be applied as follows:
 - A) Any amounts paid under the Workers' Compensation Act or Workers' Occupational Diseases Act are subject to the offset

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provisions of Article 14 of the Pension Code [40 ILCS 5/Art. 14] and this Part, even though such amounts are recoverable under the subrogation Section 5(b) of the Workers' Compensation Act.

- B) In the event that benefits due under the Workers' Compensation Act or Workers' Occupational Diseases Act are commuted into one sum or waived in lieu of the member seeking recovery against a third party, the System shall use the amount of any judgment, settlement or payment for such injury by the third party as a credit against any benefits paid or payable by the System.
- 10) Any periods of disability for which payment under the Workers' Compensation Act is denied due to the failure of the individual to comply with that Act which result in a period of noncompensability under the Workers' Compensation Act will not be considered for Occupational Disability until the entire Workers' Compensation case has been finalized through the Illinois Workers' Compensation Commission.
- b) Nonoccupational Disability and Temporary Disability
- 1) The nonoccupational and temporary disability benefit payable to a covered member shall be offset before age 65 by the amount of Social Security disability benefit payable prior to the member attaining age 65 and after age 65 by the amount of the Social Security retirement benefit for which the individual is first eligible on or after attaining age 65 less legal expenses paid by the member to obtain the award up to the maximum allowed by the Social Security Administration.
 - 2) The Social Security retirement benefit offset will be applied as follows at age 65:
 - A) For a disability benefit recipient who received Social Security disability benefits before age 65, the Social Security disability benefit payment applied as the offset prior to age 65 will remain in effect as the Social Security retirement benefit offset on or after age 65.
 - B) For a disability benefit recipient who did not receive Social Security disability benefits before age 65, the Social Security

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disability benefit amount that would have been payable by the Social Security Administration had the disability benefit recipient been disabled for the purpose of Social Security will be used as the Social Security retirement benefit offset at age 65 regardless of acceptance of a Social Security retirement benefit before age 65.

C) When a Social Security disability benefit amount is not provided by the Social Security Administration because the individual is not eligible for a disability benefit for a reason other than not being disabled, the Social Security retirement benefit determined at the date of disability for which the individual is eligible at age 65 will be used for offset purposes at age 65.

3) Disability benefits commencing after age 65 will be offset by Social Security retirement benefits for which the individual is eligible on the commencement of disability.

c) Social Security Benefit Offset to Widow's and Survivor's Annuities

- 1) Beginning July 1, 2009, the Social Security survivor benefit offset (offset) shall not apply to any widow's or survivor's annuity of any person who began receiving a retirement annuity or a survivor's or widow's annuity prior to January 1, 1998.
- 2) Beginning July 1, 2009, the offset shall not apply to the widow's or survivor's annuity of any person who began receiving a widow's or survivor's annuity on or after January 1, 1998 and prior to July 1, 2009.
- 3) If the widow's or survivor's annuity is payable based on a coordinated employee's death in service, the offset shall not be applied to the widow's or survivor's annuity.
- 4) Any person who began receiving a retirement annuity after January 1, 1998 and before July 1, 2009 may make a one-time election before July 1, 2009 to reduce the monthly retirement annuity payable by 3.825% in exchange for not having the offset applied to any survivor's annuity payable.

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- 5) Any employee with a retirement annuity effective date on or later than July 1, 2009 may, at the time of retirement, elect to reduce the monthly retirement annuity payable by 3.825% in exchange for not having the offset applied to any survivor's annuity payable.
- 6) For a person on the level income option under Section 14-112 of the Illinois Pension Code who makes an election under subsection (c)(4) or (c)(5) of this Section, the reduction shall be computed based on the reduced amount of the retirement annuity to be paid after the person has become eligible for old age payments under the federal Social Security Act plus any automatic annual increases received as of the date of the election.
- 7) For a member whose accrued benefits are payable, in whole or in part, to an alternate payee pursuant to a QILDRO, as established by Section 1-119 of the Illinois Pension Code, any reduction due to an election made by the member under subsection (c)(4) or (c)(5) of this Section shall be computed based on the total amount of the member's retirement annuity prior to and without giving effect to any QILDRO reduction for amounts payable to an alternate payee. However, the actual reduction under subsection (c)(4) or (c)(5) shall be applied exclusively to the member's retirement annuity and not to any payment to an alternate payee.
- 8) If a coordinated employee does not elect to reduce the retirement annuity in exchange for not applying the offset to the SERS survivor's annuity, the survivor's annuity shall be reduced by one-half of any Social Security survivor's benefits for which all beneficiaries included in the widow's or survivor's annuity are eligible. The offset shall not reduce any survivor's or widow's benefit by more than 50%. If a coordinated employee does not elect to reduce the retirement annuity in exchange for not applying the offset to the SERS survivor's annuity, then the offset will commence on the date the beneficiaries first become eligible to receive any portion of the Social Security benefit, regardless of whether the beneficiaries elect to accept the Social Security benefit on that date, or if the beneficiaries' own earnings preclude payment of Social Security survivor's benefits.
- 9) If an annuitant who elected to have the retirement annuity reduced 3.825% to prevent an offset from taking place to any survivor benefits payable has a change in marital status due to death or divorce, that annuitant may make

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an irrevocable election to prospectively discontinue the reduction. However, no reimbursement of prior reductions will be made.

- 1) ~~When a monthly widow's or survivor's annuity is approved on account of a covered employee, the annuity shall be reduced by one half of any Social Security survivor's benefits for which all beneficiaries included in the widow's or survivor's annuity are eligible. The offset shall not reduce any survivor's or widow's benefit by more than 50 percent.~~
- 2) ~~The reduction will commence on the date the beneficiaries first become eligible to receive any portion of the Social Security benefit, regardless of whether the beneficiaries elect to accept the Social Security benefit on that date, or if the beneficiaries' own earnings preclude payment of Social Security survivor's benefits.~~
- 10)3) If, at the time the offset is to be commenced, ~~A)~~ the survivor is eligible to receive a monthly benefit amount from the Social Security Administration based on his/her own Primary Insurance Amount, that amount shall be deducted from the amount of survivor's benefit payable by Social Security and the offset computed on the difference. ~~If, B)~~ the survivor is eligible to receive a monthly benefit amount based on his/her own Primary Insurance Amount and a governmental pension offset would have been applied to the Social Security survivor's benefit, that amount shall be deducted from the amount of the survivor's benefit payable by Social Security and the offset computed on the difference.
- 11)4) The Social Security reduction amount once established shall remain constant except for the following conditions:
 - A) If a survivor under age 50 previously receiving the survivor's benefit because of minor children becomes a deferred annuitant then the offset amount will be recomputed when he or she first becomes eligible for Social Security survivor's benefits. The offset amount will be based on the original widow's Social Security survivor's amount ignoring subsequent increases to the deceased's Primary Insurance Amount. The recomputed offset amount shall be the balance of the Social Security survivor's benefit minus the governmental pension offset, if any.

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- B) The offset amount will be adjusted when a child is removed from consideration for the System's annuity.
- C) The offset amount will be adjusted when any benefit recipients become ineligible for Social Security benefits.
- D) Beginning July 1, 2009, For deaths on or after July 1, 1990, if a survivor under age 62 ~~previously~~ receiving ~~at~~ the survivor's benefit subject to the Social Security offset becomes eligible to receive a monthly benefit amount based on a Primary Insurance Amount on his or her own record, then the offset will be recomputed when he or she first becomes eligible to receive his or her own Primary Insurance Amount. The offset amount will be based on the estimated widow's or widower's Social Security survivor's amount determined at the date of death of the member less the estimated monthly benefit amount based on the Primary Insurance Amount of the survivor determined at the date of death of member, and the government pension offset, if any, ignoring any subsequent increases to the ~~deceased's~~ Primary Insurance Amount or the survivor's Primary Insurance Amount. The monthly benefit amount based on the Primary Insurance Amount~~primary insurance amount~~ of the survivor shall be determined from the Social Security Administrations' Personal Earnings and Benefit Estimate Statement, including any adjustment due to the application of the Windfall Elimination Provision.
- d) Retirement Annuity
Pursuant to Section 14-108(f) of the Pension Code, for members under age 65, the primary insurance benefit payable to the member upon attainment of age 65 shall, at the date of acceptance of a retirement annuity, be determined from the Social Security Administrations' Personal Earnings and Benefit Estimate Statement, including any adjustments due to the application of the Windfall Elimination Provision. For members over age 65, the primary insurance benefit shall be the amount of Social Security benefits payable at the date of retirement with the State Employees' Retirement System.

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 9449, effective June 19, 2009, for a maximum of 150 days)

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Section 1540.330 Board Elections**EMERGENCY**

In accordance with the Illinois Pension Code, an election for 2 trustees, one contributing member with at least 8 years of creditable service and one annuitant who has been an annuitant for at least one full year, will be held every 5 years beginning in 1986 and an election for 4 trustees, three contributing members with at least 8 years of creditable service and one annuitant who has been an annuitant for at least one full year, will be held every 5 years beginning in 2009.

a) Definitions of Terms

For purposes of this Section the following definitions shall apply:

"Annuitant" – Any annuitant, as defined in Section 14-103.07 of the Illinois Pension Code [40 ILCS 5/14-103.07].

"Contributing Member" – Any member of the System, as defined in Section 14-103.06 of the Illinois Pension Code [40 ILCS 5/14-103.06] who is currently contributing to the System.

b) Nominations

Qualified persons for the position of Contributing Member Trustee or Annuitant Trustee shall file a Statement of Candidacy and Trustee petitions on a form prescribed by the Board, in accordance with the Illinois Pension Code. Petitions shall be signed by not less than 400 contributing members for a Contributing Member Trustee candidate and by not less than 100 annuitants for an Annuitant Trustee candidate and indicate the addresses of the signators opposite their names. Nominating petitions shall be circulated and certified only by contributing members or annuitants for each respective trustee candidate. Forms shall be secured from the Executive Secretary and filed in accordance with the Calendar. Trustee petitions with a Statement of Candidacy must be filed at the System's Springfield office, 2101 South Veterans Parkway, Springfield, Illinois, in person or by mail during the office hours, 8:00 a.m. to 4:30 p.m.

c) Lottery for Ballot Position

All petitions filed on or before the first day for filing shall be deemed filed as of 8:00 a.m. on the first day. All petitions received thereafter shall be deemed as filed in the order of actual receipt. Where 2 or more petitions are received simultaneously for the same office, the State Employees' Retirement Board, with whom such petitions are filed, shall break ties and determine the order of filing,

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by means of a lottery.

d) Procedures on Objections

The Board of Trustees of the System shall review and rule on all written petitions filed objecting to any candidates qualifications as outlined in 40 ILCS 5/14-134~~(e)~~ and (f). Petitions objecting shall be made in accordance with 80 Ill. Adm. Code 1540.270 (d)(3). Nomination papers shall be deemed valid unless objections are received by the System in writing within 5 days after the last day for filing nomination papers. Not later than ~~12:00~~ noon on the next business day, after receipt of the objector's petition, the Executive Secretary shall deliver or transmit the nomination papers and original objector's petition to the Chairman of the Board and a copy of the objector's petition to the candidate whose nomination papers are objected to. Not later than 12:00 noon on the second business day after receipt of the objector's petition, the Chairman of the Board shall call for a meeting to consider the petition by giving notice to each of the members of the Board, the objector and candidate. The meeting of the Board shall not be less than 3 nor more than 5 days after receipt of the objector's petition by the Chairman of the Board.

e) Elections

After the Executive Secretary has certified the candidates, separate ballots shall be prepared for the Contributing Member Trustee and for the Annuitant Trustee. Candidate position shall be in the order that the petitions are filed, or as determined by the lottery. Ballots will be mailed on election day to all qualified Contributing Members and Annuitants. All ballots must be returned, sealed in the envelope provided so as to be received by May 30 of the election year, to be counted. In order to be eligible to vote, a contributing member must make contributions during the first payroll period in March of the election year. In order to be eligible to vote, an annuitant must receive a retirement annuity for March of each election year.

f) Calendar of Events

1) Beginning in 1986 and every 5 years thereafter, and in 2014 and every 5 years thereafter, the following timeline shall apply:

A+) JANUARY 2 ~~—~~; Forms available from the Executive Secretary for Statement of Candidacy and petitions.

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- B2) JANUARY 15 ~~—~~; Last day Executive Secretary shall publish in a newsletter the dates and times when candidates may receive petitions. The pre-filing notice must also include the time and location of the filing period for nominating petitions.
- C3) FEBRUARY 11 ~~—~~; First day for candidates to file nomination papers in the office of the Executive Secretary for trustee offices.
- D4) FEBRUARY 19 ~~—~~; Last day for candidates to file nomination papers in the office of the Executive Secretary for trustees offices.
- E5) FEBRUARY 24 ~~—~~;
- iA) Last day for filing objections to the nomination papers of candidates for the office of trustees in the office of the Executive Secretary.
- iiB) Notice shall be given by telephone, facsimile or electronically of the time and place for conducting a lottery when 2 or more petitions are received simultaneously for the same office. Notice shall be given by the Executive Secretary to all candidates involved in the lottery.
- F6) FEBRUARY 28 ~~—~~; Lottery shall be conducted by the Executive Secretary when 2 or more petitions are received simultaneously for the same office.
- G7) MARCH 1 ~~—~~; Last day for candidates to withdraw their candidacy in the office of the Executive Secretary.
- H8) MAY 1 or, if a Sunday, then MAY 2 — Election
- I9) MAY 30 ~~—~~; Last day all voted ballots shall be received by the Board or its designate.
- J40) JUNE 6 ~~—~~; Last day for canvassing of election results by the Board or its designated agent.
- K+1) JUNE 18 ~~—~~; Last day for the Board to proclaim the results of the

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election and to issue the certificates of election to the winners.

- 2) If any of these dates falls on a Saturday, Sunday or holiday, the next succeeding business day for the System shall be the effective date.
- g) **Ballot Security**
Upon receiving the official voted ballots, they shall be secured ~~unopened~~, in a locked location, until ~~such time as~~ the canvassing begins.
- h) **Board Notification**
 - 1) The Board or its designated agent shall canvass the ballots and certify the results. Each candidate may have two observers present during the ballot canvassing.
 - 2) The candidate or candidates receiving the most votes for the office of Contributing Member Trustee will be declared the winner. The candidate receiving the most votes for the office of the Annuitant Trustee will be declared the winner.
 - 3) If a candidate should become ineligible for office after the submission of the Statement of Candidacy and Petitions, but before the election, the Board shall notify the candidate of the ineligibility and remove his name from the ballot. If a candidate should become ineligible for office after the mailing of ballots, his votes will not be counted and the eligible candidate receiving the most votes shall be declared the winner.
 - 4) Ballots will be retained for 60 days following the certification and then destroyed, pending any litigation.
 - 5) In case of a tie vote between 2 or more candidates, the Board shall determine the winner by means of a lottery to break the tie.
 - 6) The Board will proclaim the results of the election and issue Certificates of Election to the winners.
- i) Special Election Calendar of Events
The special election to be held in 2009 to fill the 4 new elected trustee positions shall be subject to the same procedures outlined in this Section, except as may

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need to be modified to comply with the following calendar for the special election:

- 1) APRIL 16 – First day for candidates to file nomination papers in the office of the Executive Secretary for trustees offices.
- 2) MAY 11 – Last day for candidates to file nomination papers in the office of the Executive Secretary for trustees offices
- 3) MAY 15 – Lottery shall be conducted by the Executive Secretary when 2 or more petitions are received simultaneously for the same office.
- 4) JUNE 1 – Election
- 5) JUNE 26 – Last day all voted ballots shall be received by the Board or its designate.
- 6) JULY 2 – Last day for canvassing of election results by the Board or its designated agent and for the Board to proclaim the results of the election and issue the certificates of election to the winners.

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 9449, effective June 19, 2009, for a maximum of 150 days)

Section 1540.360 Election to be an Employee under Section 14-103.05(b)(3) of the Illinois Pension Code
EMERGENCY

An election to be considered an "employee" under Section 14-103.05(b)(3) of the Illinois Pension Code is an irrevocable election for all periods during which the person is serving at the appointment of the Governor with the advice and consent of the Senate. The election is valid and irrevocable for the entire period spent in a position, even upon reappointment to the same position. Appointment to a different position under Section 14-103.05(b)(3) requires the employee to complete a new election form.

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 9449, effective June 19, 2009, for a maximum of 150 days)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF MODIFICATION TO MEET THE OBJECTION OF THE
JOINT COMMITTEE ON ADMINISTRATIVE RULES

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Number: 140.14 Action: Modification
- 4) Date Notice of Proposed Amendments Published in the Register: August 29, 2008; 32 Ill. Reg. 14003
- 5) Date JCAR Statement of Objection and Filing Prohibition Published in the Register: April 3, 2009; 33 Ill. Reg. 5030
- 6) Summary of Action Taken by the Agency:

The JCAR objection pertains only to Section 140.14 of the 89 Ill. Adm. Code 140. The language in Sections 140.16 and 140.44 mirror the statute and drew no objection.

In submitting the original rulemaking for the proposed amendment to Section 140.14, the Department sought to deny an application to participate in the Medical Assistance Program if the applicant, its owners, officers or management had legally enforceable debts owed to the Department due to the financial impact on the State.

After the pending JCAR filing prohibition on this rulemaking is withdrawn, DHFS will withdraw the proposed rule language in Section 140.14 from the text of the adopted rulemaking at the time of its adoption.

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF RECODIFICATION

- 1) Heading of the Part: Low Income Home Energy Assistance Program
- 2) Code Citation: 89 Ill. Adm. Code 109
- 3) Date of Administrative Code Division Review: June 16, 2009
- 4) Headings and Section Numbers of the Part Being Recodified:

<u>Section Numbers:</u>	<u>Headings:</u>
109.10	Legislative Base
109.20	Purpose and Scope
109.30	Definitions
109.40	Local Administering Agency Designation
109.50	Local Administering Agency Application for Funding
109.60	Grant Termination
109.70	Administrative Requirements
109.80	Nondiscrimination
109.90	Dispute Procedures
109.100	Complaint Process
109.110	Incorporation by Reference
109.200	Energy Assistance Program
109.210	Allocation of Block Grant Funds
109.220	Assistance Available
109.230	Applicant Assistance
109.240	Summer Energy Assistance
109.250	Determination of Household Eligibility
109.400	Allocation of Funds
109.410	Minimum Program Requirements
109.420	Allowable Costs
109.430	Cost Restrictions
109.440	Standards and Techniques for Weatherization
109.450	Eligible Dwelling Units
109.APPENDIX A	LIHEAP Payment Matrix
109.APPENDIX B	Medical Certification
109.APPENDIX C	Assistance Level Chart Map

- 5) Outline of the Section Numbers and Headings of the Part as Recodified: 47 Ill Adm. Code 100

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF RECODIFICATION

<u>Section Numbers:</u>	<u>Headings:</u>
100.10	Legislative Base
100.20	Purpose and Scope
100.30	Definitions
100.40	Local Administering Agency Designation
100.50	Local Administering Agency Application for Funding
100.60	Grant Termination
100.70	Administrative Requirements
100.80	Nondiscrimination
100.90	Dispute Procedures
100.100	Complaint Process
100.110	Incorporation by Reference
100.200	Energy Assistance Program
100.210	Allocation of Block Grant Funds
100.220	Assistance Available
100.230	Applicant Assistance
100.240	Summer Energy Assistance
100.250	Determination of Household Eligibility
100.400	Allocation of Funds
100.410	Minimum Program Requirements
100.420	Allowable Costs
100.430	Cost Restrictions
100.440	Standards and Techniques for Weatherization
100.450	Eligible Dwelling Units
100.APPENDIX A	LIHEAP Payment Matrix
100.APPENDIX B	Medical Certification
100.APPENDIX C	Assistance Level Chart Map

6) Conversion Table of Present and Recodified Parts:

<u>Present Part (89 Ill. Adm. Code 109):</u>	<u>Recodified Part (47 Ill. Adm. Code 100):</u>
109.10	100.10
109.20	100.20
109.30	100.30
109.40	100.40
109.50	100.50
109.60	100.60
109.70	100.70
109.80	100.80

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF RECODIFICATION

109.90	100.90
109.100	100.100
109.110	100.110
109.200	100.200
109.210	100.210
109.220	100.220
109.230	100.230
109.240	100.240
109.250	100.250
109.400	100.400
109.410	100.410
109.420	100.420
109.430	100.430
109.440	100.440
109.450	100.450
109.APPENDIX A	100.APPENDIX A
109.APPENDIX B	100.APPENDIX B
109.APPENDIX C	100.APPENDIX C

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF RECODIFICATION

TITLE ~~4789~~: ~~HOUSING AND COMMUNITY DEVELOPMENT~~~~SOCIAL SERVICES~~
CHAPTER I: DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

~~SUBCHAPTER b: ASSISTANCE PROGRAMS~~PART ~~100409~~

LOW INCOME HOME ENERGY ASSISTANCE PROGRAM

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AUTHORITY: Implementing and authorized by the Energy Assistance Act [305 ILCS 20], Section 605-95 of the Civil Administrative Code of Illinois [20 ILCS 605/605-95], the Low-Income Home Energy Assistance Act of 1981 (42 USCA 8621) and Executive Order 2009-2.

SOURCE: Adopted and codified at 7 Ill. Reg. 2956, effective March 9, 1983; amended at 8 Ill. Reg. 8184, effective May 31, 1984; amended at 8 Ill. Reg. 16004, effective August 27, 1984; amended at 8 Ill. Reg. 20669, effective October 6, 1984; amended at 9 Ill. Reg. 10710, effective July 1, 1985; amended at 9 Ill. Reg. 18134, effective November 12, 1985; amended at 10 Ill. Reg. 8684, effective May 12, 1986; amended at 10 Ill. Reg. 21064, effective December 9, 1986; amended at 11 Ill. Reg. 682, effective December 18, 1986; recodified at 11 Ill. Reg. 4631; amended at 12 Ill. Reg. 757, effective December 23, 1987; amended at 12 Ill. Reg. 14639, effective September 6, 1988; amended at 12 Ill. Reg. 15530, effective September 19, 1988; amended at 13 Ill. Reg. 10827, effective June 27, 1989; amended at 13 Ill. Reg. 13568, effective August 11, 1989; emergency amendment at 13 Ill. Reg. 17870, effective November 1, 1989, for a maximum of 150 days; emergency expired March 31, 1990; amended at 14 Ill. Reg. 13440, effective August 8, 1990; amended at 15 Ill. Reg. 3437, effective February 25, 1991; emergency amendment at 15 Ill. Reg. 14604, effective September 30, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3940, effective February 26, 1992; emergency amendment at 16 Ill. Reg. 17136, effective October 26, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 3836, effective March 5, 1993; amended at 27 Ill. Reg. 2123, effective January 24, 2003; emergency amendment at 27 Ill. Reg. 14838, effective September 2, 2003, for a maximum of 150 days; emergency expired January 29, 2004; recodified from the Department of Commerce and Economic Opportunity (47 Ill. Adm. Code 100) to the Department of Public Aid (89 Ill. Adm. Code 109) at 29 Ill. Reg. 2791; recodified from the Department of Healthcare and Family Services (89 Ill. Adm. Code 109) to the Department of Commerce and Economic Opportunity (47 Ill. Adm. Code 100) at 33 Ill. Reg. 9466.

SUBPART A: GENERAL PROVISIONS

Section [100109.10](#) Legislative Base

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a) Federal

- 1) On July 31, 1981, Congress passed the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) which established seven block grant programs. These block grants replaced a large number of programs previously administered by the federal government. The Omnibus Budget Reconciliation Act of 1981 also transferred primary responsibility for the administration of the block grant programs to the states and conferred substantial discretion on the states as to the use of block grant funds.
- 2) Title XXVI of the Omnibus Budget Reconciliation Act of 1981 established the Low-Income Home Energy Assistance Act of 1981 and replaced the Home Energy Assistance Act of 1980.
- 3) The Low-Income Home Energy Assistance Act of 1981 authorized the Low Income Home Energy Assistance Block Grant. States were eligible to receive funds under the Low Income Home Energy Assistance Block Grant on October 1, 1981.
- 4) On November 3, 1990, the Low-Income Home Energy Assistance Act of 1981 was amended by the Augustus F. Hawkins Human Services Reauthorization Act of 1990 (P.L. 101-501).

b) State

On August 2, 1989, the Governor signed the Energy Assistance Act of 1989. The Governor has officially designated the Department of Commerce and Community Affairs as the official administering agency for the Energy Assistance Act, which includes the Low Income Home Energy Assistance Block Grant. On December 15, 1981, the Department of Commerce and Community Affairs submitted the application document to the U.S. Department of Health and Human Services. As part of the application, the State certified that it agreed to use funds available under the Low Income Home Energy Assistance Block Grant to provide assistance to eligible households to meet the costs of home energy. On July 24, 1991, the Governor signed an amendment to the Energy Assistance Act [305 ILCS 20], as amended by P.A. 87-14, effective July 24, 1991. This amendment established the Low Income Home Energy Assistance Program (LIHEAP). On December 16, 1997, the Governor signed an amendment to the Energy Assistance Act, as amended by P.A. 86-127, Section 13, added by P.A. 90-561, Art. 7, Section 85, effective December 16, 1997. This amendment established the

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Supplemental Low-Income Energy Assistance Fund. On January 10, 2001, the Governor signed an amendment to the Energy Assistance Act, as amended by P.A. 86-127, Section 85, added by P.A. 91-936, effective January 10, 2001. This amendment provides the Department with the flexibility to establish annual eligibility levels up to a maximum of 150% of OMB Poverty guidelines. On April 1, 2004, responsibility for the administration of the Act was transferred to the Department of Public Aid. [On March 24, 2009, responsibility for the administration of the Act was transferred back to the Department of Commerce and Economic Opportunity.](#)

(Source: Section 100.10 recodified from 89 Ill. Adm. Code 109.10 at 33 Ill. Reg. 9466)

Section [100109.20](#) Purpose and Scope

- a) The LIHEAP has been established to carry out the provisions of the Energy Assistance Act . The State will use the funds available under the Low Income Home Energy Assistance Block Grant to provide assistance to eligible households to meet the costs of home energy, and more specifically to provide:
- 1) assistance in the form of a cash payment made directly to the eligible household should that household purchase home energy as an undesignated portion of rent;
 - 2) payments to a home energy provider on behalf of the eligible household or direct to the household if its winter energy services are provided by a non-participating home energy provider;
 - 3) low cost weatherization and/or energy-related home repairs applied directly to an eligible household's residence; and
 - 4) emergency services to an eligible household in an energy-related life-or-health threatening situation.
- b) This Part specifies program guidelines whereby the Department will provide comprehensive energy and weatherization assistance to low-income citizens.

(Source: Section 100.20 recodified from 89 Ill. Adm. Code 109.20 at 33 Ill. Reg. 9466)

Section [100109.30](#) Definitions

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"Act": The Energy Assistance Act [305 ILCS 20].

"Customer of record": Any person who is receiving home energy services from a home energy provider and has agreed to pay for those services or did receive home energy services during the program year from a home energy provider and has not changed the home energy provider for that type of home energy service.

"Department": The Illinois Department of [Commerce and Economic Opportunity](#)~~Public Aid~~.

"Disabled Person": A person who is and who is expected to continue indefinitely to be subject to a physical, developmental, visual, hearing or mental disability, as defined in Section 4A of the Illinois Identification Card Act [15 ILCS 335/4A].

"DOE": United States Department of Energy.

"Dwelling Unit": A house, including a stationary mobile home, an apartment, or a room or group of rooms occupied as separate, independent living quarters.

"Elderly Person": A person who is 60 years of age or older.

"Energy Crisis Intervention": Weather-related and supply shortage emergencies.

"Good Faith Effort": The household making payment to the household's energy vendors of 10% of the household's income for the past 90 days or 20% of the total amount owed for both primary and secondary utilities, whichever method is more beneficial to the household, but in no case less than \$75.

"Grant Agreement": The contractual agreement between the Department and Local Administering Agency, which includes the scope of work to be provided, the budget, and all terms and conditions of the contract.

"HHS": United States Department of Health and Human Services.

"Home Energy": A fuel used for space heating, space cooling, water heating, cooking or in electrical appliances in residential dwellings.

"Home Energy Provider": Any utility, municipal utility, cooperative utility, sole

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proprietorship, partnership, joint venture, corporation, company or other established business which provides primary and/or secondary energy, including fuel, to residential dwellings and has elected to participate in the LIHEAP. The primary energy provider is a home energy provider that provides the primary source of energy; and the secondary energy provider is a home energy provider that provides the secondary source of energy.

"Household": All individuals who occupy a dwelling unit.

"Household Income": Gross income received by all members of the household who are residing in the household at the time of application. Under the Energy Assistance Act, household income will be calculated for the past 30 days. Households applying for Weatherization Assistance who have not been approved to receive energy assistance under the Low-Income Home Energy Assistance Act of 1981, will have their income calculated for the past 12 months, in accordance with 10 CFR 440 (1995). Income does not include the following:

Payments for vocational rehabilitation transportation and maintenance;

Reimbursement for medical expenses;

Payments made to others on the household's behalf provided that such payments were not directed by the household (i.e., bills paid or purchases made by others);

Loans (including student loans);

Scholarships, subsistence amounts or student grants;

Assets drawn down as withdrawals from a bank;

Sale of property;

Sale of house or car;

Tax refunds;

Gifts;

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One-time insurance payments or compensation for injury;

Non-cash income;

One-time payments (e.g., death-related benefits, Circuit Breaker Benefits);

Foster-grandparents and Senior Companions stipends;

Foster-parent reimbursement;

Food Stamps;

Workforce Investment Act of 1998 benefits;

Allowances, earnings and payments to individuals participating in programs under the Act; and

Earned income of dependent minors (children under 18).

"IHWAP": The Illinois Home Weatherization Assistance Program, referring to all components of the weatherization program that are designed to help low-income Illinois residents save fuel and money while increasing the comfort of their homes.

"Kitchen Facilities": An area used to store and prepare food.

"Landlord": A person that receives payment for the rental of his/her dwelling unit.

"Local Administering Agency (LAA)": A community action agency or other community-based organization or unit of general purpose local government or public agency which is authorized, in accordance with Section [100.40109.40](#), to administer LIHEAP funds received from the Department.

"Low-Income Home Energy Assistance Act of 1981": Established by the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35, Title XXVI – Low Income Home Energy Assistance) and amended by the Augustus F. Hawkins Human Services Reauthorization Act of 1990 (P.L. 101-501).

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"Multi-Unit Building": A structure containing two or more dwelling units.

"Owner Occupied Building": A building in which the owner is a permanent resident in the building.

"Primary Energy Source": The energy or fuel type which is the heat source for the central heating system of the residence, or if the residence is not centrally heated, the energy or fuel type which constitutes the principal source of space heating.

"Program Year": The period in time starting September 1 and ending May 31 in the following year.

"Public Utility": An entity that is defined as a public utility under Section 3-105 of the Public Utilities Act [220 ILCS 5/3-105] and is subject to regulation by the Illinois Commerce Commission (ICC).

"Rental Unit": A dwelling unit occupied by a person who pays rent for the use of the dwelling unit.

"Secondary Energy Source": Energy or fuel used for other than the primary source of heat. In order to receive a secondary direct vendor payment, the secondary energy source must be an integral part of the heating system or heat-related. An example of this would be the heat-related electricity that is used to operate the controls and distribution (fan) system of a furnace.

"Separate Independent Living Quarters": Living quarters in which the household members do not live and eat with any other persons in the structure and that have:

either direct access from the outside of the building or through a common hall; and

complete kitchen facilities for the exclusive use of the occupants.

"Single-Family Dwelling Unit": A structure containing no more than one dwelling unit.

"State": The State of Illinois.

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"Subgrantee": A Local Administering Agency managing an energy assistance or weatherization project that receives a grant of funds awarded under this Part from the State.

"Unit of General Purpose Local Government": Any city, county, town, village or township.

"Weatherization Materials":

Caulking and weatherstripping of doors and windows;

Furnace efficiency modifications, including, but not limited to:

replacement burners, furnaces and permanently installed space heaters (including wood/coal burning stoves), or boilers or any combination thereof;

devices for minimizing energy loss through heating systems, chimney or venting devices;

products to improve the efficient circulation of heated water or air throughout the dwelling unit (e.g., fan systems, piping, and duct work); and

electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

Clock thermostats;

Ceiling, attic, wall, floor, and duct insulation;

Water heater insulation;

Storm windows, multi-glazed windows and doors, heat-absorbing or heat-reflective window and door materials; and

The following insulating or energy conserving devices or technologies:

Items to improve attic ventilation;

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Vapor barriers;

Materials used as a patch to reduce infiltration through the building envelope;

Water flow controllers;

Movable insulation systems for windows;

Material to construct vestibules;

Pipe and boiler insulation;

Heat exchangers;

Thermostat control systems;

Replacement windows and doors;

Materials used for water heater modifications which will result in improved energy efficiency;

Hot water heat pumps;

Waste heat recovery devices;

Materials used for heating and cooling systems tune-ups, repairs, and modifications which will result in improved energy efficiency;
and

Materials used for boiler tune-ups, repairs, and modifications which will result in improved energy efficiency.

"Weatherization Project": A project conducted in a designated geographic area which undertakes the weatherization of dwelling units that are energy inefficient.

"Winter": The period from November 1 of any year through April 30 of the following year (Section (3)(d) of the Act).

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"Winter Energy Services": Home energy provided during the six-month period of November through April of the following year.

(Source: Section 100.30 recodified from 89 Ill. Adm. Code 109.30 at 33 Ill. Reg. 9466)

Section ~~100109~~.40 Local Administering Agency Designation

- a) The following local entities are eligible to apply for designation as LAAs under the LIHEAP:
 - 1) Any organization which was officially designated as a Community Action Agency under the provisions of ~~section~~Section 210 of the Economic Opportunity Act of 1964, as amended.
 - 2) Any non-profit private community organization determined by the Department to be capable of planning, conducting and administering an Energy Assistance or Weatherization Program according to the guidelines established by the Department in accordance with this Section.
 - 3) A unit or combination of units of general purpose local governments of the State.
- b) In designating LAAs, the Department will comply with those rules and regulations set forth in 45 CFR 96 (October 1, 1990 edition) and 10 CFR 440.15 (January 1, 1991 edition) which provide the federal standards governing LAA selection for the Energy Assistance Program (the HHS and the U.S. Department of Energy (DOE) weatherization assistance program). LAAs must be designated by the Department, in accordance with this Section, to operate the DOE funded component of the Illinois Home Weatherization Assistance Program (IHWAP) in order to be eligible to receive financial assistance for the IHWAP covered by this Part.
- c) When designating LAAs to carry out LIHEAP, the Department shall give special consideration in the designation of such agencies to any local public or private non-profit agency which was receiving federal funds under any low-income energy assistance program or weatherization program, if the agency demonstrates that it meets the requirements of ~~section~~Section 2605(a)(2)(b)(6) of Title VII of the Low-Income Home Energy Assistance Act of 1981. Special consideration

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shall mean: when service and accounting capability measures are compared and found to be equal or within 20% of equal, the specially considered agency will be selected.

(Source: Section 100.40 recodified from 89 Ill. Adm. Code 109.40 at 33 Ill. Reg. 9466)

Section ~~100.49~~.50 Local Administering Agency Application for Funding

- a) To be eligible for financial assistance, a local agency must be designated by the Department to operate the Energy Assistance or Weatherization Program contained in this Part.
 - 1) Where a local agency has been designated by the Department, in accordance with Section ~~100.40~~~~109.40~~, to operate the Energy Assistance or Weatherization Program for a county or counties, only that designated local agency may apply for financial assistance.
 - 2) Where no local agency has been designated by the Department to operate these programs, that agency which is successful in its request for proposal bid to operate the aforementioned programs shall be awarded financial assistance under this Part. The proposal will be evaluated in accordance with 10 CFR 440.15(a) (1989) and Subparts A, B, C, D, E, F and H of 45 CFR 96 (1988).
- b) Applicants will be required to meet program and fiscal requirements prior to the submittal of an application for funding. Applications will not be processed nor grants awarded prior to the Department's review of the applicant's performance in the following four areas.
 - 1) an effective outreach referral program (evidenced by services to clients in accordance with their incidence in the census-based client population of the service area);
 - 2) a continuing planning process and capability (evidenced by demonstrated applicant staff capability to complete federal and/or state grant applications and reporting documents containing qualitative and quantitative objectives);
 - 3) an accounting system in accordance with generally accepted accounting

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principles of the American Institute of Certified Public Accountants (AICPA) (1989), 1211 Avenue of the Americas, New York, NY 10036-8775; and

- 4) an effective citizen participation/community involvement program.
- c) In preparing the application for funding assistance for programs contained in this Part, applicants will be required to submit the following items:
- 1) **Application for Assistance:** The Department will require the submittal of a form provided by the Department which requires the basic information needed for grant award documentation and for the Department's review purposes.
 - 2) **Annual Work Program:** The work program will narrate the activities as required by the Department to be undertaken utilizing the grant funds. The work program must include at a minimum such items as provisions for staff, coordination with other delivery agencies and a description of how the agency intends to deliver its basic services.
 - 3) **Annual Budget:** The applicant shall submit a grant budget by cost categories, on the budget summary form and detail sheets provided by the Department.
 - 4) **Statement of Coordination:** The grant applicant will be required to outline its program of coordination with other agencies and programs. The statement shall include coordination mechanisms established by the applicant and cite interagency agreements or contractual arrangements used in support of coordinated service delivery.
 - 5) **Assurances and Certifications:** In a form and manner provided by the Department, the applicant will be required to certify its compliance with all applicable state and federal laws and regulations as detailed in this Part dealing with the receipt and expenditure of grant monies, as provided on the grant application.
 - 6) **Additional Grant Application Submittals:** These include:
 - A) Name, address, telephone number of the agency responsible for

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administering the projects as well as signatures designating responsibility for the grants;

- B) The "Notice of Grant Award" and grantee acceptance;
 - C) The "Method of Compensation, Fiscal Recording/Reporting Requirements";
 - D) The "Terms and Conditions Governing the Grant";
 - E) The "Scope of Work" which insures programmatic controls, such as training, staffing, outreach, and reporting; and
 - F) Any information which the Department deems necessary to clarify or document information provided in the application.
- d) The Department will use the following standards to select grantees for special demonstration projects. The weight to be given to each standard will be dependent on the nature of the project, keeping in mind the Department's goal of equally representing all areas of the State.
- 1) The Department will consider the applicant's experience in the particular type of weatherization project to be implemented.
 - 2) The Department will consider the qualifications of the applicant's personnel as related to the particular type of weatherization project to be implemented.
 - 3) The Department will evaluate the methodology proposed by the applicant for completion of the project under consideration.
 - 4) The Department will evaluate the ability of the applicant to complete the project under consideration as evidenced by factors specified in subsections (d)(1), (2), (3), (5) and (6).
 - 5) The Department will evaluate the applicant's timetable for completion of the project both in terms of other applicants and whether or not the timetable appears to consist of a realistic statement of goals.

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- 6) The Department will evaluate the applicant's budget both in comparison to other applicants and to determine whether or not the proposal is a realistic assessment of the costs of the project.

(Source: Section 100.50 recodified from 89 Ill. Adm. Code 109.50 at 33 Ill. Reg. 9466)

Section ~~100~~109.60 Grant Termination

If the Department determines that it is in the best interests of the program to revoke the designation of a LAA, the designation of a new administering agency shall be made by the Department in consultation with the government (or combination of governments) which has jurisdiction over the entire community to be served by the program. The determination of the "best interests" of the program will depend on the agency's success in complying with the grant agreement.

- a) Any LAA, either established (i.e., local designation and state recognition) under the LIHEAP and/or IHWAP in accordance with the Low-Income Home Energy Assistance Act of 1981 will be awarded continuing program administering responsibilities in its established jurisdiction unless the following shall occur:
 - 1) written communication to the Department stating its desire to discontinue operation of the program;
 - 2) material failure by the LAA to comply with the Low-Income Home Energy Assistance Act of 1981, 10 CFR 440, 45 CFR 96, the provisions of the grant agreement, and the provisions of 47 Ill. Adm. Code 1 and [this Part~~89 Ill. Adm. Code~~109](#). Material failure includes, but is not limited to, fraud, disallowance of costs which could render a LAA insolvent, and denial of access to records of grant-related transactions.
- b) Upon discovery of one of the conditions noted in subsection (a), the Department will take the following action:
 - 1) The Department shall notify the LAA in writing of its initiation of the termination process and the reasons for termination. The notice will advise the LAA that, in accordance with this Part, it is entitled to a hearing. The LAA will be given fifteen (15) days from receipt of such notification to inform the Department that it wishes to exercise its right to a hearing. The hearing will be conducted within thirty (30) days of the

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original notification of initiation of the termination process. The notification shall also include:

- A) a requirement that the LAA (in order to receive continued funding) shall agree to submit to a Department appointed official, throughout the termination process, to serve as a reviewer of all program-related expenditures which are reimbursable under Sections [100109.70](#) and [100109.420](#) of this Part) and which comply with the objectives and program activities specified in accordance with Subparts A and B of this Part; or
 - B) in the event the LAA does not agree to submit to the Department review specified in subsection (b)(1)(A), notice of funding suspension pending termination pursuant to this Part.
- 2) The services of a hearing officer, who must be an attorney licensed to practice law in Illinois under Article VII of the Illinois Supreme Court Rules, will be obtained by the Department, as will the services of a certified shorthand reporter under the Illinois Certified Shorthand Reporters Act of 1984 [215 ILCS 415]. Notice of the actual hearing time and date will be provided, with proof of receipt of notice, to both the LAA and grantor agency at least ten (10) days prior to the hearing. The cost of the certified shorthand reporter and the original transcript of the proceedings shall be borne by the Department. The LAA shall bear the cost of its copy of the transcript of proceedings.
- c) The hearing shall be conducted in accordance with [5689](#) Ill. Adm. Code [2605104](#). The report of the hearing officer will be sent via registered mail to both parties within thirty (30) days of the hearing's completion.
 - d) The Director of the Department will review the hearing officer's recommendation and will base his/her decision on findings of fact and conclusions of laws that substantiate grant termination pursuant to this Section. The Department will notify the LAA in writing of the Department's final determination within thirty (30) days.

(Source: Section 100.60 recodified from 89 Ill. Adm. Code 109.60 at 33 Ill. Reg. 9466)

| **Section [100109.70](#) Administrative Requirements**

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For the purpose of this Part, administrative requirements specified in 47 Ill. Adm. Code 1 and as follows are applicable.

- a) **Budget Modification**
The LAA cannot be reimbursed for costs that exceed the total program or administrative cost category amounts.
 - 1) The LAA must, in writing, request of the Department a budget modification if expenditures exceed the approved budget.
 - 2) If the LAA wishes to make modifications to the Grant Agreement, the LAA must:
 - A) Submit a formal standardized written modification request to the Department prior to expenditure of funds in a manner other than the approved budget; or
 - B) Exercise provisions contained in the "Program Specific Provisions" Section of the Grant Agreement.
 - 3) The Department will approve modification requests if they are necessary to achieve program objectives; required by increases or decreases in program funding; or result in greater program cost efficiencies. If the Department approves the modification request, the LAA will be notified in writing of the change and effective date. If the Department rejects the modification, the Department will notify the LAA in writing of the reasons for denial.
- b) **Reporting** – An expenditure summary and payment request shall be submitted to the Department on or before the tenth calendar day of each month after the first month of the program year, using the format provided by the Department.

(Source: Section 100.70 recodified from 89 Ill. Adm. Code 109.70 at 33 Ill. Reg. 9466)

| **Section ~~100~~109.80 Nondiscrimination**

- a) **Equal Employment Opportunity**

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- 1) In carrying out the program, the Grantee shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, natural origin, ancestry, age, physical or mental handicap unrelated to ability, marital status, or unfavorable discharge from military service. The Grantee shall take affirmative action to insure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, ancestry, age, physical or mental handicap unrelated to ability, marital status, or unfavorable discharge from military service. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other form of compensation; and selection for training, including apprenticeship. The Grantee shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. The Grantee shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, ancestry, age, physical or mental handicap unrelated to ability, marital status, or unfavorable discharge from military service. The Grantee shall incorporate the foregoing requirements of this subsection (a) in all of its contracts for program work.
 - 2) The Grantee shall cause or require to be inserted in full in any contract and subcontract for work, or modification thereof, all applicable federal and state Equal Employment Opportunity provisions.
- b) Discrimination – The Grantee shall refrain from unlawful discrimination in employment and will undertake affirmative action to assure quality of employment opportunity and eliminate the effects of past discrimination in accordance with the Illinois Human Rights Act [775 ILCS 5]; ~~section~~[Section](#) 504 of the Rehabilitation Act of 1973 (29 USC 794); the Age Discrimination Act of 1975 (42 USC 6106-6107); and Title VI of the Civil Rights Act of 1964 (42 USC 2000d-2000d-7) (24 CFR 1.4 (1987)).

(Source: Section 100.80 recodified from 89 Ill. Adm. Code 109.80 at 33 Ill. Reg. 9466)

| **Section ~~100~~[109.90](#) Dispute Procedures**

Applicants shall be provided with an opportunity for a fair administrative hearing when claims

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for energy assistance are denied or are not acted upon within prescribed timelines (see Section [100+09.250\(d\)](#)), or if the applicant disputes the amount or type of assistance granted. LAAs shall inform each applicant of their right to the appeals process. The hearing and appeals process includes three levels of appeal: the informal conference, the state review, and the formal hearing.

a) The Informal Conference

- 1) This process consists of an initial informal conference held by a staff hearing officer of the LAA at which the applicant applied. This informal conference is designed to ensure that the applicant understands the reason(s) for the action taken by the LAA and to ensure that the application was processed in accordance with Section [100+09.250](#).
- 2) Any applicant receiving or denied energy assistance has a right to request an informal conference within thirty (30) days of receipt of a notice of a decision on the applicant's application.
- 3) Any applicant who has submitted a completed application but has not been notified of the application status within thirty (30) days of the date of a complete application, has a right to request an informal conference within sixty (60) days of the date the application was complete.
- 4) Any applicant requesting an informal conference shall be furnished the reason for the decision on the application and be allowed to review the documents leading to the decision prior to the informal conference.
- 5) The informal conference must:
 - A) be held at the application site closest to the applicant's residence or at the applicant's residence if they are confined;
 - B) be conducted by a LAA staff member who was not involved in the original decision (the LIHEAP coordinator may also attend);
 - C) be held within fifteen (15) calendar days of the receipt of request;
 - D) afford the applicant an opportunity to bring an interpreter and/or representative; and

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- E) allow the applicant to present oral and written testimony on his/her behalf.
- 6) The LAA will give the applicant a written statement at the end of the conference describing the result of the conference and citing the policy reasons for the decision. A copy of this report must be filed in the applicant's file.
- 7) In the event of a finding in support of an applicant, the LAA shall, within fifteen (15) days of the finding, process the application and notify the applicant and the home energy provider(s) in writing of the applicant's eligibility. In the case of an emergency assistance application, the LAA shall process the application and notify the applicant and the home energy provider(s) within forty-eight (48) hours. In the event of a disapproval, the LAA shall provide the applicant with a Request for State Review Form. The request must specify the LAA at which the household applied for assistance, whether the LAA has held an informal conference, and the reasons for requesting a state review.
- b) State Review
- A request for state review must be filed with the Department within thirty (30) days after the informal conference. If the request is timely made, the Department will appoint a state reviewing officer who will review the applicant's file and the informal conference report. A written decision will be made. The request is considered made on the day the request is received by the Department (per the date stamp on the correspondence). The Department will notify the LAA that a request for state review has been filed. The LAA must, within five (5) days of the request for state review, provide both the Department and the applicant with a full copy of the applicant's file. A state reviewing officer will review the file to determine if the application contains all information required in Section [100+09.250\(d\)](#) and all testimony presented at the informal conference. The state reviewing officer shall ascertain if the applicant was provided with a Request for State Review Form in accordance with subsection (a)(7) and determine if the informal conference decision regarding eligibility was correct (see Section [100+09.250](#) for eligibility criteria). This determination will be made and a letter sent to the applicant and the LAA within fifteen (15) days of the request for state review. In the event of finding in support of an applicant, the LAA shall approve and process the application or modify the assistance granted, and notify the

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applicant and the home energy provider(s) in writing within fifteen (15) days of notification of the finding from the State. In the case of an emergency assistance application, the LAA shall process the application and notify the applicant and the home energy provider(s) within forty-eight (48) hours of notification of the finding from the State. In the event of a disapproval, the State shall provide the client with a Request for Formal Review Form. The request must specify the LAA at which the household applied for assistance, whether an informal conference has been held, if the state review has been conducted and the household notified of the decision, and the reasons for requesting a formal hearing.

- c) The Formal Hearing
- If not satisfied with the results of the state review, the applicant must request a formal hearing by sending a written request to the Department who will notify the LAA that the request has been made by the applicant. This request must be received by the Department within thirty (30) calendar days of the date on which the state review letter was mailed by the Department. The Department will provide the applicant with a notice of the hearing in accordance with Section 10-25 of the Illinois Administrative Procedure Act [5 ILCS 100/10-25]. The hearing will be conducted by a hearing officer, who has not participated in any earlier decision concerning this application, within thirty (30) days from the date the formal hearing request was received by the Department. The formal hearing will meet the following standards.
- 1) The hearing will be held at the application site closest to the applicant's residence or at the applicant's residence if they are confined.
 - 2) The applicant will be afforded an opportunity to review his/her file.
 - 3) The hearing will be tape-recorded.
 - 4) The decision will be based on the record, which will comply with Section 10-35 of the Illinois Administrative Procedure Act and which will be made pursuant to the procedures set forth in Section 10-45 of the Illinois Administrative Procedure Act. The hearing officer will determine if the household is eligible in accordance with Section ~~100109~~.250.
 - 5) If requested by the applicant, the applicant will be provided interpretive and auxiliary services (e.g., transportation).

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- 6) The applicant will have the right to:
 - A) be accompanied and/or represented by another;
 - B) present written and oral statements and other evidence in accordance with Section 10-40 of the Illinois Administrative Procedure Act;
 - C) bring an interpreter; and
 - D) present and question witnesses.
- 7) Within ten (10) days of the formal hearing, the state appeals review board shall send a written determination to the applicant and the LAA in accordance with Section 10-50 of the Illinois Administrative Procedure Act.
- 8) In the event of a finding in support of an applicant, the LAA shall, within fifteen (15) days of notification of the finding, process the application or modify the assistance granted and notify the applicant and the home energy provider(s) in writing of the applicant's eligibility. In the case of an emergency application, the LAA will process the application and notify the applicant and the home energy provider(s) within forty-eight (48) hours.

(Source: Section 100.90 recodified from 89 Ill. Adm. Code 109.90 at 33 Ill. Reg. 9466)

Section ~~100109~~.100 Complaint Process

The Department will follow the procedures outlined in ~~5689~~ Ill. Adm. Code ~~2605104~~ for complaints filed by LAA's or other recipients. Procedures specified in Section ~~100109~~.90 of this Part will be followed for complaints by applicants for energy assistance.

(Source: Section 100.100 recodified from 89 Ill. Adm. Code 109.100 at 33 Ill. Reg. 9466)

Section ~~100109~~.110 Incorporation by Reference

Any incorporation by reference in this Part of the rules and regulations of any agency of the

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United States or of standards of a nationally recognized organization or association includes no new amendments or additions made after the date specified.

(Source: Section 100.110 recodified from 89 Ill. Adm. Code 109.110 at 33 Ill. Reg. 9466)

SUBPART B: ENERGY ASSISTANCE

Section ~~100.109~~.200 Energy Assistance Program

- a) **Implementation**
This Part institutes the energy assistance program mandated by the Energy Assistance Act. This assistance program shall be known as the "Low Income Home Energy Assistance Program" (LIHEAP).
- b) **Impacting Authorities**
The following authorities, among others, affect the implementation or operation of LIHEAP:
 - 1) The Low-Income Home Energy Assistance Act of 1981, which affects eligibility requirements and the use of Low Income Home Energy Assistance Block Grant funds used in LIHEAP.
 - 2) The Public Utilities Act and the rules applicable to that Act (83 Ill. Adm. Code 280).
 - 3) The Energy Assistance Act.
- c) **Eligibility**
Any individual who is a resident of the State of Illinois and whose household income is not greater than 150% of the federal non-farm poverty level as established by the federal Office of Management and Budget (OMB) (or their successor in responsibility) is eligible to apply for benefits under LIHEAP. In establishing the eligibility level, the Department shall consider factors including, but not limited to, economic conditions, State and federal funding levels, and energy costs.
- d) **Application Initiation**
Individuals may apply for assistance under LIHEAP at the LAA office serving the

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area in which the applicant's dwelling unit is located. A current list of LAA offices may be obtained by calling or writing any office of the Department.

(Source: Section 100.200 recodified from 89 Ill. Adm. Code 109.200 at 33 Ill. Reg. 9466)

Section 100109.210 Allocation of Block Grant Funds

- a) The Department shall allocate financial assistance for each county from sums available for any fiscal year from the Low Income Home Energy Assistance Block Grant as described in the State's annual plan to HHS.
- b) The Department shall determine allocations for each county from available funds.
 - 1) At least 50% of the funds available shall be allocated to each county based on the "Index of Need".
 - A) The Index of Need is comprised of five factors, which are:
 - i) Heating Degree Days;
 - ii) Fuel Cost Factor Per 100,000 BTUs;
 - iii) Persons in Poverty (an amount determined by the Department by equally weighing available funding, energy costs, and economic conditions, but shall not exceed 150% of the OMB Poverty Income Guidelines);
 - iv) Elderly in Poverty (an amount determined by the Department by equally weighing available funding, energy costs, and economic conditions, but shall not exceed 150% of OMB Poverty Income Guidelines); and
 - v) Disabled persons.
 - B) Each factor will be multiplied by an assigned weight. The formula for determining each of these factors and the weight to be assigned to these factors is as follows:

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- i) number of climatic heating degree days per county divided by total climatic heating degree days for State = heating degree days (5%);
 - ii) estimated fuel cost per 100,000 BTUs per county divided by total estimated fuel cost per 100,000 BTUs for State = fuel cost factor per 100,000 BTUs (5%);
 - iii) number of persons in poverty per county divided by total number of persons in poverty for State = persons in poverty (75%);
 - iv) number of elderly persons in poverty per county divided by total number of elderly persons in poverty for State = elderly in poverty (10%); and
 - v) number of disabled persons per county divided by total number of disabled persons for State = Disabled (5%).
- C) The sum of weighted factors will be multiplied by the total amount allocated to the counties to determine the county's allocation of funds.
- 2) The remaining funds shall be held by the State for meeting those program contingencies which cannot be reasonably anticipated, (e.g., an unusually high need for energy assistance in any given county) and to meet the local agencies' administrative and/or outreach needs.
- c) The Department shall increase or reduce the allocation for a county for any of the following reasons:
- 1) Changes in federal or state fund availability.
 - 2) Changes in sums available for any fiscal year from the Low Income Home Energy Assistance Block Grant as described in the State's annual plan to HHS.
 - 3) The Department determines that the level of applications, which are eligible under Section ~~100-109~~.250, differs from the local agency's

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allocation, which is determined pursuant to subsection (b), during the subgrant period for which financial assistance was awarded.

- d) The Department shall make available one-third of the allocation for any county for the provision of assistance described in Section [100109.220\(a\)\(1\)](#) or (2) to eligible applicant households who are recipients of Temporary Assistance to Needy Families (TANF); General Assistance (GA); Aid to Aged, Blind, and Disabled (AABD); or who have incomes equal to or less than 40% of the OMB Poverty Guidelines.
- e) The Department shall notify the designated LAAs of the county allocations for which that agency is eligible to apply. Where no agency has been designated, the county allocations will be included in a request for proposal which shall be publicly advertised in the State newspaper and in at least one local newspaper within the area to be served.

(Source: Section 100.210 recodified from 89 Ill. Adm. Code 109.210 at 33 Ill. Reg. 9466)

Section [100109.220](#) Assistance Available

- a) Assistance Options
All applicants eligible for assistance under LIHEAP as described in Section [100109.250](#) are eligible to receive assistance under the following options:
 - 1) Option 1
 - A) If the applicant: is not a customer of record of a home energy provider for winter energy services; and is not an applicant for winter energy services from a home energy provider; and has housing rental expenses greater than 30% of his/her household income.
 - B) Then the applicant shall receive one direct cash payment in an amount determined annually by the Department. Subject to applicable requirements of this Part, the applicant must provide verification of rental expenses, and attest that he/she is not a customer or applicant for winter energy services from a home energy provider,

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- C) The Department will apply an equal weight to each of the major items considered in setting the amount.
- 2) Option 2
 - A) If the applicant or member of the applicant's household: is the customer of record of a home energy provider for winter energy services; or has a household member who is an applicant for winter energy services from a home energy provider,
 - B) Then a one-time direct vendor payment will be made to the home energy providers per program year on behalf of the applicant in the amount prescribed by the Department. The amount will be established annually after consultation with the Policy Advisory Council and will be based on factors including, but not limited to, available funding, energy costs, and economic conditions. The Department will apply an equal weight to each of the major items considered in setting the amount.
 - 3) Option 3 (Emergency Assistance):
 - A) If the applicant: is a customer of record of a home energy provider for winter energy services and was receiving home energy provider services but is now disconnected, then:
 - i) The applicant shall receive emergency assistance consisting of an amount up to the minimum amount needed to reconnect and/or establish service to the applicant, but in no case shall such assistance exceed the amount determined annually by the Department, in consultation with the Policy Advisory Council, on the basis of available funding and energy costs. Equal weight shall be given to each of the items considered in setting the amount.
 - ii) The applicant is subject to the emergency assistance program requirements (as provided in subsection (b)(2)).
 - B) If the applicant is a customer of record and homeowner, the

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applicant may receive benefits designed to restore heat in the event of an inoperable heating system.

- b) Explanation of Benefits
 - 1) Energy Assistance
 - A) Assistance under Option 1 will be limited to a one-time cash payment that will be sent directly to the applicant.
 - B) Assistance under Option 2 will be limited to a one-time payment that will be sent to the energy providers if the providers sign a vendor agreement with the Department in which they agree to comply with the terms and conditions of the LIHEAP or to a qualified heating contractor for repairs or replacement to the heating system.
 - 2) Emergency Assistance Program Requirements
 - A) Assistance under Option 3 will be limited to the provision of energy assistance funds designed to help applicants obtain a continuous supply of heat or home energy and expedited processing. Emergency Assistance will be provided only after an applicant has actually been disconnected. Emergency Service assistance will be provided within 48 hours from the date the client application is complete (all client documentation has been submitted); 18 hours if the energy crisis is life threatening.
 - B) An emergency payment will not be made on behalf of an applicant unless the household makes a good-faith effort at maintaining service at the time of reconnection. A good-faith effort is defined in Section [100+09.30](#). Prior heating assistance payments received by the home energy provider will not be counted as a contribution for-the good-faith effort. An applicant who has failed to make a good-faith effort will be required to provide an amount specified in the operations manual-toward the amount needed for reconnection at the time of reconnection. The good faith rule may be waived in cases of extreme economic hardship. Extreme economic hardship exists when the household's source of income has been

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permanently terminated for at least 30 days and a new source of income has not commenced.

- C) The amount of emergency assistance will be an amount up to the minimum amount needed to re-establish the applicant or restore the heating system to an operable condition. In no case will the amount of emergency energy assistance exceed the total amount owed by the applicant. The applicant may only receive assistance under Option 3 one time for the primary home energy provider and/or one time for the secondary home energy provider during the program year.
- D) In order to carry out this option, the Department will utilize delegate agencies and/or LAAs to provide assistance.

(Source: Section 100.220 recodified from 89 Ill. Adm. Code 109.220 at 33 Ill. Reg. 9466)

Section 100109.230 Applicant Assistance

- a) Application and Enrollment
 - 1) Applications for assistance shall be submitted to and processed on a full-time basis by LAAs during months specified by the Department. The dates will be set annually by the Department after consultation with the Policy Advisory Council and will be based on factors including, but not limited to, available funding, energy costs, weather and economic conditions. The Department will apply equal weight to each of the major items considered. Applicants that are elderly or disabled, and/or applicants that have been disconnected from their primary and/or secondary home energy provider, will have a priority application period designated specifically for them.
 - 2) The LAAs shall either approve or disapprove a completed application within 30 days after its receipt and, in the event of approval, shall within the same 30 days notify the applicant and the applicant's home energy provider electronically or in writing of the applicant's eligibility. If the application is incomplete at the time of its receipt, the LAA shall notify the applicant in writing, at the time of its receipt of the application, of all

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the information required from the applicant to complete the application. The applicant shall submit the additional information necessary to complete the application within 15 days after the date of the notification letter. In the event an applicant fails to submit the application in a timely manner or fails to submit all information necessary to complete the application, the LAA may disapprove the application. If the LAA disapproves an application, it shall, within 30 days after receipt of the completed application, notify the applicant in writing of the disapproval and reasons for disapproval. The notification must also apprise the applicant of the dispute resolution procedures set forth in Section [100109.90](#).

- 3) When the home energy provider receives written or electronic notice of a customer of record's eligibility for assistance (as described in Section [100109.220](#)), the home energy provider shall place the customer of record on the option within 30 days. During that period, the home energy provider shall not disconnect the applicant for nonpayment. If an applicant's service is disconnected during that period, service shall be restored without penalty as soon as is practicable, and in no event later than as provided in 83 Ill. Adm. Code 280.130(f).
- 4) A home energy provider may refuse to accept the notice of eligibility referred to above if it pertains to a person in the household who is not the customer of record or if it contains an incorrect account number. If the home energy provider does not accept the notice of an applicant's eligibility, the home energy provider must notify the applicant, the Department, and the LAA in writing within 14 days after the provider's receipt of the notice that the applicant's enrollment was rejected, the reason for the rejection and what the applicant must do prior to the home energy provider accepting the enrollment. The notification must also apprise the applicant of the availability of the dispute resolution procedures set forth in Section [100109.90](#). The home energy provider's notice must give the applicant 14 days from the postmark date of the notification to eliminate the reason for rejection. During the 14-day period following the postmark date, the home energy provider shall not disconnect a customer of record for non-payment.
- 5) Each home energy provider shall inform all residential customers of record of the availability of the program provided for in this Part.

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- 6) All written notices of discontinuance issued to residential customers of record pursuant to 83 Ill. Adm. Code 280 or the company's normal credit collection practices shall include information regarding the availability of the program provided for in this Part.
- b) Payment Process
 - 1) Eligible applicants pursuant to Option 1 (as described in Section ~~100109~~.220(a)) will receive a direct cash payment for energy assistance in accordance with ~~Section 109~~-Appendix A. This payment will be made, in accordance with appropriate grant agreements, by either the Department or the LAA.
 - 2) Eligible applicants pursuant to Option 2 (as described in Section ~~100109~~.220(a)(2)) will receive assistance, provided on their behalf to the applicant household's home energy providers in an amount detailed in ~~Section 109~~-Appendix A. This payment will be made, in accordance with appropriate grant agreements, by either the Department or the LAA. The applicant's account shall be posted/credited with the payment within 30 days after the home energy provider's receipt of the payment. If the energy providers fail to sign a Vendor Agreement, then a two-party check will be sent to the applicant.

(Source: Section 100.230 recodified from 89 Ill. Adm. Code 109.230 at 33 Ill. Reg. 9466)

Section ~~100109~~.240 Summer Energy Assistance

- a) A LIHEAP Summer Energy Assistance Program may be operated by the Department only if unused heating assistance funds are available. This option will provide eligible households with assistance to help meet summer energy costs and respond to heat related conditions. The following types of benefits may be provided:
 - 1) Direct Client Assistance (DCA) payments to home energy providers-on behalf of income-eligible households (see Section ~~100109~~.250) that contain an eligible member as defined by the Department;

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- 2) The purchase of an electric fan; and
 - 3) The purchase or repair of air conditioners or fans by a LAA for income-eligible households that have a medically necessitated need for cooling (in accordance with subsections (b) and (c)).
- b) To receive air conditioner repair or an air conditioner, a household must be determined income eligible in accordance with the process described in Section [100109.250](#). Additionally, the household must contain at least one member experiencing a medical condition that can be ameliorated by cooling.
- c) The existence of the medical condition must be certified by a licensed medical practitioner. Medical persons from whom this certification can be accepted are limited to the following:
- 1) Any physician licensed in accordance with the Medical Practice Act of 1987 [225 ILCS 60] or licensed in an adjoining state;
 - 2) Any registered nurse or practical nurse licensed under the [Nurse Nursing and Advanced Practice Nursing Act](#) [225 ILCS 65] that is employed by a visiting nurse association or county government or health department and who has attended the applicant or a member of his/her household;
 - 3) Public health officials who are medical persons (i.e., licensed physicians or licensed registered or licensed practical nurses acting as a representative of a physician) associated with the National Health Service, the Illinois Department of Public Health, a county health department, or a city or township health department;
 - 4) Any physician's assistant certified under the Physician Assistant Practice Act of 1987 [225 ILCS 95] working with any attending licensed physician;
 - 5) Any licensed registered or practical nurse working with an attending licensed physician or physician assistant; or
 - 6) Any practitioner who provides treatment through prayer or spiritual means (e.g., Christian Scientist).

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- d) LAAs will take cooling assistance applications for a period determined by the Department or until summer assistance funds are depleted. In determining the length of time the local agencies will be required to take applications, the Department will equally consider factors such as the amount of funding available, weather conditions and length of time remaining in existing grants. Intake sites are to be open for a minimum of two days per week until funds have been exhausted. Application data will be entered into the automated LIHEAP reporting and tracking system by the LAA. Applications are to be retained and filed by the LAA. All reports that are available for the "heating" options will be available for the summer program option.
- e) Verification, authorization, and client/vendor notification will occur within 30 days after a completed application. Payment must occur within 15 days after the notification.
- f) Summer Assistance Benefit payments to electric utilities on behalf of eligible households must be used to reduce the current bill of the household. The Department will notify the LAAs of which public utilities, as defined by Section 3-105 of the Public Utilities Act, have agreed to abide by this constraint. LAAs must determine which utilities that are not public utilities will comply. In cases where the home energy provider refuses, cooling assistance payments will be made directly to the households.
- g) On the date the Department notifies the LAAs that the summer option becomes operable, LAAs may take emergency service applications for clients whose electricity is not an integral part of their heating system (i.e., heat will be delivered without use of electricity).

(Source: Section 100.240 recodified from 89 Ill. Adm. Code 109.240 at 33 Ill. Reg. 9466)

Section 100109.250 Determination of Household Eligibility

- a) Household applications for assistance through program options contained in Sections 100109.230 and 100109.240 will be accepted by LAAs if there are sufficient funds allocated to the LAA to grant assistance through program options.
- b) Eligibility requirements for Section 100109.220 are for a 30-day period based on an amount equal to 150% of the OMB Poverty Income Guidelines per most recent

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census data. To receive assistance:

- 1) The customer of record must be a member of the household. A household member may apply on behalf of the customer of record.
- 2) A household applying for emergency service must:
 - A) meet income guidelines as specified in subsection (b);
 - B) be disconnected from their primary and/or secondary heat source; and
 - C) have paid their primary and/or secondary heat source, within the past 90 days, a "good faith" payment. The good faith rule as defined in Section ~~100109~~.30 may be waived in cases of extreme economic hardship. Extreme economic hardship exists when the household's source of income has been permanently terminated for at least 30 days and a new source of income has not commenced.
- c) Application Requirements – A client application for assistance is complete when it contains:
 - 1) a copy of utility bills or landlord statement that energy payments are included in the rent;
 - 2) proof of income for any household member age 18 or older;
 - 3) for an applicant whose utility service has been disconnected and is applying for an emergency service payment, proof that the household has paid a "good faith" amount as defined in Section ~~100109~~.30 toward its utility bills (e.g., a copy of the applicant's utility bills);
 - 4) head of household information;
 - 5) dwelling information;
 - 6) household income information; and
 - 7) home energy information.

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- d) Verification of Rental Expenses – Rental expenses may be verified by documentation in the form of: lease/rental agreements, current rent receipts, or verification letters from the applicant's landlord or authorized property manager.
- e) Notification Requirements – Households will receive written notification regarding eligibility determination within 30 days after the date the client application is complete. Additionally, home energy providers (e.g., utility companies) receiving a payment on behalf of an eligible household will be notified in writing of the household's eligibility within the same 30-day period.

(Source: Section 100.250 recodified from 89 Ill. Adm. Code 109.250 at 33 Ill. Reg. 9466)

SUBPART C: WEATHERIZATION

| Section ~~100~~109.400 Allocation of Funds

- a) The Department shall allocate financial assistance for each county from sums tentatively transferred for any fiscal year from the Low Income Home Energy Assistance Block Grant, as described in the State's annual plan to HHS, and the State Supplemental Low-Income Energy Assistance Fund.
- b) The Department shall determine allocations for each county from available funds.
 - 1) At least 90% of the funds tentatively transferred shall be allocated to each county based on the "Index of Needs".
 - A) The Index of Needs is comprised of five factors:
 - i) Heating Degree Days;
 - ii) Fuel Cost Factor Per 100,000 BTUs;
 - iii) Persons in poverty per the most recent census data;
 - iv) Elderly in poverty per the most recent census data; and
 - v) Handicapped (or disabled) persons in poverty.

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- B) Each factor will be multiplied by an assigned weight. The formula for determining each of these factors and the weight to be assigned to these factors is as follows:
- i) number of climatic heating degree days per county divided by total climatic heating degree days for State = heating degree days (5%);
 - ii) estimated fuel cost per 100,000 BTUs per county divided by total estimated fuel cost per 100,000 BTUs for State = fuel cost factor per 100,000 BTUs (5%);
 - iii) number of persons in poverty per county divided by total number of persons in poverty for State = persons in poverty (75%);
 - iv) number of elderly persons in poverty per county divided by total number of elderly persons in poverty for State = elderly poverty (10%); and
 - v) number of disabled persons in poverty per county divided by total number of disabled persons in poverty for State = handicapped (or disabled) in poverty (5%).
- C) The sum of weighted factors will be multiplied by the total amount allocated to the counties to determine the county's allocation of funds.
- 2) The remaining funds, not to exceed 10%, shall be held by the State for meeting those program contingencies that cannot be reasonably anticipated (e.g., an unusually high need for furnace replacements in any given county) and to meet the local agencies' training and technical assistance needs.
- c) The Department shall increase or reduce the allocation for a county for any of the following reasons:
- 1) Changes in federal fund availability.

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- 2) Changes in sums tentatively transferred for any fiscal year from the Low Income Home Energy Assistance Block Grant as described in the State's annual plan to HHS.
- 3) The Department determines that the number of eligible applicants that are eligible under Section [100109.450](#) differs from the local agency's allocation, which is determined pursuant to subsection (b), during the subgrant period for which financial assistance was awarded.
- d) The Department's Chief of the Office of Energy Assistance shall notify the designated local agencies of the county allocations for which that agency is eligible to apply. Where no agency has been designated, the county allocations will be included in a request for proposal that shall be publicly advertised within the area to be served.

(Source: Section 100.400 recodified from 89 Ill. Adm. Code 109.400 at 33 Ill. Reg. 9466)

Section [100109.410](#) Minimum Program Requirements

- a) No dwelling unit may be weatherized without documentation that the household and the dwelling unit is eligible as provided in Section [100109.450](#).
- b) Priority is to be assigned, in terms of scheduling weatherization work, as follows:
 - 1) to the elderly, the disabled, and families with small children (5 and under); and
 - 2) households with the lowest incomes and highest utility bills.
- c) The financial assistance provided under this Subpart will be used as follows:
 - 1) by increasing the funds available for IHWAP, which will provide additional weatherization assistance identical to that provided by the DOE and the HHS, and shall be promulgated annually by the Department no later than the beginning of the IHWAP Program year, as specified in 10 CFR 440.18(c) (1995); and

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- 2) by expanding the State's currently allowable weatherization measures and including heating system tune up, repair, and retrofit measures to increase the efficiency of the furnace or replacement of the furnace.
- d) Whenever other federal, State, local or privately funded programs are available in the county to provide weatherization assistance activities specified in Section [100109.420](#), the local administering agency shall seek to coordinate those activities with those funded by HHS. Such coordination will seek to avoid duplication of services and encourage joint funding of weatherization projects.
- e) No dwelling unit may be reported to the Department as complete until a local administering agency has performed a final inspection certifying that work has been completed in an acceptable manner and in accordance with the work order issued as a result of the agency's audit/assessment. The work has been completed in an acceptable manner if there is no air infiltration or general heat waste; the attic, sidewalls, or crawl spaces have been insulated and/or ventilated; or storm windows and doors have been installed. The local administering agency is subject to suspension and/or termination of funds if it reports a dwelling unit as completed without performing a final inspection.

(Source: Section 100.410 recodified from 89 Ill. Adm. Code 109.410 at 33 Ill. Reg. 9466)

Section [100109.420](#) Allowable Costs

- a) The LAA may use a percentage to be determined by the Department of the total funds allocated for local agency administration. The amount will be established annually after consultation with the Policy Advisory Council (see 305 ILCS 20/5) and will be based on factors including, but not limited to, available funding and program requirements. The Department will apply an equal weight to each of the major items considered in setting the percentage.
- b) The LAA may use allocated program funds to provide for liability insurance (to cover project-related personal injury and property damage) and to provide for training and technical assistance.
- c) The LAA is to use the remaining funds to provide the materials, labor, and program support necessary to operate those services specified under the IHWAP.

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(Source: Section 100.420 recodified from 89 Ill. Adm. Code 109.420 at 33 Ill. Reg. 9466)

Section 100109.430 Cost Restrictions

- a) The following cost restrictions apply to funds allocated to the county for IHWAP, which are based on such factors as the number of basic component activities conducted in the previous year.
 - 1) Of those funds provided for weatherization materials, labor and related program support specified in 10 CFR 440.18(c) (1995), an amount not to exceed 25% of applied labor and materials will be allowed for program support.
 - 2) Of those funds available to provide weatherization materials, labor, and related program support specified in 10 CFR 440.18(c), no more than \$2500 (U.S. Department of Energy), \$5000 (U.S. Department of Health and Human Services) and \$7500 (State) may be spent on any one dwelling unit.
 - 3) Expenditures for IHWAP may include:
 - A) the cost of purchase and delivery of weatherization materials;
 - B) labor costs to supplement wages paid to training participants and to employ labor or to engage contractors to install weatherization materials;
 - C) transportation of weatherization materials, tools, equipment and work crews to a storage site and to the site of weatherization work;
 - D) maintenance, operation, and insurance of vehicles used to transport materials and laborers;
 - E) maintenance of tools and equipment;
 - F) purchase or lease of tools, equipment and vehicles;
 - G) employment of on-site supervisory personnel;

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- H) storage of weatherization materials, tools and equipment;
 - I) the cost of incidental repairs if such repairs are necessary to make the installation of weatherization materials effective; and
 - J) the cost of liability insurance for weatherization projects for personal injury and property damage.
- 4) No grant funds may be used for any of the following purposes:
- A) to weatherize a dwelling unit that is designated for acquisition or clearance by a federal, State or local program within 12 months from the date weatherization of the dwelling unit would be scheduled to be completed; and
 - B) to install or otherwise provide materials for a dwelling unit weatherized prior to October 1, 1993 with grant funds under this or other federal weatherization programs administered by HHS or DOE, unless the dwelling unit has been damaged by fire, flood or act of God and repair of the damage to weatherization materials is not paid for by insurance.
- b) The following cost restrictions apply to IHWAP heating system work. Cost restrictions for the various types of service to be offered (tune-up, repair, retrofit, replacement) shall be promulgated annually by the Department no later than July of each program year.
- 1) Expenditures for heating system work may include the following:
- A) the costs to purchase and deliver weatherization materials for heating systems, including automatic or mechanical furnace ignition devices; flue vent devices; materials for heating and cooling system tune-ups, repairs and retrofit modifications that will result in improved energy efficiency; heat exchangers; waste heat recovery devices; replacement burners, furnaces, or boilers or any combination; replacement space heaters where the space heaters were permanently installed, including wood/coal burning stoves; products to improve the efficient circulation of heated water or air

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throughout the dwelling unit (e.g., fan-systems, piping, ductwork, etc.); decentralized domestic water heaters; and

- B) the costs of material handling, such as storage, transporting, purchasing, inventory and other related costs.
- 2) Labor and related program support costs include:
- A) the costs to install supplemental weatherization materials by a Heating, Air Conditioning and Refrigeration contractor who has been licensed by a municipality if the municipality licenses contractors in accordance with Section 11-32-1 of the Illinois Municipal Code [65 ILCS 5/11-32-1].
 - B) the costs of related program support, such as assessment/audits, final inspections, equipment, small tools and other local agency costs associated with providing weatherization assistance to eligible persons/dwelling units.
- 3) The costs of local agency liability insurance for weatherization projects for personal injury and property damage.

(Source: Section 100.430 recodified from 89 Ill. Adm. Code 109.430 at 33 Ill. Reg. 9466)

Section 100109.440 Standards and Techniques for Weatherization

- a) Only those materials that meet or exceed the standards prescribed by the Department in accordance with 10 CFR 440. Appendix A (2001) shall be purchased with funds provided under this Part. Further, where it is in the best interest of the State, the Department shall enter into cooperative purchasing agreements in which local agencies will be required to purchase products from a specified vendor in order to take advantage of a negotiated agreement on bulk purchase pricing. The Department will determine that a cooperative purchasing agreement is in the best interest of the State when equipment or materials, such as technical or specialty items, can be obtained at a lower cost.
- b) The most cost-effective measures for each dwelling unit shall be determined by utilizing Department audit procedures that take into account the cost of fuel

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saved, the lifetime of the materials installed, the costs of the materials, and the cost of installing the materials in accordance with the Department of Energy guidelines outlined in 10 CFR 440.21, February 1, 2002, with no later amendments or editions. The priorities on weatherization materials to be installed shall result from the application of these audit procedures. Department audit procedures will indicate when heating units are to be tuned and/or repaired, retrofitted or replaced.

- c) The IHWAP will not allow local agencies to switch a dwelling unit's fuel source unless they have received a written determination from the Department that the conversion would be more cost beneficial, as determined in accordance with subsection (b).

(Source: Section 100.440 recodified from 89 Ill. Adm. Code 109.440 at 33 Ill. Reg. 9466)

Section 100109.450 Eligible Dwelling Units

A dwelling unit shall be eligible for IHWAP services if:

- a) it meets the definition of separate, independent living quarters (see Section 100109.30);
- b) it is occupied by household members:
 - 1) whose total income is at or below 150% of the Poverty Income Guidelines per most recent census data (67 FR 6931-6933, February 14, 2002, with no later amendments or editions);
 - 2) who have received cash assistance payments under Title IV or XVI of the Social Security Act or under Temporary Assistance for Needy Families (89 Ill. Adm. Code 112) or Aid to the Aged, Blind or Disabled (89 Ill. Adm. Code 113) during the 12 month period preceding the determination of eligibility for weatherization assistance; or
 - 3) who are eligible for assistance, in accordance with Section 100109.250, under LIHEAP (as established by the Act);
- c) it is a building containing rental units eligible for weatherization assistance under

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subsection (b) where:

- 1) the local agency has obtained the written permission of the owner or his agent;
- 2) at least 50% of the dwelling units in the building are eligible dwelling units or will become eligible dwelling units within 180 days under a federal, State or local government program for rehabilitating the building or making similar improvements to the building, such as programs authorized by 42 USC 1437f, or 1474;
- 3) the local agency has insured that rents will not be raised because of the increased value of dwelling units due solely to weatherization assistance provided; and
- 4) no undue or excessive enhancement shall occur to the value of the dwelling units, e.g., the weatherization will be more cost beneficial to the landlord than to the tenant.

(Source: Section 100.450 recodified from 89 Ill. Adm. Code 109.450 at 33 Ill. Reg. 9466)

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Section ~~100.109~~.APPENDIX A LIHEAP Payment MatrixDIRECT VENDOR/CASH PAYMENTS
NORTHERN

2003 PAYMENT MATRIX – NORTH #1		0% - 40% Poverty Level					
FUEL TYPE	DVP	HOUSEHOLD SIZE					
		1	2	3	4	5	6 OR MORE
Natural Gas/ Other	Primary	\$364	\$422	\$438	\$473	\$483	\$ 500
	Secondary	\$103	\$161	\$184	\$206	\$223	\$ 240
	TOTAL	\$467	\$583	\$626	\$679	\$706	\$ 740
All Electric	TOTAL	\$293	\$418	\$460	\$505	\$537	\$ 573
Propane	Primary	\$326	\$512	\$536	\$572	\$599	\$ 628
	Secondary	\$146	\$240	\$288	\$332	\$359	\$ 395
	TOTAL	\$472	\$752	\$824	\$904	\$958	\$1,023
Fuel Oil	Primary	\$300	\$416	\$431	\$434	\$463	\$ 478
	Secondary	\$146	\$240	\$288	\$332	\$359	\$ 395
	TOTAL	\$446	\$656	\$719	\$766	\$822	\$ 873
	CASH	\$130	\$130	\$140	\$150	\$160	\$ 170

2003 PAYMENT MATRIX – NORTH #2		41% - 80% Poverty Level					
FUEL TYPE	DVP	HOUSEHOLD SIZE					
		1	2	3	4	5	6 OR MORE
Natural Gas/ Other	Primary	\$302	\$350	\$364	\$392	\$401	\$415
	Secondary	\$ 85	\$133	\$153	\$171	\$185	\$199
	TOTAL	\$387	\$483	\$517	\$563	\$586	\$614
All Electric	TOTAL	\$244	\$347	\$382	\$419	\$446	\$475
Propane	Primary	\$271	\$425	\$445	\$475	\$498	\$521
	Secondary	\$121	\$199	\$239	\$275	\$298	\$328
	TOTAL	\$392	\$624	\$684	\$750	\$796	\$849
Fuel Oil	Primary	\$249	\$345	\$358	\$361	\$384	\$397
	Secondary	\$121	\$199	\$239	\$275	\$298	\$328
	TOTAL	\$370	\$544	\$597	\$636	\$682	\$725
	CASH	\$108	\$108	\$116	\$125	\$133	\$141

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2003 PAYMENT MATRIX – NORTH #3		81% - 125% Poverty Level					
FUEL TYPE	DVP	HOUSEHOLD SIZE					
		1	2	3	4	5	6 OR MORE
Natural Gas/ Other	Primary	\$240	\$278	\$289	\$312	\$319	\$330
	Secondary	\$ 68	\$106	\$122	\$136	\$147	\$158
	TOTAL	\$308	\$384	\$411	\$448	\$466	\$488
All Electric	TOTAL	\$194	\$276	\$304	\$333	\$354	\$378
Propane	Primary	\$215	\$338	\$354	\$378	\$396	\$414
	Secondary	\$ 96	\$158	\$190	\$219	\$237	\$261
	TOTAL	\$311	\$496	\$544	\$597	\$633	\$675
Fuel Oil	Primary	\$198	\$274	\$284	\$287	\$305	\$316
	Secondary	\$ 96	\$158	\$190	\$219	\$237	\$261
	TOTAL	\$294	\$432	\$474	\$506	\$542	\$577
	CASH	\$ 86	\$ 86	\$ 92	\$ 99	\$106	\$112

2003 PAYMENT MATRIX – NORTH #4		126% - 150% Poverty Level					
FUEL TYPE	DVP	HOUSEHOLD SIZE					
		1	2	3	4	5	6 OR MORE
Natural Gas/ Other	Primary	\$182	\$211	\$219	\$236	\$242	\$250
	Secondary	\$ 51	\$ 80	\$ 92	\$103	\$112	\$120
	TOTAL	\$233	\$291	\$311	\$339	\$354	\$370
All Electric	TOTAL	\$147	\$209	\$230	\$252	\$269	\$287
Propane	Primary	\$163	\$256	\$268	\$286	\$300	\$314
	Secondary	\$ 73	\$120	\$144	\$166	\$179	\$198
	TOTAL	\$236	\$376	\$412	\$452	\$479	\$512
Fuel Oil	Primary	\$150	\$208	\$215	\$217	\$231	\$239
	Secondary	\$ 73	\$120	\$144	\$166	\$179	\$198
	TOTAL	\$223	\$328	\$359	\$383	\$410	\$437
	CASH	\$ 75	\$ 75	\$ 75	\$ 75	\$ 80	\$ 85

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DIRECT VENDOR/CASH PAYMENTS
SOUTHERN

2003 PAYMENT MATRIX – SOUTH #1		0% - 40% Poverty Level					
FUEL TYPE	DVP	HOUSEHOLD SIZE					
		1	2	3	4	5	6 OR MORE
Natural Gas/ Other	Primary	\$380	\$442	\$461	\$497	\$509	\$528
	Secondary	\$ 89	\$139	\$160	\$179	\$194	\$208
	TOTAL	\$469	\$581	\$621	\$676	\$703	\$736
All Electric	TOTAL	\$246	\$354	\$392	\$433	\$460	\$493
Propane	Primary	\$233	\$374	\$384	\$393	\$403	\$425
	Secondary	\$128	\$210	\$254	\$292	\$316	\$348
	TOTAL	\$361	\$584	\$638	\$685	\$719	\$773
Fuel Oil	Primary	\$253	\$351	\$364	\$377	\$390	\$404
	Secondary	\$128	\$210	\$254	\$292	\$316	\$348
	TOTAL	\$381	\$561	\$618	\$669	\$706	\$752
	CASH	\$105	\$110	\$115	\$125	\$135	\$140

2003 PAYMENT MATRIX – SOUTH #2		41% - 80% Poverty Level					
FUEL TYPE	DVP	HOUSEHOLD SIZE					
		1	2	3	4	5	6 OR MORE
Natural Gas/ Other	Primary	\$316	\$367	\$383	\$412	\$422	\$438
	Secondary	\$ 74	\$115	\$132	\$148	\$161	\$172
	TOTAL	\$390	\$482	\$515	\$560	\$583	\$610
All Electric	TOTAL	\$204	\$294	\$326	\$360	\$382	\$409
Propane	Primary	\$194	\$311	\$319	\$326	\$334	\$353
	Secondary	\$106	\$174	\$211	\$243	\$262	\$289
	TOTAL	\$300	\$485	\$530	\$589	\$596	\$642
Fuel Oil	Primary	\$210	\$291	\$302	\$313	\$324	\$335
	Secondary	\$106	\$174	\$211	\$243	\$262	\$289
	TOTAL	\$316	\$465	\$513	\$556	\$586	\$624
	CASH	\$ 87	\$ 91	\$ 95	\$104	\$112	\$116

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2003 PAYMENT MATRIX – SOUTH #3		81% - 125% Poverty Level					
		HOUSEHOLD SIZE					
FUEL TYPE	DVP	1	2	3	4	5	6 OR MORE
Natural Gas/ Other	Primary	\$251	\$291	\$305	\$328	\$336	\$348
	Secondary	\$ 59	\$ 91	\$105	\$118	\$128	\$137
	TOTAL	\$310	\$382	\$410	\$446	\$464	\$485
All Electric	TOTAL	\$162	\$234	\$259	\$286	\$304	\$325
Propane	Primary	\$154	\$247	\$253	\$259	\$266	\$280
	Secondary	\$ 84	\$139	\$168	\$193	\$209	\$230
	TOTAL	\$238	\$386	\$421	\$452	\$475	\$510
Fuel Oil	Primary	\$167	\$232	\$240	\$249	\$257	\$267
	Secondary	\$ 84	\$139	\$168	\$193	\$209	\$230
	TOTAL	\$251	\$371	\$408	\$442	\$466	\$497
	CASH	\$ 75	\$ 75	\$ 76	\$ 83	\$ 89	\$ 92

2003 PAYMENT MATRIX – SOUTH #4		126% - 150% Poverty Level					
		HOUSEHOLD SIZE					
FUEL TYPE	DVP	1	2	3	4	5	6 OR MORE
Natural Gas/ Other	Primary	\$190	\$221	\$231	\$248	\$254	\$264
	Secondary	\$ 44	\$ 69	\$ 80	\$ 89	\$ 97	\$104
	TOTAL	\$234	\$290	\$311	\$337	\$351	\$368
All Electric	TOTAL	\$123	\$177	\$196	\$217	\$230	\$246
Propane	Primary	\$117	\$187	\$192	\$197	\$201	\$212
	Secondary	\$ 64	\$105	\$127	\$146	\$158	\$174
	TOTAL	\$181	\$292	\$319	\$343	\$359	\$386
Fuel Oil	Primary	\$127	\$176	\$182	\$188	\$195	\$202
	Secondary	\$ 64	\$105	\$127	\$146	\$158	\$174
	TOTAL	\$191	\$281	\$309	\$334	\$353	\$376
	CASH	\$ 75	\$ 75	\$ 75	\$ 75	\$ 75	\$ 75

(Source: Appendix A recodified from 89 Ill. Adm. Code 109. Appendix A at 33 Ill. Reg. 9466)

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Section ~~100.109~~.APPENDIX B Medical Certification

Please fill out this statement and return to the following address:

I certify that _____ suffers from a serious health condition which can be ameliorated by cooling facilities. Illness or medical condition:

Asthma

Respiratory Allergies (requiring filtered air)

Severe obstructive lung disease

Severely debilitating stroke

Any medical condition of a non-ambulatory patient

Other – please specify: _____

Signature: _____

Name and Title/Degree: _____

Practice or Organization Name: _____

Registration No. _____

I hereby authorize this agency to verify that information provided by me and to contact my physician or other public health official for the purpose of securing medical certification as described above.

Name of Applicant

Signature of Applicant

Date

Social Security Number of Applicant

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

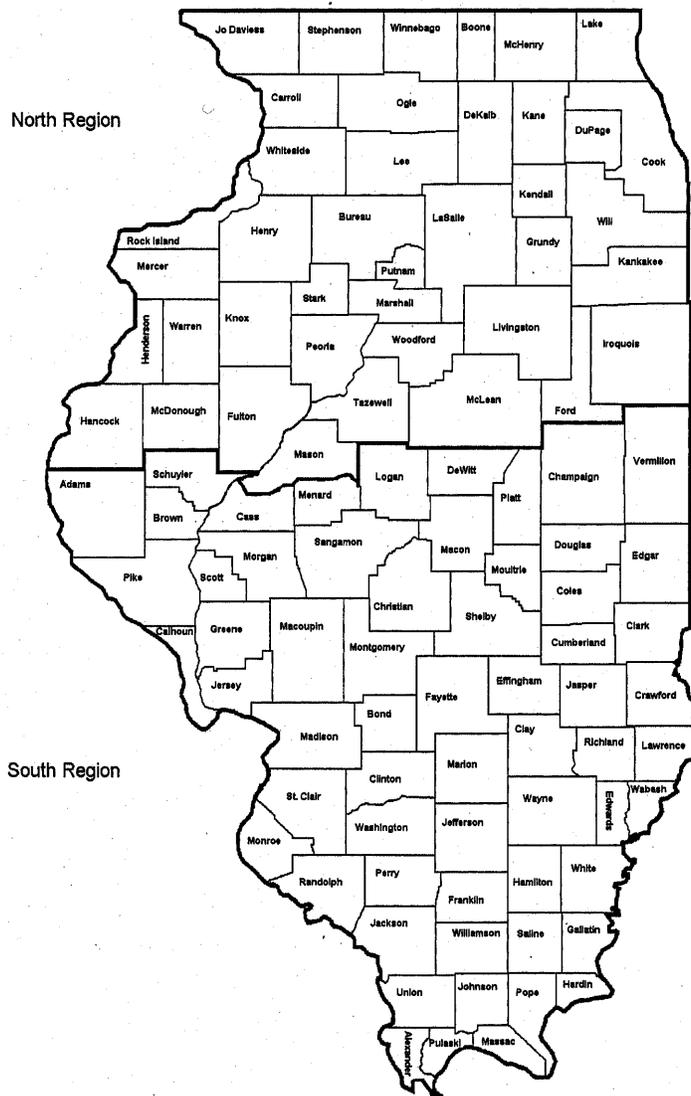
NOTICE OF RECODIFICATION

(Source: Appendix B recodified from 89 Ill. Adm. Code 109.Appendix B at 33 Ill. Reg. 9466)

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

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Section ~~100.109~~.APPENDIX C Assistance Level Chart Map



(Source: Appendix C recodified from 89 Ill. Adm. Code 109.Appendix C at 33 Ill. Reg. 9466)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF OBJECTION TO AND FILING PROHIBITION
OF PROPOSED RULEMAKING

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

Heading of the Part: Medical Payment

Code Citation: 89 Ill. Adm. Code 140

Section Numbers: 140.413
140.435
140.436

Date Originally Published in the Illinois Register: 8/22/08
32 Ill. Reg. 13761

At its meeting on June 16, 2009, the Joint Committee on Administrative Rules voted to object to the above-proposed rulemaking and prohibit its filing with the Secretary of State. The Committee found that the adoption of this rulemaking would constitute a serious threat to the public interest. The reason for the Objection and Prohibition is as follows:

HFS, in its efforts to prevent medical assistance abuse, is restricting physician reimbursement for group psychotherapy to psychiatrists and regulating clinical practices, which commentators maintain is an indirect and likely ineffectual way to address abuse.

The proposed rulemaking may not be filed with the Secretary of State or enforced by the Department of Healthcare and Family Services for any reason following receipt of this certification and statement by the Secretary of State for as long as the Filing Prohibition remains in effect.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

OBJECTION TO AND SUSPENSION OF EMERGENCY RULES

DEPARTMENT OF HUMAN SERVICES

Heading of the Part: Provider Requirements, Type Services, and Rates of Payment

Code Citation: 89 Ill. Adm. Code 686

Section Numbers: 686.200 686.230 686.250
686.210 686.235 686.260
686.220 686.240 686.280

Date Related Proposed Rulemaking Published
in Illinois Register: 5/22/09
33 Ill. Reg. 6894

Date Emergency Rule Published in the
Illinois Register: 5/22/09
33 Ill. Reg. 7017

At its meeting on June 16, 2009, the Joint Committee on Administrative Rules voted to object to and suspend the Department of Human Services' emergency rule titled Provider Requirements, Type Services, and Rates of Payment (89 Ill. Adm. Code 686; 33 Ill. Reg. 7017). The reason for the Suspension is as follows:

The Department offered no satisfactory rationale for its use of emergency rulemaking. JCAR finds that this unnecessary use of emergency rulemaking represents a threat to the public interest.

The suspended emergency rules may not be enforced by the Department of Human Services for any reason, nor may the Department file with the Secretary of State any rule having substantially the same purpose and effect as these suspended rules.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of June 16, 2009 through June 22, 2009 and have been scheduled for review by the Committee at its July 14, 2009 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
7/31/09	<u>Secretary of State</u> , Issuance of Licenses (92 Ill. Adm. Code 1030)	5/1/09 33 Ill. Reg. 6243	7/14/09
8/2/09	<u>Department of Central Management Services</u> , State of Illinois Medical Care Assistance Plan (80 Ill. Adm. Code 2120)	4/24/09 33 Ill. Reg. 5988	7/14/09
8/2/09	<u>Department of Human Services</u> , Food Stamps (89 Ill. Adm. Code 121)	3/27/09 33 Ill. Reg. 4537	7/14/09
8/2/09	<u>Department of Human Services</u> , General Administrative Provisions (89 Ill. Adm. Code 10)	3/27/09 33 Ill. Reg. 4500	7/14/09
8/5/09	<u>Department of Human Rights</u> , Procedures of the Department of Human Rights (56 Ill. Adm. Code 2520)	5/1/09 33 Ill. Reg. 6236	7/14/09
8/5/09	<u>Department of Human Services</u> , Food Stamps (89 Ill. Adm. Code 121)	4/3/09 33 Ill. Reg. 4811	7/14/09

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

JULY 2009 REGULATORY AGENDA

a) Part: Pay Plan, 80 Ill. Admin. Code 3101) Rulemaking:A) Description:

Projected amendments to the Department of Central Management Services' Pay Plan include the following revisions to the following sections:

In Section 310.280, designated rate changes in salaries, the addition of new positions and deletion of positions no longer utilized as approved by the Governor.

In Section 310.Appendix A, negotiated rate table changes based on bargaining unit agreements that are signed before December 31, 2009.

In Section 310.410, changes to include additional classification assignments to MS-salary ranges.

In Sections 310.450 and 310.540, changes to make the suspension of annual merit increases and bonuses permanent.

In various sections, changes to classifications either being established, revised or abolished with the approval of the Civil Service Commission.

In various sections, changes to the format of the Pay Plan to reduce duplicate information and provide easier access to information contained within the Pay Plan.

B) Statutory Authority:

Implementing and authorized by Sections 8, 8a and 9(7) of the Personnel Code [20 ILCS 415/8, 20 ILCS 415/8a and 20 ILCS 415/9(7)] and by Sections 4, 6, 15 and 21 of the Illinois Public Labor Relations Act [5 ILCS 315/4, 5 ILCS 315/6, 5 ILCS 315/15 and 5 ILCS 315/21]

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

JULY 2009 REGULATORY AGENDA

C) Scheduled meeting/hearing dates:

Interested persons may send specific criticisms, suggestions, and/or comments to the Department of Central Management Services in writing during the First Notice Period of the Pay Plan amendments.

D) Date agency anticipates First Notice:

Amendments to Section 310.280, Designated Rate, will be filed as the Governor approves changes throughout the year.

Peremptory amendments based on new memoranda of understanding or other bargaining unit agreements will be filed as negotiations are completed.

Peremptory amendments based on new, revised or abolished classifications represented by the bargaining units, and proposed amendments based on new, revised, or abolished classifications not represented by the bargaining units, will be filed as the classification actions are approved by the Civil Service Commission.

E) Effect on small businesses, small municipalities or not for profit corporations:

These amendments to the Pay Plan pertain only to state employees subject to the Personnel Code under the Governor. They do not set out guidelines that are to be followed by local or other jurisdictional bodies within the State.

F) Agency contact person for information:

Mr. Jason Doggett
Manager
Compensation Section
Division of Technical Services and Agency Training and
Development
Bureau of Personnel
Department of Central Management Services
504 William G. Stratton Building

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

JULY 2009 REGULATORY AGENDA

Springfield IL 62706

Telephone: 217/782-7964

Fax: 217/524-4570

CMS.PayPlan@Illinois.gov

G) Related rulemakings and other pertinent information:

Other amendments may be necessary based on emergent issues regarding State employee salary rates and policies.

STATE BOARD OF EDUCATION

JULY 2009 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citation): Public Schools Evaluation, Recognition and Supervision; 23 Ill. Adm. Code 1

1) Rulemaking:

- A) Description: The provisions for Annual Measurable Achievement Objectives for programs of transitional bilingual education, discussed in Section 1.88 of this Part, will need to be revised in light of recent federal directives. Any other clarifications or changes that are identified in the near future will also be included.
- B) Statutory Authority: 105 ILCS 5/2-3.6
- C) Scheduled meeting/hearing date: To be announced.
- D) Date agency anticipates First Notice: October 2, 2009
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency contact person for information:
- Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777
217/782-5270
- G) Related rulemakings and other pertinent information:

- b) Part(s) (Heading and Code Citation): Pupil Transportation Reimbursement; 23 Ill. Adm. Code 120

1) Rulemaking:

- A) Description: This rulemaking will include new provisions related to districts' choice to transport some students to and from child care locations rather than home, as well as several technical updates.

STATE BOARD OF EDUCATION

JULY 2009 REGULATORY AGENDA

- B) Statutory Authority: 105 ILCS 5/Art. 29
- C) Scheduled meeting/hearing date: To be announced.
- D) Date agency anticipates First Notice: July 3, 2009
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency contact person for information:
- Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777
217/782-5270
- G) Related rulemakings and other pertinent information:
- c) Part(s) (Heading and Code Citation): Health/Life Safety Code for Public Schools; 23 Ill. Adm. Code 180
- 1) Rulemaking:
- A) Description: At the present time, the 2006 editions of the International Building Code and its sub-codes are incorporated by reference in these rules. Part 180 will be updated to rely on the 2009 editions beginning January 1, 2010.
- B) Statutory Authority: 105 ILCS 5/2-3.12, 2-3.25, 2-3.137, and 17-2.11
- C) Scheduled meeting/hearing date: To be announced.
- D) Date agency anticipates First Notice: July 3, 2009
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None

STATE BOARD OF EDUCATION

JULY 2009 REGULATORY AGENDA

F) Agency contact person for information:

Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777
217/782-5270

G) Related rulemakings and other pertinent information:d) Part(s) (Heading and Code Citation): Special Education; 23 Ill. Adm. Code 2261) Rulemaking:

A) Description: Part 226 will be updated in several respects, including conforming Section 226.540 to new federal requirements governing consent and adding some new provisions related to surrogate parents. Several technical revisions will also be made.

B) Statutory Authority: 105 ILCS 5/Art.14 and 2-3.6

C) Scheduled meeting/hearing date: To be announced.

D) Date agency anticipates First Notice: December 4, 2009

E) Effect on small businesses, small municipalities, or not-for-profit corporations: None

F) Agency contact person for information:

Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777
217/782-5270

STATE BOARD OF EDUCATION

JULY 2009 REGULATORY AGENDA

G) Related rulemakings and other pertinent information:e) Part(s) (Heading and Code Citation): Gifted Education; 23 Ill. Adm. Code 2271) Rulemaking:

A) Description: References to the "gifted institute" that was conducted under ISBE's auspices for many years will be updated to identify the new gifted seminar that will be offered.

B) Statutory Authority: 105 ILCS 5/14A-55

C) Scheduled meeting/hearing date: To be announced.

D) Date agency anticipates First Notice: December 4, 2009

E) Effect on small businesses, small municipalities, or not-for-profit corporations: None

F) Agency contact person for information:

Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777
217/782-5270

G) Related rulemakings and other pertinent information:f) Part(s) (Heading and Code Citation): Transitional Bilingual Education; 23 Ill. Adm. Code 2281) Rulemaking:

A) Description: Several aspects of this set of rules will be revised. The English Language Proficiency Standards will be updated; new exit criteria will be stated; the requirements for teacher certification will be amended; and the Spanish Language Arts Standards will be incorporated.

STATE BOARD OF EDUCATION

JULY 2009 REGULATORY AGENDA

- B) Statutory Authority: 105 ILCS 5/Art. 14C and 2-3.39(1)
- C) Scheduled meeting/hearing date: To be announced.
- D) Date agency anticipates First Notice: October 30, 2009
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency contact person for information:

Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777
217/782-5270

- G) Related rulemakings and other pertinent information:

g) Part(s) (Heading and Code Citation): Driver Education; 23 Ill. Adm. Code 252

- 1) Rulemaking:

- A) Description: Provisions will be added to these rules to permit districts to contract with facilities that offer adaptive programs needed by certain students with disabilities. The required qualifications for teachers of driver education will also be revised.
- B) Statutory Authority: 105 ILCS 5/27-23 and 27-24 through 27-24.8
- C) Scheduled meeting/hearing date: To be announced.
- D) Date agency anticipates First Notice: July 3, 2009
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None

STATE BOARD OF EDUCATION

JULY 2009 REGULATORY AGENDA

F) Agency contact person for information:

Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777
217/782-5270

G) Related rulemakings and other pertinent information:h) Part(s) (Heading and Code Citation): Student Records; 23 Ill. Adm. Code 3751) Rulemaking:

A) Description: Specificity will be added to Part 375 to discuss videotapes made on school buses as well as medical information such as logs kept by diabetic students. Any changes needed for conformance with federal requirements under the Family Educational Rights and Privacy Act (FERPA) or the Health Insurance Portability and Accountability Act (HIPAA) will also be incorporated.

B) Statutory Authority: 105 ILCS 5/2-3.13a

C) Scheduled meeting/hearing date: To be announced.

D) Date agency anticipates First Notice: December 4, 2009

E) Effect on small businesses, small municipalities, or not-for-profit corporations: None

F) Agency contact person for information:

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100 North First Street
Springfield, Illinois 62777
217/782-5270

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JULY 2009 REGULATORY AGENDA

G) Related rulemakings and other pertinent information:

i) Part(s) (Heading and Code Citation): Special Education Facilities Under Section 14-7.02 of the School Code; 23 Ill. Adm. Code 401

1) Rulemaking:

- A) Description: This rulemaking will include only minor technical corrections.
- B) Statutory Authority: 105 ILCS 5/14-7.02 and 14-8.01
- C) Scheduled meeting/hearing date: To be announced.
- D) Date agency anticipates First Notice: July 3, 2009
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency contact person for information:

Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777
217/782-5270

G) Related rulemakings and other pertinent information:

j) Part(s) (Heading and Code Citation): Private Business and Vocational Schools; 23 Ill. Adm. Code 451

1) Rulemaking:

- A) Description: This rulemaking will involve updating the bonding requirements relative to the schools that are the subject of this Part.

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JULY 2009 REGULATORY AGENDA

- B) Statutory Authority: 105 ILCS 425 and 305 ILCS 5/11-2.1
- C) Scheduled meeting/hearing date: To be announced.
- D) Date agency anticipates First Notice: October 30, 2009
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency contact person for information:
- Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777
217/782-5270
- G) Related rulemakings and other pertinent information:
- k) Part(s) (Heading and Code Citation): Providers of Supplemental Educational Services;
23 Ill. Adm. Code 675
- 1) Rulemaking:
- A) Description: This amendment will include only a minor technical correction made necessary by an oversight during the most recent rulemaking on this Part.
- B) Statutory Authority: 105 ILCS 5/2-3.6
- C) Scheduled meeting/hearing date: To be announced.
- D) Date agency anticipates First Notice: July 3, 2009
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: Some of the providers affected by Part 675 may be organized as small businesses. This change will complete the process of revising the basis for evaluating all providers' performance in a way that is

STATE BOARD OF EDUCATION

JULY 2009 REGULATORY AGENDA

more reasonable for providers and was suggested in public comment during the recently completed rulemaking.

F) Agency contact person for information:

Shelley Helton
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100 North First Street
Springfield, Illinois 62777
217/782-5270

G) Related rulemakings and other pertinent information:

ILLINOIS WORKERS' COMPENSATION COMMISSION

NOTICE OF REGULATORY AGENDA

- a) Part(s) (Heading and Code Citation): Pre-arbitration, 50 Ill. Adm. Code 7020
- 1) Rulemaking:
- A) Description: The rulemaking would amend the Commission's arbitration procedures, including procedures relating to expedited hearings under Section 19(b) of the Workers' Compensation Act.
- B) Statutory Authority: 820 ILCS 305/16 and 19
- C) Scheduled meeting/hearing dates: No dates have been set.
- D) Date agency anticipates First Notice: No date has been set.
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- Kathryn A. Kelley
Counsel
Illinois Workers' Compensation Commission
100 West Randolph Street
Suite 8-272
Chicago, IL 60601
- 312/814-6559
- G) Related rulemakings and other pertinent information: None
- b) Part(s) (Heading and Code Citation): Arbitration, 50 Ill. Adm. Code 7030
- 1) Rulemaking:
- A) Description: The rulemaking would amend the Commission's arbitration procedures, including procedures relating to requesting arbitration decisions which include findings of fact and conclusions of law under Section 19(b) of the Workers' Compensation Act.

ILLINOIS WORKERS' COMPENSATION COMMISSION

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- B) Statutory Authority: 820 ILCS 305/16 and 19
 - C) Scheduled meeting/hearing dates: No dates have been set.
 - D) Date agency anticipates First Notice: No date has been set.
 - E) Effect on small businesses, small municipalities or not for profit corporations: None
 - F) Agency contact person for information:

Kathryn A. Kelley
Counsel
Illinois Workers' Compensation Commission
100 West Randolph Street
Suite 8-272
Chicago, IL 60601

312/814-6559
 - G) Related rulemakings and other pertinent information: None
- c) Part(s) (Heading and Code Citation): Review, 50 Ill. Adm. Code 7040
- 1) Rulemaking:
 - A) Description: The rulemaking would amend the Commission's review procedures, including procedures relating to expedited hearings under Section 19(b) of the Workers' Compensation Act.
 - B) Statutory Authority: 820 ILCS 305/16 and 19
 - C) Scheduled meeting/hearing dates: No dates have been set.
 - D) Date agency anticipates First Notice: No date has been set.
 - E) Effect on small businesses, small municipalities or not for profit corporations: None

ILLINOIS WORKERS' COMPENSATION COMMISSION

NOTICE OF REGULATORY AGENDA

F) Agency contact person for information:

Kathryn A. Kelley
Counsel
Illinois Workers' Compensation Commission
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Suite 8-272
Chicago, IL 60601

312/814-6559

G) Related rulemakings and other pertinent information: Noned) Part(s) (Heading and Code Citation): Settlement Contracts and Lump Sum Petitions, 50 Ill. Adm. Code 70701) Rulemaking:

A) Description: The rulemaking would amend the Commission's procedures regarding settlement contracts and lump sum petitions.

B) Statutory Authority: 820 ILCS 305/16 and 19

C) Scheduled meeting/hearing dates: No dates have been set.

D) Date agency anticipates First Notice: No date has been set.

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Kathryn A. Kelley
Counsel
Illinois Workers' Compensation Commission
100 West Randolph Street
Suite 8-272
Chicago, IL 60601

ILLINOIS WORKERS' COMPENSATION COMMISSION

NOTICE OF REGULATORY AGENDA

312/814-6559

G) Related rulemakings and other pertinent information: Nonee) Part(s) (Heading and Code Citation): Disciplining of Attorneys; Agents, 50 Ill. Adm. 70901) Rulemaking:A) Description: The rulemaking would amend the Commission's procedures relating to the disciplining of agents under Section 4 of the Workers' Compensation Act and the disciplining of attorneys.B) Statutory Authority: 820 ILCS 305/4, 16 and 19C) Scheduled meeting/hearing dates: No dates have been set.D) Date agency anticipates First Notice: No date has been set.E) Effect on small businesses, small municipalities or not for profit corporations: NoneF) Agency contact person for information:Kathryn A. Kelley
Counsel
Illinois Workers' Compensation Commission
100 West Randolph Street
Suite 8-272
Chicago, IL 60601

312/814-6559

G) Related rulemakings and other pertinent information: Nonef) Part(s) (Heading and Code Citation): Insurance Regulations, 50 Ill. Adm. Code 71001) Rulemaking:

ILLINOIS WORKERS' COMPENSATION COMMISSION

NOTICE OF REGULATORY AGENDA

- A) Description: The rulemaking would establish procedures regarding the Injured Workers' Benefit Fund and amend the Commission's insurance procedures, including procedures relating to self-insurance and insurance compliance under Section 4 of the Workers' Compensation Act.
- B) Statutory Authority: 820 ILCS 305/4, 16 and 19
- C) Scheduled meeting/hearing dates: No dates have been set.
- D) Date agency anticipates First Notice: No date has been set.
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- Kathryn A. Kelley
Counsel
Illinois Workers' Compensation Commission
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Suite 8-272
Chicago, IL 60601
- 312/814-6559
- G) Related rulemakings and other pertinent information: None
- g) Part(s) (Heading and Code Citation): Miscellaneous, 50 Ill. Adm. Code 7110
- 1) Rulemaking:
- A) Description: The rulemaking would establish requirements for certification of vocational rehabilitation counselors in accordance with Section 8(a) of the Workers' Compensation Act, amend procedures relating to the Rate Adjustment Fund and Second Injury Fund and establish procedures to address a significant limitation on access to quality health care under Section 8.2 of the Workers' Compensation Act.
- B) Statutory Authority: 820 ILCS 305/8(a), 8.2, 7(f), 8(g), 16 and 19

ILLINOIS WORKERS' COMPENSATION COMMISSION

NOTICE OF REGULATORY AGENDA

- C) Scheduled meeting/hearing dates: No dates have been set.
- D) Date agency anticipates First Notice: No date has been set.
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:

Kathryn A. Kelley
Counsel
Illinois Workers' Compensation Commission
100 West Randolph Street
Suite 8-272
Chicago, IL 60601

312/814-6559
- G) Related rulemakings and other pertinent information: None

PROCLAMATIONS

2009-203**SPECIAL SESSION PROCLAMATION**

- WHEREAS, on January 29, 2009, I took the Constitutional oath of office to become Governor of the State of Illinois, solemnly swearing that I would "support the Constitution of the United States, and the Constitution of the State of Illinois," and that I would "faithfully discharge the duties of the office of Governor to the best of my abilities"; and
- WHEREAS, my oath of office requires that I serve the people of the State of Illinois by ensuring that government operates responsibly; and
- WHEREAS, the same oath imposes on me the equally important duty to protect our State's most vulnerable citizens; and
- WHEREAS, Article VIII, Section 2(a) of the Illinois Constitution requires the Governor to prepare and submit a State budget for the ensuing fiscal year that sets forth the estimated balance of funds available for appropriation at the beginning of the fiscal year, the estimated receipts, and a plan for expenditures and obligations during the fiscal year; and
- WHEREAS, Article VIII, Section 2(a) of the Illinois Constitution further provides that proposed expenditures shall not exceed funds estimated to be available for the fiscal year; and
- WHEREAS, on March 18, 2009, I presented to the General Assembly and the people of the State of Illinois a fiscally prudent and socially responsible budget solution; and
- WHEREAS, my budget proposal reforms, streamlines, and funds government adequately with shared sacrifice in furtherance of the common good; and
- WHEREAS, the General Assembly enacted wide-ranging ethics reforms and structural reforms to the operations of State government; and
- WHEREAS, as one component of my administration's ongoing commitment to reform, I remain strongly supportive of legislation that would have dramatically reduced the state's unfunded pension liability while meeting our commitments to existing and future retirees; and

PROCLAMATIONS

WHEREAS, the General Assembly enacted a budget which will require severe reductions in programs, grants, and services that the people of our State depend upon, due to insufficient financial resources; and

WHEREAS, on May 30, 2009, the Illinois Senate approved House Bill 174, an important step towards fiscal solvency and social responsibility; and

WHEREAS, other measures currently pending in the General Assembly may help the State avoid a grave fiscal crisis; and

WHEREAS, Article IV, Section 5(b) of the Illinois Constitution empowers the Governor, as Chief Executive, to convene special sessions of the General Assembly; and

WHEREAS, Section 3 of the Special Session Act, 25 ILCS 15/3, directs the Secretary of State, upon receipt of a Gubernatorial proclamation convening a special session, to take "whatever reasonable steps necessary to notify the members of the General Assembly of the date and time of the special session."

THEREFORE, pursuant to Article IV, Section 5(b) of the Illinois Constitution of 1970, I hereby call and convene the 96th General Assembly in a special session to commence on June 23, 2009, at 2:00 p.m., for the purpose of considering any legislation, new or pending, which will address the fiscal crisis confronting our State, and additional ethics reform, including, but not limited to legislation that:

1. Continues to reform the operations of State government to ensure ethical conduct, transparency, and accountability; and
2. Reforms and restructures the State's pension systems to ensure sustainability, affordability, and solvency; and
3. Empowers the electors to adopt an amendment to the Constitution of the State of Illinois in the November, 2010 general election that would establish a crucial structural reform: recall; and
4. Invests in projects that revitalize and expand our State's infrastructure, creating employment opportunities; and
5. Enables the state to have sufficient resources to meet its financial obligations and to have a responsible Fiscal Year 2010 budget.

Dated: June 18, 2009

PROCLAMATIONS

Filed: June 18, 2009

2009-204**Amateur Radio Month**

WHEREAS, the Federal Communications Commission (FCC) defines the Amateur Radio Service as a voluntary, noncommercial communication service, used by persons interested in radio technique as a hobby, and not for reasons of financial gain or broadcast; and

WHEREAS, the American Radio Relay League (ARRL), a not-for-profit organization, is the largest organization of radio amateurs in the United States, with more than 155,000 members; and

WHEREAS, amateur radio operators, also known as ham radio operators, use radio technology mostly as a form of personal enjoyment, however, amateur radio is also a vital asset in the field of emergency communications, and has been formally recognized by a number of national relief organizations; and

WHEREAS, during natural disasters, telephone and cell phone systems are often disrupted, creating a need for amateur radio operators to step in and coordinate communication efforts with disaster relief teams; and

WHEREAS, amateur radio operators have played a significant role in aiding relief workers in national emergencies, including the Oklahoma City Bombing in April 1995, the terrorist attacks on September 11, 2001, the Hurricanes Katrina and Rita, and the tornadoes that ravaged Illinois communities in April 2004 and March 2006; and

WHEREAS, this year on June 27-28 the ARRL Amateur Radio Field Days exercise will be held to demonstrate radio amateurs' skills and readiness to provide self supporting communications even in fields without further infrastructure:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim June 2009 as **AMATEUR RADIO MONTH** in Illinois, and encourage all citizens to recognize the services this state's amateur radio operators provide in keeping our communities safe.

Issued by the Governor June 12, 2009

Filed by the Secretary of State June 22, 2009

2009-205**LIVE UNITED Month**

PROCLAMATIONS

WHEREAS, during the month of June, United Ways across the country will be joining together to celebrate people who make lasting change in their community; and

WHEREAS, by honoring people who donate their time and resources to help others in the State of Illinois, we can inspire others to do the same; and

WHEREAS, by supporting three key issues – education, income and health – each person in our state can help create opportunities for people to improve their lives so they can become independent; and

WHEREAS, by giving our fellow citizens the chance to graduate from high school, earn a living, and care for their health, not only will those individuals be helped, but our entire community will be strengthened; and

WHEREAS, thousands of people in the State of Illinois join together each year to improve lives by giving, advocating and volunteering to bolster health and human services across the Land of Lincoln; and

WHEREAS, to celebrate the work of people in our state and to invite more people to become involved in service to their communities, United Way of Illinois invites all residents of the State of Illinois to participate in LIVE UNITED Month:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim June 2009 as **LIVE UNITED MONTH** in Illinois, and call upon the people of Illinois to observe this month with appropriate programs, activities, and ceremonies that advance the common good.

Issued by the Governor June 12, 2009

Filed by the Secretary of State June 22, 2009

2009-206**Vive Tu Vida! Get Up! Get Moving! Wellness Day**

WHEREAS, Hispanic communities in Illinois and throughout the United States are faced with many challenges every day. One such challenge faced by the Hispanic community, among others, is health and wellness; and

WHEREAS, with a Hispanic population of nearly 12.3 percent, the State of Illinois recognizes the need to confront the healthcare challenges Hispanics face with a proactive strategy that strengthens community alliances and networks; and

PROCLAMATIONS

WHEREAS, it is also important to ensure that the State's Hispanic community receives culturally proficient and linguistically appropriate health and human services; and

WHEREAS, there are a number of organizations, such as the Chicago Hispanic Health Coalition and the National Alliance for Hispanic Health, working to achieve that goal and to be certain that the perspective and experience of the Hispanic community is brought to the forefront of health care services and policy; and

WHEREAS, the Chicago Hispanic Health Coalition empowers individuals, builds coalitions, and supports organizations, with the goal of promoting healthy behaviors and reducing the risk of illness and injury; and

WHEREAS, to maximize and coordinate efforts among city and state organizations to promote healthy lifestyle awareness in Chicago's Hispanic communities, the Chicago Hispanic Health Coalition, and the State of Illinois are joining together with their member agencies and the National Alliance for Hispanic Health to sponsor Vive Tu Vida! Get Up! Get Moving!, the nation's premier annual Hispanic family physical activity and healthy lifestyle event; and

WHEREAS, more than 50,000 people are expected to attend Vive Tu Vida! Get Up! Get Moving! events in ten cities across the country this year; and

WHEREAS, these events will feature fun and excitement for the whole family, free health screenings, healthy snacks, and prize drawings, as well as activity stations for soccer, tennis, baseball, basketball, dance, aerobics, yoga and much more; and

WHEREAS, this year, Chicago will host a Vive Tu Vida! Get Up! Get Moving! event on June 27:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim June 27, 2009 as **¡VIVE TU VIDA! GET UP! GET MOVING! WELLNESS DAY** in Illinois, and encourage all residents to recognize the need for increased health awareness in the Hispanic community and to support the efforts of those participating in this important event.

Issued by the Governor June 12, 2009

Filed by the Secretary of State June 22, 2009

2009-207

National Disability Professionals Week

PROCLAMATIONS

WHEREAS, disability professionals have positively impacted the lives of numerous citizens throughout the State of Illinois; and

WHEREAS, disability professionals must have patience, vision and good judgment in their role as evaluators; and

WHEREAS, disability professionals devote their time and energy to professional growth, education and public awareness regarding disabilities; and

WHEREAS, disability professionals are trained and certified to ensure quality assessment of disability needs; and

WHEREAS, the important services provided by disability professionals benefit the quality of life for countless individuals in the State of Illinois; and

WHEREAS, during the week of June 15-19, the Illinois chapter of the National Association of Disability Examiners will observe and celebrate Disability Professionals Week to honor the diligence and commitment of these professionals; and

WHEREAS, it is appropriate that we set aside a time to acknowledge the hard work of disability professionals:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim June 15-19, 2009 as **NATIONAL DISABILITY PROFESSIONALS WEEK** in Illinois, in recognition of the invaluable services provided by these dedicated professionals.

Issued by the Governor June 17, 2009

Filed by the Secretary of State June 22, 2009

2009-208**Dr. Josephine Elizabeth Seaton Franklin Day**

WHEREAS, Josephine Elizabeth Seaton Franklin, who was born on July 1, 1927 in Cleveland, Ohio, has served as an example, an inspiration, and a benefactor to generations of talented young men and women; and

WHEREAS, Josephine Elizabeth Seaton Franklin earned her undergraduate degree from Virginia Union University and went on to earn a Master's Degree and a Ph.D. in Reading and Language Development from Northwestern University; and

PROCLAMATIONS

WHEREAS, Josephine Elizabeth Seaton Franklin has shared her love of knowledge and her heartfelt belief in the transformative power of education with students in Virginia, Michigan and Illinois throughout her long career; and

WHEREAS, Josephine Elizabeth Seaton Franklin has championed the cause of literacy and learning by serving as Director of the Right to Read Project at Northwestern University, as a member of the ad hoc selection committee for Teacher Corps, Roosevelt University, as an adjunct professor in reading at Roosevelt University and Governors State University, as both a member and president of the School Board of East Hazel Crest Public School, and as tutor chairman and coordinator at the Grande Prairie Public Library in Hazel Crest; and

WHEREAS, Josephine Elizabeth Seaton Franklin joined forces with a group of community-minded women in 1968 to found the Theta Rho Omega Chapter of Alpha Kappa Alpha Sorority, providing service and leadership to the south suburbs of Chicago; and

WHEREAS, Josephine Elizabeth Seaton Franklin and her service as the first president of the Theta Rho Omega Chapter of Alpha Kappa Alpha Sorority were honored in 1995 with the creation of the Josephine Elizabeth Seaton Franklin Foundation, which has provided more than \$100,000 to fund academic scholarships and service programs for the people in the south suburban Chicago community; and

WHEREAS, Josephine Elizabeth Seaton Franklin has been married to James Franklin since August 22, 1958; and

WHEREAS, Josephine Elizabeth Seaton Franklin has served her students and her community with unflagging dedication, devotion and generosity of spirit for the past six decades:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim June 19, 2009 as **DR. JOSEPHINE ELIZABETH SEATON FRANKLIN DAY** in Illinois, in recognition of her lifelong service to the community.

Issued by the Governor June 18, 2009

Filed by the Secretary of State June 22, 2009

2009-209
Juneteenth Day

PROCLAMATIONS

WHEREAS, Juneteenth is the oldest known celebration commemorating the ending of slavery in the United States; and

WHEREAS, it was on June 19, 1865, two-and-a-half years after President Lincoln's Emancipation Proclamation that Union soldiers landed at Galveston, Texas with news that the war had ended and that the enslaved were now free; and

WHEREAS, as freed slaves left plantations and moved to reunite with family members in other states, they encountered a new set of challenges as free men and women; and

WHEREAS, recounting the memories of that great day in June of 1865 and its festivities would serve as motivation and relief from the growing pressures encountered in their new homes; and

WHEREAS, the celebration of June 19th was coined "Juneteenth" and grew with more participation and became a time for reassuring one another, for praying and for gathering family members; and

WHEREAS, a range of activities were provided for entertainment at early Juneteenth celebrations, many of which continue today. Rodeos, fishing, barbecuing and baseball are just a few of the typical activities that may be held today; and

WHEREAS, Juneteenth also focuses on education and self-improvement. Guest speakers are often brought in and the elders are called upon to recount the events of the past. Prayer services are often also a major part of the celebrations; and

WHEREAS, over the last few decades, Juneteenth has continued to enjoy a growing and healthy interest from communities and organizations throughout the country - all with the mission to promote and cultivate knowledge and appreciation of African American history and culture; and

WHEREAS, Juneteenth today celebrates African American freedom while encouraging self-development and respect for all cultures:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim June 19, 2009 as **JUNETEENTH DAY** in Illinois, in remembrance of the important events of June 19, 1865, and encourage all citizens to learn about the important contributions that African Americans have made to our state, and to the nation as a whole.

Issued by the Governor June 18, 2009

Filed by the Secretary of State June 22, 2009

ILLINOIS ADMINISTRATIVE CODE
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