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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 peremptory 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 2012

Issue #	Rules Due Date	Date of Issue
1	December 27, 2011	January 6, 2012
2	January 3, 2012	January 13, 2012
3	January 9, 2012	January 20, 2012
4	January 17, 2012	January 27, 2012
5	January 23, 2012	February 3, 2012
6	January 30, 2012	February 13, 2012
7	February 6, 2012	February 17, 2012
8	February 14, 2012	February 24, 2012
9	February 21, 2012	March 2, 2012
10	February 27, 2012	March 9, 2012
11	March 5, 2012	March 16, 2012
12	March 12, 2012	March 23, 2012
13	March 19, 2012	March 30, 2012
14	March 26, 2012	April 6, 2012
15	April 2, 2012	April 13, 2012
16	April 9, 2012	April 20, 2012
17	April 16, 2012	April 27, 2012
18	April 23, 2012	May 4, 2012
19	April 30, 2012	May 11, 2012
20	May 7, 2012	May 18, 2012
21	May 14, 2012	May 25, 2012
22	May 21, 2012	June 1, 2012
23	May 29, 2012	June 8, 2012

24	June 4, 2012	June 15, 2012
25	June 11, 2012	June 22, 2012
26	June 18, 2012	June 29, 2012
27	June 25, 2012	July 6, 2012
28	July 2, 2012	July 13, 2012
29	July 9, 2012	July 20, 2012
30	July 16, 2012	July 27, 2012
31	July 23, 2012	August 3, 2012
32	July 30, 2012	August 10, 2012
33	August 6, 2012	August 17, 2012
34	August 13, 2012	August 24, 2012
35	August 20, 2012	August 31, 2012
36	August 27, 2012	September 7, 2012
37	September 4, 2012	September 14, 2012
38	September 10, 2012	September 21, 2012
39	September 17, 2012	September 28, 2012
40	September 24, 2012	October 5, 2012
41	October 1, 2012	October 12, 2012
42	October 9, 2012	October 19, 2012
43	October 15, 2012	October 26, 2012
44	October 22, 2012	November 2, 2012
45	October 29, 2012	November 9, 2012
46	November 5, 2012	November 16, 2012
47	November 13, 2012	November 26, 2012
48	November 19, 2012	November 30, 2012
49	November 26, 2012	December 7, 2012
50	December 3, 2012	December 14, 2012
51	December 10, 2012	December 21, 2012
52	December 17, 2012	December 28, 2012

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Chief Procurement Officer for General Services Standard Procurement

2) Code Citation: 44 Ill. Adm. Code 1

3)

Section Numbers:	Proposed Action:
1.1	Amendment
1.3	New
1.5	Amendment
1.8	Amendment
1.10	Amendment
1.15	Amendment
1.25	Amendment
1.30	Repeal
1.525	Amendment
1.530	New
1.1005	Amendment
1.1010	Repeal
1.1040	Amendment
1.1050	Repeal
1.1060	Amendment
1.1070	Repeal
1.1075	Repeal
1.1080	Repeal
1.1501	Renumbered, Amended
1.1510	Renumbered, New
1.1515	New
1.1525	Amendment
1.1550	Repeal
1.1560	Amendment
1.1570	Amendment
1.1580	Amendment
1.1585	New
1.1590	Repeal
1.1595	New
1.2005	Amendment
1.2010	Amendment
1.2012	Amendment
1.2013	New

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

NOTICE OF PROPOSED AMENDMENTS

1.2015	Amendment
1.2020	Amendment
1.2025	Amendment
1.2030	Amendment
1.2035	Amendment
1.2036	Amendment
1.2037	Amendment
1.2038	Amendment
1.2039	New
1.2040	Amendment
1.2043	Amendment
1.2044	Amendment
1.2045	Amendment
1.2046	Amendment
1.2047	Amendment
1.2050	Amendment
1.2055	Amendment
1.2060	Amendment
1.2065	New
1.2080	New
1.2084	New
1.2086	New
1.2560	Amendment
1.2570	Amendment
1.2575	Repeal
1.2800	Repeal
1.3005	Amendment
1.4005	Amendment
1.4010	New
1.4015	New
1.4020	New
1.4025	New
1.4030	New
1.4035	New
1.4040	New
1.4042	New
1.4044	New
1.4505	Amendment
1.4510	Amendment

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

NOTICE OF PROPOSED AMENDMENTS

1.4515	New
1.4520	New
1.4525	New
1.4526	New
1.4530	Amendment
1.4535	Amendment
1.4540	Amendment
1.4545	Amendment
1.4550	New
1.4555	New
1.4557	New
1.4570	Amendment
1.4575	Amendment
1.4578	New
1.4579	New
1.5002	New
1.5005	New
1.5010	New
1.5011	New
1.5012	New
1.5013	Amendment
1.5014	New
1.5015	New
1.5020	Amendment
1.5021	New
1.5023	New
1.5030	Amendment
1.5035	Amendment
1.5036	New
1.5037	Amendment
1.5038	New
1.5039	New
1.5055	New
1.5060	New
1.5065	New
1.5310	Amendment
1.5400	New
1.5420	New
1.5440	New

1.5460	New
1.5510	Repeal
1.5520	Repeal
1.5530	Repeal
1.5540	Repeal
1.5550	Amendment
1.5560	New
1.5620	New
1.5700	New
1.5710	New
1.5720	New
1.5730	New
1.5740	New
1.6010	Repeal
1.6500	Repeal
1.6510	Repeal
1.6520	Repeal
1.6530	Repeal
1.6535	Repeal
1.7000	Amendment
1.7010	Amendment
1.7015	Amendment
1.7020	Amendment
1.7025	Repeal

4) Statutory Authority: The Illinois Procurement Code [30 ILCS 500]

5) A Complete Description of the Subjects and Issues Involved: In PA 96-795 (SB 51), the Illinois Procurement Code was amended, transferring oversight for procurement to independent Chief Procurement Officers appointed by the Executive Ethics Commission and confirmed by the Senate. The legislation further established independent State Purchasing Officers and Procurement Compliance Monitors.

The proposed amendments implement the changes of PA 96-795 for the Chief Procurement Office for General Services, define terms, outlines the structure and procurement authority oversight of the CPO and SPO, and provides direction to State agencies on procurement matters. The proposed amendments specify required documentation of procurement actions, specify publication requirements, provide minimum periods of public notice for solicitations, provide instruction on source

selection and contract formation, provide requirements for pre-solicitation assistance, specify requirements for sole source procurements, limit the scope of emergency purchases, specify the requirements for an extension of an emergency purchase, provide requirements for professional artistic procurements, limit duration of contracts, provide the requirement for disclosure of subcontractors, provide requirements for vendor registration with the State Board of Elections, provide for debarment and suspension of contractors, and provide procedures for hearings and decisions of hearings.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: The Chief Procurement Office for General Services relied on PA 96-795 to compose the rulemaking. Copies are available for review with the Chief Procurement Office for General Services at 401 S. Spring, 712 Stratton Office Building, Springfield, Illinois 62706.

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 does not affect, create or expand a State mandate under the State Mandates Act.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Chief Procurement Office for General Services will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40]. Written comments may be submitted within 45 days after the date of publication in the *Illinois Register* to:

Margaret L. van Dijk
Senior Policy Advisor
Chief Procurement Office for General Services
712 Stratton Office Building
Springfield, IL 62706

217/558-2228
Margaret.vanDijk@illinois.gov

In addition, the Chief Procurement Office for General Services will hold public hearings to facilitate the submission of views and comments that might not otherwise be submitted. These hearings will be open to the public and recorded by stenographic or mechanical means with at least one agency representative present during the hearing who is qualified to respond to general questions from the public regarding the CPO's proposed rules and the rulemaking process.

March 15, 2012
3:00-5:00 p.m.
University of Illinois Springfield
Brookens Auditorium, One University Plaza
Springfield, Illinois 62703

In conjunction with 3/15/12 Springfield hearing, video conference 3:00-5:00 p.m.
James R. Thompson Center
100 W. Randolph, Room 9-036
Chicago, Illinois 60601

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: The proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80, and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Chief Procurement Office for General Services at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-20]. These entities shall indicate their status as a small business, small municipality, or not-for-profit corporation as part of any written comments they submit to the Chief Procurement Office for General Services.

B) Reporting, bookkeeping or other procedures required for compliance: Businesses interested in contracting with the State will be required to meet enhanced financial disclosure requirements and to annually recertify compliance documents. Businesses having contracts or proposing to do business with the State of Illinois will be required to provide conflict of interest disclosures, financial interest disclosures and sign certifications. Businesses are also required to obtain a

Department of Human Rights Number and register with the State Board of Elections. Requirements for contract execution prior to when deliverables may begin will also impact these organizations.

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: July 2011

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

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT
AND PROPERTY MANAGEMENT
SUBTITLE A: PROCUREMENT AND CONTRACT PROVISIONS
CHAPTER I: CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

PART 1
CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES
STANDARD PROCUREMENT

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1.1 Title
1.3 Authority
1.5 Policy
1.8 ~~Purpose and~~ Implementation of This Part
1.10 Application
1.15 Definition of Terms Used in This Part
1.25 Property Rights
1.30 Constitutional Officers, and Legislative and Judicial Branches (Repealed)

SUBPART B: PROCUREMENT RULES, POLICIES AND PROCEDURES

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1.525 Rules
1.530 Policies and Procedures

SUBPART C: PROCUREMENT AUTHORITY

Section
1.1005 ~~Exercise of~~ Procurement Authority
1.1010 Appointment of State Purchasing Officer (Repealed)
1.1040 Central Procurement Authority of the CPO-GS
1.1050 Procurement Authority of the SPO; Limitations (Repealed)
1.1060 Delegation
1.1070 Toll Highway Authority (Repealed)
1.1075 Department of Natural Resources (Repealed)
1.1080 Illinois Mathematics and Science Academy (Repealed)

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

NOTICE OF PROPOSED AMENDMENTS

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1.1501~~1.1510~~ Illinois Procurement Bulletin
1.1510 Publication of Illinois Procurement Bulletin
1.1515 Registration
1.1525 Bulletin Content
1.1550 Official State Newspaper (Repealed)
1.1560 Alternate and Supplemental Notice
1.1570 Error in Notice
1.1580 Direct Solicitation
1.1585 Notice Time
1.1590 Retention of Bulletin Information (Repealed)
1.1595 Availability of Solicitation Document

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1.2010 Competitive Sealed Bidding
1.2012 Multi-Step Sealed Bidding
1.2013 Reverse Auctions
1.2015 Competitive Sealed Proposals
1.2020 Small Purchase Limits ~~Purchases~~
1.2025 Sole Economically Feasible Source Procurement
1.2030 Emergency Procurements
1.2035 Competitive Selection Procedures for Professional and Artistic Services
1.2036 Other Methods of Source Selection
1.2037 Tie Bids and Proposals
1.2038 Modification or Withdrawal of Bids or Proposals~~Mistakes~~
1.2039 Mistakes
1.2040 Cancellation of Solicitations; Rejection of Bids or Proposals

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1.2044 Vendor List~~/Required Use~~
1.2045 Vendor Prequalification

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

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CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

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CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

NOTICE OF PROPOSED AMENDMENTS

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1.5510 Complaints Against Vendors (Repealed)
1.5520 Suspension (Repealed)
1.5530 Resolution of Contract Controversies (Repealed)
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~~SUPPLY MANAGEMENT AND DISPOSITIONS~~

Section
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~~GOVERNMENTAL JOINT PURCHASING~~

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1.5720 Hearing Officers
1.5730 Notice of Hearing
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1.6510 No Agency Relationship (Repealed)
1.6520 Obligations of Participating Governmental Units (Repealed)
1.6530 Centralized Contracts – Estimated Quantities (Repealed)
1.6535 Centralized Contracts – Definite Quantities (Repealed)

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CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

NOTICE OF PROPOSED AMENDMENTS

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1.7015 Inspections
1.7020 Taxes, Licenses, Assessments and Royalties~~Records and Audits~~
1.7025 Written Determinations (Repealed)
1.7030 No Waiver of Sovereign Immunity

AUTHORITY: The Illinois Procurement Code [30 ILCS 500].

SOURCE: Adopted at 7 Ill. Reg. 100, effective December 17, 1982; amended at 7 Ill. Reg. 13481, effective October 4, 1983; amended at 7 Ill. Reg. 13844, effective October 12, 1983; codified at 8 Ill. Reg. 14941; Sections 1.2210, 1.2220, 1.2230, 1.2240 recodified to Section 1.2210 at 9 Ill. Reg. 6118; amended at 10 Ill. Reg. 923, effective January 2, 1986; amended at 10 Ill. Reg. 18707, effective October 22, 1986; amended at 11 Ill. Reg. 7225, effective April 6, 1987; amended at 11 Ill. Reg. 7595, effective April 14, 1987; amended at 13 Ill. Reg. 17804, effective November 7, 1989; emergency amendment at 16 Ill. Reg. 13118, effective August 7, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 600, effective January 5, 1993; amended at 17 Ill. Reg. 14576, effective August 27, 1993; amended at 20 Ill. Reg. 9015, effective July 1, 1996; old Part repealed by emergency rulemaking at 22 Ill. Reg. 12632, effective July 1, 1998, for a maximum of 150 days, and new Part adopted by emergency rulemaking at 22 Ill. Reg. 12726, effective July 1, 1998, for a maximum of 150 days; old Part repealed and new Part adopted at 22 Ill. Reg. 20875, effective November 25, 1998; emergency amendment at 23 Ill. Reg. 2812, effective February 16, 1999, for a maximum of 150 days; emergency expired on July 15, 1999; emergency amendment at 23 Ill. Reg. 5869, effective April 29, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7075, effective June 7, 1999; amended at 24 Ill. Reg. 1900, effective January 21, 2000; amended at 26 Ill. Reg. 13189, effective August 23, 2002; emergency amendment at 29 Ill. Reg. 20540, effective December 2, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 30 Ill. Reg. 5673, effective March 7, 2006, for the balance of the 150 days; emergency expired August 3, 2006; amended at 30 Ill. Reg. 138, effective December 22, 2005; amended at 30 Ill. Reg. 13378, effective July 25, 2006; amended at 30 Ill. Reg. 17305, effective October 20, 2006; amended at 30 Ill. Reg. 18635, effective November 17, 2006; emergency amendment at 33 Ill. Reg. 3205, effective January 28, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 9607, effective June 25, 2009; recodified, pursuant to PA 96-795, from Department of Central Management Services to Chief Procurement Officer for General Services at 35 Ill. Reg. 10143; amended at 36 Ill. Reg. _____, effective _____.

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

NOTICE OF PROPOSED AMENDMENTS

SUBPART A: GENERAL

Section 1.1 Title

This Part may be cited as the General Services Standard Procurement Rules.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.3 Authority

This Part is promulgated by the Chief Procurement Officer for General Services (CPO-GS) in accordance with the provisions of the Illinois Procurement Code (the Code) [30 ILCS 500]. This Part may be amended in accordance with the Code and the Illinois Administrative Procedure Act [5 ILCS 100/5].

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.5 Policy

The principles of competitive bidding and economical procurement practices shall apply to all purchases and contracts by and for the State Agencies, except as otherwise provided by law, this Part and other applicable rules. It is the policy of the CPO-GS that all activities of the SPOs and other designees related to the procurement process maximize the value of the expenditure of public funds in procuring contracts, and that those appointed and designated act in a manner that maintains public trust in the integrity of the process.~~All State procurements shall be accomplished in the most economical, expeditious and commercially reasonable manner that is in accordance with statute, this Part and other applicable rules~~.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.8 ~~Purpose and~~ Implementation of This Part

a) This Part establishes rules necessary and appropriate to implement the authorities granted by the ~~Illinois Procurement~~ Code ~~(Code) [30 ILCS 500]~~ relating to the procurement, management, and control of supplies, services, real estate leases and related capital improvement, concessions and, as applicable, construction, and necessary rulemaking under the authority of the Code.

b) Section 10-20 of the Code creates four Chief Procurement Officers: one for

procurements for construction and construction-related services committed by law to the jurisdiction or responsibility of the Capital Development Board; one for procurements for all construction, construction-related services, operation of any facility, and the provision of any construction or construction related services or activity committed by law to the jurisdiction or responsibility of the Illinois Department of Transportation; one for all procurements made by a public institution of higher education; and one for all other procurement. For purposes of this Part the CPO for "all other procurements" shall be known as the Chief Procurement Officer for General Services (CPO-GS). This Part applies to all procurements and procurement rulemaking under the jurisdiction of the Chief Procurement Officer for General Services (CPO-GS) and any State Purchasing Officer (SPO) appointed by the CPO-GS. ~~For the purposes of this Part, any reference to CPO means the Chief Procurement Officer for General Services unless the context indicates otherwise.~~

c) This Part is intended to make ~~policies, procedures and guidelines for~~ procurement activities of State agencies uniform and consistent among and within the State agencies under the jurisdiction of the CPO-GS in order to facilitate participation in State procurements, encourage competition, and ensure that procurements are conducted in a fair and open manner. Implementation by and within State agencies shall be consistent with this Part. Operational interpretations are to be made in a flexible manner designed to secure the State's needs and protect the ~~State's~~ interests of the State of Illinois.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.10 Application

a) ~~The Code and this Part apply to those procurements for which the vendors were first solicited on or after July 1, 1998.b)Procurements for which vendors were first solicited on or before June 30, 1998, shall be conducted pursuant to legal requirements in effect at the time of the solicitation. The terms and conditions and the rights and obligations under contracts resulting from such procurements shall not be impaired.c)A solicitation occurs on or before June 30, 1998, as follows:1)When advertising was required in the Official State Newspaper, the first advertisement must run no later than June 30, 1998.2)When advertising was not required:A)if the procurement was advertised, even though advertising was not required, the first advertisement must have run no later than June 30, 1998;B)if the procurement was by direct solicitation by mail, the solicitation must~~

~~have been postmarked or placed in the control of a private carrier no later than June 30, 1998;C)if the procurement was by direct solicitation by fax, the fax must show a transmission date no later than June 30, 1998;D)if the procurement was solicited in-person or by telephone, the solicitation must have occurred no later than June 30, 1998, and the State officer or employee who made the solicitation must state in writing when the procurement was discussed and must name the party with whom the discussion took place.3)In all circumstances, the solicitations must be for the procurement of particular needs. A general discussion to determine if there is any interest on the part of a State agency in the supplies or services of a vendor or vendors, or on the part of a vendor or vendors in providing the supplies or services, is not considered a solicitation.d)~~The Code and this Part do not apply to:

1) *contracts between the State and its political subdivisions or other governments, or between State governmental bodies, except as specifically provided in* the *Code.* (For purposes of this subsection (a)(1)~~(d)(1)~~, "governmental bodies" includes the State universities and their governing boards, community colleges and their governing boards and school districts. This provision applies to contracts between governmental entities; it does not allow State agencies to utilize contracts established by other governmental entities.);

2) *grants (except for the filing requirements of Section 20-80 of the Code);*

3) *purchase of care;*

4) *hiring of an individual as employee and not as an independent contractor, whether pursuant to an employment code or policy or by contract directly with that individual;*

5) *collective bargaining contracts;*

6) *purchase of real estate, except that notice of this type of contract with a value of more than $25,000 must be published in the Procurement Bulletin within 7 days after the deed is recorded in the county of jurisdiction.* This applies to purchases whether outright or by means of an installment purchase. The exercise of an option to purchase in a real estate lease is exempt, but the underlying lease is not exempt from this Part. *The notice shall identify the real estate purchased, the names of all parties to the*

contract, the value of the contract, and the effective date of the contract; ~~or~~

7) *contracts necessary to prepare for anticipated litigation, enforcement actions, or investigations, provided that the chief legal counsel to the Governor shall give his or her prior approval when the procuring agency is one subject to the jurisdiction of the Governor, and provided that the chief legal counsel of any other procuring entity subject to* the~~*this*~~ *Code shall give his or her prior approval when the procuring entity is not one subject to the jurisdiction of the Governor.* ~~[30 ILCS 500/1-10]~~ Anticipated litigation is that which a State agency may prosecute or defend before a court or administrative body and actions necessary to prepare for and conduct the effective legal prosecution or defense of litigation, including, but not limited to, the retention of counsel, investigators,~~contracting for~~ expert witnesses and court reporters. This Section is applicable to equipment or services necessary in the furtherance of covert activities lawfully conducted by a State agency;

8) *Contracts for services to Northern Illinois University by a person, acting as an independent contractor, who is qualified by education, experience, and technical ability and is selected by negotiation for the purpose of providing non-credit educational service activities or products by means of specialized programs offered by the university;*

9) *Procurement expenditures by the Illinois Conservation Foundation when only private funds are used;*

10) *Procurement expenditures by the Illinois Health Information Exchange Authority involving private funds from the Health Information Exchange Fund. "Private funds" means gifts, donations, and private grants.* [30 ILCS 500/1-10(b)]

b) *This* Part *does not apply to the electric power procurement process provided for under Section 1-75 of the Illinois Power Agency Act* [20 ILCS 3855] *and Section 16-111.5 of the Public Utilities Act* [220 ILCS 5]. [30 ILCS 500/1-10(c)]

c) *Except for Section 20-160 and Article 50 of* the *Code, and as expressly required by Section 9.1 of the Illinois Lottery Law* [20 ILCS 1605], *the provisions of* the *Code do not apply to the procurement process provided for under Section 9.1 of*

the Illinois Lottery Law. [30 ILCS 500/1-10(d)]

d) *This* Part *does not apply to the process used by the Capitol Development Board to retain a person or entity to assist the Capitol Development Board with its duties related to the determination of costs of clean coal SNG brownfield facility, as defined by Section 1-10 of the Illinois Power Agency Act, as required in Section 9-220(h-3) of the Public Utilities Act, including calculating the range of capital costs or monitoring the construction of clean coal SNG brownfield facility for the full duration of construction.* [30 ILCS 500/1-10(e)]

e) *This* Part *does not apply to the process used by the Illinois Power Agency to retain a mediator to mediate sourcing agreement disputes between gas utilities and the clean coal SNG brownfield facility, as defined in Section 1-10 of the Illinois Power Agency Act, as required under Section 9-220(h-1) of the Public Utilities Act.* [30 ILCS 500/1-10(f)]

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.15 Definition of Terms Used in This Part

As used throughout this Part, terms defined in the Illinois Procurement Code shall have the same meaning as in the Code and as further defined in this Section~~below~~, and each term listed in this Section shall have the meaning set forth ~~below~~ unless its use clearly requires a different meaning. Terms may be defined in particular Sections for use in that Section.

"Amendment" − A written modification to a contract provision, as permitted by the original contract. These modifications shall alter the performance and completion of the contract, including, but not limited to, such matters as extra work and increases or decreases in quantities of goods not included within the scope of the original contract.

"Award" − The determination that a particular vendor has been selected from among other potential vendors to enter into negotiations for the purpose of finalizing a contract.

"Bid" – The response to an Invitation for Bids.

"Bidder" – Any person who submits a bid. A person or entity (other than an individual acting as a sole proprietor) may qualify as a bidder only if the person or

entity is a legal entity authorized to do business in Illinois prior to submitting the bid.

"Brand Name or Equal Specification" – A specification that uses one or more manufacturer's names or catalogue numbers to describe the standard of quality, performance, and other characteristics needed to meet State requirements, and that allows the submission of equivalent products.

"Brand Name Specification" – A specification limited to one or more items by manufacturers' names or catalogue numbers.

"Building Services" – Repairs to or maintenance of the structure, but does not include janitorial or window washing services.

"Bulletin" – The volume of the Illinois Procurement Bulletin assigned to the CPO-GS, unless the context clearly means the volume of another CPO or the Illinois Procurement Bulletin generally.

"Chief Procurement Officer" or "CPO-GS" – The Chief Procurement Officer for General Services, as created by Section 10-20(4)~~1-15.15(5)~~ of the Code or a designee.

"Code" – The Illinois Procurement Code [30 ILCS 500].

"Concession" – The right granted by a license, lease or other agreement to use State property, whether tangible or intangible. Also includes the right to engage in a certain activity on the lessor's property (e.g., a refreshment or parking concession).~~The right or a lease to engage in a certain activity for profit on the lessor's premises (e.g., a refreshment or parking concession).~~

"Consulting Services" – Services provided by a business or person as an independent contractor to advise and assist an agency in solving specific management or programmatic problems involving the organization, planning, direction, control or operations of a State agency. The services may or may not rise to the level of professional and artistic as defined in the Code and this Part.

"Contract" – *All types of State agreements, including change orders and renewals, regardless of what they may be called, for the procurement, use, or disposal of supplies, services, professional or artistic services, or construction or for leases*

of real property, whether the State is lessor or lessee, or capital improvements, and including master contracts, contracts for financing through use of installment or lease-purchase arrangements, renegotiated contracts, amendments to contracts, and change orders. [30 ILCS 500/1-15.30] The term "contract" includes, but is not limited to, purchase, installment purchase, lease and rental contracts. The term contract, as used in the Code and this Part, does not include: supplies or services the terms governing which are established by tariff of the Illinois Commerce Commission or the Federal Communications Commission and for which there is no authorized competition, and bonds issued by or on behalf of a State agency when the contractor or vendor is neither selected nor paid by the State agency.~~"Contract" – A contract may be in written or oral form. The term contract as used in the Code and this Part does not include: supplies or services the terms governing which are established by tariff of the Illinois Commerce Commission or the Federal Communications Commission, bonds, or contracts relating to bonds issued by or on behalf of a State Agency when the contractor or vendor is neither selected nor paid by the State Agency. The term "contract" includes, but is not limited to purchase, installment purchase, lease and rental contracts.~~

"Contractor" or "Vendor" – The terms contractor and vendor are used interchangeably for purposes of the Code and this Part. When appropriate, the term shall also include subcontractors.

"Day" – Calendar day. In computing any period of time, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or a State holiday, as applicable, in which event the period shall run to the end of the next business day.

"Designee" − A person or category of persons identified by the CPO-GS or an SPO, in writing, to assist with the procurement process. A designee acts under procurement authority of the CPO-GS or SPO and has the responsibility for taking procurement actions in accordance with applicable laws, rules and policies.

"Domestic Product" – A product that meets the requirements of the Procurement of Domestic Products Act [30 ILCS 5/7].

"Grant" − *The furnishing by the State of assistance, whether financial or otherwise, to any person to support a program authorized by law. It does not*

include an award the primary purpose of which is to procure an end product for the direct benefit or use of the State agency making the grant, whether in the form of goods, services, or construction. A contract that results from such an award is not a grant and is subject to the *Code.* [30 ILCS 500/1-15.42] When a grantor provides a grant to a State agency with a stipulation that the State agency issue subgrants to named persons, the subgrant or subcontract award is also a grant and the subgrantee or subcontractor is made an agent of the grantor.

"Grounds Services" – Lawn care, landscaping and snow and ice removal services.

~~"Items" – Anything that may be procured under this Code.~~

"Invitation for Bids" or "IFB" – *The process by which a purchasing agency requests information from bidders, including all documents, whether attached or incorporated by reference, used for soliciting bids.* [30 ILCS 500/1-15.45]

"Items" – Anything that may be procured under the Code and this Part.

"Natural Resources Services" – These are services provided to the Department of Natural Resources or the Historic Preservation Agency. Services consist of non-supervisory activities of a routine, repetitive, non-discretionary nature not needing special expertise, training or education. These services include, but are not limited to, assisting in the operation of tree nurseries, fish hatcheries, game farms and sanctuaries; cleaning and maintenance of specialized facilities; repairing fences and building cages; mowing; and trail and ancillary facility repair.

"Offer" or "Proposal" − The response to a Request for Proposal or Request for Information for real estate or capital improvement leases.

"Offeror" or "Respondent" – A person who responds to a~~an Invitation for Bids,~~ Request for Proposals or Request for Information for real estate or capital improvement leases~~other form of solicitation~~. A person or entity (other than an individual acting as a sole proprietor) may qualify as an offeror only if the person or entity is a legal entity authorized to do business in Illinois prior to submitting the offer.

"Person" − *Any business, public or private corporation, partnership, individual, union, committee, club, unincorporated association or other organization or group of individuals, or other legal entity.* [30 ILCS 500/1-15.55]

"Procurement Compliance Monitor" or "PCM" − Person appointed by the Executive Ethics Commission (EEC) under Section 1-50 of the Code.

"Procurement Officer" – The Chief Procurement Officer (CPO) or appropriate State Purchasing Officer (SPO) who is responsible for~~conducts~~ the particular procurement~~, or a designee of either~~.

"Procurement Policy Board" or "PPB" − The body created by Section 5-5 of the Code.

"Proposal" or "Offer" – The response to a Request for Proposal or Request for Information for real estate or capital improvement leases~~Proposals~~.

"Protest Review Office" – The office ~~address~~ of the person designated in the solicitation document to whom protests must be directed. This person will respond to or coordinate the response to the protest.

"Purchase of Care" – *A contract with a person for the furnishing of medical, educational, psychiatric, vocational, rehabilitation, social, or human services directly to a recipient of a State aid program.* [30 ILCS 500/1-15.68] Purchase of care includes ~~services provided or arranged to be provided by the vendor in conjunction with the purchase of care. Such services may include~~ administrative services of patient recordkeeping and tracking and~~management services, enrollment, health education, grievance procedures,~~ case management~~, utilization review, quality assurance, peer review, or marketing~~. Recipient of a State aid program includes applicants for a State aid program.

"Purchasing Agency" − *A State agency that enters into a contract at the direction of a State purchasing officer authorized by a Chief Procurement Officer or* the direction of *a Chief Procurement Officer.* [30 ILCS 500/1-15.70]

"Qualified Products List" – An approved list of supplies described by model or catalog numbers that, prior to competitive solicitation, the State has determined will meet the applicable specification requirements.

"Request for Information" or "RFI" − The process of requesting information from interested parties to aid the State in decision making. This type of RFI is not a procurement method and will not result in a participant receiving a contract.

"Request for Information for Real Property or Capital Improvement Leases" or "RFI-Real Property Leases" − The process of seeking proposals for leases of real property or capital improvements as outlined under Article 40 of the Code.

"Request for Proposals" or "RFP" – *The process by which a purchasing agency requests information from offerors, including all documents, whether attached or incorporated by reference, used for soliciting proposals.* [30 ILCS 500/1-15.75]

"Requesting Agency" – The agency that requests that the CPO or SPO conduct a procurement for its use. All procurements reserved to the CPO that have not been delegated must be initiated by a purchase request.

"Responsible Bidder" or "Offeror" − *A person who has the capability in all respects to perform fully the contract requirements and* who has *the integrity and reliability that will assure good faith performance. A responsible bidder or offeror shall not include a business or other entity that does not exist as a legal entity at the time a bid or proposal is submitted for a State contract.* [30 ILCS 500/1-15.80]

"Responsive Bidder" – *A person who has submitted a bid that conforms in all material respects to the* Invitation for Bids~~*invitation for bids*~~. [30 ILCS 500/1-15.85]

"Responsive~~Responsible~~ Offeror" – A person who has submitted an offer that conforms in all material respects to the Request for Proposals.

"Scoring Tool" – The document used by the individuals evaluating the responses to a solicitation to show whether or how well the responses~~an offeror~~ met requirements set forth in the solicitation.

"Services~~Service~~" – *The furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports or supplies that are incidental to the required performance* and ~~the~~ financing~~ thereof~~. [30 ILCS 500/1-15.90]

"Site Technician Services" – These are services provided to the Department of Natural Resources or the Historic Preservation Agency. These services consist of non-supervisory activities of a routine, repetitive, non-discretionary nature not

needing special expertise, training or education. These services include, but are not limited to, the maintenance of the site, including operating small farm-type equipment and trucks that do not require a Class C or D driver's license.

"Solicitation" – The document (e.g., IFB, RFP or RFI-real property lease) posted to the Bulletin requesting interested parties to submit a response for evaluation by the State. A request for information to determine if there is any interest on the part of a State agency in the supplies or services of a vendor or vendors, or on the part of a vendor or vendors in providing the supplies or services, is not considered a solicitation.~~An Invitation for Bids, a Request for Proposals or other request to one or more vendors to respond to a procurement need expressed by the State.~~

~~"Specification" – Any description of the physical, functional, or performance characteristics, or of the nature of a supply or service. A specification includes, as appropriate, requirements for inspecting, testing, or preparing a supply or service item for delivery. Unless the context requires otherwise, the terms "specification" and "purchase description" are used interchangeably throughout this Part.~~

"Specification for a Common or General Use Item" – A specification that has been developed and approved for repeated use in procurements.

"Specifications" – *Any description, provision, or requirement pertaining to the physical or functional characteristics or of the nature of a supply, service, or other item to be procured under a contract. Specifications may include a description of any requirement for inspecting, testing, or preparing a supply, service, professional or artistic service, construction, or other item for delivery.* [30 ILCS 500/1-15.95]

"State" – The State of Illinois, a State agency as defined in this Section, and all officers and employees of the foregoing, as appropriate, collectively or individually.

"State Agency~~State Agency~~" – Generally the term "State agency" *includes all boards, commissions, agencies, institutions, authorities, and bodies politic and corporate of the State, created by or in accordance with the constitution or statute, of the executive branch of State government~~and does include colleges, universities, and institutions under the jurisdiction of the governing boards of the University of Illinois, Southern Illinois University, Illinois State University, Eastern Illinois University, Northern Illinois University, Western Illinois~~*

~~*University, Chicago State University, Governors State University, Northeastern Illinois University, and the Board of Higher Education*~~. *However, this term does not apply to public employee retirement systems or investment boards that are subject to fiduciary duties imposed by the Illinois Pension Code* [40 ILCS 5] *or to the University of Illinois Foundation. "State agency" does not include units of local government, school districts, community colleges under the Public Community College Act* [110 ILCS 805]*, and the Illinois Comprehensive Health Insurance Board.* [30 ILCS 500/1-15.100] For purposes of this Part, however, only those State agencies that are under the jurisdiction of the CPO-GS~~Chief Procurement Officer for General Services~~ are encompassed by the term State agency.

"State Purchasing Officer" or "SPO" – A person as defined in Section 1-15.105 of the Code.

"State Witness" – An employee of the State, designated~~appointed~~ by the CPO or ~~the executive head or~~ SPO of the procuring agency, to observe the opening of bids or sealed proposals.

"Subcontract" – *A contract between a person and* another *person who has or is seeking a contract subject to* the *Code, pursuant to which the subcontractor provides to the contractor or another subcontractor some or all of the goods, services, property, remuneration, or other forms of consideration that are the subject of the primary contract and includes, among other things, subleases from a lessee of a State agency.* [30 ILCS 500/1-15.107]

"Subcontractor" – *A person or entity who enters into a contractual agreement with a total value of $25,000 or more with a person or entity who has or is seeking a contract subject to the Code pursuant to which the person or entity provides some or all of the goods, services, property, remuneration, or other forms of consideration that are the subject of the primary State contract, including subleases from a lessee of a State contract.* [30 ILCS 500/1-15.108]

"Subfactor" – A subset of a main evaluation factor. Main evaluation factors are identified in the solicitation. Subfactors that are separately evaluated within a factor are also identified in the solicitation.

"Supplies~~Supplies~~" – *All personal property, including but not limited to equipment, materials, printing, and insurance, and the financing of those*

supplies. [30 ILCS 500/1-15.110]

"Unsolicited Bid" or "Unsolicited Offer" or "Unsolicited Proposal" – Any bid, offer or proposal other than one submitted in response to a solicitation.

~~"Zone of Contention" – A vendor is considered in the Zone of Contention if, after evaluation of qualification/technical response factors and the addition of maximum price evaluation points, the vendor could potentially win the award.~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.25 Property Rights

No person shall have any right to a specific contract with the State unless that person has a contract that has been signed by an officer or employee of the purchasing agency with appropriate signature authority. The State shall be under no obligation to issue an award or execute a contract. [30 ILCS 500/1-25] No person who participates in a procurement action has any right to an award or subsequent contract. No notice of award can be issued and no contract can be executed without the determination of the CPO-GS, SPO or designee. Receipt of a~~an Invitation for Bids or other~~ solicitation or procurement document, or submission of any response to a solicitation or other procurement request, solicited or otherwise~~thereto, or other offer~~, confers no right to receive an award or contract, nor does it obligate the State in any manner.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.30 Constitutional Officers, and Legislative and Judicial Branches (Repealed)

~~Upon request by a constitutional officer or by a representative of the legislative or judicial branches, the CPO may, subject to staff availability and time constraints, conduct procurements on behalf of those constitutional officers or branches. These procurements will be conducted in accordance with the Code and this Part unless the requesting entity delegates its authority, in which case the requirements applicable to such entity may be followed.~~

(Source: Repealed at 36 Ill. Reg. _____, effective _____)

SUBPART B: PROCUREMENT RULES, POLICIES AND PROCEDURES

Section 1.525 Rules

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

NOTICE OF PROPOSED AMENDMENTS

a) Procurement under the jurisdiction of the CPO-GS or an appointed SPO shall be conducted in accordance with the Code and this Part, except as provided in this Section.

b) If legislation or court decision invalidates any Section of this Part or requires a different interpretation, the rules will be implemented in accordance with the legislation or court decision.~~Agencies with rules regarding procurement on file with the Secretary of State as of the effective date of this Part shall, within 30 days after the effective date of this Part, submit those rules to the CPO for review and approval. If the CPO does not approve those rules, the agency shall begin rulemaking to repeal or modify them in accordance with the Standard Procurement Rules and the Code within 90 days after the CPO's decision.~~

c) ~~An agency that has procurement needs not adequately addressed by the Standard Procurement Rules may inform the CPO and provide a draft of proposed rules to address those procurement needs, including a statement explaining why particular program needs of the agency require a rule different from or in addition to the Standard Procurement Rules. In lieu of approving rules proposed by the agency, the CPO may elect to meet the agency's need by amending these Standard Procurement Rules.d)All procurement rules proposed by an agency governed by the Code must be approved by the CPO prior to submission for publication as a proposed rule and again prior to adoption after all comments have been addressed.e)An agency with procurement rules approved by the CPO shall review those rules in conjunction with the Illinois Procurement Code and shall report to the CPO if changes are needed in their rules. The CPO shall inform each agency with procurement rules approved by the CPO of changes proposed to these Standard Procurement Rules that will require changes to their rules. In each such case, the CPO or SPO shall commence appropriate rulemaking.f)~~All proposed rules will be submitted to the Procurement Policy Board (PPB~~Board~~) before or during the public comment period established under the Illinois Administrative Procedure Act [5 ILCS 100]. Rulemaking, except for emergency rulemaking, shall be scheduled ~~so as~~ to allow the PPB~~Board~~ at least 30 days to provide comments.

d~~g~~) Emergency rules will be submitted to the PPB~~Board~~ for review and comment with as much notice as is reasonably possible. A copy of the adopted emergency rules shall be provided to the PPB~~Board~~. The PPB~~Board~~ shall be given opportunity to comment on rules proposed to replace the emergency rules.

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.530 Policies and Procedures

a) The CPO-GS may issue policies and procedures to further implement the Code and this Part. Policies and procedures shall be maintained in a structured format. The CPO-GS shall periodically review policies and procedures and determine if any should be issued as an administrative rule.

b) The CPO-GS shall notify the PPB of changes to policies or new policies. The CPO-GS may give notice by including the PPB on the standard distribution list.

(Source: Added at 36 Ill. Reg. _____, effective _____)

SUBPART C: PROCUREMENT AUTHORITY

Section 1.1005 ~~Exercise of~~ Procurement Authority

a) The Chief Procurement Officers appointed by the Executive Ethics Commission will exercise the procurement authority created by the Code for the benefit of the State of Illinois and the State agencies under the jurisdiction of each CPO. The Executive Ethics Commission may appoint a temporary acting CPO to act in the absence of any CPO, such as during illness, vacation or other extended leave.~~The SPOs appointed by the CPO shall conduct all procurements under the jurisdiction of the CPO subject to the limitations set by the CPO. Those limitations are provided or authorized by this Part.~~

b) The CPO-GS's procurement authority extends to supplies, services, construction not under the jurisdiction of the Capitol Development Board or the Department of Transportation, real estate leases and all other categories of need subject to the Code. The authority extends to all aspects of the procurement process, including, without limitation, pre-solicitation activities, solicitation preparation, source selection, evaluation, award, contracts, dispute resolution and records.~~Procurements contemplating any form of agreement including, but not limited to, outright purchase, installment and lease purchase, lease, rental and license, are included.~~

c) Any reference in the Code or this Part directing or authorizing a State agency to take procurement action is subject to the general procurement authority of the CPO-GS and SPO as set forth in the Code and this Part.

d) The CPO-GS exercises procurement authority through one or more SPOs or temporary acting SPOs and other agency staff assigned to the procurement function. Those assigned to assist shall recognize the role and authority of the CPO-GS. The CPO-GS may assign a SPO to one or more State agencies or may make assignments on a functional basis. The CPO-GS may appoint a temporary acting SPO with limited authority to act with an appointed SPO. In the absence of an appointed SPO, the CPO-GS may exercise the procurement authority of an SPO or may appoint a temporary acting SPO. The CPO-GS may reserve certain procurement activities to the CPO-GS and reserves the right to review and modify or overturn any action of an SPO, or any other designee.

e) An SPO will exercise procurement authority in accordance with direction and limitations established by the CPO-GS. The SPO will act primarily to review, authorize and approve State agency procurement activities and, to that end, exercises procurement authority with the assistance of the State agency procurement staff. The CPO-GS and SPO will determine and identify in writing, procurement activities that must be conducted by the CPO-GS or SPO. Activities not so identified will be conducted by the State agency staff with CPO-GS/SPO oversight.

f) Each State agency must provide an appropriate number of qualified staff and related resources to assist the SPO in meeting the procurement needs of the State agency. State agency staffs, while acting to assist the SPO, remain State agency employees.

g) The State agency is responsible for determining need, and upon direction or request to provide a rationale to the SPO for the proposed transaction or activity before the procurement may commence. Additional justification may be required by the SPO at later stages of the procurement process. The SPO may require that the justification include a statement that the proposed activity or transaction meets legal requirements and State agency policies and is in the best interests of the State of Illinois and the State agency.

h) State agency procurement staff are responsible:

1) for ensuring that all procurement activities, including those submitted to the SPO or CPO-GS for review, authorization or approval are in accordance with the Code, this Part, other applicable laws and rules, the internal policies of the State, the internal policies of the State agency; and

2) for obtaining all State and State agency approvals applicable to the particular stage of the procurement process.

i) The CPO-GS has the authority to enter into contracts for a State agency. In addition to this authority the CPO-GS may direct an SPO to enter into contracts for a State agency, authorize an SPO to further authorize a State agency to enter into contracts, or authorize a State agency to enter into contracts.

1) The CPO-GS shall determine in writing which contracts, if any, must be signed by the CPO-GS. The CPO-GS shall determine in writing which contracts may be signed by an SPO or State agency. These signature authorities may be modified or revoked at any time by the CPO-GS or the SPO, when appropriate. In the absence of written direction, the State agency shall enter into contracts for its needs.

2) Any written determination regarding signature authorization shall be maintained by the CPO-GS and distributed to the SPO, State agency head, agency purchasing director and the State Comptroller.

3) If the CPO-GS or SPO signs a contract, the State agency must also sign in order for the contract to be legally binding on the agency. The State agency may decline to sign a contract even if signed and approved by the CPO-GS or SPO.

4) If the CPO-GS and SPO does sign a contract for a State agency, in no event shall the CPO-GS or SPO assume any responsibility or obligation under the contract, financial or otherwise, to any party or person.

j) Procurement Compliance Monitors (PCMs)

1) PCMs have roles and responsibilities established in Section 10-15 of the Code. This includes monitoring procurement activities of State agencies, having access to records and systems, and attending any procurement meeting.

2) Each State agency shall recognize these statutory roles and shall cooperate with PCMs in the conduct of their actions. Cooperation includes prior notice of, and access to, all procurement meetings, and access to all procurement related records in whatever format they may exist, including documents, databases and systems. Failure to cooperate and resolve issues may be reported to the chief executive officer of the State agency and in certain cases may require reporting to the Office of the Executive Inspector General for the agencies of the Illinois Governor.

3) Should a PCM request review of a contract before final execution, the State agency shall not execute the contract until approval by the SPO.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.1010 Appointment of State Purchasing Officer (Repealed)

~~a) The executive head of each State agency shall, after consultation with the CPO, recommend to the CPO one of the agency's officers or employees for appointment as SPO. Upon appointment by the CPO of the recommended individual and approval by the executive head of the State agency, the named individual shall be an SPO for that agency.~~

~~b) In the absence of a recommended, approved, and appointed SPO, the CPO may exercise all procurement authority on behalf of the agency. Should the executive head fail to recommend an acceptable SPO candidate, the CPO may appoint the executive head of the State agency as SPO.~~

(Source: Repealed at 36 Ill. Reg. _____, effective _____)

Section 1.1040 Central Procurement Authority of the CPO-GS

a) The CPO-GS may establish master, scheduled or open-ended contracts for any item, and those contracts shall be utilized by State agencies in accordance with the terms of those contracts.

b) The CPO-GS shall authorize an appropriate SPO to procure the following items ~~will be procured by the CPO as the central purchasing agency~~. These items may be procured by an SPO only as provided in this Subpart or in a letter of delegation

from the CPO-GS authorizing the procurement activity.

1) Supplies. The CPO-GS or authorized SPO shall procure all supplies exceeding $25,000. In addition, the CPO-GS or authorized SPO shall procure:

A) printing exceeding $10,000; and

B) regardless of price:

i) Employee benefits authorized under the State Employees Group Insurance Act or the Personnel Code;

ii) Financing of any procurement;

iii) Paper, stationery, envelopes;

iv) Postage stamps;

v) Property, casualty, liability and other insurance, and bonds;

vi) All telecommunications material, equipment, software and related goods. (Equipment used to provide data communications internal to a building is considered to be Local Area Network equipment and is therefore excluded from this provision.);

vii) Utilities for buildings managed by the CPO-GS;

viii) Vehicles.

2) Services. The CPO-GS or authorized SPO shall procure the following services:

A) Electronic data processing services including, but not limited to, consulting and professional and artistic services, exceeding $25,000;

B) Regardless of price, all telecommunications related services

including, but not limited to:

i) voice, data, video, and internet working services delivered from private and or public network services, dedicated and/or virtual networking. Wide Area Networking and/or Metropolitan Area Networking, local exchange services, long distance services, radio frequency derived communications services (e.g., cellular, PCS, land mobile, microwave, etc., service);

ii) repairs, additions, relocations, or related changes to telecommunication services;

iii) consulting, professional and artistic services relating to telecommunications issues;~~.~~

C) Vehicles related services, including but not limited to, fleet management and repairs, regardless of price.

3) Real Estate. The CPO-GS shall procure all leases of real estate and any capital improvements to the leased real estate for the use of State agencies, regardless of price.

c) Central Procurement Procedures

1) Purchase Requests
For purchases that are reserved to the CPO-GS, each agency must initiate the procurement process through submission of a purchase request to the CPO-GS. The CPO-GS shall designate the format and requirements for submission.

2) Chief Procurement Officer's Authority to Reject
When the CPO-GS, after consultation with the requesting agency, decides that processing the requested procurement~~purchase request~~ is clearly not in the best interest of the State, or that further review is needed, the CPO-GS shall return such purchase request to the requesting agency. A written statement of the reasons for its return shall accompany the returned request. ~~Examples of reasons a purchase request may be returned include, but are not limited to:~~

~~A) the request can be satisfied from existing State inventory or State contracts;~~

~~B) the request exceeds agency needs;~~

~~C) the needs requested could be procured more economically at a different time without detriment to the State; or~~

~~D) the quality requested is inconsistent with State standards and usage.~~

3) Determination of Contractual Terms and Conditions
The CPO-GS has authority to determine the terms and conditions of solicitations and contracts. The CPO-GS will consult with the requesting agency if the agency requests special terms and conditions.

d) The CPO-GS may, after consultation with and notice to any affected SPO, use central procurement procedures for items in addition to those listed in this Section upon its determination that such procedures are likely to result in significant efficiencies or economies.

e) The CPO-GS and the CPOs of the construction agencies will determine whether a supply item or group of supply items shall be included as a part of, or procured separately from, any contract for construction.

f) The CPO-GS has additional duties and responsibilities established in statute apart from the Code, and nothing in this Part shall be interpreted to limit those other statutory duties and responsibilities.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.1050 Procurement Authority of the SPO; Limitations (Repealed)

~~a) SPO's Authority~~
~~The SPOs appointed by the CPO shall have authority to make all procurements for the use of the SPO's agency that are not under the central procurement authority of the CPO, another CPO appointed under Section 5-115.15 of the Code. Such procurements shall be conducted in accordance with applicable~~

~~statute, this Part and any limitations set by the CPO.~~

~~b)~~ ~~Emergency Procurements~~

~~1)~~ ~~Agencies shall report telecommunications emergencies to the Department of Central Management Services' Network Control Center. Emergency procurements shall be made or authorized by the Department of Central Management Services. If the Network Control Center number cannot be reached, the Agency shall take reasonable temporary measures to meet its telecommunications needs.~~

~~2)~~ ~~For all other emergency procurements, whenever practicable, SPOs shall contact the CPO for instructions for meeting needs in emergency situations for each procurement under the central procurement authority of the CPO. SPOs shall utilize existing contracts established by the CPO whenever practicable. Quick purchases under Section 1.2030 of this Part must be approved by the CPO for those items under the jurisdiction of the CPO as identified in Section 1.1040 of this Part.~~

~~c)~~ ~~Professional and Artistic Services~~
~~Each SPO shall have authority, subject to the supervision of the CPO, to procure those professional and artistic services that are not under the central procurement authority of the CPO. Supervision primarily consists of ensuring SPO compliance with the procurement procedures established by the Code and this Part for procuring these services, but also includes without limitation the authority to review and require modifications to specifications; schedule for opening proposals; evaluation criteria; and awards when deemed necessary to protect the State's interests and ensure compliance with the Code and this Part.~~

~~d)~~ ~~Correctional Industries~~
~~Each SPO shall have authority to procure supplies and services from the Department of Correction's Correctional Industries program.~~

~~e)~~ ~~CPO Contracts~~
~~SPOs do not have the authority to procure items for which the CPO establishes master, scheduled or open-ended contracts, except as permitted in the terms of those contracts.~~

~~f)~~ ~~Department of Central Management Services~~

~~SPOs must procure from the Department of Central Management Services items available from any of the program operations of the Department of Central Management Services unless specifically authorized to procure from another source. This includes, but is not limited to:~~

~~1) Paper and Printing Warehouse;~~

~~2) Division of Vehicles system; and~~

~~3) Central Computing Facility.~~

~~g) Review by CPO~~
~~Any procurement related activity of an SPO may be reviewed by the CPO, and the SPO shall supply information requested by the CPO. Should the CPO determine that the SPO's activities were not in accordance with the requirements of the Code, this Part or good procurement practices, or is otherwise not in the State's best interest, the CPO may consult with the SPO or executive head of the agency and, if necessary, may place additional limits on the SPO's authority. These additional limitations will be communicated in the form of written notice sent by the CPO to the SPO and the executive head of the agency.~~

(Source: Repealed at 36 Ill. Reg. _____, effective _____)

Section 1.1060 Delegation

a) The CPO-GS may delegate to any SPO or, in consultation with a State agency head, to a State agency~~the CPO's~~ authority to conduct certain named activities or functions~~specific procurements or classes of procurements for the use of that agency~~. The CPO-GS may also delegate to any SPO the CPO-GS's authority to conduct on behalf of the CPO-GS specific procurements or classes of procurements for multiple agency use. An SPO may request that the CPO-GS delegate authority to that SPO. The State agency delegated authority shall remain subject to CPO-GS and SPO authority.

~~b) The CPO and each SPO (with approval of the SPO's executive head) may appoint designees to assist in the performance of their respective duties and responsibilities.~~

b~~c~~) Any exercise of delegated authority shall be in accordance with the Code and this

Part.

c~~d~~) Delegations shall be in writing and shall specify:

1) the activity or function authorized;

2) any limits or restrictions on the exercise of the delegated authority;

3) whether the authority may be further delegated;

4) the duration of the delegation; and

5) any reporting requirements.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.1070 Toll Highway Authority (Repealed)

~~The CPO delegates to the Illinois Toll Highway Authority and its SPO authority to procure construction and construction-related services for the construction and operation of the toll highways under the jurisdiction of the Illinois Toll Highway Authority. For those activities, the SPO shall follow the construction rules promulgated by the Illinois Department of Transportation and the Capital Development Board, as applicable. Rules issued by the SPO shall be consistent with rules promulgated by the CPO designated under the Code for construction agencies. The CPO may delegate to the CPO of the Department of Transportation authority to publish in its volume of the Bulletin all notices that must be published relating to the procurement of construction and construction-related services by the Illinois Toll Highway Authority.~~

(Source: Repealed at 36 Ill. Reg. _____, effective _____)

Section 1.1075 Department of Natural Resources (Repealed)

~~The CPO delegates to the Department of Natural Resources and its SPO authority to procure construction and construction-related services for the construction activities under the jurisdiction of the Department of Natural Resources. For those activities, the SPO shall follow the construction rules promulgated by the Illinois Department of Transportation and the Capital Development Board, as applicable. Rules issued by the SPO shall be consistent with rules promulgated by the CPO for Capital Development Board. The CPO may delegate to the CPO for Department of Transportation authority to publish in its volume of the Bulletin all notices~~

~~that must be published relating to the procurement of construction and construction-related services by the Department of Natural Resources.~~

(Source: Repealed at 36 Ill. Reg. _____, effective _____)

Section 1.1080 Illinois Mathematics and Science Academy (Repealed)

~~The CPO delegates to the Illinois Mathematics and Science Academy and its SPO authority to procure supplies and services for the operation of the Academy. The Academy may utilize contracts let by the CPO for Public Institutions of Higher Education (CPO-HED) in lieu of master and other such contracts established by CMS. For the procurement of such supplies and services, the SPO shall follow the procurement rules adopted by the CPO-HED. The CPO may delegate to the CPO-HED authority to publish in its volume of the Bulletin all notices that must be published relating to the procurement of supplies and services by the Illinois Mathematics and Science Academy.~~

(Source: Repealed at 36 Ill. Reg. _____, effective _____)

SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

Section 1.1501 ~~1.1510~~ Illinois Procurement Bulletin

a) The Illinois Procurement Bulletin consists of four Bulletins~~several volumes~~, one for each of the Chief Procurement Officers designated in the Code~~ and one for each other State entity that must publish notices under the Code~~. Each Bulletin~~volume~~ will contain ~~procurement~~ information relating to procurements under the authority of the appropriate CPO~~jurisdiction of the applicable Chief Procurement Officer~~. ~~Each volume shall be available in electronic form.~~ References in this Part to Bulletin means the General Services volume, unless the context indicates a different meaning.

b) The CPO-GS shall have all rights in and to his or her volume of the Bulletin and shall determine the content, form, function, organization and structure and shall make revisions as necessary or desirable.~~The Bulletin may be accessed via instructions available from the CPO.~~

~~c) Access to the detailed information contained in the Bulletin may be subject to an annual subscription fee as set by the CPO, not to exceed publication and distribution costs.~~

~~d) To accommodate those who are not interested in subscribing to the Bulletin, a free subscription will be made available to interested public libraries in Illinois.~~

(Source: Old Section 1.1510 renumbered to Section 1.1501 and amended at 36 Ill. Reg. _____, effective _____)

Section 1.1510 Publication of Illinois Procurement Bulletin

At the direction of the CPO-GS, Central Management Services, at least one time per month, will publish the Illinois Procurement Bulletin in electronic form and will update the Bulletin as needed. Central Management Services may publish the Bulletin in print. The Bulletin can be found at http://www.purchase.state.il.us. The CPO-GS may establish a subscription fee to cover publication and distribution costs. The CPO-GS will waive any subscription fee for public libraries in Illinois and other governmental sites in Illinois that provide free public access to the Bulletin.

(Source: Old Section 1.1510 renumbered to Section 1.1501 and new Section 1.1510 added at 36 Ill. Reg. _____, effective _____)

Section 1.1515 Registration

Prospective vendors and other interested parties must complete the Bulletin registration screens in order to download solicitations and other procurement-related documents.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.1525 Bulletin Content

a) The Bulletin will contain all content required by the Code. The Bulletin may include reference information of general interest (e.g., how to access the other volumes of the Illinois Procurement Bulletin, notice of new legislation, announcements and determinations) and may serve as the CPO-GS's official website.~~The information in each volume of the Bulletin will be updated at least once per month and may be updated as frequently as daily. The format, lead-time and other administrative requirements for submitting notices to the Bulletin will be provided in writing by the CPO to each SPO.~~

b) Notice of each procurement ~~request governed by the Code that must be conducted~~

~~by competitive sealed bidding, including multi-step sealed bidding, competitive sealed proposals, competitive selection procedures, or real estate requests for information, shall be placed in the Bulletin. The notice~~ shall contain at least the following information:

1) the name of the purchasing~~procuring~~ agency (and using agency, if different);

2) a brief purchase description;

3) a procurement reference number, if used;

4) the date the procurement is first offered (procurements that require notice shall not be distributed to vendors prior to the date the notice is first published in the Bulletin);

5) the date, time, and location for making submissions;

6) the method of source selection;

7) the name of the State Purchasing~~Procurement~~ Officer in charge; ~~and~~

8) instructions on how to obtain a comprehensive purchase description and any disclosure and contract forms;~~detailed information.~~

9) encouragement to prospective vendors to hire qualified veterans; and

10) encouragement to prospective vendors to hire qualified Illinois minorities, women, persons with disabilities and residents discharged from any Illinois adult correctional center.

c) Notice of each contract let~~awarded~~ that was subject of a notice in subsection (b) shall be placed in the Bulletin and shall be immediately issued electronically to those bidders or offerors submitting responses to the solicitation. Bidders and offerors must register (see Section 1.515) and sign up for email notices. Should the Bulletin fail to send notice to bidders or offerors submitting responses to the solicitation, the time for filing a bid protest will be extended up to 5 business days. This notice shall contain at least the following information:

1) the information published in subsection (b);

2) the name of the vendor selected for award;

3) the contract price;

4) the number of unsuccessful responsive vendors; ~~and~~

5) the bid's percentage of disadvantaged business utilization plan;

6) the bid's percentage of business enterprise program utilization plan;

7) the total number of veteran owned small businesses and the number of service disabled veteran owned small businesses who submitted bids for contracts; and

8) other disclosures required to be published in the Bulletin.

d) Notice of each contract awarded that was subject of a notice in subsection (b) shall be placed in the Bulletin and shall be issued electronically to the successful responsible bidder or offeror. This notice shall contain at least the following information:

1) the information published in subsection (b);

2) the name of the vendor selected for award;

3) the contract price;

4) the number of unsuccessful responsive vendors;

5) the proposal's percentage of disadvantaged business utilization plan;

6) the proposal's percentage of business enterprise program utilization plan;

7) the total number of veteran owned small businesses and the number of service disabled veteran owned small businesses who submitted offers for contracts; and

8) other disclosures required to be published in the Bulletin.

e) In addition to the notice requirements of subsections (c) and (d), the name and price submitted by the apparent low bidder and all other bids from bidders responding to solicitations shall be posted on the agency's website the next day and may include a link to the Bulletin for the detailed information. In addition to the notice requirements of subsection (d), the notice of award shall be posted on the agency's website the next business day.

f) Notice of each contract renewal shall be posted in the Bulletin within 10 days after the determination by the purchasing agency to renew the contract. The notice shall require all of the information required under subsection (b).

g~~d~~) The following information regarding emergency procurements shall be published in the Bulletin within 3 business~~10~~ days after commencement of performance under the emergency contract:

1) name of the procuring agency (and using agency, if different);

2) name of the vendor selected for award;

3) brief description of what services or supplies the vendor intends to~~will do or~~ provide;

4) total price (if only an estimate is known, it shall be published, but a subsequent notice repeating all required information shall be published when the final amount is known);

5) reasons for using the emergency method of source selection; ~~and~~

6) name of the SPO~~Procurement Officer~~ in charge of the procurement; and~~.~~

7) name of the State agency person who authorized the emergency contract action.

h) In addition to the requirements of subsection (g), the notice of hearing to extend an emergency contract must be posted electronically in the Bulletin at least 14 days prior to hearing.

i~~e~~) The following information in regard to sole source procurements shall be published in the Bulletin at least 14 days prior to entering into the contract with the designated sole source vendor:

1) name of the purchasing~~procuring~~ agency (or using agency, if different);

2) name of the intended sole source vendor;

3) a~~brief~~ description of what services or supplies the vendor intends to~~will do or~~ provide; ~~and~~

4) name of the SPO~~Procurement Officer~~ in charge of the procurement;~~.~~

5) the date, time and location of the public hearing; and

6) a completed sole source justification form as prescribed by the PPB.

j) Each purchasing agency shall post in the Bulletin a copy of its annual report of utilization of businesses owned by minorities, females and persons with disabilities. Posting is due within 10 days after the purchasing agency submits its report to the Business Enterprise Council pursuant to Section 6(c) of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act [30 ILCS 575].

k) Other notices shall be published on the Bulletin as provided by the Code, including notices related to suspensions and debarment, Business Enterprise Program and Small Business Set-Aside waivers, and other matters of public interest.

l) The CPO-GS may allow another CPO or another governmental entity to publish procurement related notices and other matters of public interest to the Bulletin.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.1550 Official State Newspaper (Repealed)

~~a)~~ ~~The Department of Central Management Services will select, by Competitive Sealed Bid, a secular newspaper of general circulation printed in English, to be known as the Official State Newspaper. The term of the appointment and the~~

~~requirements will be specified by the Department in the Invitation for Bids.~~

~~b)~~ ~~Upon direction of the CPO, this newspaper may be used as a substitute for the Bulletin in the event the Bulletin cannot be published.~~

(Source: Repealed at 36 Ill. Reg. _____, effective _____)

Section 1.1560 Alternate and Supplemental Notice

a) If the electronic Bulletin cannot be published, the CPO-GS may publish notices in one of the other CPOs' Procurement Bulletins on an interim basis. If no electronic version of the Bulletin can be published, the CPO-GS may designate its website as its volume of the Bulletin. If necessary, the CPO-GS may designate the Official State Newspaper or other newspaper of general circulation as its volume of the Bulletin. All newspaper notices will be published in the Bulletin when it becomes available, but that publication will not extend any procurement-related timeframes.

b) Publication in the Bulletin may be supplemented by publication elsewhere at the discretion of the CPO-GS or SPO~~purchasing agency~~. Examples include publication in:

1~~a~~) the Official State Newspaper;

2~~b~~) a newspaper of general circulation;

3~~c~~) a newspaper of local circulation in the area pertinent to the procurement;

4~~d~~) industry media; or

5~~e~~) agency website~~"WEB" pages~~.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.1570 Error in Notice

When a required publication contains an error, the error may be corrected by a single notice published in the Bulletin within a reasonable time after the original publication.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.1580 Direct Solicitation

In addition to giving notice in the Bulletin, the SPO~~agencies~~ may directly contact prospective vendors by providing copies of solicitations~~Invitations for Bids, Requests for Proposals,~~ or other procurement information. Direct solicitation may be oral or in writing, but ~~care should be taken to ensure that~~ all vendors shall~~solicited in this manner~~ receive the same information as provided in the Bulletin~~to others~~. No direct solicitation shall be made prior to the date any required notice first appears in the Bulletin.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.1585 Notice Time

Each solicitation shall be published in the Bulletin at least 14 days prior to the date set for opening, unless a shorter time is authorized by the Code or this Part.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.1590 Retention of Bulletin Information (Repealed)

~~a) The information published pursuant to Section 1.1525(b) should be retained in electronic or paper form until the information required to be published under Section 1.1525(c) for that procurement is published.~~

~~b) Other information published in the Bulletin shall be retained in electronic or paper form for a period of one year after first publication.~~

(Source: Repealed at 36 Ill. Reg. _____, effective _____)

Section 1.1595 Availability of Solicitation Document

Procurements that require notice shall not be distributed to vendors prior to the date the notice is first published in the Bulletin. A copy of the solicitation shall be made available for public inspection at the State agency procurement office. This copy shall be available as of the date and time the solicitation is published in the Bulletin.

(Source: Added at 36 Ill. Reg. _____, effective _____)

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

NOTICE OF PROPOSED AMENDMENTS

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

Section 1.2005 General Provisions

a) Solicitation Response
A solicitation may contain forms that must be returned or may require compliance in a prescribed format. If a form or format is prescribed, prospective vendors shall submit those forms as instructed.

b) Late Bids or Proposals, Late Withdrawals and Late Modifications

1) ~~Definition.~~ Any bid or~~,~~ proposal (including any modification, withdrawal or other procurement-related submission)~~, modification or withdrawal~~ received after the time and date for receipt, or at other than the specified location, is late. A submission~~bid~~ that is delivered to the wrong location but that is subsequently delivered to the correct location by the date and time specified shall be considered.~~, but the agency~~ Staff at the delivery location shall not be responsible for ensuring ~~such~~ subsequent delivery.

2) ~~Treatment.~~ No late submission~~bid or proposal, late modification, or late withdrawal~~ will be considered unless the SPO~~Procurement Officer~~, and not a designee, determines it would have been timely but for the action or inaction of State personnel directly serving the procurement activity (e.g., providing the wrong address). It is the responsibility of the bidder or offeror to ensure delivery at the time and to the place specified. Vendors submitting a late response will be notified and given the opportunity to retrieve the submission at their cost. Late submissions not returned to the vendor will be destroyed after all related procurement activity is complete and the resulting contract has been executed.

3) ~~Records.~~ Records shall be made and~~, in accordance with the State Records Act [5 ILCS 160],~~ kept for each late bid or proposal, late modification, or late withdrawal.

4) Other Submissions. Any other submission that has a time or date deadline shall be treated in the same manner as a late bid.

c~~b~~) Extension of Solicitation Due Date~~Time~~

~~1)~~The SPO~~Procurement Officer~~ may, prior to the date or time for submitting or modifying a bid or proposal, extend the date or time for the convenience of the State.

~~2) After opening bids or proposals, the Procurement Officer may request bidders or offerors who submitted timely bids or proposals to extend the time during which the State may accept the bids or proposals, provided that, with regard to bids, no other change is permitted. This extension does not provide an opportunity for others to submit bids or proposals.~~

d) Bid/Proposal Firm Time

1) Unless otherwise provided in the solicitation, the vendor's bid/proposal must be kept firm for at least 30 days after the opening date.

2) After opening bids or proposals, the SPO may request bidders or offerors to extend the time during which the State agency may accept the bids or proposals, provided that, with regard to bids, no other change is permitted. This extension does not provide an opportunity for others to submit bids or proposals.

e~~e~~) Electronic and Fax~~Facsimile~~ Submissions

1) The solicitation~~Invitation for Bids or Request for Proposals~~ may state that electronic and fax~~facsimile machine~~ submissions will be considered if they are received at the designated location~~office~~ by the time and date set for receipt. Any required attachments will be submitted as stated in the solicitation~~IFB or RFP~~.

2) Electronic submissions authorized by specific language in the solicitation~~IFB or RFP~~ will be opened in accordance with electronic security measures in effect at the purchasing agency at the time of opening. ~~Unless the electronic submission procedures provide for a secure receipt, vendor assumes risk of premature disclosure due to submission in unsealed form.~~

3) Fax submissions authorized by specific language in the solicitation~~IFB or RFP~~ will be placed in a sealed container upon receipt and opened with~~as~~

other submissions. Vendor assumes risk of premature disclosure due to submission in unsealed form.

f~~d~~) Intent to Submit
The solicitation~~Invitation for Bids or the Request for Proposals~~ may require that vendors submit, by a certain time and date, a notice of their intent to submit a bid or proposal in response to the solicitation~~IFB or RFP~~. Bids and proposals submitted without complying with the notice of intent requirement may be rejected.

g~~e~~) Only One Bid or Proposal Received
If only one bid or proposal is received, and if it meets all requirements, the SPO~~an award~~ may award~~be made~~ to the single bidder or offeror if the SPO~~Procurement Officer~~ finds that the price submitted is fair and reasonable, and that ~~either~~ other prospective bidders or offerors had reasonable opportunity to respond, or there is not adequate time for resolicitation. Otherwise,~~: 1)new bids or offers may be solicited, including under sole source (Section 1.2025) or emergency (Section 1.2030) procedures; or 2)~~ the SPO may cancel the procurement~~ may be canceled~~.

h~~f~~) Alternate or Multiple Bids or Proposals

1) Alternate bids or proposals may be accepted if:

A) permitted by the solicitation and in accordance with instructions in the solicitation; or

B) only one vendor responded, in which case the alternate submission may be evaluated and treated in accordance with Section 1.2025 (Sole Economically Feasible Source Procurement)~~ of this Part~~; or

C) the low bidder~~,~~ who has met all requirements of the solicitation~~,~~ has provided a lower cost alternative that meets all of the material requirements of the solicitation~~specifications~~.

2) Multiple bids or proposals may be accepted if~~: A)~~ permitted by the solicitation and submitted in accordance with instructions in the solicitation.~~; or~~

~~B) only one vendor responded, then, one or more of the submissions~~

~~may be evaluated, provided that, in the case of bids, only the lowest cost bid meeting specifications may be considered.~~

~~3)~~ ~~If a vendor clearly indicates a primary submission among alternate or multiple bids or proposals, then that primary submission shall be considered for award as though it were the only bid or proposal submitted by the vendor.~~

i~~g~~) Multiple Items
A solicitation~~An Invitation for Bids or Request for Proposals~~ may call for pricing of multiple items of similar or related type. Award shall be as specified in the solicitation ~~with award~~ based on an individual line item, a group total of certain items, a core list, a "market basket" of related items representative of the total requirement,~~or~~ a grand total of all items, or other grouping method.

j~~h~~) "All or None" Bids or Proposals
All or none bids or proposals may be accepted if the evaluation shows an all or none award to be the lowest cost or best value of those submitted.

k~~i~~) Conditioning Bids or Proposals Upon Other Awards
Any bid or proposal that is conditioned upon receiving award of the particular contract being solicited and one or more other State contracts shall be rejected.~~:~~

~~1)~~ ~~be rejected unless the vendor removes the condition; or~~

~~2)~~ ~~be evaluated and award made to that vendor if the vendor is also independently evaluated as the winner of the other IFBs or RFPs provided the agency need not delay procurement actions to accommodate the vendor's all or none condition.~~

l~~j~~) Unsolicited Bids or Offers
An award may not be made based on an unsolicited offer in place of the notice and competition requirements of the Code and this Part.

~~1)~~ ~~Processing of Unsolicited Offers. The Procurement Officer may consider unsolicited offers. If the SPO of an agency that receives an unsolicited offer is not authorized to enter into a contract for the items offered, the SPO of such agency may forward the offer to the CPO, who may consider such unsolicited offer.~~

~~2) Conditions for Consideration. An unsolicited offer must be in writing and must be sufficiently detailed to allow a judgment to be made concerning the potential utility of the offer to the State.~~

~~3) Award. An award may not be made based on an unsolicited offer in place of the notice and competition requirements of the Code and this Part except if that unsolicited offer meets the requirements for a small (Section 1.2020), sole source (Section 1.2025), or emergency (Section 1.2030) procurement.~~

m~~k~~) Clarification of Bids and Proposals
The SPO~~Procurement Officer~~ may request that a vendor clarify its bid or proposal as a part of the evaluation process. A vendor shall not be allowed to ~~materially~~ change its bid or proposal in response to a request for clarification. A clarification is not an opportunity to make changes or for submission of best and finals offers~~Best & Finals~~ as authorized elsewhere in this Part.

n~~l~~) Extension of Time on Indefinite Quantity Contracts
The time of performance of an indefinite quantity contract may be extended upon agreement of the parties, provided the extension is for 90 days or less and the SPO~~Procurement Officer~~ determines in writing that it is not practical to award another contract at the time of the~~such~~ extension.

o~~m~~) Increase in Quantity on Definite Quantity Contracts

1) This subsection (o) applies to procurements other than those for construction or construction-related professional services. Within 90 days after awarding a definite quantity contract using the sealed bid or sealed proposal procedure, additional purchase orders, contracts or amendments may be issued to the same vendor at the same unit price and on the same terms and conditions if:

A) The vendor indicates that the additional purchase orders or contracts will be accepted if issued;

B) The market price of the commodities, services or equipment in question has not gone down since the original purchase; and

C) The additional quantity does not exceed 20% of the original definite quantity.~~The quantity that may be ordered from a definite quantity contract without additional notice and competition may be increased by up to 20% provided the Procurement Officer determines that separate bidding for the additional quantity is not likely to achieve lower pricing. A particular procurement may specify a different percentage.~~

2) Notices of supplemental purchases in excess of the small purchase limits of Sections 20-20 and 35-35 of the Code shall be published in the Illinois Procurement Bulletin.

3~~2~~) The quantity may be increased by any percentage, provided the dollar value of the increase does not exceed the applicable small purchase (Section 1.2020) threshold.

~~n)~~ ~~Subsequent Purchase Request~~
~~If, within 30 days after making an award to a particular vendor pursuant to a competitive sealed bid on behalf of an agency, the CPO receives a purchase request from another agency for the same item and for the same or lesser quantity, the CPO may contract with that vendor on the same terms and conditions, including price, without additional notice and competition, if such contract is acceptable to the vendor.~~

p~~o~~) Assignment, Novation or Change of Name

1) Assignment. No State contract is transferable, or otherwise assignable, without the prior written consent of the CPO-GS or SPO~~Procurement Officer~~, provided, however, that a vendor may assign money receivable under a contract after due notice to the State. The~~Assignment may require the execution of a contract with the assignee and in such cases the~~ assignee, except in the case of assignment for payment only, must meet all requirements for contracting with the State. Any purported assignment without prior written consent shall be null and void.

2) Recognition of a Successor in Interest; Novation. When in the best interest of the State, a successor in interest may be recognized in a novation agreement in which the transferor and the transferee agree that:

A) the transferee assumes all of the transferor's obligations;

B) the transferee meets all requirements for contracting with the State;

C) the transferor waives all rights under the contract as against the State; and

D) unless the transferor guarantees performance of the contract by the transferee, the transferee shall, if required by the State, furnish a satisfactory performance bond.

3) Change of Name. A vendor may submit to the SPO a written request to change the name in which it holds a contract with the State. The name change shall not alter any of the terms and conditions of the contract or the obligations of the vendor.

~~4) Reports. All change of name or novation agreements under this subsection (o) shall be reported to the CPO within 30 days after the date the agreement becomes effective so that the bid list may be updated.~~

q~~p~~) Contracting for Installment Purchase Payments, Including Interest
Contracts may provide for installment purchase payments, including interest charges, over a period of time. The interest rate may not exceed that established by law, including the Bond Authorization Act [30 ILCS 305].

r) Incorporation by Reference
A solicitation may incorporate documents by reference provided that the solicitation specifies where the documents can be obtained.

s~~q~~) Use of Source Selection Method that is Not Required
If a purchasing agency uses a method of source selection that it is not, by law, required to use (e.g., use of a competitive sealed bid for a small purchase), the purchasing agency is ~~not~~ bound to ~~strict~~ compliance with the Code and rules governing the method of source selection used.

t~~r~~) Vendor Signature
A bid or proposal submitted unsigned will be evaluated if the vendor submits a written signature acceptable to the SPO~~Procurement Officer~~ within the time specified by that officer.

u~~s~~) Stringing
Dividing or planning procurements to avoid use of competitive procedures (stringing) is prohibited. Periodic purchases of similar supplies from several different vendors to maintain inventory is not stringing unless the purchases are planned to avoid the use of competitive procedures.

v~~t~~) Confidential Data
Vendors must clearly identify, by page and paragraph, any information submitted to the State claimed to be~~that is~~ exempt from the disclosure requirement of the Illinois Freedom of Information Act [5 ILCS 140] (FOIA) and must identify the specific Section of FOIA applicable to the claimed exemption and show how that Section applies to the information claimed to be exempt. Information submitted without a claim or exemption may be disclosed to the public without notice or permission. Information submitted with a claimed exemption may still be disclosed to the public if determined by a court, the Public Access Counselor for the Illinois Attorney General or the CPO-GS that the claimed exemption does not meet the requirements for withholding the information under FOIA. The CPO-GS shall attempt to provide reasonable notice and opportunity to object to the vendor prior to disclosure of any material claimed by the vendor to be exempt from FOIA~~request special handling of that material~~.

w) Notice of Subcontractor
Any contract entered into under this Part shall state whether the services of a subcontractor will be used. If, at any time during the term of the contract, a contractor adds or changes any subcontractors, the contractor shall promptly notify the SPO, in writing, of the names and addresses of the subcontractors and the expected amount of money each new or replaced subcontractor will receive. The contractor shall provide the SPO with a copy of any subcontract with an annual value of more than $25,000 within 20 days after the execution of the State contract and after the execution of the subcontract.

1) For professional and artistic contracts, the contract shall state the names and addresses of all subcontractors and the expected amounts each will receive under the contract.

2) For contracts other than professional and artistic contracts, the contract shall include:

A) the names and addresses of all subcontractors known at the time of execution who are party to a subcontract with an annual value of more than $25,000; and

B) the expected amount of money each will receive under the contract.

x) Pre-Solicitation Assistance

1) *For purposes of this subsection (x), "business" includes all individuals with whom a business is affiliated, including, but not limited to, any officer, agent, employee, consultant, independent contractor, director, partner, manager or shareholder of a business.* [30 ILCS 500/50-10.5(e)].

2) Prohibited Bidders. Except as provided in subsection (x)(5), Section 50-10.5(e) of the Code prohibits any person or business from bidding or entering into a contract if the person or business assisted the State of Illinois or a State agency in determining whether there was a need for a contract or assisted the State of Illinois or a State agency by reviewing, drafting or preparing any invitation for bids, request for proposal or request for information or provided similar assistance.

3) Non-Prohibited Acts. This Section does not prohibit a person or business from submitting a bid or proposal or entering into a contract if the person or business:

A) Initiated a communication to provide general information about products, services or industry best practices and, if applicable, that communication is documented in accordance with Section 50-39 of the Code.

B) Responded to a communication initiated by an employee of the State for the purposes of providing information to evaluate new products, services or technologies.

C) Received or possessed written material obtained from a State employee from public sources, such as through an internet search, or literature packets obtained in conjunction with an event such as a trade show.

D) Provided, at the request of the State, general marketing material or makes a general sales presentation to show the person's qualifications or product capabilities. Material may be personalized for the procuring agency provided any personalization is obtained from publically available sources.

4) Prohibited Acts

A) Determination of Need. Any person or business who, at the request of the State or with the consent of the State, reviews or analyzes the State's assets, activities, documents, functions, organization, programs or anything of similar nature to aid in the determination of whether the State has a need for some good or service is prohibited from bidding on or receiving a contract to meet that need.

B) Preparation of Procurement Documents. A person or business is prohibited from bidding on a solicitation and from having a contract arising from any of the following activities if the person or business, at the request of the State or with the consent of the State, assisted in the preparation of procurement documents in any of the following ways:

i) Draft (writes or assists the State with writing all or part of the procurement document);

ii) Review (reads the document or comments on the procurement document);

iii) Prepare (any activity relating to organizing or distributing the documents, including through the Procurement Bulletin); or

iv) Provides similar assistance, e.g., conducting research or providing any advice used in drafting, reviewing or preparing procurement documents.

5) Exceptions. Any person or business who responds to an advertised request for information or other publically available opportunity to provide information related to the procurement need or to review drafts of all or part of proposed procurement documents shall not be disqualified by virtue of responding to the State's publically advertised request.

y) Pre-Submission Conference
A pre-submission conference may be conducted to enhance potential vendors' understanding of the procurement requirements. The pre-submission conference shall be announced as part of the solicitation notice. The conference may be designated as "attendance mandatory" or "attendance optional". The conference should be held long enough after the solicitation has been issued to allow potential vendors to become familiar with it, but sufficiently before solicitation opening to allow consideration by vendors of conference results in preparing their responses. Supporting documentation of the conference shall be supplied to all prospective vendors known to have received a solicitation by posting the information on the Bulletin. Nothing stated at the pre-submission conference shall change the solicitation unless a change is made by written modification to the solicitation. Amendments shall be supplied to all those prospective vendors through posting on the Bulletin.

z) Federally Funded Purchases
For purchases funded in whole or in part by United States Government funds, the solicitation will identify the federal statutes and regulations with which the vendor must comply.

~~u) Documentation of Procurement Actions~~
~~Each SPO shall maintain in the procurement or associated contract file all substantive documents and records of communications that pertain to the procurement and any resulting contract. This shall include, as applicable, but is not limited to:~~

~~1) Procurement Business Case or other form of decision memo showing approvals to proceed at all stages,~~

~~2) Procurement Bulletin Postings,~~

~~3) Solicitation document (e.g., IFB) and all amendments, clarifications and Best & Final requests,~~

~~4) Vendors' responses, including clarifications and responses to Best & Final requests (losing responses may be stored elsewhere),~~

~~5) Evaluation material (e.g., scoring guidelines and forms; completed score sheets for individual evaluators, including notes; evaluation committee's combined score sheets; evaluation committee's recommendation; and management's decision),~~

~~6) Protest and resolution,~~

~~7) Contract and any order, change, amendments, renewal or extension,~~

~~8) Contractor Performance reviews,~~

~~9) All information from subsections (u)(1)-(u)(8), less information exempt from disclosure under the Freedom of Information Act [5 ILCS 140], shall be prepared and available for inspection and copying, with information from subsections (u)(1)-(u)(5) available on the date any award is posted to the Procurement Bulletin.~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.2010 Competitive Sealed Bidding

a) Application
Competitive sealed bidding is the required method of source selection, except as allowed by the Code and this Part. The provisions of this Section apply to every procurement required to be conducted by competitive sealed bidding.

b) ~~The~~ Invitation for Bids

1) Use. An~~The~~ IFB~~Invitation for Bids~~ is used to initiate a competitive sealed bid procurement.

2) Content. An IFB~~The Invitation for Bids~~ shall include, at a minimum, the following:

A) instructions and information to bidders concerning the bid

submission requirements, including the time and date set for receipt of bids, the address of the location~~office~~ to which bids are to be delivered, and the maximum time for bid acceptance by the State;

B) the purchase description, evaluation factors, delivery or performance schedule, and such inspection and acceptance requirements as are not included in the purchase description; and

C) the contract terms and conditions, including warranty and bonding or other security requirements, as applicable and State mandated certifications.

3) Delivery-Related Costs
Unless otherwise provided in the solicitation, the bid price includes transportation, transit insurance, delivery, installation and any other costs.~~Incorporation by Reference. The Invitation for Bids may incorporate documents by reference provided that the Invitation for Bids specifies where such documents can be obtained.~~

~~c) Bidding Time~~
~~Bidding time is the period of time between the date of notice or distribution of the Invitation for Bids and the time and date set for receipt of bids. In each case, bidding time will be set to provide bidders a reasonable time to prepare their bids. A minimum of 14 days shall be provided unless a shorter time is authorized by the Code or this Part.~~

~~d) Bidder Submissions~~

~~1) Bid Form. The Invitation for Bids may include a form or format for submitting bids. If a form or format is specified, vendor shall submit bids as instructed.~~

~~2) Bid Samples and Descriptive Literature~~

~~A) Bid samples or descriptive literature may be required when it is necessary to evaluate required characteristics of the items bid.~~

~~B) Unsolicited bid samples or descriptive literature are submitted at~~

~~the bidder's risk, may not be examined or tested, will not be deemed to vary any of the provisions of the Invitation for Bids, and may not be utilized by the vendor to contest a decision or understanding with the State.~~

~~e)~~ ~~Public Notice~~

~~1)~~ ~~Publication. Every procurement for supplies and services in excess of the small purchase amount that must be procured using an Invitation for Bids shall be publicized in the Illinois Procurement Bulletin (see Section 1.1510).~~

~~2)~~ ~~Public Availability. A copy of the Invitation for Bids shall be made available for public inspection.~~

~~3)~~ ~~Distribution. Invitations for Bids or Notices of the Availability of Invitations for Bids may be mailed or otherwise furnished to a sufficient number of bidders for the purpose of securing competition. Notices of Availability shall, at a minimum, indicate where Invitations for Bids may be obtained; generally describe what is needed; and indicate the due date for bids. Where appropriate, the Procurement Officer may require payment of a fee or a deposit for supplying the Invitation for Bids.~~

~~f)~~ ~~Pre-Bid Conference~~
~~A pre-bid conference may be conducted to enhance understanding of the procurement requirements. The pre-bid conference shall be announced as a part of the Invitation for Bids notice. The conference may be designated as "attendance mandatory" or "attendance optional". The conference should be held long enough after the Invitation for Bids has been issued to allow bidders to become familiar with it, but sufficiently before bid opening to allow consideration of the conference results in preparing their bids. Nothing stated at the pre-bid conference shall change the Invitation for Bids unless a change is made by written amendment to the Invitation for Bids. Amendments shall be supplied to all those prospective bidders known to have received an Invitation for Bids. If the conference is mandatory, the amendment shall be supplied to attendees only.~~

c~~g~~) Amendments to Invitations for Bids

1) Form. Amendments to IFBs ~~Invitations for Bids~~ shall be clearly identified

and shall reference the portion of the IFB being amended~~it amends~~.

2) Distribution. Amendments shall be made available to all prospective bidders known to have received an IFBI~~nvitation for Bids~~ through posting on the Bulletin.

3) Timeliness. Amendments shall be made available within a reasonable time to allow prospective bidders to consider them in preparing their bids. If the time and date set for receipt of bids will not permit that~~such~~ preparation, the amendment shall extend the response time. If necessary, the response time may be extended by written announcement posted at the opening location or as announced at the scheduled opening time~~e-mail, fax or telephone~~ and confirmed in the amendment.

d~~h~~) Pre-Opening Modification or Withdrawal of Bids

1) Procedure. Bids may be modified or withdrawn by written notice received in the location~~office~~ designated in the IFB~~Invitation for Bids~~ prior to the time and date set for bid opening.

2) Disposition of Bid Security. If a bid is withdrawn in accordance with this Section, the bid security, if any, shall be returned to the bidder.

3) Records. All documents relating to the modification or withdrawal of bids shall be made a part of the appropriate procurement file.

e~~i~~) Receipt, Opening and Recording of Bids

1) Receipt. Upon its receipt, each bid and modification shall be date and time-stamped but not opened and shall be stored in a secure place until the time and date set for bid opening. If a bid is opened for identification purposes or in error, the file shall state the reason for the breach~~so state~~.

2) Opening and Recording
~~A)~~Bids and modifications shall be opened publicly at the time, date~~,~~ and place designated in the IFB~~Invitation for Bids~~ in the presence of a State witness. The~~Opening shall be witnessed by a State employee or any other person present, but the~~ person opening bids shall not serve as witness. The CPO-GS shall determine information that shall be recorded, read and

made available at the opening, including items such as the name of each bidder, the bid price and such other information the CPO-GS determines is appropriate. ~~The name of each bidder, the bid price, and such other information as is deemed appropriate by the Procurement Officer shall be recorded and read aloud or otherwise made available. The name of the witness shall also be recorded at the opening.~~

~~B)~~ ~~The winning bid shall be available for public inspection after award, along with the record of each unsuccessful bid.~~

f~~j~~) Bid Evaluation and Award

1) General. The contract is to be awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the IFB~~Invitation for Bids~~, except as permitted in the Code and this Part. The IFB~~Invitation for Bids~~ shall set forth the requirements and criteria that will be used to determine the lowest responsive bidder. No bid shall be evaluated for any requirements or criteria for price or responsiveness that are not disclosed in the IFB~~Invitation for Bids~~.

2) Responsibility. Responsibility of prospective vendors is covered by Section 1.2046 (Responsibility)~~ of this Part~~.

3) Responsiveness. A bid must conform in all material respects to the IFB~~Invitation for Bids~~.

A) Product or Service Acceptability. The IFB~~Invitation for Bids~~ shall set forth any evaluation criteria to be used in determining product or service acceptability. It may require the submission of bid samples, descriptive literature, technical data, references, licenses, or other information or material. It may also provide for accomplishing any of the following prior to award:

i) inspection or testing of a product or service prior to award for such characteristics as quality or workmanship;

ii) examination of such elements as appearance, finish, taste~~,~~ or feel;

iii) other examinations to determine whether the product or service~~it~~ conforms to~~with~~ any other purchase description requirements.

B) The acceptability evaluation is not conducted for the purpose of determining whether one bidder's product or service capability is superior to another, but only to determine that a bidder's offering is acceptable as set forth in the Invitation for Bids. Any bidder's offering that does not meet the acceptability requirements shall be rejected.

4) Determination of Lowest Bidder. Following determination of product or service acceptability as set forth in this subsection (f~~j~~), bids will be evaluated to determine which bidder offers the lowest cost to the State in accordance with the evaluation criteria set forth in the IFB~~Invitation for Bids~~. Only objectively measurable criteria that are set forth in the IFB~~Invitation for Bids~~ shall be applied in determining the lowest bidder. Examples of such criteria include, but are not limited to, transportation cost, administrative cost and ownership or life-cycle cost formulas. Evaluation factors need not be precise predictors of actual future costs, but to the extent possible, the~~such~~ evaluation factors shall be reasonable estimates based upon information the State has available concerning future use and shall treat all bids equitably~~provide for the equitable treatment of all bids~~. Pricing for optional supplies or services, or for renewal terms, may be considered, particularly when the pricing for those~~such~~ items or terms is unbalanced when compared to other pricing in the bid.

5) Price Negotiation. Negotiations are permitted with the low bidder to obtain a lower price for the item bid.

~~k)~~ ~~Documentation of Award~~
~~Following award, a record showing the successful bidder shall be made a part of the procurement file.~~

g~~l~~) Award to Other Than Low Responsible and Responsive Bidder
~~1)~~The SPO~~Procurement Officer~~, but not a designee, may authorize the State to award to other than the lowest responsible and responsive bidder upon a written determination that award to another bidder is in the State's best interest. A description of the agency's needs, a determination that the anticipated cost will be

fair and reasonable, a listing of all responsible and responsive bidders, and the~~The~~ name of the bidder selected, pricing~~,~~ and the reasons for selecting this bidder instead of the low bidder must be published in the Bulletin, and notice shall be filed with the Legislative Audit Commission and PPB. This information shall be made available for inspection by the public within 30 days after the agency's decision to award the contract.

~~2)~~ ~~This action may be appropriate when the difference in quality or speed of delivery is so great as compared to the difference in price, and considering the needs of the agency, that a best value award is justified. However, if the difference in price is significant, the Procurement Officer may not utilize this provision.~~

h~~m~~) Publicizing Award

1) Bidders shall be notified of contract award. The~~ successful bidder shall be notified of award and such~~ Notification~~notification~~ shall be issued electronically and, additionally, may be in the form of a letter, purchase order or other clear communication. Notices of awards through the Invitation for Bids process shall be published in the Bulletin prior to the execution of a contract. Failure to provide this notice to all bidders shall result in extending the time for filing a bid protest up to 5 business days. If the contract is awarded to other than the lowest bidder, the notice shall include an explanation of the award. Notice of the award shall be posted on the State agency's website the next business day. The winning bid shall be available for public inspection after award, along with a record of each unsuccessful bid.~~In procurements over the small purchase limit set in Section 1.2020 (Small Purchases) of this Part, notice of award shall be published in the Bulletin.~~

2) Notice of award must include at least the following information:

A) date solicitation was first offered;

B) due date for submission of offers;

C) location for submission of offers;

D) name of purchasing agency;

E) name of responsible SPO;

F) brief description of supplies/services being purchased;

G) method of source selection;

H) name of the successful responsible bidder;

I) contract price;

J) number of unsuccessful responsive bidders;

K) percentage of disadvantaged business utilization plan;

L) percentage of business enterprise program utilization plan;

M) total number of veteran owned small businesses and the number of service disabled veteran owned small businesses that submitted bids for contracts;

N) any other disclosure required by the Code.

~~n) The contract resulting from this process shall reflect the awarded requirements and no material changes shall be made except in compliance with the requirements of the Code and this Part, including, but not limited to, source selection and Bulletin posting requirements.~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.2012 Multi-Step Sealed Bidding

a) Definition
Multi-step sealed bidding is a two-phase process consisting of a technical first phase composed of one or more steps in which bidders submit unpriced technical offers to be evaluated by the State, and a second phase in which those bidders whose technical offers are determined to be acceptable during the first phase have their price bids considered.

b) Conditions for Use
The multi-step sealed bidding method may be used when it is not practical to prepare initially a definitive purchase description that will be suitable to permit an award based on price. Multi-step sealed bidding may be used when it is considered desirable:

1) to invite and evaluate possible diverse technical offers to determine their acceptability to fulfill the purchase description requirements; and

2) to conduct discussions for the purposes of facilitating understanding of the technical offer and purchase description requirements and, when~~where~~ appropriate, obtain supplemental information, permit amendments of technical offers, or amend the purchase description.

c) Pre-Submission~~Pre-Bid~~ Conference in Multi-Step Sealed Bidding
Prior to the submission or evaluation of unpriced technical offers, a pre-submission ~~pre-bid~~ conference as contemplated by Section 1.2005(y)~~1.2010(f) (Pre-Bid Conference)~~ may be conducted by the SPO or designee~~Procurement Officer~~.

d) Procedure for Phase One of Multi-Step Sealed Bidding

1) Form. Multi-step sealed bidding shall be initiated by the issuance of an Invitation for Bids in the form required by Section 1.2010 (Competitive Sealed Bidding), except as otherwise~~hereinafter~~ provided in this subsection (d). In addition to the requirements set forth in Section 1.2010, the multi-step IFB~~Invitation for Bids~~ shall state:

A) that it is a multi-step sealed bid procurement, that only unpriced technical offers are requested and that priced bids will be considered only in the second phase and only from those bidders whose unpriced technical offers are found acceptable in the first phase;

~~B) whether priced bids are to be submitted at the same time as unpriced technical offers; if they are, such priced bids shall be submitted in a separate sealed envelope;~~

~~C) that it is a multi-step sealed bid procurement, and priced bids will~~

~~be considered only in the second phase and only from those bidders whose unpriced technical offers are found acceptable in the first phase;~~

B~~D~~) the criteria to be used in the evaluation of the unpriced technical offers;

C~~E~~) that the SPO or designee~~Procurement Officer~~ may conduct oral or written discussions of the unpriced technical offers; and

D~~F~~) that the item being procured shall be furnished generally in accordance with the bidder's technical offer as found to be finally acceptable and shall meet the requirements of the IFB~~Invitation for Bids~~.

2) Amendments to the IFB~~Invitation for Bids~~. After receipt of unpriced technical offers, amendments to the IFB~~Invitation for Bids~~ shall be distributed only to bidders who submitted unpriced technical offers, and those bidders~~they~~ shall be permitted to submit new unpriced technical offers or to amend those submitted. If, in the opinion of the SPO~~Procurement Officer~~, a contemplated amendment will significantly change the nature of the procurement, the IFB~~Invitation for Bids~~ may be canceled in accordance with Section 1.2040 (Cancellation of Solicitation; Rejection of Bids or Proposals) of this Part and a new IFB~~Invitation for Bids~~ issued.

3) Receipt and Handling of Unpriced Technical Offers. Unpriced technical offers submitted by bidders shall be opened in the presence of at least one State witness. Technical~~Such~~ offers shall not be disclosed to unauthorized persons.

4) Evaluation of Unpriced Technical Offers. The unpriced technical offers submitted by bidders shall be evaluated solely in accordance with the criteria set forth in the IFB~~Invitation for Bids~~. ~~The unpriced technical offers shall be categorized as:~~

~~A) acceptable;~~

~~B) potentially acceptable, that is, reasonably susceptible of being~~

~~made acceptable; or~~

~~C)~~ ~~unacceptable, in which case the Procurement Officer shall record in writing the basis for finding an offer unacceptable, notify the vendor and make it part of the procurement file.~~

5) Unacceptable Unpriced Technical Offer
When the SPO determines a bidder's unpriced technical offer does not meet criteria, the offer shall be rejected.~~The Procurement Officer may initiate phase two of the procedure if, in the Procurement Officer's opinion, there are sufficient acceptable unpriced technical offers to assure effective price competition in the second phase without technical discussions. If the Procurement Officer finds discussion of the technical offers is necessary, the Procurement Officer shall commence discussions of the unpriced technical proposals.~~

~~6)~~ ~~Discussion of Unpriced Technical Offers. The Procurement Officer may conduct discussions with any vendor who submits an acceptable or potentially acceptable technical offer. During the course of such discussions, the Procurement Officer shall not disclose any information derived from one unpriced technical offer to any other bidder. Any such bidder may submit supplemental information amending its technical offer at any time until the closing date established by the Procurement Officer. Such submission may be made at the request of the Procurement Officer or upon the bidder's own initiative.~~

~~7)~~ ~~Unacceptable Unpriced Technical Offer. When the Procurement Officer determines a bidder's unpriced technical offer to be unacceptable, such offeror shall not be afforded an additional opportunity to supplement its technical offer.~~

e) Procedure for Phase Two

1) Initiation. Upon the completion of phase one, the SPO or designee~~Procurement Officer~~ shall either:

A) open priced bids submitted in phase one (if priced bids were required to be submitted) from bidders whose unpriced technical offers were found to be acceptable; or

B) if priced bids have not been submitted, invite each acceptable bidder to submit a priced bid.

2) Conduct. Phase two shall be conducted as any other competitive sealed bid procurement.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.2013 Reverse Auctions

a) CPO-GS Authorization
A State agency may procure supplies or services (other than for professional and artistic services, telecommunications services, communication services, Internet services, and information services and construction services) through means of a reverse auction if the CPO-GS has made a determination that use of a reverse auction is in the best interests of the State. The CPO-GS shall publish in the Bulletin that bids will be received in an electronic auction manner as part of the notice of Invitation for Bid.

b) Reverse Auction Process
The SPO or designee shall conduct a reverse auction through a two step Invitation for Bids process consisting of bid prequalification and price submission.

1) Prequalification

A) An invitation to prequalify shall be issued requesting the submission of information addressing vendor qualifications and responsibility; vendor specifications and/or samples; confirming acceptance of auction procedures; and requiring agreement to accept a contract using State contract terms and conditions if selected for award in the price only part of the process. No pricing information shall be submitted or considered in the prequalification step of the process.

B) The prequalification bids shall not be opened publicly, but the opening shall be recorded and witnessed by a State witness. Prequalification information will be evaluated on a pass/fail basis

and vendors will be notified directly as to whether they met or did not meet the prequalification criteria.

2) Price

A) An Invitation for Bids shall be sent to those vendors who passed prequalification. The response shall be limited to the submission of prices in the form specified in the Invitation for Bids. The Invitation for Bids shall establish any minimum bid increments.

B) Prices shall be submitted electronically. The SPO shall cause the prices to be displayed as submitted, but the prices as displayed will not identify the name of the vendor. Vendors may reduce their price at any time during the active period of the auction.

C) When the low price is substantially lower than other prices submitted, the SPO or designee may request that the bidder confirm the price and, if an error has occurred, may allow withdrawal in accordance with the Code and this Part.

c) Technical Difficulties

1) The auction time may be extended or rescheduled by the SPO or designee if technical difficulties at the State site do not allow the auction to be conducted as intended. Participants will be notified of an extension or a rescheduling.

2) If technical difficulties occur at a vendor site such that the vendor cannot electronically submit a price, the SPO may accept a fax and will then enter the price for the vendor. Faxed prices will not be accepted later than 5 minutes before the originally scheduled end of the auction or if the faxed prices are higher than the then-existing low price.

d) Reverse Auction Training
The SPO may provide instructions or training to prequalified vendors regarding auction procedures and technology.

e) Disclosure of Reverse Auction Information

After the end of the reverse auction, the names of those who participated in either step of the process shall be disclosed and the final price submitted by each participant.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.2015 Competitive Sealed Proposals

a) Competitive Sealed Proposals may be used whenever permitted by the Code and as described in this Part.

b) The Competitive Sealed Proposal method of source selection may be used to procure the following categories~~:~~ (note that the following services, if they are professional and artistic, must be procured pursuant to Section 1.2035~~ of this Part~~):~~.~~

1) electronic data processing equipment, software~~,~~ and services;

2) telecommunications equipment, software~~,~~ and services;

3) consulting services; and

4) employee benefits and management of those benefits.

c) Competitive Sealed Proposals may be used on a case-by-case basis when it is determined by the SPO~~Procurement Officer~~ that competitive sealed bidding is either not practicable or advantageous. The Competitive Sealed Proposal method differs from competitive sealed bidding in two ways: it permits discussions with competing offerors and changes in their proposals, including price and it allows comparative judgmental evaluations to be made when selecting among acceptable proposals for award of the contract. Factors to be considered in determining whether competitive sealed bidding is either not practical or advantageous include:

~~1) "Practicable" Distinguished from "Advantageous." As used in Section 20-15 (Competitive Sealed Proposals) of the Illinois Procurement Code and in this Section, "practicable" denotes what may be accomplished or put into practical application, and "advantageous" connotes a judgmental assessment of what is in the State's best interest. Competitive sealed~~

~~bidding may be practicable, that is, reasonably possible, but not necessarily advantageous, that is, in the State's best interest. Before a procurement may be conducted by competitive sealed proposals, the Procurement Officer shall determine in writing that competitive sealed bidding is either not practicable or not advantageous to the State.~~

~~2) General Discussion~~

~~A) If competitive sealed bidding is not practicable or is not advantageous, competitive sealed proposals should be used.~~

~~B) The key element in determining whether use of a proposal is advantageous is the need for flexibility. The competitive sealed proposal method differs from competitive sealed bidding in two important ways:~~

~~i) it permits discussions with competing offerors and changes in their proposals, including price; and~~

~~ii) it allows comparative judgmental evaluations to be made when selecting among acceptable proposals for award of the contract.~~

1~~C~~) when~~Where~~ evaluation factors involve the relative abilities of offerors to perform, including degrees of experience or expertise, when~~where~~ the types of supplies or services may require the use of comparative, judgmental evaluations to evaluate them adequately, or when~~where~~ the type of need to be satisfied involves weighing aesthetic values to the extent that price is a secondary consideration;~~, use of competitive sealed proposals is the appropriate procurement method.~~

~~3) When Competitive Sealed Bidding Is Not Practicable. Competitive sealed bidding is not practicable unless the nature of the procurement permits award to a low bidder who agrees by its bid to perform without condition or reservation in accordance with the purchase description, delivery or performance schedule, and all other terms and conditions of the Invitation for Bids. Factors to be considered in determining whether competitive sealed bidding is not practicable include:~~

~~A) whether the contract needs to be other than a fixed-price type;~~

2~~B~~) whether oral or written discussions may need to be conducted with offerors concerning technical and price aspects of their proposals;

3~~C~~) whether offerors may need to be afforded the opportunity to revise their proposals, including price;

4~~D~~) whether award may need to be based upon a comparative evaluation, as stated in the Request for Proposals, of differing price, quality, and contractual factors in order to determine the most advantageous offering to the State. Quality factors include technical and performance capability and the content of the technical proposal; ~~and~~

5~~E~~) whether the primary consideration in determining award may not be price; and~~.~~

~~4) When Competitive Sealed Bidding Is Not Advantageous. A determination may be made to use competitive sealed proposals if it is determined that it is not advantageous to the State, even though practicable, to use competitive sealed bidding. Factors to be considered in determining whether competitive sealed bidding is not advantageous include:~~

6~~A~~) if prior procurements indicate that competitive sealed proposals may result in more beneficial contracts for the State.~~; and~~

~~B) whether the factors listed in subsection (c)(3) of this Section are desirable, in conducting a procurement, rather than necessary; if they are, then such factors may be used to support a determination that competitive sealed bidding is not advantageous.~~

d) Content of the Request for Proposals
The RFP~~Request for Proposals~~ shall be prepared in accordance with Section 1.2010 (Competitive Sealed Bidding), provided that it shall also include:

1) a statement that discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award, but that proposals may be accepted without those~~such~~ discussions; and

2) a statement of when and how price should be submitted.

e) Receipt and Registration of Proposals

1) Upon its receipt, each proposal or modification shall be date- and time-stamped but not opened and shall be stored in a secure place until the time and date set for opening. If a proposal is opened for identification purposes or opened in error, the file shall state the reason for the error.

2) Proposals and modifications shall be opened publicly at the time, date and place designated in the RFP~~Request for Proposals~~. Opening shall be witnessed by a State employee or by any other person present, but the person opening proposals shall not serve as witness. A record shall be prepared that shall include the name of each offeror, the number of modifications received, if any, a description sufficient to identify the supply or service item offered, and a notation that the package contains a price proposal. The record of proposals shall be open to public inspection after award of the contract.

3~~2~~) Proposals and modifications shall be opened in a manner to avoid disclosing contents to competitors. Only authorized State personnel and contractual agents may review the proposals prior to award.

f) Evaluation of Proposals

1) Evaluation Factors in the RFP~~Request for Proposals~~. The RFP~~Request for Proposals~~ shall state all of the evaluation factors, including price, and their relative importance. Evaluation subfactors, if any, and their relative importance must be finalized prior to the opening and made available for inspection and copying upon opening. However, all price subfactors and their relative ranking must be shown in the RFP~~Request for Proposals~~.

2) Evaluation. The evaluation shall be based solely on the evaluation factors set forth in the RFP~~Request for Proposals. Only those factors specified in the Request for Proposals shall be considered and no other factors shall be authorized for consideration in evaluating the proposals~~, except as communicated in advance to each proposer with opportunity to make necessary adjustments to the proposal. Numerical rating systems shall be

used unless another scoring tool is authorized by the SPO~~may be used but are not required~~. Any scoring tool shall reflect the evaluation criteria and ranking set forth in the RFP~~Request for Proposals~~ and any subfactors available at the opening. Proposals shall be submitted in two parts: the first, covering issues other than price, and the second, covering price. The first part shall be evaluated and ranked independent of the second part of all proposals. Each member of the evaluation committee must evaluate the first part individually. After completion of the individual evaluations, the SPO shall determine whether the evaluation committee should meet to confirm the individual scores. Factors the SPO should consider in determining whether the evaluation committee should meet include whether there is a significant or substantial variance of scores, divergent scoring comments, or other information that suggests the need for further discussion.~~Evaluation shall be conducted in two initial stages. All factors other than price shall be evaluated first and then price factors shall be evaluated. However, evaluation may proceed simultaneously provided different evaluators are used to evaluate price and the other factors and no information is exchanged between the sets of evaluators prior to the completion of the initial evaluation.~~ The price proposal shall be opened in the presence of a State witness and distributed to the appropriate evaluators.

~~3) Classifying Proposals. For the purpose of conducting discussions, proposals may be initially classified as:~~

~~A) acceptable;~~

~~B) potentially acceptable, that is, reasonably susceptible of being made acceptable; or~~

~~C) unacceptable. Offerors whose proposals are unacceptable shall be so notified promptly.~~

g) Proposal Discussions with Individual Offerors

~~1) "Offerors" Defined. For the purposes of Section 20-15(f) (Competitive Sealed Proposals, Discussion with Responsible Offerors and Revisions to Proposals) of the Illinois Procurement Code and of this Section, the term "offerors" includes only those businesses submitting proposals that are~~

~~acceptable or potentially acceptable. The term shall not include businesses that submitted unacceptable proposals.~~

1~~2~~) Purposes of Discussions. Discussions are held to:

A) promote understanding of the State's requirements and the offerors' proposals; and

B) facilitate arriving at a contract that will be most advantageous to the State, taking into consideration price and the other evaluation factors set forth in the RFP~~Request for Proposals~~.

2~~3~~) Conduct of Discussions. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussions and clarifications~~revisions~~ of proposals. If during discussions it is determined there is a need for ~~any~~ substantial revision~~clarification~~ of, or change to, the RFP~~Request for Proposals~~, the RFP~~Request~~ shall be cancelled and may be resolicited~~amended~~ to incorporate the~~such~~ clarification or change. Auction techniques (revealing one offeror's price to another) and disclosure of any information from competing proposals are prohibited. Any substantial oral clarification of a proposal shall be reduced to writing by the offeror.

3) Best and Final Offers. The SPO or designee may request best and final offers from those offerors deemed acceptable after completion of any discussions. Best and final offers shall be submitted by a specified date and time. The SPO or designee may conduct additional discussions or require another submission of best and final offers. The scope of the best and final offer and the number of vendors allowed to participate shall be defined by the SPO. If an offeror does not submit either a notice of withdrawal or another best and final offer, the offeror's immediately previous offer will be construed as its best and final offer.

~~4) Best & Final Offers. The Procurement Officer may request Best & Final offers, when in the best interest of the State of reasons, including, but not limited to, reducing scope to accommodate budget, obtain lower cost at no or insignificant change from original proposal, to accept new technology at no or insignificant change in cost, or to have vendors adjust proposals to focus on one or several alternatives originally requested or proposed. Best~~

~~& Final offers may be requested from all offerors or from only those in the zone of contention after preliminary evaluation as determined by the Procurement Officer. The request for Best & Final offers may pertain to any aspect of the solicitation, including but not limited to qualifications, specifications, scope of work or price. The Best & Final request shall clearly identify the matters that the offerors must address, and the matters may vary from vendor to vendor if necessary. Best & Final offers shall be submitted by a specified date and time. The Procurement Officer may conduct additional discussions or change the State's requirements and require another submission of Best & Final offers. If an offeror does not submit a Best & Final offer, that offeror's immediately previous offer will be construed as its Best & Final offer.~~

h) Award

~~1)~~An award shall be made by the SPO~~Procurement Officer~~ pursuant to a written determination showing the basis on which the award was found to be most advantageous to the State, taking into consideration price and evaluation factors set forth in the RFP. The contract file shall contain the basis on which the award is made.~~based on the factors set forth in the Request for Proposals~~.

~~2) If the selected vendor did not submit the low price, the award notice shall state, in reasonable detail, why the selected vendor was deemed most advantageous.~~

~~3) The contract resulting from this process shall reflect the awarded requirements and no material changes shall be made except in compliance with the requirements of the Code and this Part, including, but not limited to, source selection and Bulletin posting requirements.~~

i) Publicizing Awards

Immediately upon contract award, offerors shall be notified. The ~~successful offeror shall be notified of award and such~~ notification shall be issued electronically and additionally may be in the form of a letter, purchase order or other clear communication. Notices of awards through the Sealed Bid Proposal process shall be published in the Bulletin prior to the execution of a contract. Notice of the award shall be posted on the State agency's website the next business day. Notice of award must include at least the following information:~~When the award exceeds the small purchase limit set in Section 1.2020 of this Part, notice of award shall be published in the Bulletin.~~

1) date solicitation first offered;

2) due date for submission of offers;

3) location for submission of offers;

4) name of purchasing agency;

5) name of responsible SPO;

6) brief description of supplies/services being purchased;

7) method of source selection;

8) name of the successful responsible offeror;

9) contract price;

10) number of unsuccessful responsive offerors;

11) percentage of disadvantaged business utilization plan;

12) percentage of business enterprise program utilization plan;

13) total number of veteran owned small businesses and the number of service disabled veteran owned small businesses that submitted bids for contracts; and

14) any other disclosure required by the Code.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.2020 Small Purchase Limits~~Purchases~~

a) Application

1) Individual procurements~~Procurements~~ of $35,000~~25,000~~ or less for supplies or services, other than professional and artistic, may be made

without notice or competition~~using the method of source selection determined by the Procurement Officer to be most appropriate to the circumstances~~. These small purchase maximums shall be subject to the annual cost of living increases set forth in subsection (a)(3).

~~2)~~ ~~Procurements of less than $20,000 for professional and artistic services and that have a non-renewable term of one year or less may be made using the method of source selection determined by the Procurement Officer to be most appropriate to the circumstances.~~

2~~3~~) Procurements for construction and construction related services of $40,700~~30,000~~ or less, or as increased to reflect increases in the consumer price index as determined by the CPO-GS ~~for Capital Development Board or the CPO for Department of Transportation~~.

3~~4~~) The CPO-GS shall announce any change identified by the United States Department of Labor in the Consumer Price Index for All Urban Consumers for the period ending each December 31~~, 1998, and for each year thereafter~~. That percentage change shall be used to recalculate~~calculate~~ the small purchase maximums ~~that shall be~~ applicable for the fiscal year beginning the following July 1~~, 1999~~. ~~The small purchase maximums shall be likewise recalculated for each July 1 thereafter.~~

4) Procurements of less than $20,000 for professional and artistic services and that have a non-renewable term of one year or less may be made without notice of competition.

b) Determination of Small Purchase Status

1) In determining whether a contract is under the small purchase limit, the stated value of the supplies or services plus any~~contract for the full term and all~~ optional supplies and services~~renewals~~, determined in good faith, shall be utilized. ~~The stated value of the supplies or services, plus any optional supplies and services, shall be utilized.~~ When~~Where~~ the value~~term~~ is calculated month-to-month or in a similar fashion, the amount shall be calculated for a 12 month period.

2~~c~~) If only a unit price or hourly rate is known, the contract shall be

considered small and shall have a not to exceed limit applicable to the type of procurement (see subsection (a)).

3~~d~~) If, after signing the contract, the actual cost of completing the contract is determined to exceed the small purchase amount, and the SPO~~Procurement Officer~~ determines that a supplemental procurement is not economically feasible or practicable because of the immediacy of the agency's needs or other circumstances, the SPO~~Procurement Officer~~ must follow the procedures for sole source or emergency procurement, whichever is applicable, to complete the contract.

c) The CPO-GS may establish policies and procedures to manage the use of the small purchase method of source selection. The SPO may establish additional policies and procedures applicable to State agencies under the SPO's jurisdiction.

~~e) Procurement requirements shall not be artificially divided to avoid using the other source selection methods set forth in Section 20-5 of the Illinois Procurement Code.~~

d~~f~~) If there is a repetitive need for small procurements of the same type, the State agency shall notify the SPO who~~Procurement Officer~~ shall consider whether issuing a competitive sealed bid or proposal for procurement of those needs is in the best interests of the State.

~~g) Agencies shall establish policies to control the use of this small purchase provision and shall make those policies available to the CPO upon request.~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.2025 Sole Economically Feasible Source Procurement

a) Application
The provisions of this Part apply to procurement from a sole economically feasible source (referred to as sole source) unless the estimated amount of the procurement is within the limit authorized~~set~~ in Section 1.2020 (Small Purchases) or unless emergency conditions exist as defined in Section 1.2030 (Emergency Procurements)~~ of this Part~~, in which case those other procedures may be used.

b) Conditions for Use of Sole Source Procurement

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

NOTICE OF PROPOSED AMENDMENTS

Sole source procurement is permissible when a requirement is available from only a single supplier or when only one supplier is deemed economically feasible. A requirement for a particular proprietary item does not justify a sole source procurement if there is more than one vendor~~potential bidder or offeror~~ authorized to provide that item. The following are examples of circumstances that could necessitate sole source procurement:

1) ~~where the~~ compatibility of equipment, accessories, replacement parts~~,~~ or service is a paramount consideration;

2) ~~where a sole supplier's~~ items are needed for trial use or testing of that specific product or service;

3) ~~where a sole supplier's~~ item is ~~to be procured~~ for commercial resale;

4) non-competitive~~where~~ public utility ~~regulated~~ services ~~are to be procured~~;

5) ~~where the~~ item is copyrighted or patented and the item or service is not available except from the holder of the copyright or patent;

6) ~~the procurement of the~~ media for advertising;

7) ~~the procurement of~~ art, ~~or~~ entertainment services or athletic events; ~~and~~

8) radio and television broadcast rights;

9) procurements related to participation in mandated educational, professional, research, public service or athletic activities of organizations of which the State agency is a member. These procurements may include, but are not limited to, dues and membership fees, travel and lodging and facility usage fees;

10) federal or State grant requires contract with named vendor;

11) changes to existing contracts (see subsection (c)).

c) Changes

1) Changes to an existing contract that are germane and reasonable in scope

and cost in relation to the original contract or program, that are necessary or desirable to ensure success of~~complete~~ the ~~contract or~~ program, and that can be best accomplished by the contract holder may be procured under this Section. The SPO must determine~~when the Procurement Officer determines~~ that the cost of delay or disruption to the contract or program, and the cost of a new solicitation, clearly indicate that the existing vendor is the sole economically feasible source.

2) As provided in Section 20-25(b) of the Code, changes to a contract for professional or artistic services that *would result in an increase in the amount paid under the contract of more than 5% of the initial award, or would extend the contract term beyond the time reasonably needed for a competitive procurement, not to exceed two months*, may not be made on a sole source basis.

3) A change (whether in cost or rate) that does not exceed the applicable small purchase limit as defined in Section 1.2020~~ of this Part~~, or that is an emergency as defined in Section 1.2030~~ of this Part~~, may be made in accordance with procedures governing those Sections and need not comply with these sole source procedures. A change in the length of the contract that does not exceed 30 days and other minor, immaterial changes to the scope or administrative provisions of a contract shall not be considered changes subject to these sole source procedures.

d) Sole Source Determination~~Procurement Officer to Determine~~
~~1)~~The determination as to whether a procurement shall be made as a sole source procurement shall be made by the SPO, based on a request made by a State agency.~~Procurement Officer. Such determination and the basis therefore~~ The request shall be in writing and shall include the basis for the sole source determination. Prior to authorizing the State agency to enter into a contract based on the sole source request, the CPO-GS shall require a public hearing to be held and make a final determination as required by Section 20-25(a) of the Code.~~Such officer may specify the application of such determination and the duration of its effectiveness.~~

~~2)~~ ~~Any purchase request submitted to the CPO suggesting that a procurement be restricted to one potential vendor shall be accompanied by an explanation as to why no other vendor will be suitable or acceptable to meet the need.~~

~~3)~~ ~~The State agency SPOs shall submit any sole source procurements to the CPO for approval before publication of a notice in the Bulletin. Based on sole source procurements previously submitted, the CPO may determine that certain categories of procurements do not require future approval and that certain agencies no longer need to submit sole source procurement requests for approval. These exceptions may be revoked upon review and determination that the sole source procurement file does not have adequate documentation appropriate for non-competitive procurement.~~

e) Hearing~~Publication of Sole Source Notice~~
Any hearing required shall be conducted in accordance with Subpart V.~~The Procurement Officer shall publish in the Bulletin notice of intent to contract with that vendor at least 14 days prior to execution of the contract.~~

~~1)~~ ~~If no challenge to this determination is made by a vendor within the 14-day period, the Procurement Officer may execute a contract with that vendor.~~

~~2)~~ ~~If a challenge is received, the Procurement Officer shall consider the information and shall commence a competitive procurement if the Procurement Officer determines that more than one economically feasible source may be available and the sole source designation is, therefore, not appropriate, unless an emergency situation exists.~~

~~f)~~ ~~Negotiation in Sole Source Procurement~~
~~The Procurement Officer shall conduct negotiations, as appropriate, to reach contract terms, including price, and shall maintain a record of each sole source procurement showing:~~

~~1)~~ ~~the vendor's name;~~

~~2)~~ ~~the amount and type of the contract;~~

~~3)~~ ~~what was procured; and~~

~~4)~~ ~~the identification number of the contract file.~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 1.2030 Emergency Procurements

a) Authority to Make Emergency Procurements~~Applications~~
The provisions of this Part apply to every procurement over the small purchase limit set in Section 1.2020 (Small Purchases) made under emergency conditions. The SPO, or a State agency through written designation, shall have the authority to make emergency procurements when an emergency condition arises and the need cannot be met through normal procurement methods.~~The provisions of this Part apply to every procurement over the small purchase limit set in Section 1.2020 (Small Purchases) of this Part and that is not a sole source procurement under Section 1.2025 of this Part made under emergency, including quick purchase, conditions.~~

b) Statutory~~Definition of~~ Emergency Conditions
~~Procurements may be made under this Section 1.2030 in the following circumstances:~~

1) A statutory emergency condition exists~~Traditional circumstances include but are not limited to~~:

A) if there exists a threat to public health or public safety~~, including the health or safety of any particular person, is threatened~~;

B) when immediate expenditure is needed for repairs ~~are needed~~ to State property in order to protect against further loss or damage to State property~~, or to prevent loss or damage to State property~~;

C) ~~immediate action is needed~~ to prevent or minimize serious disruption in critical State services that affect health, safety, or collection of substantial State revenues; or

D) to ensure the integrity of State records.~~action is needed to ensure the integrity of State records;~~

~~E)~~ ~~equipment or services are necessary in the furtherance of covert activities lawfully conducted by a State agency. Any required disclosures shall be made so as not to jeopardize those covert activities;~~

~~F) immediate action is necessary to avoid lapsing or loss of federal or donated funds;~~

~~G) the need for items to protect or further State interests is immediate and use of other competitive source selection procedures under the Code and this Part cannot be accomplished without significant risk of causing serious disadvantage to the State.~~

~~2) After Unsuccessful Competitive Solicitations. When bids or proposals received pursuant to a competitive sealed bid or competitive sealed proposal method are unreasonable or noncompetitive, or the price exceeds available funds, and time or other circumstances will not permit the delay required to resolicit competitive sealed bids or proposals, and if emergency conditions exist after an unsuccessful attempt to use competitive sealed bidding, an emergency procurement may be made.~~

~~3) Extension to Allow Competition. Extending an existing contract for such period of time as is needed to conduct a competitive method of source selection where terminating or allowing the contract to terminate would not be advantageous to the State.~~

c~~4~~) Quick Purchase

The emergency method of source selection is allowed in additional situations. These include, but are not limited to:

1) protect the health and safety of any person;

2) items are available on the spot market or at discounted prices for a limited time so that good business judgment mandates a "quick purchase" immediately to take advantage of the availability and price;

3) rare items, such as articles of historical value or art collections, that are available for a limited time;

4) the opportunity to obtain entertainment, speakers and athletic and other events or performances is available for a limited time;

5) immediate action is necessary to avoid lapsing or loss of federal or donated funds.

~~A) A supplier announces bankruptcy, cessation of business, or loss of franchise, or gives other similar reason such that making a purchase immediately is more advantageous to the State than instituting a competitive procurement under the provisions of this Code for the supplies or services;~~

~~B) Items are available on the spot market or at discounted prices for a limited time so that good business judgment mandates a purchase immediately to take advantage of the availability and price;~~

~~C) availability of rare items, such as books of historical value;~~

~~D) the procurement is for entertainment.~~

d~~e~~) Scope of Emergency Conditions
Emergency procurement~~procurements~~ shall be limited to the supplies, services, construction or other items~~, quantity and term~~ necessary to meet the emergency need. In certain situations the purchase to meet the immediate need (i.e., the temporary solution) may, by necessity, also be the permanent solution. In this event, the notice shall describe that circumstance.

~~d) Authority to Make Emergency Procurements~~
~~Authority to make emergency procurements is established in Subpart C. Whenever practical, existing State contracts shall be utilized and, whenever practical, approval by the CPO shall be obtained prior to procuring items reserved to the CPO. The SPO of each agency shall be responsible for making the filings required in Section 20-30 of the Code.~~

e) Source Selection Methods
Any method of source selection, whether or not identified in this Part, may be used to conduct the procurement in emergency situations provided that, whenever practical, existing State contracts shall be utilized and competitive sources shall be considered if practical~~situations~~. The procedure used shall be selected to assure that the required items are procured in time to meet the emergency. Such competition as is practicable shall be obtained.

f) Determination and Record of Emergency Procurement

1) Determination. The SPO~~Procurement Officer~~ shall make a written determination stating the basis for an emergency procurement and for the selection of the particular vendor. These determinations~~Such determinations~~ shall be kept in the contract file~~ of the Procurement Officer~~.

2) Record. An affidavit of each emergency procurement (including extensions of emergency contracts beyond 90 days) shall be filed by the State agency with the CPO-GS, PPB and the Auditor General within 10 days after the procurement and shall include the following information:

A) the vendor's name;

B) the amount and type of the contract~~, provided that~~ (if only an estimate of the amount is available immediately, the record shall be supplemented with the final amount once known);

C) a description of what the vendor will do or provide;

D) the reasons for using the emergency method of source selection.

3) Notice of the Emergency Procurement
Notice of the emergency procurement shall be published in the Bulletin by the SPO as specified in Sections 15-25(c) and 20-30 of the Code no later than 3 business days after the contract is awarded and shall include a description of the procurement, the reasons for the emergency procurement and the total cost. When only an estimate of the total cost is known at the time of publication, the estimate shall be identified as an estimate and published. When the total cost is determined, it shall also be published in like manner before the 10th day of the next succeeding month. In rare instances in which publication of the contract price would have a detrimental impact on future procurements of similar supplies or services (for example, in connection with the purchase of a complete manuscript or art collection or other rare or one-of-a-kind items), as determined in writing by the SPO, the contract price shall not be published with the notice of award, but the notice shall indicate that price information is available to the public, upon request, from the SPO~~emergency~~

~~procurement shall be published in the Bulletin in accordance with Subpart D of this Part~~.

4) The State agency shall be responsible for making the filings required in Section 20-30 of the Code.

g) Duration of Emergency Contract

1) The term of the temporary solution emergency contract shall be limited to the time reasonably needed for a competitive procurement for the permanent solution, not to exceed 90 days. A temporary solution emergency contract may be extended beyond 90 days if the CPO-GS determines additional time is necessary and the contract scope and duration are limited to the emergency. Prior to execution of the extension, a public hearing shall be held at which PPB and members of the public may present testimony.

2) Notice of Extension
Notice of intent to extend an emergency contract shall be published in the Bulletin no later than 14 days prior to a public hearing. Notice shall include at least a description of the need for the emergency extension, the contractor, and, if applicable, the date, time and location of the public hearing.

3) The initial determination as to whether an emergency shall be extended for a term longer than 90 days shall be made by an SPO in the form of an extension request submitted to the CPO-GS. The request shall be in writing and shall include the justification for the extension. Prior to execution of the extension, a public hearing shall be held at which PPB and members of the public may present testimony and the CPO-GS shall make a final determination as required by Section 20-30(a), (b) and (g) of the Code.

h) Contract Extension Hearing
The hearing shall be conducted in accordance with Subpart V.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.2035 Competitive Selection Procedures for Professional and Artistic Services

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

NOTICE OF PROPOSED AMENDMENTS

a) Application

1) The provisions of this Section apply to every procurement of professional and artistic services, except those subject to the Architectural, Engineering and Land Surveying Qualifications Based Selection Act [30 ILCS 535] and except as provided in subsection ~~Section 1.2035~~(e).

2) *"Professional and artistic services" means those services provided under contract to a State agency by a person or business, acting as an independent contractor, qualified by education, experience, and technical ability* [30 ILCS 525/1-15.60].

b) Professional and artistic services are further defined as follows:

1) "Qualified by education" means the individual who would perform the services must have obtained the level of education specified in the Request for Proposals.

2) "Qualified by experience" means the individual who would perform the services must have the level of general experience specified in the Request for Proposals.

3) "Qualified by technical ability" means the individual who would perform the services must demonstrate a high degree of skill or ability in performing services that are the same, similar or closely related in nature to those specified in the Request for Proposals.

4) An essential element distinguishing professional and artistic services from other services is confidence, trust, and belief in not only the ability, but the talent, of the individual performing the service.

5) Professional and artistic~~These~~ services are primarily for intellectual or creative skills. Contracts for services primarily involving manual skills or labor are not professional and artistic services contracts. ~~(See Illinois Attorney General Opinion S-256, January 20, 1971.)~~

6~~5~~) If the professional or artistic contract is with a firm or other business entity, the individuals whose education, experience and technical ability

provided the basis on which the firm or other business entity was selected must meet the qualifications.

7~~6~~) When a State agency requires services that meet the requirements of this subsection (b), the competitive selection procedures described in this Section must be followed. Services that do not meet the requirements of this Section must be procured in accordance with other methods of source selection authorized by the Code and this Part.

c) The categories of services enumerated in this subsection (c)~~below~~ shall be considered and procured as professional and artistic services. With regard to other services, the SPO may determine whether the factors identified in subsection (b), when applied to particular services to be procured, require these~~such~~ services to be procured as professional and artistic under these competitive selection procedures, or as services that are subject to one of the other methods of source selection authorized by the Code and this Part. The following categories are examples of disciplines that would always be professional and artistic services:

1) law;

2) accounting;

3) medicine;

4) dentistry; and

5) clinical psychology.

d) Architect, engineering and land surveying services shall be procured pursuant to the procedures of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act [30 ILCS 535]. These~~Such~~ procurements are not subject to the procedures for other professional services established in the Code or this Part.

e) Conditions for Use of Competitive Selection Procedures
Except as authorized under Section 20-25 (Sole Source Procurement) or Section 20-30 (Emergency Procurements) of the Code, these competitive selection procedures shall be used for all procurements of professional and artistic services

of $20,000 or more. Services less than $20,000 and for a nonrenewable term of one year or less may be procured in accordance with Section 1.2020 (Small Purchase Limits~~Purchases~~) ~~of this Part~~.

~~f)~~ ~~Prequalification~~
~~The CPO shall maintain a list of prequalified professional and artistic vendors in accordance with Section 1.2045 of this Part. Persons may amend statements of qualifications at any time by filing a new statement. Failure of a professional and artistic vendor to prequalify shall not be cause for rejection of a proposal provided that the responsive offeror supplies with its proposal all information defined by the prequalification process.~~

~~g)~~ ~~Public Notice of Competitive Selection Procedures~~

~~1)~~ ~~Notice of the need for professional and artistic services shall be made by the Procurement Officer in the form of a Request for Proposals.~~

~~2)~~ ~~Notice shall be given as provided in Section 1.2010 (Competitive Sealed Bidding) of this Part.~~

~~3)~~ ~~Notice shall also be distributed to prequalified persons interested in performing the services required by the proposed contract.~~

f~~h~~) Request for Proposals
Professional and artistic services shall be procured using an RFP.

1) Contents. The RFP~~Request for Proposals~~ shall be in the form specified by the CPO-GS and shall contain at least the following information:

A) the type of services required;

B) a description of the work involved;

C) an estimate of when and for how long the services will be required;

D) the type of contract to be used;

E) a date by which proposals for the performance of the services shall be submitted;

F) a statement of the minimum information that the proposal shall contain, which may, by way of example, include:

i) the name of the offeror, the location of the offeror's principal place of business and, if different, the place of performance of the proposed contract;

ii) if deemed relevant ~~by the Procurement Officer~~, the age of the offeror's business and average number of employees over a previous period of time, as specified in the RFP~~Request for Proposals~~;

iii) the abilities, qualifications, and experience of all persons who would be assigned to provide the required services;

iv) a listing of other contracts under which services similar in scope, size~~,~~ or discipline to the required services were performed or undertaken within a previous period of time, as specified in the RFP~~Request for Proposals~~;

v) a plan, giving as much detail as is practical, explaining how the services will be performed;

G) price (to be submitted in a separate envelope in the proposal package and not mentioned elsewhere in the proposal package); ~~and~~

H) the factors to be used in the evaluation and selection process and their relative importance; and~~.~~

I) a plan for post-performance review to be conducted by the State agency after completion of services and before final payment and made part of the procurement file.

2) Evaluation. Proposals shall be evaluated only on the basis of evaluation factors stated in the RFP~~Request for Proposals~~. Price will not be evaluated until ranking of all proposals and identification of the most qualified vendor. The relative importance of the evaluation factors will

vary according to the type of services being procured. The minimum factors are:

A) the plan for performing the required services;

B) ability to perform the services as reflected by technical training and education, general experience, specific experience in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services;

C) the personnel, equipment, and facilities to perform the services currently available or demonstrated to be made available at the time of contracting; and

D) a record of past performance of similar work.

~~i)~~ ~~Pre-Proposal Conference~~
~~A pre-proposal conference, if appropriate, shall be conducted in accordance with Section 1.2010(f) (Pre-Bid Conference). Such a conference may be held anytime prior to the date established for submission of proposals.~~

g~~j~~) Delivery, Receipt and Handling of Proposals

1) Receipt. Upon its receipt, each proposal and modification shall be date and time-stamped but not opened and shall be stored in a secure place until the time and date set for opening. If a proposal is opened for identification purposes or opened in error, the file should state the reason for the error.

2) Proposals shall be submitted to and opened by the CPO-GS, SPO or a designee on behalf of the CPO-GS~~in accordance with instructions given by the CPO to the SPO~~.

~~2)~~ ~~Public Opening~~

A) Proposals and modifications shall be opened publicly at the time, date and place designated in the RFP~~Request for Proposals~~.

B) Opening shall be witnessed by a State witness~~employee~~ or by any

other person present, but the person opening proposals shall not serve as witness. A record shall be prepared that shall include the name of each offeror~~, the number of modifications received, if any,~~ and a description sufficient to identify the supply or service item offered. The record of proposals shall be open to public inspection after award of the contract.

C) Proposals and modifications shall be opened in a manner designed to avoid disclosing contents to competitors. Only authorized State personnel and contractual agents may review the proposals prior to award.

~~D) Proposals of offerors who are not awarded the contract shall not be open to public inspection.~~

3) Transmission to SPO. The CPO-GS or designee will forward timely proposals to the responsible SPO of the purchasing~~using~~ agency along with any pertinent information contained in the files of the CPO-GS regarding the vendors who submitted proposals.

4) The CPO-GS may require that the SPO be present at and assist in the opening and registration of proposals and the transportation of proposals to the SPO.

h~~k~~) Discussions

1) Discussions Permissible. The CPO-GS, SPO or designee on behalf of the CPO-GS~~Procurement Officer~~ may conduct discussions with any offeror to:

A) determine in greater detail the~~such~~ offeror's qualifications; and

B) explore with the offeror the scope and nature of the required services, the offeror's proposed method of performance, and the relative utility of alternative methods of approach. The SPO or designee~~Procurement Officer~~ may allow changes to the proposal based on those discussions.

2) No Disclosure of Information. Discussions shall not disclose any

information derived from proposals submitted by other offerors, and the agency conducting the procurement shall not disclose any information contained in any proposals until after award of the proposed contract~~ has been made~~. ~~The proposal of the offeror awarded the contract shall be open to public inspection except as otherwise provided in the contract.~~

i~~l~~) Selection of the Best Qualified Offerors
After conclusion of validation of qualifications, evaluation~~,~~ and discussion, the SPO~~Procurement Officer~~ shall rank the acceptable offerors in the order of their respective qualifications.

j~~m~~) Evaluation of Pricing Data
Pricing submitted for all acceptable proposals timely submitted shall be opened and ranked.

1) If the low price is submitted by the most qualified vendor, the SPO~~Procurement Officer~~ may award to that vendor.

2) If the price of the most qualified vendor is not low and if it does not exceed $25,000, the SPO~~Procurement Officer~~, but not a designee, may award to that vendor.

3) If the price of the best qualified vendor exceeds $25,000, the SPO~~Procurement Officer~~, but not a designee, must state why a vendor other than the low priced vendor was selected and that determination shall be published in the Bulletin.

k~~n~~) Negotiation and Award of Contract

1) General. The SPO or designee~~Procurement Officer~~ shall attempt to negotiate a contract with the best qualified offeror for the required services at fair and reasonable compensation. The SPO or designee~~Procurement Officer~~ may, in the interest of efficiency, negotiate with the next highest ranked vendor~~other vendors~~, while negotiating with the best qualified vendor.

2) Elements of Negotiation. At a minimum, contract negotiations shall be directed toward:

A) making certain that the offeror has a clear understanding of the scope of the work, specifically, the essential requirements involved in providing the required services;

B) determining that the offeror will make available the necessary personnel and facilities to perform the services within the required time; and

C) agreeing upon compensation that is fair and reasonable, taking into account the estimated value of the required services and the scope, complexity, and nature of those~~such~~ services.

3) Successful Negotiation of Contract with Best Qualified Offeror

A) If compensation, contract requirements~~,~~ and contract documents can be agreed upon with the best qualified offeror, the contract shall be awarded to that offeror, unless the procurement is canceled.

B) Compensation must be determined in writing to be fair and reasonable. Fair and reasonable compensation shall be determined by the SPO~~Procurement Officer~~ based on the circumstances of the particular procurement, including but not limited to the nature of the services needed, qualifications of the offerors, consideration of range of prices received in the course of the procurement, other available pricing information and the agency's identified budget.

4) Failure to Negotiate Contract with Best Qualified Offeror

A) If compensation, contract requirements~~,~~ or contract documents cannot be agreed upon with the best qualified offeror, a written record stating the reasons ~~therefore~~ shall be placed in the file. The SPO~~Procurement Officer~~ shall advise such offeror of the termination of negotiations.

B) Upon failure to negotiate a contract with the best qualified offeror, the SPO~~Procurement Officer~~ may enter into negotiations with the next most qualified offeror.

~~C)~~ ~~Nothing in this Section shall prohibit the Procurement Officer from making a selection that represents the best value, qualifications, price and other relevant factors established in the request for proposals being considered. The Procurement Officer may, in considering best value, determine the proposal from a fully qualified vendor that submitted the lowest price to be the best value without further evaluation.~~

l~~o~~) Multiple Awards
The SPO~~Procurement Officer~~ may enter into negotiations with the next most qualified vendor or vendors when the purchasing agency has a need that requires multiple vendors under contract.

~~p)~~ ~~The Procurement Officer procuring professional and artistic services, including those under an exception described in subsection (e), shall provide to the CPO the information necessary for publication in the Bulletin.~~

m~~q~~) Notice of Award
Written notice of award shall be public information and made a part of the contract file. The CPO-GS shall publish the names of the responsible decision makers of the purchasing agency, the name of the agency, the successful vendor, a contract reference number or other identifier, and the value of the contract. Publication shall be in the next available issue of the Bulletin.

n) Prequalification
Prequalification of professional and artistic vendors shall not be used to bar or prevent an otherwise qualified person from responding to a request for proposal for professional and artistic services.

~~r)~~ ~~Small, sole source and emergency procurements of professional and artistic services under the jurisdiction of an SPO do not require approval of the CPO to proceed. Any notices shall be published by the SPO.~~

~~s)~~ ~~Post Performance Review~~
~~The SPO of the using agency shall provide a synopsis of the contract and shall rate the vendor's performance using the form developed by the CPO. A copy of the completed form shall be provided to the CPO.~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 1.2036 Other Methods of Source Selection

a) Split Award

~~1)~~An award of a definite quantity requirement may be split between bidders or offerors if necessary to obtain the total quantity needed. Each portion shall be for a definite quantity and the sum of the portions shall be the total definite quantity required. ~~A split award may be used only when award to more than one bidder or offeror for different amounts of the same item are necessary to obtain the total quantity or the required delivery.~~

~~2)~~ ~~The Procurement Officer shall make a written determination setting forth the reasons for the split award, which determination shall be made a part of the procurement file.~~

b) Multiple Award

1) ~~General ConditionsA)~~A multiple award may be made for~~is an award of~~ an indefinite quantity solicitation~~contract to more than one bidder or offeror when the State is obligated to order all of its actual requirements from those vendors.B)A multiple award may be made~~ when award to two or more bidders or offerors for similar products or services is necessary for adequate delivery or~~,~~ service.~~, or product compatibility. Any multiple award shall be made in accordance with the provisions of Section 1.2010 (Competitive Sealed Bidding), Section 1.2015 (Competitive Sealed Proposals), Section 1.2020 (Small Purchases), and Section 1.2030 (Emergency Procurements), as applicable. Awards shall not be made for the purpose of simply dividing the business or to select products or suppliers to allow for user preference unrelated to utility or economy. Any such awards shall be limited to the least number of suppliers necessary to meet the valid requirements of State agencies.~~

~~C)~~ ~~The State shall reserve the right to take bids separately if a particular quantity requirement arises that exceeds its normal requirement or an amount specified in the contract.~~

2~~D~~) If a multiple award is anticipated, the solicitation shall state this fact as well as the criteria for award.

3~~E~~) In a multiple award situation, one vendor shall~~may~~ be designated as the primary recipient of orders. The other awardees may receive orders in the event the primary vendor is unable to deliver or for other reasons as determined by the SPO~~Procurement Officer~~.

4) The State agency shall reserve the right to take bids separately if a particular quantity requirement arises that exceeds its normal requirement or an amount specified in the contract.

5~~2~~) Multiple Award with Set Rate

A) Notwithstanding anything to the contrary in this Part, the CPO-GS~~Chief Procurement Officer,~~ but not a designee, may, on a case-by-case basis, authorize an appropriate purchasing agency~~the Department of Central Management Services~~ to issue a competitive solicitation and to enter into contracts with multiple vendors under a process that provides for prequalification, agreement to perform at a set rate, and final selection based on random and equitable distribution of work among qualified vendors.

B) The CPO-GS~~Chief Procurement Officer~~ may authorize use of this source selection procedure upon a determination in writing that use of the methods of source selection set forth in Article 20 of the ~~Illinois Procurement~~ Code is either not practicable or advantageous because, for example, the program needs of State agencies cannot reasonably be met within the normal procurement timeframes, or that the type and variety of State agency needs are such that a single award will not assure the needed availability or diversity of vendors.

C) This authorization shall be limited to contracts for information technology services. No other categories of supplies or services may be acquired using this method of source selection unless this subsection (b)(5~~2~~) is amended.

D) Vendors shall be prequalified once per fiscal year, or as often as necessary, through use of a competitive sealed proposal. The minimum qualifications (including performance standards and

agreement to provide services at a set rate determined by the State), any desirable additional qualifications, and the method of obtaining and setting rates shall be stated in the solicitation advertised in the ~~Illinois Procurement~~ Bulletin. Those vendors meeting minimum qualifications shall be offered non-exclusive indefinite quantity master contracts against which a procuring agency may later place one or more orders on an as needed basis in accordance with the vendor selection procedure set forth in subsection (b)(5~~2~~)(G). Implementing Article 45 of the Code and subsection (b)(5~~2~~)(G) of this Section, the solicitation shall contain a provision alerting vendors that the random selection process used to meet a specific using agency's needs may be limited to those master contract holders who qualify as small businesses.

E) The purchasing agency~~Department~~ shall establish the set rate by one of the following methods. The lowest rate identified will not necessarily be the set rate, but will be a consideration in determining the set rate.

i) Set in the solicitation the rate that vendors must agree to bill. In general, this rate shall be the lowest rate at which a sufficient number of vendors are ready, willing and able to meet the State's needs. The solicitation shall show the selected purchasing agency~~Department~~ has conducted sufficient research (such as reviewing past State contract rates, reference to GSA or other governmental contract rates, or private sector rates determined by internal or industry expert surveys) that the public can have confidence the rate provides overall advantage to the State.

ii) Require as part of the solicitation that vendors submit rates (prices), including disclosable rates, and inform them the selected purchasing agency~~Department~~ will use this rate information and additional rate information received through use of the best and final process, from other contracts and from research to establish the set rate that vendors must bill.

F) Vendors not willing to agree to bill at the set rate may be rejected or may have their contracts restricted to use in special circumstances approved by the CPO-GS~~Chief Procurement Officer~~.

G) Using agency needs will be met by the selected purchasing agency~~Department~~ selecting a master contract holder on a random basis. If the using agency determines that it has specific programmatic needs that require additional qualifications (e.g., specialized programming knowledge or specific educational requirements) or conditions (e.g., geographic limitations) or State policy considerations (e.g., promotion of small business), such that random vendor selection from among all master contract holders would not meet its needs, the using agency may submit an alternate selection request to the CPO-GS~~Chief Procurement Officer~~. This request shall set forth all reasons, including the additional qualifications or conditions, why a random vendor selection would not reasonably meet the needs of the agency, or the policy of the State. If at least 3 of the master contract holders meet those additional qualifications or conditions, the selected purchasing agency~~Department~~ shall conduct a random selection limited to that subset of the master contract holders. If the using agency's request does not show a need for additional qualifications or if there are not 3 master contract holders with the needed qualifications, the using agency may not utilize the method of source selection set forth in this Section.

H) In order to ensure the continued availability of the set of master contract holders, all potential orders shall be monitored by the selected purchasing agency~~Department~~ to ensure the equitable distribution of work and that no single vendor has an unwarranted disproportionate share of the available work. The selected purchasing agency~~Department~~ shall, to avoid a disproportionate distribution of work, remove a vendor from consideration for a period of time sufficient to minimize dollar value discrepancies among vendors. In addition, any vendor so removed may be reinstated for consideration to meet a particular using agency's need if only 3 or fewer otherwise eligible vendors are available to meet the using agency's need.

I) The selected purchasing agency~~Department~~ shall conduct the random selection using a drawing, mechanical device or software driven selection. The specific process used ~~by the Department~~ shall ensure that final selection is influenced only by chance, after taking into consideration, as applicable and as allowed in this Part, the policy of equitable distribution, use of small businesses, and specific requests from agencies to meet special needs.

J) It shall be the affirmative obligation of each vendor with a master contract to update information provided to the State regarding its continued ability to provide the contracted service. Master contracts may provide that vendors who cannot perform the required services when contacted and who have not provided the updated information may be taken out of consideration for orders for a period of time, including until the next prequalification.

K) The procurement file shall contain justification for the selection of the master contract vendors and each selection to meet the particular need of a using agency including the determination in subsection (b)(5~~2~~)(B) of this Section; the research papers, reports, contract rates and internal or industry expert surveys, "additional rate information" and identification of "other contracts and research" in subsections (b)(5~~2~~)(E)(i) and (ii); the alternate selection documents required by subsection (b)(5~~2~~)(G), the 3 or more master contract holders for the alternate random selection in subsection (b)(5~~2~~)(G) and updated information required of contractors pursuant to subsection (b)(5~~2~~)(J). The selected purchasing agency~~Department~~ shall publish the names of the vendors selected to receive master contracts and the name of each vendor selected to receive an order to meet the using agency's particular need.

c) Term and Condition Contracts

1) A term and condition contract contains agreed contractual terms and conditions established for the convenience of the parties to be used in conjunction with a subsequent procurement and processed in accordance with the requirements of the Code and this Part. A term and condition

contract is not a procurement. It creates no obligation on the part of the State to procure from the vendor, nor does it create an authorization for a State agency to order based on that term and condition contract, except as provided in subsection (c)(2).

2) Orders may be placed against term and condition contracts without use of any ~~prescribed~~ method of source selection specified in the Code for convenience of processing sole source, emergency or small procurements. ~~Agencies with reasonably defined repetitive small needs that, over the course of a fiscal year, are likely to exceed the small purchase amount set in Section 20-20 of the Code and this Part should consider a competitive method of source selection to contract for those repetitive needs.~~

d) Auction
Purchases may be made at auction in accordance with the procedural requirements applicable to the particular auction. Notice and competition is not required and the amount payable shall be the amount bid and accepted plus any required buyer's premium. Individual purchases at auction exceeding the small purchase maximum shall be posted in the Bulletin.

e) Non-governmental Joint Purchase
~~1)~~If the~~The~~ CPO-GS determines in writing that joint procurement with an organization~~may enter into (or authorize one or more SPOs to enter into) an agreement with a person~~ not eligible under~~for~~ the Governmental Joint Purchasing Act is in the best interests of the State agency, the CPO-GS may enter into an agreement with such an organization for the joint procurement of any item~~for the joint procurement of anything~~ covered by the Code. Any method of source selection may be used and may be modified or adapted to meet the needs of the non-State entity.

~~2)~~ ~~The primary use of this provision shall be to accommodate mutual relationships between the State and not-for-profit groups whose purpose is to conduct programs adjunct to those of the State agency that is party to the contract.~~

f) Federal Requirements
The SPO~~Procurement Officer~~ for any State agency receiving federal aid funds, grants or loans or otherwise subject to federal entity requirements may conduct procurements in accordance with federal requirements that are necessary to

receive or maintain those federal aid funds, grants or loans or to remain in compliance with federal requirements.

g) Foreign Country Procurement
Procurements to meet the needs of State agency offices located in foreign countries shall comply with the Code and this Part whenever practicable. The SPO shall maintain a record of the~~such~~ action taken.

h) Donations

1) When a procurement will have the majority of funding from a donation, the terms of which ~~donation~~ require use of particular procurement or contracting procedures, the SPO~~Procurement Officer~~ may follow those procedures, but shall follow the Code and this Part whenever practicable.

2) Donations may be acknowledged by the donee agency in a manner appropriate to the type of donation and the program activity associated with the donation. Acknowledgment may include, but need not be limited to, public announcement at the event or in donee agency publications, and inviting the donor to attend the program activity associated with the donation.

i) Organization Memberships
Memberships in organizations or associations may be obtained without competition but notice shall be posted on the Bulletin within 14 days after the effective date of the membership.

j) Broker Method for Obtaining Certain Insurance Coverages

1) Notwithstanding anything to the contrary in this Part, the CPO-GS, but not a designee, may, on a case-by-case basis, authorize the use of this broker method to obtain insurance coverages when use of the methods of source selection set forth in Article 20 of the Code is not practicable or advantageous because, for example:

A) Due to the structure of the insurance industry, the types of insurance coverages needed cannot reasonably be obtained from "direct writers" who would provide quotes directly to State agencies in a bid or RFP process; or

B) The process of obtaining quotes for needed insurance coverages cannot be accomplished within the normal procurement timeframes.

2) If the CPO-GS determines that this broker method is preferable for designated coverages, a two-part procurement process will be used to obtain the coverages.

A) A broker will be selected in accordance with the RFP process for procuring professional services authorized by Section 20-35 and Article 35 of the Code, and the resulting contract will be subject to all requirements of the Code. The broker contract will be issued for a term of years, and during the term of the contract the broker will assist the State agency in obtaining coverages as set forth in subsection (j)(2)(B) as well as providing customary services such as issuing certificates of insurance and servicing policies.

B) The broker will assist the State agency by serving as broker of record in obtaining insurance coverages through the industry process of going to market to obtain quotes. The State agency will use an evaluation team to test the market for competitiveness, review the quotes, and select the insurers and products best fitting its needs. The solicitation, evaluation and selection process will be documented in writing and become a part of the public procurement file. The insurance coverages obtained, the term of coverage, and the premiums charged will be posted on the Bulletin as attachments to the broker award notice.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.2037 Tie Bids and Proposals

a) Tie bids or proposals are those from responsive and responsible vendors that are, in the case of bids, identical in price, and, in the case of proposals, identical in rank after evaluation.

b) Tie bids or proposals will be resolved as follows:

1) If the tied vendors~~bids or proposals~~ include only one~~an~~ Illinois resident vendor, the Illinois resident vendor shall be given the award~~ in the case of bids and may be given the award in the case of proposals~~. "Illinois resident vendor" has the meaning ascribed~~given~~ in Section 1.4510 (Resident Vendor~~Bidder~~ Preference)~~ of this Part~~.

2) In all other situations, the award shall be made by lot unless the SPO~~Procurement Officer~~ determines that:

A) awarding to one of the vendors is in the State's best interest because, for example, that vendor is likely to be more reliable or responsive to the State's needs, based on past performance; provides a better quality of the supply or service; ~~or~~ provides quicker delivery; or, in the case of proposals, because of a desire to take advantage of the lower price; or

B) splitting the award is in the State's best interest because of a need to ensure delivery of the supply or service, or is necessary or desirable to promote future competition, and provided the affected vendors agree to the split award.

c) Records
Records shall be made of all procurements on which the tie bids or proposals are received, showing at least the following information:

1) The identification number of the solicitation;

2) A description of what was procured; and

3) A listing of all bidders or offerors and the prices submitted.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.2038 Modification or Withdrawal of Bids or Proposals~~Mistakes~~

a) Modification or Withdrawal~~General~~
A bidder or offeror may withdraw or modify a bid or proposal if notice of the withdrawal or modification is received by the SPO before the latest time specified for receipt of bids or proposals. Any modification or withdrawal, however, must

be made in writing and received by the SPO prior to the scheduled bid or proposal opening. When time is of the essence, the SPO may agree to receive modifications or withdrawals by printed form conveyed by electronic mail, fax or telephone. An originally signed written confirmation of a telephone modification or withdrawal shall be mailed or delivered by the bidder or offeror on the same day. Withdrawals of bids or proposals after bid or proposal opening will not ordinarily be permitted; however, in those cases in which the judgment of the SPO, based on clear and demonstrable evidence, the bidder or offeror has made a bona fide error in the preparation of the bid or proposal and that error will result in a substantial loss to the bidder or offeror, an exception may be made.~~Corrections to bids, proposals or other procurement processes are allowed, but only to the extent not contrary to the best interest of the State or the fair treatment of other bidders.~~

b) ~~Mistakes Discovered Before Opening~~
~~A vendor may correct mistakes discovered before the time and date set for opening by withdrawing or correcting as provided in this Section.c)Confirmation of MistakeWhen the Procurement Officer knows or has reason to conclude that a mistake has been made, such officer shall request the vendor to confirm the information. Situations in which confirmation should be requested include obvious or apparent errors on the face of the document or a price unreasonably lower than the others submitted. If the vendor alleges a mistake, the bid or proposal may be corrected or withdrawn if the conditions set forth in this Section, as applicable, are met.d)Mistakes Discovered After Opening but Before Award1)~~Minor informalities~~.~~
A minor informality or irregularity is one that is a matter of form or pertains to some immaterial or inconsequential defect or variation from the exact requirement of the solicitation, the correction or waiver of which would not be prejudicial to the State (i.e., the effect on price, quality, quantity, delivery~~,~~ or contractual conditions is negligible). The SPO~~Procurement Officer~~ shall waive these~~such~~ informalities or allow the bidder to correct them~~correction~~ depending on which is in the best interest of the State. Minor~~Examples of minor~~ informalities include insignificant mistakes that have an~~as to form include the failure to:A)return the required number of signed copies;B)acknowledge receipt of an amendment to the solicitation, but only if:i)it is clear from the bid or proposal that the offeror received the amendment and intended to be bound by its terms; orii)the amendment involved had a negligible~~ effect on price, quantity, quality, ~~or~~ delivery or contractual conditions is negligible.

~~2) Mistakes Where Intended Correct Information Is Evident. If the mistake and the intended correct information are clearly evident on the face of the bid or proposal document, the information shall be corrected and the bid or proposal may not be withdrawn. Examples of mistakes that may be clearly evident on the face of the solicitation document are typographical errors, errors in extending unit prices, transposition errors, and arithmetical errors.~~

~~3) Mistakes Where Intended Correct Information Is Not Evident. The low price bid or proposal may be withdrawn if:~~

~~A) a mistake is clearly evident on the face of the bid or proposal document but the intended correct bid is not similarly evident; or~~

~~B) there is proof of evidentiary value that clearly and convincingly demonstrates that a mistake was made.~~

~~e) During Discussions; Prior to Best & Final Offers. Once discussions are commenced with any offeror or after Best & Final offers are requested, any offeror may propose to correct any mistake prior to the date set for conclusion of discussions or for receipt of Best & Final offers, provided the correction would not be contrary to the fair and equal treatment of other offerors.~~

~~f) Mistakes Discovered After Award~~
~~Mistakes shall not be corrected after award of the contract except where the Procurement Officer finds it would be unconscionable (e.g., if the mistake resulted in a windfall to the State) not to allow the mistake to be corrected.~~

c~~g~~) Documentation Required
When a bid or proposal is corrected or withdrawn, or correction or withdrawal is denied, a written determination shall be prepared by the SPO showing that relief was granted or denied in accordance with this Part.~~The Procurement Officer shall maintain in the procurement file documentation of actions regarding correction or withdrawal of bids or proposals based on mistakes.~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.2039 Mistakes

a) General
Corrections to bids, proposals or other procurement processes are allowed, but only to the extent not contrary to the best interest of the State or the fair treatment of other offerors.

b) Mistakes Discovered Before Opening
A vendor may correct mistakes discovered before the time and date set for opening by withdrawing or correcting the error in writing, or in person at the opening location, before the time and date set for opening.

c) Confirmation of Mistake After Opening
When the SPO knows or has reason to conclude that a mistake has been made, the SPO shall request the vendor to confirm the information. Situations in which confirmation should be requested include obvious or apparent errors on the face of the document or a price unreasonably lower than the others submitted. If the vendor alleges a mistake, the bid or proposal may be corrected or withdrawn if the conditions set forth in this Section, as applicable, are met.

d) Mistakes Discovered After Opening but Before Award

1) Minor Informalities
A minor informality or irregularity is one that is a matter of form or pertains to some immaterial or inconsequential defect or variation from the exact requirement of the solicitation, the correction or waiver of which would not be prejudicial to the State (i.e., the effect on price, quality, quantity, delivery or contractual conditions is negligible). The SPO shall waive these informalities or allow correction depending on which is in the best interest of the State. Examples of minor informalities as to form include the failure to:

A) return the required number of signed copies required by the IFB;

B) acknowledge receipt of an amendment to the solicitation, but only if:

i) it is clear from the bid that the offeror received the amendment and intended to be bound by its terms; or

ii) the amendment involved had a negligible effect on price, quantity, quality or delivery.

2) Mistakes in Which the Intended Correct Information Is Evident
If the mistake and the intended correct information are clearly evident on the face of the bid document, the information shall be corrected and the bid may not be withdrawn. Examples of mistakes that may be clearly evident on the face of the solicitation document are typographical errors, errors in extending unit prices, transposition errors and arithmetical errors.

3) Mistakes in Which the Intended Correct Information Is Not Evident
The bid or proposal may be withdrawn if:

A) a mistake is clearly evident on the face of the bid or proposal document but the intended correct bid or proposal is not similarly evident; or

B) there is proof of evidentiary value that clearly and convincingly demonstrates that a mistake was made.

e) During Discussions; Prior to Best and Final Offers
Once discussions are commenced with any offeror or after best and final offers are requested, an offeror may proposes to correct any mistake, prior to the date set for conclusion of discussions or for receipt of best and final offers, provided the correction would not be contrary to the fair and equal treatment of other offerors.

f) Mistakes Discovered After Award
Mistakes shall not be corrected after award of the contract except when the SPO finds it would be unconscionable (e.g., if the mistake resulted in a windfall to the State) not to allow the mistake to be corrected.

g) Documentation Required
The reason for allowing correction or withdrawal of bids or proposals shall be made part of the procurement file and shall be available for public inspection.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.2040 Cancellation of Solicitations; Rejection of Bids or Proposals

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

NOTICE OF PROPOSED AMENDMENTS

a) ~~Scope of this Section~~
~~The provisions of this Section shall govern the cancellation of any solicitations whether issued by the State under competitive sealed bidding, competitive sealed proposals, small purchases, or any other source selection method, and rejection of bids or proposals in whole or in part.b)~~Policy
Any solicitation may be canceled before or after opening when the SPO~~Procurement Officer~~ believes cancellation to be in the State's best interest. Nothing shall compel the award of a contract.

b~~e~~) Cancellation of Solicitation; Rejection of All Bids or Proposals

1) A solicitation may be canceled in whole or in part when the SPO determines in writing that the action is in the State's best interest~~or all bids and proposals may be rejected~~ for reasons~~any reason,~~ including, but not limited to:

A) the State no longer requires the supplies or services;

B) the State no longer can reasonably expect to fund the procurement;

C) proposed amendments to the solicitation would be of such magnitude that a new solicitation is desirable;

D) ambiguous or otherwise inadequate specifications;

E) the solicitation did not provide for consideration of all factors of significance to the State;

F) prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;

G) all otherwise acceptable bids or proposals received are at clearly unreasonable prices; or

H) there is reason to question whether the bids or proposals may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith.

2) When a solicitation is canceled~~ or all bids or proposals are rejected~~, notice of cancellation shall be posted to the ~~Procurement~~ Bulletin.

3) The notice of cancellation shall:

A) identify the solicitation;

B) briefly explain the reason for cancellation or rejection; and

C) when~~where~~ appropriate, explain that an opportunity will be given to compete on any re-solicitation~~resolicitation~~ or any future procurements of similar supplies or services~~items~~.

~~d)~~ ~~Documentation~~
~~The reasons for cancellation or rejection shall be made a part of the procurement file and shall be available for public inspection.~~

c~~e~~) Rejection of Individual Bids or Proposals

1) Individual bids or proposals~~General. This subsection (e) applies to rejections of individual bids or proposals in whole or in part.2)Notice in Solicitation. Each solicitation shall provide that any bid or proposal~~ may be rejected for reasons including~~in whole or in part when in the best interest of the State as provided in this Section.3)Reasons for RejectionReasons for rejecting a bid or proposal may include~~, but ~~are~~ not limited to:

A) the bid or proposal is not responsive (i.e., it does not conform in all material respects to the submission requirements for the solicitation);

B) the vendor~~business~~ that submitted the bid or proposal is nonresponsible as determined under Section 1.2046 (Responsibility)~~ of this Part~~;

~~B)~~ ~~the bid or proposal is not responsive, that is, it does not conform in all material respects to the solicitation;~~

C) ~~the proposal ultimately (that is, after any opportunity has passed for altering or clarifying the proposal) fails to meet the announced requirements of the State in some material respect;D)~~the supply or service item offered in the bid or proposal is unacceptable by reason of its failure to meet the announced requirements of the solicitation, including, but not limited to, specifications or permissible alternates or other acceptability criteria set forth in the solicitation, statement of work or quotation~~Invitation for Bids~~; or

D~~E~~) the proposed price, including options, is clearly unreasonable.

2~~4~~) Notice of Rejection. Upon request, ~~unsuccessful~~ bidders or offerors whose bids or proposals have been rejected shall be advised of the reasons for rejection.

d) Documentation
The reason for cancellation or rejection shall be made a part of the procurement file and shall be available for public inspection.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

Section 1.2043 Suppliers

~~a)~~An agency ~~with procurement authority~~ may contract with any qualified source of supply, but shall use or consider, as applicable, the following special sources, from which procurements may be made without notice and competition:~~must procure from the Directed Sources except as permitted by those sources, and must consider the following Special Sources.~~

~~b) Directed Sources – State-Produced Supplies or Services~~

a~~1~~) Correctional Industries in accordance with Subpart O. The CPO-GS, after consulting with Illinois Correctional Industries, a division of the Department of Corrections, shall determine the type and extent of the preference purchasing agencies shall give to supplies produced or services performed by Correctional Industries. Factors to be considered in determining the preference include, but are not limited to, the ability of Correctional Industries to meet the State's requirements, the price charged and the reason for the Correctional Industries

program. This information shall be provided to each SPO and purchasing and using agencies.

b~~2~~) ~~Central Services. Supplies and services available from the program operations of the Department of Central Management Services shall be utilized unless the CPO authorizes procurement from other sources.c)Special Sources1)Prior to any equipment procurement, each agency should consider property available from the~~ State and Federal Surplus Warehouses~~, which are~~ under the jurisdiction of the Department of Central Management Services. (The State Property Control Act [30 ILCS 605/7a] requires that surplus furniture be considered before any purchase of new furniture valued at $500 or more per piece.)

c~~2~~) Qualified~~Various supplies and services are available from qualified~~ workshops for the disabled in accordance with Subpart O.~~and procurement from these workshops is encouraged. Notice and competition is not required pursuant to Section 45-35 of the Code. Information regarding the workshops is available from the Department.~~

d~~3~~) ~~Various supplies and services are available from~~ State agencies and other governmental units described in Section 1-10(b)(1) of the Code. ~~These may be procured without notice and competition.~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.2044 Vendor List~~/Required Use~~

~~a)~~Each State agency may~~The CPO shall~~ maintain a list of vendors who have expressed interest~~interested~~ in contracting~~doing business~~ with the State. This list may be used to solicit for small purchases and to supplement Bulletin notices.~~The names and addresses of vendors on the list shall be available for public inspection.~~

~~b)~~ ~~Inclusion on, or exclusion from, the list shall not be a factor in determining whether a vendor is a responsible vendor.~~

~~c)~~ ~~When vendors are directly solicited by the State, Invitations for Bids and other solicitations will be sent to vendors on the vendor list for supplies or services in question, except in the following cases:~~

~~1)~~ ~~The vendor does not sell the particular commodity or equipment.~~

~~2)~~ ~~The number of vendors for a procurement classification is of such magnitude that optimum prices may reasonably be expected without soliciting the entire vendor list. The Procurement Officer may, if he/she determines that the best interest of the State would be served, rotate the selection from the list on any equitable basis.~~

~~3)~~ ~~The Procurement Officer determines that the best interests of the State will be served by limiting vendors to those in defined geographic areas (example: purchases of ready-mix concrete, perishables, and equipment requiring immediate service).~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.2045 Vendor Prequalification

a) The SPO may prequalify prospective vendors when determination of a vendor's prequalifications or preliminary evaluation of supplies or services prior to procurement would promote the effective conduct a procurement.~~General~~

b~~1~~) The SPO~~CPO~~ shall identify by publication in the Bulletin the qualifications or categories of supplies and services (including professional and artistic services) for which ~~the CPO may prequalify~~ vendors of those supplies and services may prequalify. ~~The CPO is not required to prequalify vendors but may do so when determination of a vendor's qualifications prior to procurement would be advantageous to the State.~~

c~~2~~) An opportunity to prequalify shall be allowed at least one time each fiscal year. The opportunity to prequalify shall be announced in the Bulletin. The notice shall alert vendors that fail~~failure~~ to participate in the prequalification process of the consequences~~may result in the vendor being ineligible to receive contracts~~.

d~~3~~) When prequalifying a vendor, the SPO~~CPO~~ may limit prequalification ~~prequalifications~~ to particular matters (e.g.,~~certain factors such as~~ determining whether a vendor has been and is likely to be "responsible" ~~using the criteria set forth in Section 1.2046 of this Part,~~ or whether the vendor manufactures domestically).

e) The fact that a prospective vendor has been prequalified generally does not

necessarily represent a definitive finding of responsibility for a particular procurement.

f~~4~~) When prequalifying a vendor, the SPO~~CPO~~ may consider factors tailored to a specific procurement or type of procurement, which shall be announced in the prequalification notice in the Bulletin.

g~~5~~) Except in the case of professional and artistic services, distribution of and responses to the solicitation may be limited to prequalified vendors and award of a contract may be denied because a vendor was not prequalified. If eligibility for the procurement will be limited to prequalified vendors, the solicitation~~Invitation for Bids, Request for Proposals or other procurement request~~ shall state that fact.

h) The prequalification may provide that any vendor who completes prequalification may refer to that prequalification when submitting responses to solicitation or in other procurement situations instead of submitting the same information with a response. This does not alleviate a vendor from providing updated certifications as part of the prequalification process.

~~b) Professional and Artistic Services~~

~~1) Any prequalification of vendors of professional and artistic services shall include, at a minimum, a specified level of education, experience, and technical ability, and may require certification or licensure, or membership in professional associations.~~

~~2) Categories for prequalification will include, but are not limited to, those listed in Section 1.2035 of this Part.~~

~~c) Qualified Products Lists~~
~~Qualified products lists are treated in Section 1.2050 (Specifications and Samples) of this Part.~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.2046 Responsibility

a) Application
Before making an award or signing a contract, the SPO must be satisfied the

prospective vendor is responsible.~~Contracts are to be made only with responsible vendors unless no responsible vendor is available to meet the State's needs.~~ If there is doubt about responsibility, and if a bond or other security would adequately protect the State's interests, then that vendor may receive an award or~~be awarded a~~ contract upon receipt of the bond or other security.

b) Standards of Responsibility

~~1)Standards.~~ Factors to be considered in determining whether the standard of responsibility has been met ~~may~~ include financial responsibility, insurability, effective equal opportunity compliance, payment of prevailing wages if required by law, capacity to produce or sources of supply, performance record in the business or industry, ability to provide required maintenance service or other matters relating to the bidder's probable ability to deliver in the quality and quantity and within the time and price required under the contract, if it is awarded to the bidder. The vendor must be a legal entity authorized to do business in Illinois prior to submitting the bid, offer or proposal and qualified legally to contract with the State.~~, but are not limited to, whether a prospective vendor:~~

~~A) has available the appropriate financial, material, equipment, facility, and personnel resources and expertise (or the ability to obtain them) necessary to indicate its capability to meet all contractual requirements (the Procurement Officer may designate a level of financial resource below which the vendor will be deemed "not responsible");~~

~~B) is able to comply with required or proposed delivery or performance schedules, taking into consideration all existing commercial and governmental commitments;~~

~~C) has a satisfactory record of performance. Vendors who are or have been deficient in current or recent contract performance in dealing with the State or other customers may be deemed "not responsible" unless the deficiency is shown to have been beyond the reasonable control of the vendor;~~

~~D) has a satisfactory record of integrity and business ethics. Vendors who are under investigation or indictment for criminal or civil actions that bear on the particular procurement or that create a reasonable inference or appearance of a lack of integrity on the~~

~~part of the vendor may be declared not responsible for the particular procurement;~~

~~E)~~ ~~is qualified legally to contract with the State;~~

~~F)~~ ~~has supplied all necessary information in connection with the inquiry concerning responsibility;~~

~~G)~~ ~~has a current Public Contracts number from the Illinois Department of Human Rights, pursuant to 44 Ill. Adm. Code 750.210, if required. Proof of application prior to opening of bids or proposals will be sufficient for an initial determination;~~

~~H)~~ ~~pays prevailing wages, if required by law; and~~

~~I)~~ ~~is current in payment of all State of Illinois taxes, including the unemployment insurance tax.~~

c~~2~~) Information Pertaining to Responsibility~~.~~
The prospective vendor shall supply information requested ~~by the Procurement Officer~~ concerning the vendor's responsibility ~~of such vendor~~. The State may supplement this information from other sources and may require additional documentation at any time. If the~~such~~ vendor fails to supply the requested information, the SPO may disqualify the vendor or may~~Procurement Officer shall~~ base the determination of responsibility upon any available information~~, or may find the prospective vendor nonresponsible~~.

~~e)~~ ~~Ability to Meet Standards~~
~~The prospective vendor may demonstrate the availability of necessary financing, equipment, facilities, expertise, and personnel by submitting upon request:~~

~~1)~~ ~~evidence that such vendor possesses such necessary items;~~

~~2)~~ ~~acceptable plans to subcontract for such necessary items; or~~

~~3)~~ ~~a documented commitment from, or explicit arrangement with, a satisfactory source to provide the necessary items.~~

~~d)~~ ~~Duty Concerning Responsibility~~

~~Before awarding a contract, the Procurement Officer must be satisfied that the prospective vendor is responsible. The State reserves the right to request information regarding responsibility and to accept information regarding responsibility at any time prior to execution of a contract, but failure of a vendor to provide information by the time required by law or as set forth in the solicitation is cause for rejection of a bid or proposal.~~

d~~e~~) Written Determination of Nonresponsibility Required
If a vendor that~~who~~ otherwise would have been awarded a contract is found non-responsible~~nonresponsible~~, a written determination of nonresponsibility setting forth the basis of the finding shall be prepared by the agency purchasing director and approved by~~CPO or~~ the SPO. The final determination shall be made part of the procurement file.

~~f)~~ ~~Bond for Responsibility~~
~~Vendors not having a history of performance may be considered responsible if no other disqualifying factors exist. A bond or other security may be required of such vendors.~~

e~~g~~) Affiliated Companies
Vendors that~~who~~ are newly formed business concerns having substantially the same owners, officers, directors~~,~~ or beneficiaries as a previously existing vendor that has been determined not responsible or has been suspended or debarred will also be determined not to be responsible~~ unless the new organization can prove it was not set up for the purpose of avoiding an earlier determination of nonresponsibility~~.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART G: BID, PROPOSAL AND PERFORMANCE SECURITY

Section 1.2047 Security Requirements

a) Vendors shall~~A Procurement Officer may require that a vendor~~ furnish bid, proposal~~,~~ or performance security as specified in the solicitation or contract~~on State contracts~~. The cost of providing security will be borne by the vendor unless otherwise stated in the solicitation~~Whenever security is required, except as provided herein, the procurement document will clearly indicate the type and amount of security~~.

b) Security, unless otherwise specified, may be in the form of cashier's check, certified check, money order, irrevocable letter of credit or bond. Any bond must be issued by a surety company authorized to do business in the State of Illinois and having a rating acceptable to the State agency.

c) Unless the amount is set by law, the SPO~~Procurement Officer~~ will determine the amount, in dollars or percentage of contract price, that will adequately protect the State's interests. That amount will vary depending on the type of procurement and the risks and potential losses associated with delay or failure to complete the project, and for other such reasons.

d) A vendor may be required to furnish up to 100% performance security at any time during contract performance and at its cost, if it appears that delivery or production schedules cannot be met, quality is poor, responsibility is questioned and for similar reasons.

e) The vendor's source of supply may also be required to furnish security. If the vendor does not have a stock of the supplies in question in the amount required or the facilities to produce the item in that amount, the State agency may, in addition, require the vendor to have the source of supply furnish security acceptable to the State agency, conditioned on the source supplying the vendor as required in the solicitation.~~Permissive/Mandatory Security~~

~~1) Bid or proposal security is permissive on any contract but is not appropriate on emergency or sole source procurements.~~

~~2) Performance security is permissive on any contract and is recommended on contracts calling for advance payment.~~

~~3) Performance security is required on all public works contracts.~~

f) Bid or Proposal Security

1) The bid or proposal will be used to ensure the bidder or offeror meets all obligations imposed under the solicitation, including the obligation to keep the price, bid or proposal firm for as long a period as specified in the solicitation to enter into a contract and the obligation to file a performance security. If required, when the contract is awarded, the State agency may

retain the bid or proposal security as damages of the bidder or offeror fails to meet its obligations.

2) The bid of proposal security will be returned to the vendor as soon as is practicable after the bid or proposal opening. The three lowest qualified vendors' security will be returned as soon as possible after the contract is awarded or, if performance security is required, as soon as the successful vendor has filed acceptable performance security. Security will be returned to the unsuccessful vendors upon expiration of the bid/proposal time of execution of the contract, whichever is earlier.~~A vendor may submit a single or continuous security each year that will be applicable on all contracts of the purchasing agency. When such security has been obligated in an amount equal to the sum of accumulated security requirements, additional security must be submitted.~~

~~g) Bid or proposal security will be returned to unsuccessful vendors as soon after award as possible. The bid or proposal security of the successful vendor will be returned after contracts have been signed and performance security, if any, submitted. Performance security will be returned upon full performance.~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART H: SPECIFICATIONS AND SAMPLES

Section 1.2050 Specifications and Samples

a) Responsibilities Regarding Specifications
Subject to the SPO's direction, the State agency~~1)The Procurement Officer~~ shall draft~~write~~ the necessary specifications~~, except as noted in this Section~~.

~~2) If a specification for general or common use or a qualified products list exists for an item to be procured under Section 20-20 of the Code (Small Purchases), it shall be used except as otherwise authorized by the CPO. If no such specification exists, SPOs shall have the authority to prepare specifications for use in such purchases. In an emergency under Section 20-30 of the Code, any necessary specification may be utilized without regard to the provisions of this Subpart.~~

b) Procedures for the Development of Specifications

1) ~~If the CPO develops a specification for a common or general use item or has developed a qualified products list in accordance with this Section for a particular supply or service, it shall be used unless the CPO authorizes use of another specification.2)~~All procurements shall be based on specifications that accurately reflect the State's needs. Specifications shall clearly and precisely describe the salient technical or performance requirements and~~.3)Specifications shall not include unduly restrictive technical or performance requirements. All specifications~~ shall be written in such a manner as to describe the requirements to be met, without being unduly restrictive or having the effect of exclusively requiring a proprietary supply or service, or procurement from a sole source, unless no other manner of description will suffice.

2~~4~~) Any specifications or standards adopted by business, industry, not-for-profit organization or governmental unit may be adopted by reference.

3~~5~~) A specification may provide alternate descriptions when~~where~~ two or more design, functional~~,~~ or performance criteria will satisfactorily meet the State's requirements.

4) Section 45 of the Code shall be considered and applied when required or appropriate.

5) *A solicitation or specification for a contract, or a contract, may not require, stipulate, suggest or encourage a monetary or other financial contribution or donation, cash bonus or incentive, or economic investment as an explicit or implied term or condition of awarding or completing the contract.* [30 ILCS 500/20-50]

c) Brand Name or Equal Specification

1) Brand name or equal specifications may be used in a competitive solicitation when~~ the Procurement Officer determines in writing that~~:

A) no specification for a common or general use specification or qualified products list is available;

B) time does not permit the preparation of another form of

specification~~, not including a brand name specification~~;

C) the nature of the product or the nature of the State's requirement makes use of a brand name or equal specification suitable for the procurement; or

D) use of a brand name or equal specification is in the State's best interest.

2) Brand name or equal specifications shall seek to designate more than one brand as "or equal", and shall further state that substantially equivalent products to those designated will be considered for award.

3) Unless the State agency~~Procurement Officer~~ determines that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, functional~~,~~ or performance characteristics that are required.

4) When~~Where~~ a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition. "Or equal" submissions will not be rejected because of minor differences in design, construction or features that do not affect the suitability of the product for its intended use. Burden of proof that the product is equal is on the bidder.

d) Brand Name Only Specification

1) ~~Determination.~~ A "brand name only" specification may be used in a competitive solicitation provided~~only when~~ the SPO~~Procurement Officer~~ makes a written determination that only the identified brand name item ~~or items~~ will satisfy the State's needs.

2) ~~Use.~~ Brand name alone may be specified in order to fill medical prescription needs, to stock State retail-type operations, to ensure compatibility in existing systems, to preserve warranty, to ensure maintenance, or as authorized in writing by the CPO-GS. An agency may,

pursuant to an authorized competitive procedure, select a particular vendor to provide supplies or services for a specified period of time, and for that period the supplier of additional, related and updated supplies and services may be limited to the selected vendor or the brand initially selected.

3) ~~Competition.~~ The SPO~~Procurement Officer~~ shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit those~~such~~ sources to achieve whatever degree of competition is practicable. If only one source can supply the requirement, the procurement shall be made under Section 1.2025 (Sole Economically Feasible Source Procurement)~~ of this Part~~.

~~4) Small and Emergency Procurements. Brand name only specifications may be used when procuring items under the small (Section 1.2020 of this Part) and emergency (Section 1.2025 of this Part) provisions of this Part.~~

e) Qualified Products List

1) ~~Use.~~ A qualified products list may be developed by the SPO~~Procurement Officer~~ when testing or examination of the supplies prior to issuance of the solicitation is desirable or necessary in order to best satisfy State requirements.

2) ~~Solicitation.~~ When developing a qualified products list, a notice shall be posted to the Bulletin soliciting~~representative group of~~ potential suppliers ~~shall be solicited in writing or through notice posted in the Procurement Bulletin~~ to submit products for testing and examination to determine acceptability for inclusion in a qualified products list. ~~Any potential supplier, even though not solicited, may offer its products for consideration during the time allowed for testing and examination.~~

3) ~~Testing and Confidential Data.~~ Inclusion on a qualified products list shall be based on results of tests or examinations conducted in accordance with established requirements. ~~Except as otherwise provided by law, trade secrets, test data, and similar information provided by the supplier will be kept confidential when requested in writing by the supplier.~~

f) Proven Products

The supply or service may be rejected if it has not been offered to other

governmental or commercial accounts for at least one year prior to the notice date of a solicitation. Specifications may require that the supply or services must have been used in governmental~~business~~ or commercial venues~~industry~~ for a specified period of time to be considered.

g) State Required Samples

1) Samples or descriptive literature may be requested when it is necessary to evaluate required characteristics of the items bid. Any required samples must be submitted as instructed in the solicitation, with transportation prepaid by the vendor. Each sample must be labeled with the vendor's name, address and a means of matching the sample with the applicable bid or proposal.

2) Any sample submitted must be representative of the item that would be delivered if a contract were awarded for that item. Samples submitted by a successful vendor will be retained to check continuing quality. Submission of samples will not limit the State's right to require adherence to specifications.

3) No payment will be made for samples~~State Required Samples~~. Samples not destroyed or consumed by examination or testing will be returned upon request and at vendor's expense. The~~Such~~ request must be made at time of submission with return collect or prepayment provisions and instructions for return accompanying the samples.

4) Unsolicited bid samples or descriptive literature are submitted at the vendor's risk, may or may not be examined or tested, will not be deemed to vary any of the provisions of the solicitation, and may not be utilized by the vendor to contest a decision or understanding with the State agency.

h) Product Demonstration

Subject to the requirements of Section 50-39 of the Code, a vendor may request to demonstrate a product or service. Agreement to allow a demonstration will be solely at the State's discretion and will not entitle the bidder to a contract nor shall payment for the demonstration be allowed unless a written contract had been executed prior to the demonstration. No payment will be made for the product demonstration period. The product demonstration will be returned upon request and at the vendor's expense. The request must be made prior to the time of

product demonstration with return collect or prepayment provisions and instructions for return accompanying the product demonstration.~~Any vendor may request time and space to demonstrate a product or service. Agreement to allow such demonstration will be solely at the State's discretion and will not entitle the bidder to a contract nor shall payment for the demonstration be allowed unless a written contract had been executed prior to the demonstration.~~

i) ~~Pre-solicitation Assistance/~~Specifications Prepared by Other Than State Personnel

1) Specifications may be prepared by other than State agency personnel, including, but not limited to, consultants, architects, engineers, designers or other drafters of specifications for public contracts when the SPO determines that there will be no conflict of interest involved and is otherwise in the best interest of the State agency. The SPO retains the authority for final approval of the specifications. Contracts for the preparations of specifications by other than State agency personnel shall require the specification writer to adhere to State agency requirements and the terms of the Code and this Part.~~An SPO, as pre-solicitation activities, may utilize the services of any person to conduct research, analyze requirements, or provide general design or other assistance to help the State develop its procurement strategy, specifications, documents and other related needs.~~

2) The person who prepared the specifications shall not submit a bid or proposal or receive a contract to meet the procurement need.~~A State agency may contract for our utilize the services of any non-state person to provide specifically defined pre-solicitation assistance, whether or not compensated. This contract shall address confidentiality and conflict of interest. However, nothing shall preclude minimal and sporadic telephone communications, provided agency personnel shall not seek that assistance if they know or suspect a conflict of interest. If a State agency uses the services of a non-state person for pre-solicitation activities, the State agency shall inform the CPO and provide the name and address of that person, the scope of the work performed and the amount paid for the work. The State agency shall also publish this information in the Bulletin as part of the solicitation or award notice.~~

3) Prohibited Bidder and Contractors

A) *No person or business shall bid or enter into a contract if the person or business:*

i) *Assisted the State agency in determining whether there is a need for a contract, except as part of a response to a publicly issued RFI; or*

ii) *Assisted the State agency by reviewing, drafting or preparing any IFB, a RFP or RFI provided similar assistance, except as part of a publicly issued opportunity to review drafts of all or part of these documents.*

B) *This subsection* (i)(3) *does not prohibit a person or business from submitting a bid or proposal or entering into a contract if the person or business:*

i) *Initiates a communication to provide general information about products, services or industry best practice and, if applicable, that communications is documented; or*

ii) *Responds to a communication initiated by an employee of the State agency for the purposes of providing information to evaluate new products, trends, services or technologies.* [30 ILCS 500/50-10.5(e)]

j) Pre-Solicitation Request for Information
When the SPO does not have sufficient information about available supplies or services to issue a solicitation, he or she may issue a pre-solicitation request for information inviting vendors to submit non-price information about the availability of specified types of supplies and services. Public notice of the pre-solicitation request for information shall be published in the Bulletin at least 14 days before the date set for the receipt of information. The submission of information by a vendor in response to a pre-solicitation request for information is not a prerequisite for that vendor to respond to a subsequent solicitation for the types of supplies and services for which information was solicited, and the issuance of a pre-solicitation request for information does not commit the State agency to make any procurement of supplies or services of any kind. Confidential information will not be accepted from a vendor in response to a pre-solicitation request for information.

~~3)~~ ~~The person who provided pre-solicitation assistance or who prepared the specifications shall not submit a bid or proposal to meet the procurement need unless the agency head, and not a designee, determines in writing that it would be in the best interest to accept such a bid or proposal from that person. In determining best interest, the agency head and CPO shall consider factors such as the effect on competition of including or excluding this person and whether the person recommended procuring supplies or services sold by that person. A notice to that effect shall be provided to the CPO and, if approved by the CPO, published in the Bulletin. This waiver notice shall include the project name; vendor name; a description of the work performed; and a statement that the work product will be available upon issuance of a solicitation. In addition, the solicitation itself shall include a section identifying the waiver, a detailed justification and a statement that the work product shall be available for review and copying.~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART I: CONTRACTS ~~CONTRACT TYPE~~

Section 1.2055 Types of Contracts

a) Scope
This Section contains descriptions of types of contracts and limitations as to when they may ~~should~~ be utilized by the State in its procurements. Types of contracts not mentioned in this Section may also be utilized.

b) Prohibition of Cost-Plus-a-Percentage-of-Cost Contracting
The cost-plus-a-percentage-of-cost contract is prohibited by Section 20-55 of the ~~Illinois Procurement~~ Code. This type of contracting may not be used alone or in conjunction with an authorized type of contract. A cost-plus-percentage-of-cost contract is one in which the vendor selects the supply or service on which the vendor's percentage is applied.

1) A percentage mark-up from an agreed price list is not a cost-plus-a-percentage-of-cost contract.

2) A percentage mark-up from the cost ~~price~~ of a supply or service selected

by the State or another vendor under contract to the State is not a cost-plus-a-percentage-of-cost contract.

3) A percentage mark-up from the cost of parts needed in relation to a contract for services does not convert the services contract to a prohibited cost-plus-a-percentage-of-cost contract, provided the parts supplied under the cost-plus-a-percentage-of-cost method do not exceed 20% of the value of the contract.

c) Types of Fixed-Price Contracts

1) Firm Fixed-Price Contract. A firm fixed-priced contract provides a price that is not subject to adjustment because of variations in the vendor's cost of performing the work specified in the contract.

2) Fixed-Price Contract with Price Adjustment

A) A fixed-price contract with price adjustment provides for variation in the contract price under special conditions defined in the contract, other than customary provisions authorizing price adjustments due to modifications to the work. The formula or other basis by which the adjustment in the vendor's price can be made shall be specified in the solicitation and the resulting contract. Adjustment allowed may be upward or downward only, or both upward and downward. Examples of conditions under which adjustments may be provided in fixed-price contracts are:

i) changes in the vendor's labor agreement rates as applied to an industry or area (such as are frequently found in contracts for the purchase of coal);

ii) changes due to rapid and substantial price fluctuations that can be related to an accepted index (such as contracts for gasoline, heating oils~~,~~ and dental gold alloy); and

iii) in requirement contracts in which ~~, where~~ a vendor is selected to provide all of the State's needs for the items specified in the contract, when a general price change applicable to all customers occurs, or when a general price

change alters the base price (such as a change in a manufacturer's published price list or posted price to which a fixed discount is applied pursuant to the contract to determine the contract price).

B) If the contract permits unilateral action by the vendor to bring about the condition under which a price increase may occur, the State shall have the right to reject the price increase and terminate without cost the future performance of the contract.

d) Cost-Reimbursement Contracts

1) Determination Prior to Use

A) The State agency must submit to the SPO a justification for using any type of ~~A~~ cost-reimbursement ~~type~~ contract. This justification must ~~may~~ be sufficient to show ~~used only when the Procurement Officer determines in writing~~ that such a contract is likely to be less costly to the State than any other type or that it is impracticable to obtain the items through any other type of contract. The SPO will consider the justification and any other relevant factors before making a written determination to authorized use of the cost-reimbursement contract.

B) Reimbursement of travel expenses in accordance with applicable travel control board regulations is authorized without further determinations.

2) Cost-Reimbursement Contract. A cost-reimbursement contract provides that the vendor will be reimbursed for allowable costs incurred in performing the contract, but will not receive a fee.

3) Cost-Plus-Fixed-Fee Contract. This ~~is a~~ cost-reimbursement type contract ~~that~~ provides for payment to the vendor of an agreed fixed fee in addition to reimbursement of allowable incurred costs. The fee is established at the time of contract award and does not vary if the actual cost of contract performance is greater or less than the initial estimated cost established for the~~such~~ work. Thus, the fee is fixed but not the contract amount because the final contract amount will depend on the allowable costs reimbursed.

The fee is subject to adjustment only if the contract is modified to provide for an increase or decrease in the scope of work specified in the contract.

4) Cost Incentive Contracts

A) General. A cost-incentive type of contract provides for the reimbursement to the vendor of allowable costs incurred up to the ceiling amount and establishes a formula whereby the vendor is rewarded for performing at less than target cost (that is, the parties' agreed best estimate of the cost of performing the contract will vary inversely with the actual, allowable costs of performance and consequently is dependent on how effectively the vendor controls cost in the performance of the contract).

B) Fixed-Price Cost-Incentive Contract. In a fixed-price cost-incentive contract, the parties establish at the outset a target cost, a target profit (that is, the profit that will be paid if the actual cost of performance equals the target cost), a formula that provides a percentage increase or decrease of the target profit depending on whether the actual cost of performance is less than or exceeds the target cost, and a ceiling price. After performance of the contract, the actual cost of performance is arrived at based on the total incurred allowable costs as provided in the contract. The final contract price is then established in accordance with the formula using the actual cost of performance. The final contract price may not exceed the ceiling price. The vendor is obligated to complete performance of the contract~~,~~ and, if actual costs exceed the ceiling price, the vendor suffers a loss.

C) Cost-Reimbursement Contract with Cost-Incentive Fee. In a cost-reimbursement contract with cost-incentive fee, the parties establish at the outset a target cost; a target fee; a formula for increase or decrease of fee depending on whether actual cost of performance is less than or exceeds the target cost, with maximum and minimum fee limitations; and a cost ceiling that represents the maximum amount that the State is obligated to reimburse the vendor. The vendor continues performance until the work is complete or costs reach the ceiling specified in the contract, including any modification thereof, whichever first occurs. After

performance is complete or costs reach the ceiling, the total incurred~~,~~ allowable costs reimbursed as provided in the contract are applied to the formula to establish the incentive fee payable to the vendor.

e) Performance Incentive Contracts
In a performance incentive contract, the parties establish at the outset a pricing basis for the contract, performance goals, and a formula that varies the profit or the fee if the specified performance goals are exceeded or not met. For example, early completion may entitle the vendor to a bonus, while late completion may entitle the State to a price decrease.

f) Time and Materials Contracts; Labor Hour Contracts
Time and materials contracts provide an agreed basis for payment for materials supplied and labor performed. Labor hour contracts provide only for the payment of labor performed. The~~Such~~ contracts shall, to the extent possible, contain a stated ceiling or an estimate that shall not be exceeded without prior State approval.

g) Definite Quantity and Indefinite Quantity Contracts

1) Definite Quantity. A definite quantity contract is a fixed-price contract that provides for delivery of a specified quantity of supplies or services either at specified times or when ordered.

2) Indefinite Quantity. An indefinite quantity contract is a contract for an indefinite amount of supplies or services to be furnished at specified times, or as ordered, that establishes unit prices of a fixed-price type. Generally, an estimated ~~approximate~~ quantity based on ~~or~~ the best information available as to quantity is stated in the solicitation. The contract may provide a minimum quantity the State is obligated to order and may also provide for a maximum quantity provision that limits the State's ability ~~obligation~~ to order. If the contract identifies an estimated quantity, the State agency may order up to 20% more than the estimate without additional procurement authorization or activity.

3) Requirements Contracts. A requirements contract is an indefinite quantity contract for supplies or services that specifically obligates the State to order all the actual requirements of designated State agencies during a

specified period of time. If identified in the solicitation as a requirements contract, all needed quantity, regardless of any stated estimate, must be ordered from that contract.

h) Leases
A lease is a contract for the use of supplies or real property under which title will not pass to the State at any time, except pursuant to an option to purchase.

i) Recovery Contracts
Contracts may provide for payment to the vendor of a percentage of the amount the vendor recovers or collects on behalf of the State. The percentage may be fixed or may vary depending on amount of recovery or other factors, and the percentage may be paired with a fixed price or cost reimbursement method.

j) Option Provisions
~~1)Contract Provision.~~ A solicitation or ~~When a~~ contract may ~~is to~~ contain options ~~an option~~ for renewal, extension~~,~~ or purchase~~,~~ and shall also include the requirements for exercising this option, and shall determine the term and the price or shall include the formula for establishing the price. Contracts based on a solicitation may include only those options included in the solicitation. Exercise ~~notice~~ of options ~~such provision~~ shall be performed ~~included~~ in accordance with the solicitation, the Code and ~~. These options may be exercised without taking~~ other provisions of this Part~~procurement action when the option is established for exercise at the State's option~~.

~~2)Lease with Purchase Option. A purchase option in a lease may be exercised only if the lease containing the purchase option was awarded under competitive sealed bidding or competitive sealed proposals, the leased supply or facility is the only supply or facility that can meet the State's requirements, the purchase option price is less than the small purchase limit or emergency conditions exist.~~

k) State Produced Supplies and Services
Notwithstanding any provision in any contract, supplies or services available in-house or from State ~~the State's own~~ programs, such as the Correctional Industries Programs, may be ordered without violating any contract.

l) Extraordinary Quantities
Notwithstanding any provision in any contract, the State reserves the right to take bids separately if a particular quantity requirement arises that exceeds the State's

normal needs or ordering requirements.

m) Energy Conservation
State agency procurements of energy conservation measures, including guaranteed energy savings contracts, shall be made in accordance with the Code and this Part, except as otherwise authorized by the Code.~~The CPO may authorize an IFB, RFP or sole source negotiation for energy conservation measures whereby the State would make payment based on utility cost savings. Such contract shall require a clearly defined baseline of energy usage and method of measuring cost savings taking into account at least differing weather conditions, changes in facility, usage and cost of energy.~~

n) Sale of Advertising in State Publications

1) Pursuant to Section 20-110 of the Code, an SPO ~~a Procurement Officer~~ may sell ads or advertising space in certain State publications.

2) These arrangements shall be made pursuant to specifications included in an IFB or, if appropriate, an RFP.

3) The advertising in, or authorized use of, State publications shall be appropriate to the type of publication and the program operations of the agency.

4) This procedure is authorized in conjunction with, for example, publications that promote tourism, conservation, recycling and the State Fairs~~fairs~~. The executive head of the agency must concur in writing for the agency to accept advertising from a person the agency regulates.

5) Proceeds from the sale of the advertisements shall be paid as stated in the IFB or RFP, including, but not limited to, the following:

A) to the General Revenue Fund;

B) to a special fund authorized to receive the proceeds;

C) as free or additional copies; or

D) directly to the printer by the advertiser.

o) Contracting for Installment Purchase Payments, Including Interest
Contracts may provide for installment purchase payments, including interest charges, over a period of time. The interest rate may not exceed that established by law, including the Bond Authorization Act [30 ILCS 305].

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.2060 Duration of Contracts − General

a) General
~~1)~~The term of a contract, including potential renewals, may not exceed 10 years except: ~~Except in an emergency, or where immediate performance is necessary to protect the programmatic interest of the agency and all required approvals have been obtained, the vendor selected for award shall not begin any billable work or charge expenses prior to final execution of the contract by the State. The procuring agency's SPO must approve any pre-contract work and shall report the circumstances to the Chief Procurement Officer. Each solicitation and contract shall contain a provision alerting vendors that they will not be eligible for reimbursement for work performed prior to execution of the contract by the State, except as provided in this subsection (a)(1). Only the SPO, the CPO or designee of the CPO, may authorize work prior to execution.~~

~~2)A multi-term contract for a term up to 10 years is authorized when determined by the Procurement Officer to be in the best interest of the State.~~

~~3)The length of the payment term of bonds issued by or on behalf of a State agency shall be limited as provided in the statute authorizing the issuance of the bonds.~~

1~~4~~) A software license may have a term longer than 10 years, including for a perpetual term, provided the payment term is limited to no more than 10 years;~~.~~

2) The length of a lease for real property or capital improvement shall be in accordance with Section 40-25 of the Code.

b) Subject to Appropriation
Each contract is contingent upon and ~~The contractual obligation of both parties in~~

~~each fiscal period succeeding the first is~~ subject to the ~~appropriation and~~ availability of funds. The State, at its sole option, may terminate or suspend a contract, in whole or in part, ~~contract shall provide that, in the event that funds are not available for any succeeding fiscal period, the remainder of the contract shall be canceled~~ without penalty ~~to,~~ or further payment being required, if the Illinois General Assembly or the federal funding source fails to make an appropriation sufficient to pay that obligation or if funds needed are insufficient for any reason. Each contract payable in whole or in part by any funds appropriated by the Illinois General Assembly shall recite that the contract is subject to termination and cancellation for lack of, or insufficiency in, funding. A vendor will be notified in writing by the State agency of a failure to receive or a reduction or decrease in any appropriation affecting the contract~~by, the State~~. This provision applies to only those contracts that are funded in whole or in part by funds appropriated by the Illinois General Assembly or other governmental entity.

c) Conditions for Use of Multi-Year~~Term~~ Contracts
A multi-year ~~term~~ contract may be used when:

1) special production of definite quantities or the furnishing of long-term services is required to meet State needs; or

2) a multi-year ~~term~~ contract will serve the best interests of the State by encouraging effective competition or otherwise promoting economies in State procurement. The following factors are among those relevant to such a determination:

A) firms that are not willing or able to compete because of high start-up costs or capital investment in facility expansion will be encouraged to participate in the competition when they are assured of recouping costs during the period of contract performance;

B) lower production costs because of a larger quantity of service requirements, and substantial continuity of production or performance over a longer period of time, can be expected to result in lower unit prices;

C) stabilization of the vendor's work force over a longer period of time may promote economy and consistent quality; or

D) the cost and burden of contract solicitation, award~~,~~ and administration of the procurement may be reduced.

d) Multi-Year ~~Term~~ Contract Procedure
The solicitation shall state:

1) the proposed term;

2) the amount of supplies or services required for the proposed contract period;

3) the type of pricing requested (e.g., firm for term); and

4) how award will be determined.

e) Renewals

1) The initial term of a contract plus available renewals may not exceed 10 years. When the original procurement specifically called for an initial term plus renewals, the renewals may be exercised without further procurement activity, except for ~~provided~~ the publication of ~~initial term and~~ the renewal in the Bulletin as required by Section 15-25 of the Code and Section 1.1525 of this Part. The renewal ~~exercised renewals may not exceed 10 years, the~~ terms and conditions shall ~~do~~ not change except as provided in the contract (such as price escalations tied to an index). Renewal options may be exercised by ~~and the option is reserved solely to~~ the State or ~~is~~ by mutual agreement, but shall not be exercised solely at the option of the vendor. Any ~~A~~ renewal ~~option~~ that requires modification to a material term or condition of the contract shall be treated as a new contract and shall be subject to competitive procurement procedures established by the Code and this Part.

2) When the original procurement was silent as to renewals, the renewal must be procured using one of the methods of source selection authorized by the Code and this Part. The~~This~~ renewal shall start a new term not to exceed 10 years, except the term of a sole source contract renewal shall include previous sole source contracts and shall in total not exceed 10 years.

3) ~~A contract may contain a renewal provision that binds the vendor, but not~~

~~the State, for a term beyond the maximum 10-year term of a contract.~~ When~~Where~~ a renewal will result in the total term, counting the initial term and any previous renewals, exceeding~~to exceed~~ 10 years, the State agency's need must be procured ~~renewal must be exercised~~ using one of the methods of source selection authorized by the Code and this Part.~~ This renewal will start a new term that shall not exceed 10 years.~~

f) Filing of Proposed Renewals and Extensions Exceeding $249,999
Prior to executing a renewal or extension with a cost estimated to exceed $249,999, the proposed renewal or extension must be submitted to PPB. The PPB shall have up to 30 days to review and comment on the proposal. The SPO assigned the agency may request a waiver of the review for reasons set forth in Section 20-60(c) of the Code.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.2065 Cancellation of Contracts

a) In any of the following cases, the SPO shall have the right to terminate or rescind any contract entered into under this Part without penalty:

1) The successful vendor fails to furnish a satisfactory performance bond within the time specified.

2) The vendor fails to make delivery at the place or within the time specified in the contract or as ordered by the purchasing agency.

3) Any supplies or services provided under the contract are rejected (for not meeting specification, not conforming to sample, or not being in good condition when delivered) and are not promptly replaced by the vendor. If there are repeated rejections of the vendor's supplies or services, this shall be grounds for termination or rescission, even though the vendor offers to replace the supplies or services promptly.

4) The vendor is guilty of misrepresentation (e.g., misbranding of food or drugs) in connection with another contract for the sale of supplies or services to the State such that the vendor cannot reasonably be depended upon to fulfill obligations as a responsible vendor under other contracts with the State.

5) The vendor should be adjudged bankrupt; enter into receivership or make a general assignment for the benefit of creditors due to insolvency; disregard laws, rules, or instructions of the SPO; or act in violation of any provision of the contract; or if the contract conflicts with any statutory or constitutional provision of the State of Illinois or of the United States.

6) Any other breach of contract or other unlawful act by the vendor.

7) The contract was obtained by fraud, collusion, conspiracy or other unlawful means; or

8) The contract conflicts with any statutory provision of the State of Illinois or of the United States.

b) Damages
The damages for which the State may be compensated as provided in this Section or by a suit on the vendor's performance bond or by other legal remedy shall include, but are not limited to, the following:

1) the additional cost of supplies or services bought elsewhere;

2) cost of repeating the procurement procedure;

3) any expenses incurred because of delay in receipt of supplies or services; and

4) any other damages caused by the vendor's breach of contract or unlawful act.

c) Withholding Money to Compensate State for Damages
If a contract is terminated or rescinded under this Section, the State agency may deduct from whatever is owed the vendor on that or any other contract an amount sufficient to compensate the State agency for any damage resulting from termination or rescission.

(Source: Added at 36 Ill. Reg. _____, effective _____)

SUBPART J: PROCUREMENT FILES~~DURATION OF CONTRACTS~~

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 1.2080 Public Procurement File

a) *A procurement file shall be maintained for all contracts, regardless of the method of procurement. The procurement file shall contain the basis on which the award is made, all submitted bids and proposals, all evaluation materials, score sheets and all other documentation related to or prepared in conjunction with evaluation, negotiation and the award process. The procurement file shall contain a written determination, signed by the SPO, setting forth the reasoning for the contract award decision. The procurement file shall be open to public inspection within 7 days following award of contract.* [30 ILCS 500/20-155(b)]

b) The procurement files shall be maintained by or under the jurisdiction of the CPO-GS.

c) Documentation of Procurement Actions
Each purchasing agency, under the direction of the SPO, shall maintain in the procurement or associated contract file all substantive documents and records of communications that pertain to the procurement and any resulting contract. This shall include, as applicable, but is not limited to:

1) The form of decision memo showing approvals to proceed at all stages;

2) Procurement Bulletin Postings;

3) Solicitation document (e.g., IFB) and all amendments, clarifications and Best & Final requests;

4) Vendors' responses, including clarifications and responses to Best & Final requests (losing responses may be stored elsewhere);

5) Evaluation material (e.g., scoring guidelines and forms; completed score sheets for individual evaluators, including notes; evaluation committee's combined score sheets; evaluation committee's recommendation; and management's decision);

6) Protest and resolution;

7) Contract and any order, change, amendments, renewal or extension;

8) Contractor Performance reviews;

9) All information from subsections (b)(1) through (b)(8), less information exempt from disclosure under the Freedom of Information Act [5 ILCS 140], shall be prepared and available for inspection and copying, with information from subsections (b)(1) through (b)(5) available on the date any award is posted to the Procurement Bulletin.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.2084 Record Retention

a) Retention of Bulletin Information. Information published in the Bulletin shall be retained in electronic format for the current fiscal year plus one additional year, then transferred to media storage and maintained for 13 years after which it may be disposed of providing all audits have been completed and no litigation is pending or anticipated.

b) Books and records that relate to performance of a State agency contract, including subcontracts, and that support amounts charged shall be maintained:

1) by a vendor, for 3 years from the date of final payment under the prime contract; and for such longer period of time as is necessary to complete ongoing or announced audits or to comply with federal requirements.

2) by the State agency for 3 years from the date of final payment under the prime contract; and for such longer period of time as is necessary to complete ongoing or announced audits.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.2086 Filing with the Comptroller

a) *Filing with Comptroller*
Whenever a grant, defined pursuant to accounting standards established by the State *Comptroller, or a contract liability, except for contracts paid for from personal services or contracts between the State and its employees to defer compensation in accordance with Article 24 of the Illinois Pension Code,*

exceeding $10,000 is incurred by any State agency, a copy of the contract, purchase order, grant or lease shall be filed with the Comptroller within 15 days. For each State contract for goods, supplies, or services awarded on or after July 1, 2010, the contracting agency shall provide the applicable rate and unit of measurement of the goods, supplies, or services on the contract obligation document as required by the Comptroller. Any cancellation or modification to any such contract liability shall be filed with the Comptroller within 15 days after *its execution.* [30 ILCS 500/20-80]

b) *Late Filing Affidavits*
When a contract, purchase order, grant or lease required to be filed by this Section has not been filed within 30 days after execution, the State agency must file with the Comptroller an affidavit, signed by the chief executive offer of the State agency or a designee, setting forth an explanation of why the contract liability was not filed within 30 days after the execution. A copy of this affidavit shall be filed with the Auditor General and the CPO-GS.

c) *Timely Execution of Contracts*

1) *No voucher shall be submitted to the Comptroller for a warrant to be drawn for the payment of money from the State Treasury or from other funds held by the State Treasurer on account of any contract unless the contract is reduced to writing before the services are performed and filed with the Comptroller. Vendors shall not be paid for any goods that were received or services that were rendered before the contract was reduced to writing and signed by all the necessary parties.*

2) Upon request of the State agency and with justification required by the CPO-GS, *the CPO-GS may request an exception to this subsection (c) by submitting a written statement to the Comptroller and Treasurer setting forth the circumstances and reasons why the contract could not be reduced to writing before the supplies were received or services were performed. A waiver of this subsection (c) must be approved by the Comptroller and Treasurer. This Section* 20-80(e) of the Code *does not apply to emergency purchases if notice of the emergency purchase is filed with the PPB and published in the Bulletin as required by* the *Code.* [30 ILCS 500/20-80]

(Source: Added at 36 Ill. Reg. _____, effective _____)

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

NOTICE OF PROPOSED AMENDMENTS

SUBPART K: WORKING CONDITIONS ~~CONTRACT MATTERS~~

Section 1.2560 Prevailing Wage

a) Responsible Vendors

1) In order to be considered responsible under Section 1.2046, vendors of the following classifications of services must certify that wages to be paid to their employees are no less, and fringe benefits and working conditions of employees are not less favorable, than those prevailing in the locality where the proposed contract is to be performed:~~For the following classifications and if competition exists, no bidder will be awarded a contract unless its employees are paid wages and benefits and are working under conditions prevalent in the location where the work is to be performed, if a prevailing wage has been determined by the Illinois Department of Labor.~~

~~1)~~ ~~Public works~~

A~~2~~) Printing.

B~~3~~) Janitorial cleaning services, window cleaning services, building and grounds services, site technician services, natural resources services, food services and security guard services having a total value of $2,000 or more or ~~monthly contract price of~~ $200 or more per month~~a yearly price of $2,000~~.

2) This Section does not apply to services furnished under contracts for professional or artistic services or to vocational programs of training for persons with physical or mental disabilities or to qualified not-for-profit agencies for persons with severe disabilities;

b) Vendors awarded contracts or subcontracts on public works projects shall comply with the requirements of the Prevailing Wage Act [820 ILCS 130].~~Prevailing wage and conditions prevalent means the hourly wage rate, overtime, holiday pay, pension, welfare, premium differential, vacation pay and other benefits received by employees and the environmental conditions under which they work.~~

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

NOTICE OF PROPOSED AMENDMENTS

~~c) Prevailing Wage Rates~~

~~1) Prevailing wage rates, benefits and conditions will be those in effect on the first date of the contract, provided that, if the rate changes during the contract term and the amount of change is known before execution of the contract, then the contract rate will vary in like amount.~~

~~2) If the change in the collective bargaining agreement cannot be determined in advance, the contract will be changed by the amount of the change in wage rate and all components of price that are dependent on the usage rate, such as payroll taxes, workers' compensation insurance, vacation, sick days, and pension, provided that profit shall not increase due to prevailing wage increases. The using agency shall have the option to cancel the contract if the new price is unacceptable.~~

~~3) If the initial prevailing wage, etc., cannot be determined prior to execution, contracts may be entered into and will remain valid for the stated term.~~

~~d) If a collective bargaining agreement is in effect governing the services set forth in subsection (a), that agreement will define minimum wages, benefits and conditions that must be paid in order for a bidder to be considered responsible.~~

~~e) For public works, location means the county where the physical work upon public works is performed, except that if there is not available in the county a sufficient number of competent skilled laborers, workers and mechanics to construct the public works efficiently and properly, "locality" includes any other county nearest the one in which the work or construction is to be performed and from which such persons may be obtained in sufficient numbers to perform the work.~~

~~f) Printing Contracts~~

~~1) For printing contracts, location means one of the following areas:~~

~~A) Cook County;~~

~~B) Boone, Bureau, Carroll, Champaign, DeKalb, DeWitt, DuPage, Ford, Fulton, Grundy, Hancock, Henderson, Henry, Iroquois, Jo Daviess, Kane, Kankakee, Kendall, Knox, Lake, LaSalle, Lee,~~

~~Livingston, Logan, Marshall, Mason, McDonough, McHenry, McLean, Mercer, Ogle, Peoria, Piatt, Putnam, Rock Island, Schuyler, Stark, Stephenson, Tazewell, Vermilion, Warren, Whiteside, Will, Winnebago, and Woodford counties;~~

~~C)~~ ~~Adams, Alexander, Bond, Brown, Calhoun, Cass, Christian, Clark, Clay, Clinton, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Franklin, Gallatin, Greene, Hamilton, Hardin, Jackson, Jasper, Jefferson, Jersey, Johnson, Lawrence, Macon, Macoupin, Madison, Marion, Massac, Menard, Monroe, Montgomery, Morgan, Moultrie, Perry, Pike, Pope, Pulaski, Randolph, Richland, Saline, Sangamon, Scott, Shelby, St. Clair, Union, Wabash, Washington, Wayne, White, and Williamson counties.~~

~~2)~~ ~~Where the printing is performed in a plant outside the jurisdiction of this State, it shall be deemed produced in the Illinois locality in which delivery of the printing ordered is required to be made. Where such printing is required to be delivered to more than one Illinois locality, such printing shall be deemed produced in the Illinois locality to which the largest dollar volume of printing under the contract is to be delivered.~~

~~g)~~ ~~For other services, location means the county in which the work is to be performed.~~

c)~~h)~~ Prevailing wages, benefits and conditions will be determined by the Illinois Department of Labor.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.2570 Equal Employment Opportunity; Affirmative Action

Pursuant to Section 7-105A of the Illinois Human Rights Act (IHRA) [775 ILCS 5/7-105A], the Department of Human Rights (DHR) has promulgated rules (44 Ill. Adm. Code 750) that requires certain bidders or offerors to register with DHR in order to be eligible for the award of certain public contracts.

~~a)~~ ~~Public Contracts~~

~~Every party to a public contract and every eligible bidder shall:~~

~~1) Refrain from unlawful discrimination and discrimination based on citizenship status in employment and undertake affirmative action to assure equality of employment opportunity and eliminate the effects of past discrimination;~~

~~2) Comply with the procedures and requirements of the Department of Human Right's (DHR) regulations concerning equal employment opportunities and affirmative action;~~

~~3) Provide such information, with respect to its employees and applicants for employment, and assistance as DHR may reasonably request;~~

~~4) Have written sexual harassment policies that shall include, at a minimum, the following information:~~

~~A) the illegality of sexual harassment;~~

~~B) the definition of sexual harassment under State law;~~

~~C) a description of sexual harassment, utilizing examples;~~

~~D) the vendor's internal complaint process, including penalties;~~

~~E) the legal recourse, investigative and complaint process available through DHR and the Human Rights Commission;~~

~~F) directions on how to contact DHR and the Commission; and~~

~~G) protection against retaliation as provided by Section 6-101 of the Illinois Human Rights Act (IHRA) [775 ILCS 5]. A copy of the policies shall be provided to the Department of Human Rights upon request.~~

~~b) Section 7-105A of the IHRA authorizes the Department of Human Rights to promulgate policies, rules and regulations to implement the provisions of the IHRA applicable to eligible bidders and public contractors. DHR has promulgated rules, 44 Ill. Adm. Code 750, that establish public contractor and eligible bidder duties, obligations, and reporting requirements. These rules require that certain employers register with DHR in order to be eligible for the~~

~~award of certain public contracts (44 Ill. Adm. Code 750.Appendix A).~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.2575 Subcontractors (Repealed)

~~All competitive sealed proposals, including proposals for professional and artistic services, shall include a provision to require each offeror to identify, either in its proposal or prior to award, the identity of any subcontractor that will be used in the performance of the contract, as well as the amounts expected to be paid to each subcontractor. For purposes of this Section, subcontractors are those specifically hired to perform all or part of the services or to provide the supplies requested by the State.~~

(Source: Repealed at 36 Ill. Reg. _____, effective _____)

SUBPART L: CONTRACT PRICING

Section 1.2800 All Costs Included (Repealed)

~~The IFB or RFP and any resulting contract shall define whether prices cover transportation, transit insurance, delivery, installation, taxes, expenses and any other costs.~~

(Source: Repealed at 36 Ill. Reg. _____, effective _____)

SUBPART M: CONSTRUCTION AND
CONSTRUCTION RELATED PROFESSIONAL SERVICES

Section 1.3005 Construction and Construction Related Professional Services

a) General Procedures

1) In the case of contracts for construction of buildings or for other construction work in or about buildings or grounds where the entire estimated cost of the work exceeds the amount stipulated by Section 20-20 of the Code, prospective contractors employed in connection with those projects may be prequalified to determine their responsibility (for architects, engineers and land surveyors, see the Architectural, Engineering and Land Surveying Qualifications Based Selection Act [30 ILCS 535]). If the total estimated cost of the work exceeds the amount

stipulated by Section 30-30 of the Code, separate specifications shall be prepared for all equipment, labor and materials in connection with the following five subdivisions of work to be performed:

A) Plumbing.

B) Heating, piping, refrigeration and automatic temperature control systems, including the testing and balancing of such systems.

C) Ventilating and distribution systems for conditioned air, including the testing and balancing of those systems.

D) Electrical wiring.

E) General contract work.

2) The specifications shall be drawn so as to permit separate and independent competitive bidding upon each of the above five subdivisions of work. All contracts awarded for any part of the work shall award the subdivisions separately to responsible and reliable contractors engaged in these classes of work. These contracts, at the discretion of the State agency, may be assigned to the successful bidder on the general contract work or to the successful bidder on the subdivision of work designated by the State agency prior to the bidding as the prime subdivision of work, with the provision that all payments will be made directly to the contractors for the five subdivisions upon compliance with the conditions of the contract. Any contract may be let for one or more buildings in any project to the same contractor. Specifications shall require, however, that, unless the buildings are identical, a separate price shall be submitted for each building. The contract may be awarded to the lowest responsible bidder for all of the buildings included in the specifications.

b) Request for Payment Form Specified by the State Agency
To bill a State agency for remodeling, renovation or construction work done, the vendor must submit a payment request in the form specified by the State agency.

c) Periodic Payments

When provided in the contract, periodic payments can be made during the course of the work, upon a certificate of a licensed architect or engineer indicating the proportionate amount of total work completed satisfactorily.

d) Retained Percentage
When periodic payments are made and if specified in the contract, the State agency shall retain a fixed percentage of the contract price to insure faithful completion of the contract.

e) Additional Work
No amount of funds, in addition to those provided for in a contract for repairs, maintenance, remodeling, renovation or construction, may be obligated or expended unless the additional work to be performed or materials to be furnished are germane to the original contract. Even if germane to the original contract, no additional expenditure or obligations may, in their total combined amount, be in excess of the percentages of the original contract amount as provided in Section 30-35(b) of the Code unless they have received the prior written approval of the construction agency. In the event the total of the combined additional expenditures or obligations exceeds the percentages of the original contract amount set forth in Section 30-35(b) of the Code, the construction agency shall investigate the additional expenditures or obligations in excess of the original contract amount and shall, in writing, approve or disapprove subsequent expenditures or obligations and state in detail the reasons for the approval or disapproval. Notices of additional expenditures or obligations in excess of the small purchase limit of Section 202-20 of the Code shall be published in the Bulletin.

f) Improvements to Leased Real Estate
The procedures set forth in this Part shall apply, as appropriate, to contracts for improvements to real estate leased to State agencies.

g) Construction Manager Services
Procurement of a Construction Manager will be performed by the Capital Development Board (CDB) or through delegation from CDB.

~~Construction and construction-related services are procured by the CPO for Department of Transportation (CPO-DOT) and the CPO for Capital Development Board (CPO-CDB) under rules promulgated by those CPOs. This Part does not apply to those procurements except as may~~

~~be specifically adopted by those CPOs in their rules. Rules promulgated by these CPOs may be found in:~~

a) ~~44 Ill. Adm. Code, Subtitle A, Chapter III (CPO-DOT);~~

~~b~~) ~~44 Ill. Adm. Code, Subtitle A, Chapter IV (CPO-CDB).~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART N: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

Section 1.4005 Real Property Leases and Capital Improvement Leases

Real property leases and capital improvement leases are subject to, and shall be procured in accordance with, the Code and ~~the requirements of~~ this Part. ~~and those in 44 Ill. Adm. Code 5000. In the event of a conflict, 44 Ill. Adm. Code 5000 shall prevail.~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.4010 Authority

The CPO-GS will use standards and criteria for State occupancy established in 44 Ill. Adm. Code 5000. Procurement of leased space will be conducted in the most efficient and effective manner to provide adequate space for the operation of State agencies in accordance with their missions.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.4015 Method of Source Selection

a) Leases shall be procured by using a Request for Information for Real Property or Capital Improvement Leases (RFI-Real Property Leases) process as provided in subsection (b).

b) The RFI-Real Property Leases process is not required in the following circumstances. Leases acquired under these exceptions shall be selected and entered into by negotiation. Written summaries of all negotiations shall be maintained in lease files.

1) *Property of less than 10,000 square feet with rent of less than $100,000 per year.*

2) *Duration of less than one year that cannot be renewed.*

3) *Specialized space available at only one location.* Specialized space is defined as space or unique function or configuration, not generally available on the market on an as built or turnkey basis. Examples of specialized space include, but are not limited to, laboratories, vehicle testing stations, correctional facilities, medical facilities, boat docks and evidence storage facilities.

4) *Renewal or extension of leases provided that:*

A) *The CPO-GS determines in writing that the renewal or extension is in the best interest of the State agency;*

B) *The CPO-GS submits his or her written determination and the renewal or extension to PPB;*

C) *PPB does not object in writing to the renewal or extension within 30 days after its submission; and*

D) *The CPO-GS publishes* notice of *the renewal or extension in the Bulletin* at least 60 days prior to the exercise of the renewal or extension option.

5) *Leases with other governmental units may be negotiated without using the RFI-*Real Property Leases *process when deemed by the CPO-GS to be in the best interest of the State.* [30 ILCS 500/40-15]

c) None of the provisions of this Section shall prohibit the State from ordering a lease procurement to be made under the RFI-Real Property Leases provisions if the CPO-GS deems it to be in the best interests of the State.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.4020 Request for Information-Real Property and Capital Improvement Leases

a) RFI-RPL Form
When required, an RFI-RPL shall be issued and include, but not be limited to, the following:

1) *The type of property to be leased;*

2) *The proposed uses of the property;*

3) *The duration of the lease;*

4) *The preferred location of the property;*

5) *A general description of the configuration desired* [30 ILCS 500/40-20(b)];

6) Special and standard lease terms and conditions, qualifications and responsibility requirements, disclosures and certifications;

7) The address to which responses are to be sent; and

8) The criteria for evaluating responses based on the minimum standards and conditions for occupancy.

b) All required documents of the RFI-RPL will be available in electronic format from the Bulletin. Notice shall begin when first published electronically. RFI-RPL document packages may also be mailed to owners of property that may meet the State's needs after the RFI-RPL has been published in the Bulletin.

c) Unless the RFI-RPL is exclusively designated to accept only electronically prepared documents, RFI-RPL document packages shall, at a minimum, include:

1) Response forms and instructions for completing forms;

2) A copy of spatial and performance guidelines required to meet the needs of the State agency to occupy the real property being procured; and

3) The date and time responses must be submitted.

d) Public Notice

Public notice of the RFI-RPL *shall be published in the Bulletin at least 14 days before the date set forth in the request for receipt of responses and shall also be published in a similar manner in a newspaper of general circulation in the community or communities where the State agency is seeking space* [30 ILCS 500/40-20(c)].

e) Response

The RFI-RPL *response shall consist of written information sufficient to show that the respondent can meet minimum criteria set forth in the* RFI-RPL. [30 ILCS 500/40-20(d)] All responses to the RFI-RPL will be publicly opened on the announced date. Names of all parties submitting proposals will be made available to the public immediately following the opening of the proposals.

f) Negotiation and Determination

1) *The* CPO-GS*, SPO or designee may enter into discussions with respondents to the* RFI-RPL *for the purpose of clarifying State agency needs and the information supplied by the respondents, On the basis of the information supplied and discussions, if any, the* CPO-GS*, SPO or designee shall make a written determination identifying the responses that meet the minimum criteria set forth in the* RFI-RPL*. Negotiations shall be entered into with all qualified respondents for the purpose of securing a lease that is in the best interest of the State.* [30 ILCS 500/40-20(d)]

2) The CPO-GS reserves the right to reject any proposals and to request and evaluate "best and final" proposals. Best and final offers shall be sought after a written determination is made by the SPO or designee that it is in the best interest of the State to request best and final proposals. A best and final proposal shall not be requested from any vendor deemed non-responsive or who does not meet the minimum criteria set forth in the RFI.

g) Contract Award, Reporting and Filing

1) The SPO or designee shall review all relevant information and shall recommend to the CPO-GS which proposal shall be accepted based on the evaluation of all responsive proposals. The CPO-GS shall make the final award, which will be published in the Bulletin. Notification of award will be sent to all respondents.

2) When the lowest response by price is selected, a written report of the negotiation shall be retained in the lease files and shall include the reasons for the final selection.

3) *When the lowest response by price is not* recommended*, the SPO or designee shall forward to the* CPO-GS*, along with the lease, notice of the identity of the lowest respondent by price and written reasons for the* recommendation *of a different award. The* CPO-GS *shall publish the written reasons for selection in the next volume of the Bulletin.* [30 ILCS 500/40-20(d)] The written reasons for the selection of the vendor shall be retained in the lease files.

h) PPB Review
PPB shall review any proposed lease of real property of more than 10,000 square feet or any proposed lease of real property with annual rent payments of $100,000 or more. The PPB shall have 30 days to review the proposed lease. No contract may be entered into until the 30-day period has expired, unless the State agency requests in writing that the PPB waive the period and the PPB grants the waiver in writing. *If the PPB does not object within 30 days, the proposed lease shall become effective.* [30 ILCS 500/40-20(e)]

i) State Agency Cooperation
A State agency shall provide any materials or provide any assistance the PPB determines is required for its review. PPB may request in writing from the State agency and the State agency shall promptly, but in no event later than 5 business days after receipt of the request, provide to PPB documentation of information in the possession of the State agency.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.4025 Lease Requirements

a) Length of Leases

1) Maximum Term. Except when a longer term is authorized by law, leases, inclusive of renewals, shall be for a term not to exceed 10 years and shall include a termination option in favor of the State after 5 years.

2) Renewal Option. *Leases may include a renewal option. An option to renew may be exercised only when the* CPO-GS *determines in writing that renewal is in the best interest of the State. The* CPO-GS *shall publish a notice of the intent to exercise the option in the Bulletin at least 60 days prior to the exercise of the option.* [30 ILCS 500/40-25(b)]

3) *All leases shall include a provision* that *they are subject to termination and cancellation in any year the General Assembly fails to make an appropriation to make payments under the terms of the lease.* [30 ILCS 500/40-25(c)]

4) *Month-to-Month and Holdover. No lease may continue on a month-to-month or other holdover basis for a total of more than 6 months.* [30 ILCS 500/40-25(d)]

b) Lessor's Failure to Make Improvements
Each lease that includes a provision for the lessor to make improvements must provide for a penalty upon the lessor's failure to make improvements agreed upon in the lease. The penalty shall consist of a reduction on lease payments equal to the corresponding percentage of the improvement value to the lease value. The penalty shall continue until the lessor complies with the lease and the improvements are accepted by the leasing State agency. [30 ILCS 500/40-55]
The penalty amount shall be retained by the State agency.

c) Renewal or Extensions of Lease in Effect Prior to July 1, 1998
Leases in effect prior to July 1, 1998 may be renewed or extended without advertisement or an RFI-RPL process if:

1) The CPO-GS, SPO or designee determines that the renewal or extension is in the best interest of the State.

2) The CPO-GS, SPO or designee submits that determination in writing, along with the proposed renewal or extension, to PPB.

3) PPB does not object in writing within 30 days after submission.

4) The CPO-GS or SPO publishes the notice of renewal or extension in the Bulletin.

d) Renewal of Leases Entered into After July 1, 1998

1) Leases may be renewed if:

A) The CPO-GS, SPO or designee determines in writing that the renewal is in the best interest of the State; and

B) Notice of the renewal is published in the Bulletin at least 60 days prior to the exercise of the renewal option.

2) Documentation justifying renewals shall be maintained in lease files.

e) All leases shall be accompanied by a full written disclosure of the identity of every owner or beneficiary having an interest in the premises being leased.

1) The disclosure shall be subscribed and sworn or otherwise affirmed on oath by an owner, authorized trustee, corporate official, partner, managing agent or other authorized person.

2) The disclosure shall set forth all ownership interests. By way of example, the disclosure should identify the names of the beneficiaries of a land trust in addition to the trustee, the names of all partners whether general or limited in nature, the names of all members or managers of a limited liability company and the names of all shareholders in a corporation who are entitled to receive more than 7½% of the total distributable income of the entity. If the entity is publicly traded and no readily known individual owns more than a 7½% interest, then the requirements of this subsection (e) may be met by an officer or managing agent of the entity making an affirmative statement to this effect under oath.

3) The disclosure shall set forth the identity of any State officer, employee or elected official, or the wife, husband or minor child of that person, having an ownership or beneficial interest under the lease. In the event a person is so set forth, the disclosure shall include a specific designation of the percentage of total distributable income to the person, together with that of the wife, husband or minor child of that person, is entitled to receive from any firm, partnership, association or corporation that is the lessor.

4) It shall be the responsibility of the lessor to notify the CPO-GS, SPO or designee of any changes in ownership or beneficial interest and to submit updated disclosure statements reflecting the changes within 30 days after the change.

f) Space that is not in compliance with accessibility regulations, or is not capable of being brought in compliance with the installation of minimum essential features of accessibility by the time of occupancy, shall not be considered for use.

1) Each RFI will contain specifications for accessibility. Exceptions to the specifications will be allowed only upon request of the State agency, if legitimate reasons are given, and the request is otherwise in compliance with all federal and State laws regarding accessibility. The CPO-GS, SPO or designee may waive certain specifications at his or her discretion in accordance with subsection (f)(2).

2) Exceptions may be based upon one or more of the following criteria:

A) No other suitable location exists within the geographic boundaries required by the operation/program at the site.

B) No funds are appropriated to cover expenses for:

i) Relocation to an accessible site;

ii) Remodeling existing site to achieve accessibility; or

iii) Construction of a new facility.

3) The operations at the site are part of an on-going program that cannot be interrupted or terminated pending relocation, remodeling or new construction.

4) The operations at the site are part of a new program that must be implemented without delay to avoid:

A) Delay or interruption of vital services; and/or

B) Loss of funds associated with the program

5) The operations/programs at the site:

A) Generate a low frequency of public use; and/or

B) Provide a low number of job opportunities.

6) For sites carrying out programs funded in whole or part by federal funds, exceptions will be granted only upon written certification from the director of the State agency that alternative methods have been established to deliver services to disabled clients and the agency will provide necessary structural modification for qualified disabled employees, unless the modification would cause the agency to incur undue hardship. This requirement is based on federal law (Section 504 of the Rehabilitation Act of 1973 (29 USC 706)) and any federal agency regulations promulgated pursuant to that Act; including those promulgated by the U.S. Department of Health and Human Services.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.4030 Purchase Option

Initial leases of all space in free-standing buildings shall include an option to purchase exercisable by the State agency unless the CPO-GS, SPO or designee determines in writing that inclusion of that purchase option is not in the State's best interest. The determination, including the reasons for making the determination, shall be published in the Bulletin. Leases with governmental units and not-for-profit entities are exempt from the requirements of this Section.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.4035 Rent Without Occupancy

Except when deemed by PPB to be in the best interest of the State, no State agency may incur rental obligations before having occupancy or possession of the space rented. For the purposes of this Section, the terms "occupancy" and "possession" shall have the same meaning.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.4040 Local Site Preferences

Upon the request of the chief executive officer of a unit of local government, leasing preferences may be given to sites located in enterprise zones, tax increment districts or redevelopment districts.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.4042 Historic Area Preference

State agencies with responsibilities for leasing, acquiring or maintaining State facilities shall take all reasonable steps to minimize any regulations, policies and procedures that impede the goals of Section 17 of the Capital Development Board Act [20 ILCS 3105]. [30 ILCS 500/45-80]

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.4044 Emergency Lease Procurement

Emergency lease procurements may be made pursuant to Section 1.2030.

(Source: Added at 36 Ill. Reg. _____, effective _____)

SUBPART O: PREFERENCES

Section 1.4505 Procurement Preferences

The procurement preferences identified in Article 45 of the Code must be considered in developing procurement documents, conducting evaluations and drafting contracts. Any preferences applicable to an individual procurement will be stated in the solicitation for that procurement. ~~When any such preference is utilized, the Invitation for Bids, Request for Proposals, or other procurement request shall identify the preference and the conditions associated with such use. Subsequent Sections of this Subpart O identify conditions for the use of certain of the statutory preferences.~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.4510 Resident Vendor ~~Bidder~~ Preference

a) "Illinois resident vendor", as used in this Section, means a person authorized to transact business in this State and having a bona fide establishment for transacting

business within this State at which it was actually transacting business on the date when any competitive solicitation for a public contract was first advertised or announced, including a foreign corporation duly authorized to transact business in this State that has a bona fide establishment for transacting business within this State at which it was actually transacting business on the date when any competitive solicitation for a public contract is first advertised or announced.

b) In breaking a tie bid or proposal, as described in Section 1.2037, an Illinois resident vendor shall be given the award.

c) An Illinois resident vendor shall be allowed a preference over a non-resident vendor equal to any in-state vendor given or required by the state of the non-resident vendor.~~The CPO shall maintain a list of states with in-state preference that shall be consulted in all procurements involving out-of-state vendors.~~

d) If only non-resident bidders are bidding, the purchasing agency has the right to specify that Illinois labor and manufacturing locations be used as part of the manufacturing process. This specification may be negotiated as part of the solicitation process.

e) This Section does not apply to any contract for any project for which federal funds are available for expenditure when its provisions may be in conflict with federal law or federal regulation.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.4515 Soybean Oil-Based Ink

Contracts requiring printing services shall specify the use of soybean oil-based ink unless an SPO determines another type of ink is required to assure high quality and reasonable pricing of the printed product. [30 ILCS 500/45-15]

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.4520 Recycled Materials

When a contract is to be awarded to the lowest responsible bidder, an otherwise qualified bidder who will fulfill the contract through the use of products made of recycled materials may be given preference over other bidders unable to do so, provided that the cost included in the bid of

supplies made of recycled materials does not constitute an undue economic or practical hardship [30 ILCS 500/45-20].

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.4525 Recyclable Paper

All paper purchased for use by State agencies must be recyclable paper unless a recyclable substitute cannot be used to meet the requirements of the State agencies or would constitute an undue economic or practical hardship [30 ILCS 500/45-25].

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.4526 Environmentally Preferable Procurement

State agencies shall contract for supplies and services that are environmentally preferable, as that term is defined in Section 45-26(3) of the Code. *If, however, contracting for an environmentally preferable supply or service would impose an undue economic or practical hardship on the contracting State agency, or if an environmentally preferable supply or service cannot be used to meet the requirements of the State agency, then the State agency need not contract for an environmentally preferable supply or service. Specifications for contracts, at the discretion of the contracting State agency, may include a price preference of up to 10% for environmentally preferable supplies or service.* [30 ILCS 500/45-26(b)]

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.4530 Correctional Industries

The CPO-GS shall distribute to each SPO and State agency the list of items that must be purchased from Illinois Correctional Industries (ICI), as determined by the CPO-GS. Procurement from ICI may be made without notice or competition.

~~a) The CPO shall make available to all SPOs a listing of the supplies or services available from the Department of Corrections and shall identify those that must be purchased from Corrections.~~

~~b) Those items that must be purchased from Corrections may not be procured from any other source without the express written authorization of the CPO.~~

~~c)~~ ~~Procurement Officers are authorized to procure from Corrections without seeking competition or giving public notice, but must inform the CPO of all such purchases.~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.4535 Qualified Not-for-Profit Agencies for Persons with Severe Disabilities ~~Sheltered Workshops for the Disabled~~

a) Use ~~of Sheltered Workshop~~
The CPO-GS shall distribute to each SPO and State agency a list of supplies and services available from qualified not-for-profit agencies for persons with severe disabilities (sheltered workshops). Purchases may be made from sheltered workshops ~~Procurement Officer may determine to contract with a sheltered workshop on the list maintained by the CPO, and may do so~~ without notice or competition.

~~b)~~ ~~Conditions for Use~~
~~The CPO shall, in consultation with the State Use Committee created by the Code (Section 45-35), determine which articles, materials, services, food stuffs and supplies that are produced or manufactured by persons with disabilities in State use sheltered workshops shall be given preference by purchasing agencies procuring those items. The CPO shall develop and distribute to the various purchasing and using agencies procedures for implementing this Section.~~

~~c)~~ ~~Sheltered Workshop List~~
~~The CPO shall maintain a list of all qualified sheltered workshops and shall provide to State agencies that list and the supplies and services each qualified sheltered workshop provides.~~

b)~~d)~~ Pricing Approval
Prior to contracting with a sheltered workshop, the State Use Committee (see Section 45-35(c) of the Code) must determine that the price is not substantially more than a competitively solicited price.

~~1)~~ ~~While notice and competition is not required prior to contracting with a sheltered workshop, prices must be reasonable. Whether a price is reasonable will be determined based upon current market prices, historical prices, prices received by other State agencies for similar supplies or~~

~~services, the policy of the Code to promote procurements from sheltered workshops, and other such relevant factors.~~

~~2) The State Use Committee, established under Section 45-35 of the Code, must approve contracts for reasonableness of price if:~~

~~A) the supply or service would ordinarily be subject to competitive sealed bidding or competitive sealed proposals methods of source selection; or~~

~~B) the supply or service is bid and the sheltered workshop is selected even though not the lowest responsible bidder.~~

~~3) State Use Committee approval is not required if:~~

~~A) the contract does not exceed the bid limit set in Section 1.2020 of this Part and no bidding was conducted; or~~

~~B) the contract is let to the sheltered workshop submitting the low bid or most advantageous proposal under a competitive procedure.~~

~~4) When Committee approval is required, it will be given or denied in an expeditious manner so as not to disrupt procurement activities. Consideration will be at regularly scheduled meetings or through special telephone meetings conducted between regular meetings.~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.4540 Gas Mileage and Flex-Fuel Requirements

a) Specifications for new passenger ~~Passenger~~ automobile specifications shall require compliance with minimum gas mileage requirements established in Section 45-40 of the Code. As used in this Section, passenger automobile does not include station wagons, vans, 4-wheel drive vehicles, emergency vehicles and police or fire vehicles. Passenger automobiles must achieve at least the minimum average fuel economy in miles per gallon imposed upon manufacturers of vehicles under Title V of the Motor Vehicle Information and Cost Savings Act~~.~~ (15 USC 2001).

b) *All gasoline-powered vehicles purchased from State funds must be flexible fuel vehicles or fuel efficient hybrid vehicles. Any vehicle purchased from State funds that is fueled by diesel fuel shall be certified by the manufacturer to run on 5% biodiesel (B5) fuel.* [30 ILCS 500/25-75].~~Passenger automobiles that do not meet the minimum gas mileage requirements may not be procured unless and until the SPO makes a written determination that a non-compliant automobile is necessary to carry out the function of the agency, the SPO's determination is signed by the executive head of the procuring agency and the signed determination is reviewed and approved by the CPO.~~

c) The CPO-GS or SPO may exempt a procurement from the requirements of subsections (a) and (b) when an agency demonstrates a need for a non-compliant vehicle in writing. ~~The CPO may require use of a uniform form or format for the SPO's determination.~~

d) *In awarding contracts requiring the procurement of vehicles, preference may be given to an otherwise qualified bidder or offeror who will fulfill the contract through the use of vehicles powered by ethanol produced from Illinois corn or biodiesel fuels produced from Illinois soybeans.* [30 ILCS 500/45-60] ~~In response to the SPO's determination, the CPO may suggest a more economical alternative to the agency head. If such a suggestion is made, the agency head must state in writing why the alternate vehicle will not allow the agency to carry out its functions. If the agency head confirms need for the non-compliant passenger automobile, that vehicle may be procured. Except in the case of a covert vehicle, notice that a non-compliant passenger automobile is being purchased will be placed in the Bulletin along with the reasons for such a decision.~~

e) The CPO-GS may require use of a uniform form or format for the SPO's determination that an exemption is warranted.~~Passenger automobile does not include station wagons, vans, four-wheel drive vehicles, emergency vehicles, or police or fire vehicles.~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.4545 Small Business

a) Set-Aside
~~1)~~The CPO-GS may determine categories of construction, supplies or service procurements that will be set aside for small businesses ~~business located~~ in

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

NOTICE OF PROPOSED AMENDMENTS

Illinois. ~~The set-aside designation may be made for current and future procurements of a specific supply, service or construction, or for a class of like supplies, services or construction.~~ A set-aside designation shall be for ~~may last indefinitely or for~~ a stated period of time. An SPO may determine to set aside for small business individual contracts not in a set-aside category.

~~2)State agencies shall set aside for small businesses the following categories of supplies and services unless the CPO establishes a master contract to meet agency needs or unless the CPO grants a waiver:~~

~~Addressing and Mailing~~
~~Air Conditioner Repair~~
~~Air Filters and Air Filter Media~~
~~Asphalt Paving~~
~~Automotive Maintenance, Batteries~~
~~Automotive Maintenance, Belts and Hoses~~
~~Automotive Maintenance, Exhaust~~
~~Building and Grounds Maintenance~~
~~Calendars (excluding Calendar Pads)~~
~~Carpentry~~
~~Carpet Cleaning~~
~~Carpet/Linoleum/Tile Laying~~
~~Computer Supplies, Data Tape Cartridges~~
~~Concrete Finishing~~
~~Data Entry~~
~~Drapery Cleaning~~
~~Dry Wall Services~~
~~Electrical Services~~
~~Electricians~~
~~Excavating~~
~~Exterior Building Cleaning~~
~~Fencing~~
~~Fertilizer Application~~
~~Flags~~
~~Floor Maintenance Machines~~
~~Floor Surfacing~~
~~Floor Wax Components~~
~~Furniture Cleaning~~
~~Gloves, Disposable, Medical Type~~

~~Heating Repair~~
~~Housekeeping~~
~~Imprinted Notions~~
~~Janitorial~~
~~Jugs and Caps~~
~~Labeling Services~~
~~Landscaping~~
~~Laser Printer Cartridges and Supplies~~
~~Lawn Care, Misc.~~
~~Mailing Services~~
~~Masonry Services~~
~~Painting~~
~~Parking Lot Maintenance~~
~~Pavement Maintenance~~
~~Plastering~~
~~Plumbing, Misc.~~
~~Plumbing Services~~
~~Plumbing Supplies and Equipment, Misc.~~
~~Pneumatic Tools~~
~~Power Tools~~
~~Roofing~~
~~Safety Supplies~~
~~Snow Plowing~~
~~Trucking and Hauling Services~~
~~Typing Services~~
~~Upholstery Cleaning~~
~~Ventilating~~
~~Ventilation Services~~
~~Video and Audio Tapes~~
~~Wallpaper Hanging~~
~~Water Heaters~~
~~Window Washing~~
~~Wiping Rags~~
~~Word Processing Services~~
~~Woodworking~~

b) Small Business List

The CPO-GS may develop his or her own list, or may use a list maintained by another State agency, of ~~will maintain a list of responsible~~ vendors that meet the

criteria of small business. Vendors desiring to submit bids or proposals or to otherwise contract for items set aside for small businesses shall submit information as specified verifying that the vendor qualifies as a small business under this Part. ~~and the supplies and services that each provides. Each purchasing agency will have web-based access to the list.~~ A business that fits the definition of small on the day of award or proposal opening will be considered small for the duration of the contract.

c) Required Use

~~1)~~Any procurement proposed for set aside for small businesses shall be so identified in the Bulletin notice and the solicitation documents.~~If a Procurement Officer wishes to make a procurement covered by a set-aside designation, the solicitation must note responses are limited to those from responsible small businesses.~~ Bids or proposals received from large businesses will be rejected as nonresponsive.

~~2)A Procurement Officer may request a waiver of the set-aside requirement from the CPO. To obtain a waiver, the Procurement Officer must demonstrate a measurable substantial impact, taking into account factors such as cost, supply base, quality, statutory preferences, regional or geographic requirements, acquisition cycle times, and terms and conditions. Following are examples of guidelines that may be considered:~~

~~A) the product or service is provided by a large business sole source vendor;~~

~~B) there is a need for a brand-name product and there are no small businesses that provide the product;~~

~~C) there is an opportunity to establish a no-bid contract with a State use vendor (see Sheltered Workshop for the Severely Handicapped [30 ILCS 500/45-35]);~~

~~D) the supply base for the product or service includes several larger diversified vendors that can be counted towards the goal authorized in the Business Enterprise for Minorities, Females, and Persons with Disabilities Act [30 ILCS 575];~~

~~E) the product or service is available from Illinois Correctional Industries;~~

~~F) the prices offered by qualified small businesses are substantially greater than the prices offered by large businesses; and~~

~~G) the small business supply base does not meet regional or geographic requirements for the product or service.~~

d) Withdrawal of Set-Aside
If the SPO ~~Procurement Officer~~ determines that acceptance of the best bid or proposal will result in the payment of an unreasonable price, the SPO may ~~Procurement Officer shall~~ reject all bids or proposals and withdraw the designation of small business set-aside for the procurement in question. When a small business set-aside is withdrawn, notification shall be published in the ~~Illinois Procurement~~ Bulletin with an explanation. After withdrawal of the small business set-aside, the procurement shall be conducted in accordance with ~~the limitations of the Code and~~ this Part but without the small business designation.

e) Criteria for Small Business

1) Unless the CPO-GS provides a definition for a particular procurement that reflects industrial characteristics, a small business is one that meets the requirements of Section 45-45 of the Code.~~:~~

2~~1~~) A small business in Illinois is one that meets the definition of a "resident bidder" in Section 45-10 of the Code and either has headquarters in Illinois or has the majority of its workforce in Illinois. ~~An Illinois business, independently owned and operated.~~

3~~2~~) A small business must not be ~~Not~~ dominant in its field of operations. This means the business does not exercise a controlling or major influence in a kind of business activity in which a number of business concerns are primarily engaged. In determining dominance, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.

~~3) With annual sales, including sales of affiliates, for most recently ended fiscal year no greater than:~~

~~A) $10,000,000 for wholesale business;~~

~~B) $10,000,000 for construction business; or~~

~~C) $6,000,000 for retail/service business.~~

4) If a business is any combination of retailer, wholesaler or construction business, then the annual sales for each component may not exceed the higher of $10,000,000 for a wholesaler, $16,000,000 for a retailer, $10,000,000 for a construction business or the amounts shown in Section 45-45 of the Code. For example, a business that is both a retailer and a wholesaler may not have total sales exceeding $16,000,000 and the retail component may not exceed $16,000,000 and the wholesale component may not exceed $10,000,000. If the business is also a manufacturer, in addition to meeting the annual sales requirement, the number of manufacturing employees may not exceed 250.~~With no more than 250 employees, including those of affiliates, if a manufacturing business.~~

~~A) A manufacturing business shall calculate how many people it employs by determining its average full-time equivalent employment, based on the number of persons employed on a full-time, part-time, temporary or other basis, for its most recently ended fiscal year.~~

~~B) If a manufacturing business has been in existence for less than a full fiscal year, its average employment should be calculated for the period through one month prior to the bid or proposal due date.~~

~~5) If the business is any combination of retailer, wholesaler or construction business, then the annual sales for each component may not exceed the amounts shown in subsection (e)(3). For example, a business that is both a retailer and wholesaler may not have total sales exceeding $16,000,000 and the retail component may not exceed $6,000,000 and the wholesale component may not exceed $10,000,000. If the business is also a manufacturer, in addition to meeting the annual sales requirement, the number of manufacturing employees may not exceed the number shown in~~

~~subsection (e)(4).~~

5~~6~~) When computing the size status of a vendor, the number of employees and annual sales and receipts, as applicable, of the vendor and all affiliates shall be included. Concerns are affiliates when either one directly or indirectly controls or has the power to control the other, or when a third party or parties controls or has the power to control both. In determining whether concerns are independently owned and operated and whether affiliation exists, consideration shall be given to all appropriate factors, including use of common facilities, common ownership and management, and contractual arrangements. However, a franchise relationship shall not affect small business status if the franchise has the right to profit commensurate with ownership and bears the risk of loss or failure.

f) Small Business Specialist
The CPO-GS shall designate a small business specialist who shall have the duties set forth in Section 45-45(e) of the Code and who shall also act as coordinator of small business. The designated small business specialist shall compile statistics provided by the State agency needed to make the small business annual report to the General Assembly required under Section 45-45(f) of the Code. ~~Vendors desiring to submit bids or proposals or to otherwise contract for items set aside for small businesses shall submit information verifying that the vendor qualifies as a small business under the Code and this Part. The CPO may establish procedures for verifying such information.~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.4550 Illinois Agricultural Products

In awarding contracts requiring the procurement of agricultural products, preference may be given to an otherwise qualified bidder or offeror who will fulfill the contract through the use of agricultural products grown in Illinois. [30 ILCS 500/45-50]

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.4555 Corn-Based Plastic Products

In awarding contracts requiring the procurement of plastic products, preference may be given to an otherwise qualified bidder or offeror who will fulfill the contract through the use of plastic products made from Illinois corn by-products. [30 ILCS 500/45-55]

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.4557 Disabled Veterans

It is the goal of the State to promote and encourage the continued economic development of small businesses owned and controlled by qualified veterans and that qualified service-disabled veteran-owned small businesses (SDVOSB) and veteran-owned small businesses (VOSB) participate in the State's procurement process as both prime contractors and subcontractors. Not less than 3% of the total dollar amount of State contracts, as defined by the Director of Central Management Services, shall be established as the goal to be awarded to SDVOSB and VOSB. [30 ILCS 500/45-57] The CPO-GS will inform each SPO and State agency of procedures established to implement this provision.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.4570 Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities

Procurements made under the Code are subject to the requirements of the Business Enterprise for Minorities, Females and Persons with Disabilities Act [30 ILCS 575].

~~a)~~ ~~Introduction~~
~~The Business Enterprise Act for Minorities, Females, and Persons with Disabilities [30 ILCS 575] (Act) sets a goal (minimum 12%) for contracting with businesses owned or controlled by minorities, females, or persons with disabilities.~~

~~b)~~ ~~Goal~~
~~Each State agency subject to that Act shall establish a goal that at least 12% of the dollar value of State contracts be awarded to minority and female-owned businesses. Of that 12%, five shall be for female-owned businesses, two for businesses owned by persons with disabilities and not-for-profit agencies for the disabled, and the remaining five for other minority-owned businesses, unless these percentages are modified by the Council created under the Act.~~

~~c) Upon direction of the CPO, and pursuant to direction from the Council, the procuring agencies may establish set-asides and other such preferences for vendors certified under that Act.~~

~~d) Certification~~
~~Certification procedures are set forth in rules governing the Business Enterprise Act (44 Ill. Adm. Code 10).~~

~~e) List of Certified Businesses~~

~~1) The CPO shall maintain a list of businesses that have been certified. This list shall be made available to all procuring agencies.~~

~~2) The names and addresses of certified vendors shall be made available to the public.~~

~~f) Professional and Artistic Contract Reporting~~
~~Professional and artistic contracts, which must be reported to the Business Enterprise Council pursuant to Section 6a of the Business Enterprise Act, shall be reported as follows:~~

~~1) Notice that an agency intends to enter into a professional and artistic contract shall be given to the Council. Notice may be mailed, hand delivered or given by fax, and must be submitted on the same date that the potential vendor is contacted. If the contract is advertised in the Bulletin, reporting to the Council is not required.~~

~~2) The notice shall include the agency name and address; contact person; contract reference number; date bid or proposal was first available; return dates and opening dates; term of the contract; services to be provided; special requirements; and dollar value. Notice should be given on the form available from the CPO.~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.4575 Domestic Products

a) This Section applies unless an exception is provided by statute~~law~~, or in the case of a small, emergency or sole economically feasible source situation.

b) This Section applies to supplies purchased by the State that have undergone some manufacturing process that changes the raw material or components into a different product. The following examples show how to interpret this Section:

1) If the State needs iron ore, this Section would not apply because the State would be asking for a raw material.

2) If the State needs a steel ingot, the purchase would be subject to this Section as the steel ingot was subject to a manufacturing process. The iron ore used in manufacturing the ingot would not be subject to any domestic restriction.

3) If the State needs a steel I-Beam, the I-Beam would be subject to this Section. The iron ore and steel used in creating the I-Beam would not be subject to any domestic restriction.

4) If the State needs a structure made of steel I-Beams, the assembly would have to be done domestically. The iron ore, steel and I-Beams used in building the structure would not be subject to any domestic restriction.

c) Specifications for manufactured supplies shall include a reference to the preference established in this Section.

d) The preference shall be as follows:

1) The low bid or most advantageous proposal shall be identified without regard to whether the product is a domestic product.

2) In the event of a tie in a competitive sealed bid procurement, the vendor that certifies it will provide domestic supplies shall be given preference.

3) If the low bid or most advantageous proposal does not contain a certification that the supply items are domestic, then any responsive and responsible vendor that is within 2% of the identified vendor's price that has made that certification shall be evaluated as though its price was 2% lower, subject to a maximum dollar value of $50,000.

4) The winning vendor will be determined after application of the preference.

5) Notwithstanding the preference outlined in this subsection (d), if the appropriate SPO determines that the price differential calculated using the preference is not acceptable given the particular procurement and the economic circumstances, the award may be conditioned on receipt of an acceptable price reduction. If the price cannot be reduced to an acceptable level, the original low priced or most advantageous proposal may be selected for award.

e) Each procuring agency shall include in the procurement file documentation showing the application of any preference given and any determination that the supplies involved in the ~~to a~~ purchase were not subject to the Procurement of Domestic Products Act [30 ILCS 517].

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.4578 Bio-Based Products

When a State contract is to be awarded to the lowest responsible bidder, an otherwise qualified bidder who will fulfill the contract through the use of bio-based products may be given preference over other bidders unable to do so, provided that the cost included in the bid of bio-based products is not more than 5% greater than the cost of products that are not bio-based. [30 ILCS 500/45-75]

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.4579 Notice of Preferences

The Bulletin and solicitation document shall state whether a preference applies or may apply and the amount or type of preference.

(Source: Added at 36 Ill. Reg. _____, effective _____)

SUBPART P: ETHICS

Section 1.5002 Continuing Disclosure; False Certification

a) Multi-year contracts and subcontracts are subject to the annual recertification requirements of Section 50-2 of the Code. *Every person that has entered into a*

multi-year contract and every subcontractor with a multi-year subcontract subject to the Code, *shall certify, by July 1 of each fiscal year covered by the contract after the initial fiscal year, to the responsible* CPO-GS *whether it continues to satisfy the requirements of* Article 50 of the Code *pertaining to eligibility for a contract award. If a contractor or subcontractor is not able to truthfully certify that it continues to meet all requirements, it shall provide with its certification a detailed explanation of the circumstances leading to the change in certification status. A contractor or subcontractor that makes a false statement material to any given certification required under* Article 50 of the Code *is, in addition to any other penalties or consequences prescribed by law, subject to liability under the Illinois False Claims Act* [740 ILCS 175] *for submission of a false claim.* [30 ILCS 500/50-2]

b) The CPO-GS may prescribe a standard format for annual recertification and may include annual certifications as part of the prequalification process.

c) Should a vendor be unable to certify that it continues to meet requirements of Section 50 of the Code, the relevant information shall be submitted to the SPO for review and disposition.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.5005 Bribery

a) *Prohibition*
No person or business shall be awarded a contract or subcontract who:

1) *Has been convicted under the laws of Illinois or any other state of bribery or attempting to bribe an officer or employee of the State of Illinois or any other state in that officer's or employee's official capacity; or*

2) *Has made an admission of guilt of that conduct that is a matter of record but has not been prosecuted for that conduct.*

b) *Businesses*
No business shall be barred from contracting with any unit of State or local government, or subcontracting under such a contract, as a result of a conviction under this Section of any employee or agent of the business if the employee or agent is no longer employed by the business and:

1) *The business has been finally adjudicated not guilty; or*

2) *The business demonstrates to the governmental entity with which it seeks to contract or which is a signatory to the contract to which the subcontract relates, and that entity finds that the commission of the offense was not authorized, requested, commanded or performed by a director, officer or high managerial agent on behalf of the business, as provided in Section 5-4(a)(2) of the Criminal Code of 1961* [720 ILCS 5].

c) *Conduct on Behalf of Business*
For purposes of this Section, when an official, agent or employee of a business committed the bribery or attempted bribery on behalf of the business and in accordance with the direction or authorization of a responsible official of the business, the business shall be chargeable with the conduct.

d) *Certification*
Every bid submitted to and contract executed by the State and every subcontract shall contain a certification by the contractor or the subcontractor, respectively, that the contractor or subcontractor is not barred from being awarded a contract or subcontract under this Section, and acknowledges that the CPO-GS *may declare the related contract void if any certifications required by this Section are false. A contractor who makes a false statement, material to the certification, commits a Class 3 felony.* [30 ILCS 500/50-5]

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.5010 Felons

a) *Unless otherwise provided, no person or business convicted of a felony shall do business with the State of Illinois or any State agency, or enter into a subcontract, from the date of conviction until 5 years after the date of completion of the sentence for that felony, unless no person held responsible by a prosecutorial office for the facts upon which the conviction was based continues to have any involvement with the business.* [30 ILCS 500/50-10]

b) Every bid submitted to and contract executed by the State and every subcontract subject to this Part shall contain a certification by the bidder or contractor or subcontractor, respectively, that the bidder, contractor or subcontractor is not

barred from being awarded a contract or subcontract under this Section and acknowledges the CPO-GS may declare the related contract void if any of the certifications required by this Section are false.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.5011 Debt Delinquency

a) *No person shall submit a bid for or enter into a contract or subcontract if that person knows or should know that he or she or any affiliate is delinquent in the payment of any debt to the State, unless the person or affiliate has entered into a deferred payment plan to pay off the debt.* [30 ILCS 500/50-11(a)] For purposes of this Section, terms shall have the meanings ascribed in Section 50-11 of the Code.

b) *Every bid submitted to and contract executed by the State and every subcontract shall contain a certification by the bidder, contractor or subcontractor, respectively, that the contractor or the subcontractor and its affiliate is not barred from being awarded a contract or subcontract under this Section and acknowledges that the* CPO-GS *may declare a related contract void if any of the certifications completed pursuant to this subsection (b) are false.* [30 ILCS 500/51-11(b)]

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.5012 Collection and Remittance of Illinois Use Tax

a) *No person shall enter into a contract with a State agency or enter into a subcontract unless the person and all affiliates of the person collect and remit Illinois Use Tax on all sales of tangible personal property into the State of Illinois in accordance with the provisions of the Illinois Use Tax Act* [35 ILCS 105], *regardless of whether the person or affiliate is a "retailer maintaining a place of business within this State" as defined in Section 2 of the Use Tax Act.* [30 ILCS 500/50-12] For purposes of this Section, terms shall have the meanings ascribed in Section 50-12 of the Code.

b) *Every bid submitted and contract executed by the State and every subcontract shall contain a certification by the bidder, contractor or subcontractor, respectively, that the bidder, contractor or subcontractor is not barred from*

bidding for or entering into a contract under subsection (a) and acknowledges that the CPO-GS may declare the related contract void if any of the certifications completed pursuant to this subsection (b) are false. [30 ILCS 500/50-12]

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.5013 Conflicts of Interest Prohibited by the Code

a) Any bid, proposal, offer of acceptance, or proposed contract must be reviewed for conflicts of interest pursuant to Section 50-13 of the Code. If a conflict is found, no contract will be executed unless a waiver is granted under Section 50-20 of the Code by the Executive Ethics Commission.

1) Office or Employment
It is unlawful for any person holding an elective office in this State, holding a seat in the General Assembly, or appointed to or employed in any of the offices or agencies of State government and who receives compensation for such employment in excess of 60% of the salary of the Governor of the State of Illinois, or who is an officer or employee of the Capital Development Board or the Illinois Toll Highway Authority, or who is the spouse or minor child of any such person, to have or acquire any contract, or any direct pecuniary interest in the contract therein, whether for stationery, printing, paper, or any services, materials, or supplies, that will be wholly or partially satisfied by the payment of funds appropriated by the General Assembly of the State of Illinois or in any contract of the Capital Development Board or the Illinois Toll Highway Authority. [30 ILCS 500/50-13(a)]

2) Financial Interests
It is unlawful for any firm, partnership, association, or corporation, in which any person as described *in subsection (a)*(1) *is entitled to receive more than 7½% of the total distributable income or an amount in excess of the salary of the Governor, to have or acquire any such contract or direct pecuniary interest therein.* [30 ILCS 500/50-13(b)]

3) Combined Financial Interests
It is unlawful for any firm, partnership, association or corporation, in which any person listed in subsection (a)(1) *together with his or her spouse or minor children is entitled to receive more than 15%, in the*

aggregate, of the total distributable income or an amount in excess of 2 times the salary of the Governor, to have or acquire any such contract or direct pecuniary interest therein. [30 ILCS 500/50-13(c)]

b) For the purpose of this Part, an individual has a direct pecuniary interest in a contract when the individual is owed a payment or otherwise received a direct financial benefit in conjunction with performance of a contract, including finders fees and commission payments. ~~An individual has a direct pecuniary interest in a contract when the individual is owed a payment or otherwise receives a direct financial benefit in conjunction with performance of a contract, including finders fees and commission payments.~~

c) For the purpose of this Part, "distributable income" means the income of a company after payment of all expenses, including employee salary and bonus, and retained earnings, which is distributed to those entitled to receive a share of the income. In the case of a for-profit corporation, distributable income means "dividends". When calculating entitlement to distributable income the entitlement shall be determined at the end of the company's most recent fiscal year. ~~Distributable income means the income of a company after payment of all expenses, including employee salary and bonus, and retained earnings, which is distributed to those entitled to receive a share of such income. In the case of a for-profit corporation, distributable income means "dividends". When calculating entitlement to distributable income the entitlement shall be determined at the end of the company's most recent fiscal year.~~

d) This Section applies to those elected to an office of Illinois State government. This Section does not apply to those elected to local government offices, including school districts, nor does it apply to those elected to Federal offices in this State. ~~This Section does apply to those elected to an office of Illinois State government.~~ This Section does not apply to contracts with licensed professionals, provided those ~~such~~ contracts are competitively bid. For purposes of this Section, "bid" means procured pursuant to the competitive procedures identified in Subpart E of this Part.

e) Additional exemptions to the application of this Part are listed in Section 50-13(f) of the Code.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 1.5014 Environmental Protection Act Violations

a) *Unless otherwise provided, no person or business found by a court or the Pollution Control Board to have committed a willful or knowing violation of the Environmental Protection Act* [415 ILCS 5] *shall do business with the State of Illinois or any State agency or enter into a subcontract from the date of the order containing the finding of violation until 5 years after that date, unless the person or business can show that no person involved with the violation continues to have any involvement with the business.* [30 ILCS 500/50-14(a)]

b) *A person or business otherwise barred from doing business with the State of Illinois and any State agency or any subcontractors under the Code by subsection (a) may be allowed to do business with the State of Illinois or any State agency if it is shown that there is no practicable alternative to the State to contracting with that person or business.* [30 ILCS 500/50-14(b)]

c) Every bid submitted to and contract executed by the State and every subcontract shall contain a certification by the bidder, contractor or subcontractor, respectively, that the bidder, contractor or subcontractor is not barred from being awarded a contract or subcontract under this Section and acknowledges that the contracting State agency may declare the related contract void if any of the certifications completed pursuant to this subsection (c) are false.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 4.5015 Negotiations for Future Employment

a) *It is unlawful for any person employed in or on a continual contractual relationship with any of the offices or agencies of State government to participate in contract negotiations on behalf of that office or agency with any firm, partnership, association or corporation with whom that person has a contract for future employment or is negotiating concerning possible future employment.* [30 ILCS 500/50-15(a)]

b) An individual who performs services pursuant to a contract and who meets the requirements of an "employee" as opposed to an independent contractor is in a "continual contractual relationship" from the effective date of the contract until such time as the contract is terminated.

c) An individual who performs services pursuant to a contract and who meets the requirements of an "independent contractor" as opposed to an "employee" is in a "continual contractual relationship" if the contract term is indefinite, is automatically renewed, is renewable at the individual's option, is renewable unless the State must act to terminate, or has a definite term of at least three months.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.5020 Exemptions

If the SPO ~~Procurement Officer~~ finds a conflict of interest under Section 50-13 of the Code with the vendor selected for award or contract negotiations, the SPO ~~Procurement Officer~~ shall forward to the CPO-GS the name of the vendor and a description of the proposed contract and of the potential conflict, and shall state why an exemption should be granted. The CPO-GS shall decide whether to disapprove the contract or submit the files to the Executive ~~Board of~~ Ethics Commission to determine whether an exemption should be granted in accordance with Section 50-20 of the Code. ~~for its determination and with the approval of the CPO, the Board of Ethics may exempt named individuals from the prohibitions of Section 50-13 of the Code when, *in its judgment, the public interest in having the individual in the service of the State outweighs the public policy evidenced in that Section.* [30 ILCS 500/50-20]~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.5021 Bond Issuances

a) Definitions. For the purposes of this Part, the following listed terms shall have the same meaning as in the Code and as further defined in this subsection (a).

1) "Entity" means brokers, dealers and municipal securities dealers as defined in, and subject to, Rule G-37 and Rule G-38 of the Municipal Securities Rulemaking Board (MSRB).

2) *"Independent Consultant" means a person used by the entity to obtain or retain securities business through direct or indirect communication by the person with a State official or employee* (including an official or employee of the State agency) on behalf of the entity when the communication is undertaken by the person in exchange for or with the understanding of

receiving payment from the entity or other person. Independent Consultant does not include:

A) *a finance professional employed by the entity; or*

B) *a person whose sole basis of compensation from the entity is the actual provision of legal, accounting or engineering advice, services or assistance in connection with the securities business that the entity seeks to obtain or retain.* [30 ILCS 500/50-21(a)]

3) "Issuance of bonds or other securities" means the purchase or placement of a primary offering of municipal securities on other than a competitive bid basis.

4) "Issuance by the State agency" means the issuance of bonds or other securities by the State agency when acting as a governmental issuer specified in MSRB Rule G-37.

5) "MSRB Rule G-37" and "MSRB Rule G-38" refer to the Municipal Securities Rulemaking Board rules in effect on the effective date of this amendatory rulemaking or any successor rules adopted by the MSRB on the same subject after the effective date of this rulemaking.

b) Use of Independent Consultants

1) Section 50-21(a) of the Code prohibits the State agency from entering into a contract with respect to the issuance of bonds or other securities by the State agency with any entity that uses as independent consultant to obtain or retain securities business through direct or indirect communications by the person with a State official or employee, including an official or employee of the State agency. Use of an independent consultant is also prohibited by MSRB Rule G-38. Every contract between the State agency and an entity relating to the issuance of bonds or other securities by the State agency shall include a certification that the entity did not use an independent consultant to obtain the contract and that the entity has not been found to have knowingly violated MSRB Rule G-38 (or any successor rule) with respect to the prohibition on obtaining or retaining municipal securities business.

2) In the event a federal agency finds that an entity has knowingly violated MSRB Rule G-38 in the State of Illinois, the CPO-GS shall bar that entity from participating in any contract with respect to the issuance of bonds or other securities by any of the State agencies for a period of one year as specified in Section 50-21(c) of the Code.

c) Prohibited Political Contributions

1) Section 50-21(b) of the Code requires that every contract between the State agency and an entity relating to the issuance of bonds or other securities by the State agency include a certification that the entity is, and will remain for the duration of the contract in compliance with the MSRB Rule G-37 requirement for reporting political contributions and that the entity has not been found to have knowingly violated in Illinois MSRB Rule G-37 (or any successor rule) with respect to the making of prohibited political contributions or payments. Failure to remain in compliance throughout the term of the contract shall make the contract voidable by the CPO-GS.

2) In the event a federal agency finds that an entity has knowingly violated MSRB Rule G-37 in the State of Illinois by making prohibited political contributions, the CPO-GS shall impose a penalty that is at least twice the fine assessed by the federal agency. In addition, the CPO-GS shall bar the entity from participating in any contract with respect to the issuance of bonds or other securities by any of the State agencies for a period of one year as specified in Section 50-21(c) of the Code.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.5023 Other Conflicts of Interest

a) Except as otherwise specified in the Public Officer Prohibited Activities Act [50 ILCS 105], no State official/member of a State agency's governing board shall be directly or indirectly interested in any contract to be made by the State Official/Board for any purposes whatsoever.

b) No contract shall be awarded to a State officer or employee or to a firm, partnership, association or corporation, the owner or principal owners or major officers or primary employees of which are officers or employees of the State

agency, or to members of the immediate family of an officer of the State agency, unless the contract is deemed essential to State agency operations and is approved by the State agency head and the CPO-GS. These approvals shall be filed with the contract and shall be made part of the procurement file.

c) Any State agency that has its owns policies regarding procurement conflict of interest relative to its own employees must provide notice of any potential conflict of interest to the SPO along with the State agency's policy. This information may be used by the SPO when considering whether to award a contract.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.5030 Revolving Door Prohibition

a) *CPOs, SPOs, Procurement Compliance Monitors, their designees whose principal duties are directly related to State procurement, and executive officers confirmed by the Senate are expressly prohibited for a period of 2 years after terminating an affected position from engaging in any procurement activity relating to the State agency most recently employing them in an affected position for a period of at least 6 months. The prohibition includes but is not limited to: lobbying the procurement process; specifying, bidding, proposing bid, proposal, or contract documents; on their own behalf or on behalf of any firm, partnership, association, or corporation. This prohibition applies to all persons who terminate an affected position on or after January 1, 1999.* [30 ILCS 500/50-30]

b) The ~~Effective January 15, 1999,~~ CPO-GSs ~~and SPOs~~ shall identify in writing those ~~their~~ designees whose job, or whose position description, is at least 51% directly related to ~~State~~ procurement. Activities ~~The following activities are~~ directly related to ~~State~~ procurement include, but are not limited to,~~:~~ drafting specifications, preparing solicitations~~Invitations for Bids and Requests for Proposals~~, evaluating offers~~responses to Invitations for Bids and Requests for Proposals~~, negotiating contracts, administering contracts and supervising any of the foregoing. This information ~~They~~ shall be maintained ~~maintain that information~~ for a period of at least 2 ~~two~~ years following the end or revocation of the designation.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.5035 Disclosure of Financial Interests and Potential Conflicts of Interest

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

NOTICE OF PROPOSED AMENDMENTS

a) For purposes of Section 50-35(a) of the Code, an "offer from responsive bidders or offerors" means only those offers that are received ~~using an Invitation for Bids or Request for Proposals~~ under Section 20-10, 20-15 or 20-35~~,~~ or Article 35~~,~~ of the Code. Disclosures are not required in small, sole source and~~or~~ emergency contracts, but shall be obtained in whole or in part when practical and when the value exceeds $25,000~~procurements~~.

b) For purposes of:

1) Section 50-35(b) of the Code, "parent entity" means an entity that ~~a person who~~ owns 100% of the bidding entity.

2) Section 50-35(b)(1) of the Code, "contractual employment of services" means any contract to provide services to the State, whether as independent contractor or employee, that is by and between the State and the named individual.

c) "Distributable" or "distributive income" means the income of a company after payment of all expenses, including employee salaries and bonuses, and retained earnings that~~, which~~ is distributed to those entitled to receive a share of that ~~such~~ income. In the case of a for-profit corporation, distributable income means "dividends". When calculating entitlement to distributable income, the entitlement shall be determined at the end of the company's most recent fiscal year.

d) "Personal services" shall be any contract for services subject to the Code, including, by way of example, professional and artistic services, repair services, cleaning and guard services, but excludes contracts with employees who are exempt from the Code under Section 1-10(b)(4).

c~~f~~) "Subject to federal 10K reporting" means subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934. "10K disclosure" means a report required under section ~~Section~~ 13 or 15(d) of the Securities Exchange Act of 1934 (15 USC 78a et seq.).

f~~e~~) New disclosures are required on contract renewals. New disclosures are not required for contract amendments. ~~"Competitively bid" means a contract let pursuant to Sections 20-10, 20-15 and 20-35 of the Code.~~

~~g) Once a disclosure is made in relation to a particular contract, the disclosure need not be repeated if the contract is amended.~~

g)~~h)~~ 10K Disclosures

1) Any vendor subject to federal 10K reporting requirements may submit its 10K to the State in satisfaction of the disclosure requirement of Section 50-35(b) of the Code. The ~~provided the~~ vendor may be required to identify ~~also identifies~~ the specific sections or parts in the 10K disclosure containing ~~where the State may find~~ information, if any, pertaining to those who have an ownership interest or an interest in the distributable income of the vendor or its parent, or other information that the vendor knows or reasonably should know identifies a potential conflict of interest with the State. If the financial interest or conflict of interest information requested by the State is not in the 10K, or ~~but is~~ in a document ~~referenced in the 10K, or in a document~~ that may be submitted to the SEC in conjunction with, or in lieu of, the 10K, then that additional documentation shall be provided as well.

2) 10K disclosures are available for public review. Any potential conflict of interest identified by the public and brought to the attention of the CPO-GS or SPO shall be investigated.

3) In circumstances in which~~where~~ a vendor may submit a 10K disclosure in lieu of the specific disclosure requirements of the Code, the SPO or designee may consider ~~and for purposes of the Procurement Officer's duty to consider any conflict or potential conflict of interest that may exist, but that is not subject to specific disclosure requirements of the Code and this Part, and that is not personally known by the Procurement Officer, "publicly known or reasonably available to the public" shall consist of~~ information identified by the vendor in the 10K disclosure and any information disclosed pursuant to public review of the 10K disclosure in determining whether a potential conflict of interest exists.

h) Form of Disclosure

1) *The form of disclosure shall be prescribed by the CPO-GS and shall include at least the names, addresses and dollar or proportionate share of*

ownership of each person identified in this Section, their instrument of ownership or beneficial relationship, and notice of any potential conflict of interest resulting from the current ownership or beneficial relationship of each person identified in this Section having any of the following relationships:

A) *State employment, currently or in the previous 3 years, including contractual employment of services;*

B) *State employment of spouse, father, mother, son or daughter, including contractual employment for services in the previous 2 years;*

C) *Elective status: the holding of elective office in the State of Illinois, the government of the United States, any unit of local government authorized by the Constitution of the State of Illinois or the statutes of the State of Illinois currently or in the previous 3 years;*

D) *Relationship to anyone holding elective office currently or in the previous 2 years, including spouse, father, mother, son or daughter;*

E) *Appointive office: the holding of any appointive government office of the State of Illinois, the United States of America, or any unit of local government authorized by the Constitution of the State of Illinois or the statutes of the State of Illinois that entitles the holder to compensation in excess of expenses incurred in the discharge of that office currently or in the previous 3 years;*

F) *Relationship to anyone holding appointive office currently or in the previous 2 years, including spouse, father, mother, son or daughter;*

G) *Employment, currently or in the previous 3 years, as, or by, any registered lobbyist of the State government;*

H) *Relationship to anyone who is or was a registered lobbyist in the previous 2 years, including spouse, father, mother, son or daughter;*

I) *Compensated employment, currently or in the previous 3 years, by any registered election or re-election committee registered with the Secretary of State or any county clerk in the State of Illinois, or any political action committee registered with either the Secretary of State or the Federal Board of Elections;*

J) *Relationship to anyone, including spouse, father, mother, son or daughter, who is or was a compensated employee in the last 2 years of any registered election or re-election committee registered with the Secretary of State or any county clerk in the State of Illinois, or any political action committee registered with either the Secretary of State or the Federal Board of Elections.*[30 ILCS 500/50-35(b)(1-10)]

2) *The disclosures required under this Section also include the name and address of each lobbyist required to register under the Lobbyist Registration Act* [25 ILCS 170] *and other agent of the bidder or offeror who is not identified under subsection (a) and who has communicated, is communicating, or may communicate with any State officer or employee concerning the bid or offer. The disclosure under this subsection* (h)(2) *is a continuing obligation and must be promptly supplemented for accuracy throughout the process and throughout the term of the contract if the bid or offer is successful.* [30 ILCS 500/50-35(b-1)]

3) *The disclosure required under this Section must also include,* for each of the persons identified in subsection (h)(1) or (2), *each of the following that occurred within the previous 10 years: debarment from contracting with any governmental entity; professional licensure discipline; bankruptcies; adverse civil judgments and administrative findings; and criminal felony convictions. The disclosure under this subsection* (h)(3) *is a continuing obligation and must be promptly supplemented for accuracy throughout the process and throughout the term of the contract if the bid or offer is successful.* [30 ILCS 500/50-35(b-2)]

i) Intent of Disclosure

The disclosure required in subsection (h) is not intended to prohibit or prevent any contract. The disclosure is meant to fully and publicly disclose any potential

conflict to the CPO-GS*, SPOs, their designees and executive officers so they may adequately discharge their duty to protect the State.* [30 ILCS 500/50-35(c)]

1) Determination by Procurement Officer
When a potential conflict of interest is identified, discovered or reasonably suspected, it shall be reviewed by the CPO-GS or his or her designee, who must rule whether to void or allow the contract, subcontract, bid, offer or proposal considering whether the best interest of the State of Illinois will be served. This written determination shall become a publicly available part of the contract, bid or proposal file.

2) Requirements for Reasonable Care and Diligence
These thresholds for disclosure do not relieve the CPO-GS*, SPO or their designees from reasonable care and diligence for any contract, bid, offer or proposal. The* CPO-GS*, SPOs or their designees shall be responsible for using any reasonably known and publicly available information to discover any undisclosed potential conflict of interest and act to protect the best interest of the State of Illinois.* [30 ILCS 500/50-35(e)]

3) Inadvertent or Accidental Failure to Fully Disclose
Inadvertent or accidental failure to disclose shall render the contract, subcontract, bid, proposal or relationship voidable by the CPO-GS *if he or she deems it in the best interest of the State of Illinois and, at his or her discretion, may be cause for barring from future contracts, subcontracts, bids, proposals or relationships with the State for a period of up to 2 years.* [30 ILCS 500/50-35(f)]

4) Intentional, Willful or Material Failure to Disclose
Intentional, willful or material failure to disclose shall render the contract, subcontract, bid, proposal or relationship voidable by the CPO-GS if he or she deems it in the best interest of the State of Illinois and shall result in debarment from future contracts, subcontracts, bids, proposals or relationships with the State for a period of not less than 2 years and not more than 10 years. Reinstatement after 2 years and before 10 years must be reviewed and commented upon by the CPO-GS, who must rule in writing whether and when to reinstate.

5) Other Procurements

In addition, all disclosures shall note any other current or pending contracts, proposals, subcontracts, leases or other ongoing procurement relationships the bidding, proposing, offering or subcontracting entity has with any other unit of State government and shall clearly identify the unit and the contract, proposal, lease or other relationship. [30 ILCS 500/50-35(h)]

6) Continuing Obligation
The contractor or bidder has a continuing obligation to supplement the disclosure required by this Section throughout the bidding process or during the term of any contract. [30 ILCS 500/50-35(i)]

j) Hearing
Any hearing required under Section 50-35 of the Code shall be conducted in accordance with Subpart W.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.5036 Disclosures of Business in Iran

a) *Each bid, offer or proposal submitted for a State contract, other than a small purchase, shall include a disclosure of whether the bidder, offeror or proposing entity, or any of its corporate parents or subsidiaries, within the 24 months before submission of the bid, offer or proposal had business operations that involved contracts with, or provision of supplies or services to, the Government of Iran, companies in which the Government of Iran has a direct or indirect equity share, consortiums or projects commissioned by the Government of Iran, or companies involved in consortiums or projects commissioned by the Government of Iran and:*

1) *More than 10% of the company's revenue produced in or assets allocated in Iran involve oil-related activities or mineral extraction activities; less than 75% of the company's revenues produced or assets located in Iran involve contracts with or provision of oil-related or mineral-extraction products or services to the Government of Iran or a project or consortium created exclusively by that government; and the company has failed to take substantial action; or*

2) *The company has, on or after August 5, 1996, made an investment of $20 million or more, or any combination of investments of at least $10 million*

each that in the aggregate equals or exceeds $20 million in any 12-month period, that directly or significantly contributes to the enhancement of Iran's ability to develop petroleum resources of Iran. [30 ILCS 500/50-36(b)]

b) *A bid, offer or proposal that does not include the disclosure required by subsection (a) shall not be considered responsive. An SPO may consider the disclosure when evaluating the bid, offer or proposal or awarding the contract.* [30 ILCS 500/50-36(c)]

c) *The* CPO-GS *shall provide the State Comptroller with the names of each entity disclosed under subsection (a) as doing business or having done business in Iran. The State Comptroller shall post that information on his or her official website.* [30 ILCS 500/50-36(d)]

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.5037 Vendor Registration, Certification and Prohibition on Political Contributions

a) Introduction
Illinois statute~~law~~ (~~Public Act 95-971;~~ 10 ILCS 5/9-35~~;~~ and 30 ILCS 500/20-160 and 50-37) restricts political contributions by vendors and affiliated entities; requires registration with the State Board of Elections (SBEL); requires a copy of the registration certificate stamped by SBEL (Registration Certificate) to be submitted with bids/proposals and contracts; and requires solicitation and contract certifications relative to the requirements of the statutes~~law~~. This Section supplements requirements found in statutes~~the Act~~ and does not excuse compliance with any of those requirements.

b) General Registration Requirements

1) These requirements apply to contracts, bids and proposals that are subject to the ~~Illinois Procurement~~ Code:

A) Bids/proposals referenced in this Section are those submitted in response to a competitive solicitation that is posted to the ~~Illinois Procurement~~ Bulletin on or after January 1, 2009, regardless of the value assigned to the procurement.

B) Bids and proposals include pending bids and proposals.

C) These requirements generally apply to a vendor whose existing State contracts have an aggregate value in excess of $50,000, or whose aggregate value of bids/proposals for State contracts exceeds $50,000, or whose aggregate value of State contracts and bids/proposals exceeds $50,000.

D) This value is calculated on a calendar-year basis.

2) On a calendar-year basis, each vendor or potential vendor must keep track of the value of contracts and bids/proposals. Vendors must register with SBEL when the vendor determines that the value of the contracts and bids/proposals meets the threshold for registration.

3) An "executive employee" means:

A) the President, Chairman of the Board, Chief Executive Officer and/or other individuals who~~that~~ fulfill equivalent duties as the President, Chairman of the Board, or Chief Executive Officer; and/or

B) any employee whose compensation is determined directly, in whole or in part, by the award or payment of contracts by a State agency to the entity employing the employee, irrespective of the employee's title or status in the business entity. For the purposes of this subsection (b)(3)(B), compensation determined directly by award or payment of contracts means a payment over and above regular salary that would not be made if it were not for the award of the contract.

c) Bids and Proposals

1) A copy of the Registration Certificate must be submitted with bids/proposals. The CPO-GS may establish a prequalification procedure allowing advance submission of the SBEL certificate. A vendor who complies with the prequalification procedure shall be deemed to have submitted the SBEL certification with the bid or proposal.

2) ~~For bids and proposals due January 1, 2009 through February 2, 2009, the Registration Certificate must be submitted with the bid/proposal or it may be submitted by the earlier of February 2, 2009 or the contract execution.~~

~~3)~~ If the Registration Certificate is not timely submitted, the procuring agency shall reject the bid/proposal.

3)~~4)~~ The procuring agency shall not reject a bid/proposal if absence of the Registration Certificate is the result of delay or error by the State, but shall require the Registration Certificate before making an award.

d) Contracts
A copy of the Registration Certificate must be in the procurement file as set forth in this subsection (d), unless the vendor~~Vendor~~ certifies it is not required to register.

1) For contract renewals and extensions, if the value of the renewal or extension by itself, or in combination with the contract being renewed/extended and other contracts and bids/proposals exceeds $50,000, the vendor must provide the Registration Certificate and make the appropriate contract certification, if it has not already done so. The Registration Certificate may be provided by reference to and incorporation of the vendor's prequalification by the CPO-GS.

2) For indefinite quantity/estimated value contracts, a vendor who is otherwise not required to register shall register with SBEL when the value of orders placed pursuant to an indefinite/estimated value contract plus all other contracts and bids/proposals exceeds $50,000.

3) For contract amendments, if the value of the amendment, by itself or in combination with the contract being renewed plus other contracts and bids/proposals exceeds $50,000, the vendor must provide the Registration Certificate and make the appropriate contract certification, if it has not already done so.

4) Any contracts mistakenly executed in violation of this Section must be amended to include the contract certifications, and the vendor must supply the Registration Certificate. If any violation by the vendor is not

cured within 5 business days after receipt of notification of the violation, the contract is voidable by the State without penalty.

5) Contract certification required by Public Act 95-971 shall be included in or added to each contract that must be filed with the State Comptroller pursuant to Section 20-80 of the ~~Illinois Procurement~~ Code and those written two-party contracts that need not be filed with the Comptroller. Agencies may require written confirmation of the rule-imposed certification at any time.

e) Voidable contracts
Every solicitation issued and contract executed by the State on or after January 2, 2009, shall contain a statement that the contract is voidable under Section 50-60 if the bidder, offeror or contractor fails to comply with Section 20-160 of the Code.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.5038 Lobbying Restrictions

a) *A person or business that is let or awarded a contract is not entitled to receive any payment, compensation or other remuneration from the State to compensate the person or business for any expenses related to travel, lodging, or meals that are paid by the person or business to any officer, agent, employee, consultant, independent contractor, director, partner, manager or shareholder.* [30 ILCS 500/50-38(a)]

b) Disclosure

1) *Any bidder or offeror on a State contract that hires a person required to register under the Lobbyist Registration Act* [25 ILCS 170] *to assist in obtaining a contract shall:*

A) *Disclose all costs, fees, compensation, reimbursement and other remunerations paid or to be paid to the lobbyist related to the contract;*

B) *Not bill or otherwise cause the State of Illinois to pay for any of the lobbyist's costs, fees, compensation, reimbursements or other remuneration;*

C) *Sign a verification certifying that none of the lobbyist's costs, fees, compensation, reimbursements or other remuneration were billed to the State.*

2) The information in subsection (b)(1)(A), *along with all supporting documents, shall be filed with the agency awarding the contract and with the Secretary of State. The* CPO-GS *shall post this information, together with the contract award notice, on the Bulletin.* [30 ILCS 500/50-38(b)]

c) *No person or entity shall retain a person or entity required to register under the Lobbyist Registration Act to attempt to influence the outcome of a procurement decision for compensation contingent in whole or in part upon the decision or procurement. Any person who violates this subsection* (c) *is guilty of a business offense and shall be fined not more than $10,000.* [30 ILCS 500/50-38(c)]

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.5039 Procurement Communication Reporting Requirement

a) Reporting Requirement
Any written or oral communication received by a State employee that imparts or requests material information or makes a material argument regarding potential action concerning a procurement matter, including, but not limited to, an application, a contract or a project, shall be reported in accordance with rules of the Executive Ethics Commission (2 Ill. Adm. Code 1620).

b) *When an oral communication made by a person required to register under the Lobbyist Registration Act is received by a State employee that is covered under this Section, all individuals who initiate or participate in the oral communication shall submit a written report to that State employee that memorializes the communication and includes, but is not limited to, the items listed in* Section 50-39 of the Code. [30 ILCS 500/50-39(c)]

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.5055 Supply Inventory

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

NOTICE OF PROPOSED AMENDMENTS

State agencies shall manage their inventory of supplies in compliance with the 12-month inventory restriction of Section 50-55 of the Code.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.5060 Prohibited Bidders and Contractors

a) *Unless otherwise provided, no business shall bid or enter into a contract or subcontract if the business or any officer, director, partner, or other managerial agent of the business has been convicted of a felony under the Sarbanes-Oxley Act of 2002* (PL 107-204) *or a Class 3 or Class 2 felony under the Illinois Securities Law of 1953* [815 ILCS 5] *for a period of 5 years from the date of conviction.*

b) *Every bid submitted to and contract executed by the State and every subcontract subject to Section 20-120 of* the *Code shall contain a certification by the bidder, contractor, or subcontractor, respectively, that the bidder, contractor, or subcontractor is not barred from being awarded a contract or subcontract under this Section and acknowledges that the chief procurement officer shall declare the related contract void if any of the certifications pursuant to this subsection (b) are false.* [30 ILCS 500/50-10.5]

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.5065 Lead Poisoning Prevention Act Violations

Owners of residential buildings who have committed a willful or knowing violation of the Lead Poisoning Prevention Act [410 ILCS 45] *are prohibited from doing business with the State of Illinois or any State agency, or subcontracting, until the violation is mitigated.* [30 ILCS 500/50-14.5]

(Source: Added at 36 Ill. Reg. _____, effective _____)

SUBPART Q: CONCESSIONS

Section 1.5310 Concessions

a) A concession is an authorization allowing use of ~~State~~ property for the purpose of selling directly or indirectly to the public. Concessions also include the

assignment, license, sale or transfer of interests in or rights to discoveries, inventions, patents or copyrightable works~~making profit, including future profit~~.

b) All concessions of State property shall be awarded in accordance with the requirements of Article 20 of the Code. Contracts shall be awarded to the highest and best bidder or offeror. ~~An authorization to allow use of State property by not-for-profit entities is not a concession or lease of State property under Article 53 of the Code.~~

c) Concession contracts shall be reduced to writing and shall include terms and conditions and concessionaire qualification requirements applicable to purchase contracts. ~~Proposed concessions, leases or other uses of State property must be coordinated with the State Property Control Act [30 ILCS 605] and rules implementing that Act.~~

d) All proposed concession contracts must be filed with PPB in compliance with Section 5-30 of the Code.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART R: COOPERATIVE PURCHASING
~~COMPLAINTS, PROTESTS AND REMEDIES~~

Section 1.5400 General

All cooperative/joint procurement activities and contracts must be approved by the CPO-GS.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.5420 Governmental Joint Purchasing Act Contracts

State and other governmental units (including not-for-profit entities authorized by law to participate in joint purchasing) may agree to use each others' procurement contracts. This authority is governed by this Subpart and the Governmental Joint Purchasing Act [30 ILCS 525].

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.5440 Non-Governmental Joint Purchasing

a) The CPO-GS may authorize one or more State agencies to enter into joint procurement agreements with non-governmental entities, including, without limitation, consortiums of government entities, not-for-profit entities and commercial entities.

b) If the authorized State agency acts as the lead agency, the procurement shall be conducted in accordance with the Code and this Part.

c) If the authorized State agency acts as a participant in an agreement in which a non-governmental entity acts as lead agency, the State agency shall provide supplementary advertising in the Bulletin, as required by the Code, and shall include in the solicitation by the lead agency Code requirements or, if not possible, these requirements shall be included in the resulting contract.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.5460 No Agency Relationship

In any cooperative/joint purchasing situation, each participant must issue its own purchase order, accept its own deliveries and make its own payments. No State agency shall have any obligation to the vendor for payment of orders placed by other participants.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.5510 Complaints Against Vendors (Repealed)

~~a) The purpose of this Section is to document performance of vendors.~~

~~b) Whenever a vendor fails to meet contract requirements, including but not limited to failure to deliver on time or meet specifications, the using agency shall take appropriate action to initiate a complaint to the vendor.~~

~~c) For relatively minor infractions, the using agency may initiate contact by telephone or in person. If not resolved by this action, a written complaint shall be made.~~

~~d) For other infractions, the using agency shall send a written complaint to the vendor detailing the problem. For complaints regarding contracts established by the CPO, a form available from the CPO shall be used for processing complaints.~~

~~e) A copy of all written complaints and the resolution or status shall be filed with the CPO.~~

(Source: Repealed at 36 Ill. Reg. _____, effective _____)

Section 1.5520 Suspension (Repealed)

~~a) Application~~
~~This Section applies to all debarments or suspensions of vendors from consideration for award of contracts under the Code.~~

~~b) The CPO may suspend a vendor from doing business with the State, with one or more agencies, or for specific types of supplies or services. A suspension may be issued upon a showing the vendor violated the Code or this Part, or failed to conform to specifications or terms of delivery.~~

~~c) When the CPO finds cause exists for suspension, a notice of suspension, including a copy of such determination, shall be sent to the suspended vendor. Bids or proposals will not be solicited from the suspended vendor, and, if received, will not be considered during the period of suspension.~~

~~d) A vendor may be suspended for a period of time commensurate with the seriousness of the offense, but for no more than 10 years. The suspension will be effective seven calendar days after receipt of notice unless an objection is filed. If an objection is filed, suspension would not become effective until the evaluation of the objection is completed.~~

~~e) The CPO may debar a vendor. Debarment is the permanent suspension of a vendor from doing business with the State. A debarment may only take place in those instances involving bribery or attempted bribery of a State of Illinois officer or employee, or as otherwise allowed or required by law. Bids or proposals received from the debarred vendor will not be considered.~~

~~f) The CPO shall maintain a master list of all suspensions and debarments. The master list will retain information concerning suspensions and debarments as public records. Such records will be maintained for a period of at least three years following the end of the suspension or debarment. Such public information may be considered in determining responsibility.~~

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

NOTICE OF PROPOSED AMENDMENTS

(Source: Repealed at 36 Ill. Reg. _____, effective _____)

Section 1.5530 Resolution of Contract Controversies (Repealed)

~~a)~~ ~~Authority to Resolve Controversies~~
~~The Procurement Officer shall have authority to resolve controversies, but the executive head of the purchasing agency may set limits on such authority.~~

~~b)~~ ~~Authority of Using Agency~~
~~The using agency has the authority to accept delivery of supplies or services in accordance with contract requirements as satisfactory adjustment of a complaint.~~

~~c)~~ ~~Substitution of Terms/Price Reduction~~
~~If the vendor proposes to make an adjustment by:~~

~~1)~~ ~~substituting an alternative specification, or~~

~~2)~~ ~~reducing the contract price by a certain amount to compensate for some failure to provide full performance under the contract,~~

~~such proposal must be referred to and approved by the Procurement Officer, but not a designee.~~

~~d)~~ ~~Cancellation for Breach of Contract~~
~~In any of the following cases the Procurement Officer shall have the right to terminate or rescind any contract entered into under this Part:~~

~~1)~~ ~~In the event the successful bidder fails to furnish a satisfactory performance bond within the time specified.~~

~~2)~~ ~~In the event the vendor fails to make delivery at the place or within the time specified in the contract or as ordered by the purchasing agency.~~

~~3)~~ ~~In the event any supplies or services provided under the contract are rejected (for not meeting specification, not conforming to sample, or not being in good condition when delivered) and are not promptly replaced by the vendor. If there are repeated rejections of the vendor's supplies or services, this shall be grounds for termination or rescission, even though~~

~~the vendor offers to replace the supplies or services promptly.~~

~~4)~~ ~~In the event the vendor is guilty of misrepresentation (for example, misbranding of food or drugs) in connection with another contract for the sale of supplies or services to the State such that the vendor cannot reasonably be depended upon to fulfill his obligations as a responsible vendor under any of his contracts with the State.~~

~~5)~~ ~~In the event the vendor should be adjudged bankrupt; enter into receivership or make a general assignment for the benefit of creditors due to insolvency; disregard laws, rules, or instructions of the Procurement Officer; or act in violation of any provision of the contract; or if the contract conflicts with any statutory or constitutional provision of the State of Illinois or of the United States.~~

~~6)~~ ~~In the event of any other breach of contract or other unlawful act by the vendor.~~

~~e)~~ ~~Cancellation for Fraud, Collusion, Illegality, Etc.~~
~~The State may cancel any contract it established if there is sufficient evidence to show that:~~

~~1)~~ ~~The contract was obtained by fraud, collusion, conspiracy, or other unlawful means; or~~

~~2)~~ ~~The contract conflicts with any statutory provision of the State of Illinois or of the United States.~~

~~f)~~ ~~Withholding Money to Compensate State for Damages~~
~~If a contract is terminated or rescinded under this Section, the State may deduct from whatever is owed the vendor on that or any other contract an amount sufficient to compensate the State of Illinois for any damages suffered by it because of the vendor's breach of contract or other unlawful act on the vendor's part on which the cancellation is based.~~

~~g)~~ ~~Damages~~
~~The damages for which the State may be compensated as provided in this Section or by a suit on the vendor's performance bond or by other legal remedy shall include, but are not limited to, the following:~~

~~1) the additional cost of supplies or services bought elsewhere;~~

~~2) cost of repeating the procurement procedure;~~

~~3) any expenses incurred because of delay in receipt of supplies or services; and~~

~~4) any other damages caused by the vendor's breach of contract or unlawful act.~~

(Source: Repealed at 36 Ill. Reg. _____, effective _____)

Section 1.5540 Violation of Law or Rule (Repealed)

~~a) Determination that Solicitation or Award Violates Law~~
~~If the CPO or the SPO finds that the solicitation or proposed award is in violation of statute or rule, the CPO or the SPO may cancel the solicitation or proposed award, or make modifications to correct the violation, if such correction may be legally accomplished.~~

~~b) Determination that Contract Violates the Code or this Part~~
~~Contracts based on awards or solicitations that were in violation of law shall be terminated at no cost to the State unless statute or rule allows the State to modify, ratify or take other corrective action.~~

~~c) Effect of Declaring a Contract Null and Void~~
~~In all cases in which a contract is voided, the State shall endeavor to return those supplies delivered under the contract that have not been used or distributed. No further payments shall be made under the contract.~~

(Source: Repealed at 36 Ill. Reg. _____, effective _____)

SUBPART S: PROTESTS

Section 1.5550 Protests

a) Procurement-Related Protests Allowed~~Protest Resolution by the Protest Review Office~~

1) Any person may submit a protest related to the notice of the procurement, the solicitation document, any pre-bid/proposal meeting and any decision to reject a late bid or proposal.

2) Any person who has submitted a bid or proposal may protest a decision to reject the person's bid or proposal or to award to another person. ~~An actual or prospective bidder, offeror, or vendor that may be aggrieved in connection with a procurement action may file a protest provided the aggrieved party has evidence of a violation of the Illinois Procurement Code or other law, any associated rules, or the solicitation itself, including evaluation or award.~~

b) Protest Review Officer
The CPO-GS may appoint one or more Protest Review Officers (PRO) to consider the procurement-related protests and make a recommendation to the CPO-GS for resolution of the protest. The CPO-GS may adopt the recommendation or take other action.

c)~~b)~~ Submission ~~Filing~~ of Protest

1) A protesting party~~An aggrieved party~~ must submit a~~the~~ protest in writing to the PRO identified ~~Protest Review Office designated~~ in the solicitation document~~ or, in the absence of any appropriate designation, to the CPO~~. Fax and e-mail qualify as writing, but the PRO does not guarantee receipt using those means. ~~An aggrieved party must deliver the protest by noon of the seventh calendar day after the aggrieved party knew or should have known of the facts giving rise to the protest. In regard to a protest of specifications or other terms and conditions of the solicitation document, the protest must be received within 7 calendar days after the date the solicitation was posted in the Illinois Procurement Bulletin, or issued if not posted in the Bulletin. Protests delivered late shall not be considered. A protest is considered delivered when physically received by the Protest Review Office.~~

2) The protest must be physically received by the PRO at the location specified. A postmark or other carrier mark prior to the due date and time is not sufficient to show physical receipt. ~~To expedite handling of protests, the delivery envelope should be labeled "Protest".~~

A) In regard to the solicitation notice or solicitation document including specifications, a protest must be received within 14 days after the date the solicitation was posted to the Bulletin and must be received by the PRO at the designated address before the date for opening bids or proposals.

B) In regard to rejection of individual bids or proposals or awards, the protest must be received by close of business no later than 14 days after the protesting party knows or should have known of the facts giving rise to the protest to ensure consideration, and, in any event, must be received before execution of the applicable contract.

3) Any notice posted to the Illinois Procurement Bulletin establishes the "known or should have known" date for the subject matter of the notice.

4) Protests must be clearly marked on the delivery container, the fax cover sheet or the e-mail subject line.

5) The written protest shall include as a minimum the following:

A) the name and address of the protesting party~~protester~~;

B) ~~appropriate~~ identification of the procurement, and, if a contract has been awarded, its number or other identifier;

C) a statement of reasons for the protest specifically identifying any alleged violation of a procurement statute, a procurement rule or the solicitation itself, including the evaluation and award (conclusions with supporting facts and arguments may not be sufficient) ~~the Illinois Procurement Code or other law, any associated rules, or the solicitation itself, including the evaluation or award~~; and

D) supporting exhibits, evidence, or documents to substantiate any claims unless not available within the filing time, in which case the expected availability date shall be indicated. If submitting the protest by fax, supporting documentation over 20 pages in length may not be included without authorization. If the protest is by fax

or e-mail, the protesting party may be required to submit documentation by mail or carrier within 2 business days after the request; and

E) specific relief sought.

d~~c~~) Requested Information
The protesting~~aggrieved~~ party must supply any additional information requested by the PRO ~~State~~ within the time periods set in the request. If the protesting~~aggrieved~~ party fails to comply with this request, the PRO shall consider ~~Protest Review Office may resolve~~ the protest on the basis of available information or may deny the protest.

e~~d~~) Stay of Procurements During Protest
Unless the CPO-GS determines the needs of the State require an immediate execution of a contract, the following apply:

1) When a protest has been timely filed and before an award has been made, the SPO~~Procurement Officer~~ shall make no award of the contract until the protest has been resolved.

2) If timely received but after award, the award shall be stayed without penalty to the State. ~~or the award may be honored or revoked in whole or in part depending on the outcome of the protest review. Whether or not a protest has been received, the Procurement Officer may, with the approval of the Protest Review Office, make the award or reinstate the award upon a determination that the needs of the State require an immediate award and performance under the contract.~~

f~~e~~) Resolution ~~Decision by the Protest Review Office~~
The CPO-GS will resolve the protest by means of a written determination. The resolution may include affirming the State's initial decision, in whole or in part, or revoking the State's decision in whole or in part. ~~The Protest Review Office will resolve the protest as expeditiously as possible after receiving all relevant, requested information. If a protest is sustained, the available remedies include, but are not limited to, reversal of award and cancellation or revision of the solicitation.~~

g~~f~~) Effect of Judicial Proceedings

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If an action concerning the protest has commenced in a court or administrative body, the CPO-GS may defer resolution of the protest pending the judicial or administrative determination.~~, the Protest Review Office shall not act on the protest, but shall refer the protest to the Attorney General. This Section shall not apply when a court requests, expects, or otherwise expresses interest in the decision of the Protest Review Office.~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART T~~S~~: SUSPENSION AND DEBARMENT
~~SUPPLY MANAGEMENT AND DISPOSITIONS~~

Section 1.5560 Suspension and Debarment

a) This Part applies to all debarments or suspensions of vendors from consideration for award of contracts under the Code. For the purposes of this Part, all references to "vendors" includes subcontractors.

b) The CPO-GS may suspend a vendor from doing business with the State agency or with respect to certain types of supplies or services. A suspension may be issued upon a showing that the vendor violated the Code or this Part or failed to conform to specifications or terms of delivery.

c) When the CPO-GS finds cause exists for the suspension or debarment, a notice of suspension or debarment, including a copy of that determination, shall be sent to the vendor. Bids or proposals will not be solicited from the vendor and, if received, will not be considered during the period of suspension or debarment.

d) The CPO-GS may suspend a vendor for a period of time commensurate with the seriousness of the offense, but for no more than 10 years. The suspension will be effective 7 calendar days after receipt of notice unless an objection is filed. If an objection is filed, suspension shall not become effective until the evaluation of the objection is completed.

e) The CPO-GS may debar a vendor. Debarment is the permanent suspension of a vendor from doing business with the State. A debarment may only take place in those instances involving bribery or attempted bribery of a State of Illinois officer or employee, or as otherwise allowed or required by law. Bids or proposals received from the debarred vendor or proposing the use of a debarred

subcontractor will not be considered. The debarment will be effective 7 calendar days after receipt of notice, unless an objection is filed. If an objection is filed, the debarment shall not become effective until the evaluation of the objection is completed.

f) The CPO-GS shall post the public record of suspensions and debarments on his or her web page and on the Bulletin.

g) A vendor objecting to the suspension or debarment shall do so in writing, detailing why the action is not valid and providing any documentation to support that position. The vendor may request a hearing. This hearing shall be conducted in accordance with Subpart V.

h) The CPO-GS shall maintain a master list of all suspensions and debarments. The master list shall retain information concerning suspensions and debarments as public records. These records will be maintained for a period of at least 3 years following the end of the suspension or debarment. This public information may be considered in determining responsibility.

(Source: Added at 36 Ill. Reg. _____, effective _____)

SUBPART U~~T~~: VIOLATION OF STATUTE OR RULE
~~GOVERNMENTAL JOINT PURCHASING~~

Section 1.5620 Violation of Statute or Rule

a) Determination that Solicitation or Award Violates Statute or Rule
If the CPO-GS or the SPO finds that the solicitation or proposed award is in violation of statute or rule, the CPO-GS or SPO may cancel the solicitation or proposed award, or make modifications to correct the violation, if the correction may be legally accomplished.

b) Determination that Contract Violates the Code or this Part

1) If any contract or amendment to a contract is entered into, or purchase or expenditure of funds is made, at any time in violation of this Part or any other law, the contract or amendment may be declared void by the CPO-GS or may be ratified or affirmed, provided the CPO-GS determines that ratification is in the best interest of the State. If the contract is ratified and

affirmed, it shall be without prejudice to the State's right to any appropriate damages.

2) If, during the term of a contract, the SPO determines that the contractor is delinquent in the payment of debt as set forth in Section 50-11 of the Code, the CPO-GS may declare the contract void if it determines that voiding the contract is in the best interest of the State.

3) If, during the term of a contract, the CPO-GS learns from an annual certification or otherwise determines that the contractor or subcontractor no longer qualifies to enter into State contracts, the CPO-GS may declare the contract void if it determines that voiding the contract is in the best interest of the State.

c) Effect of Declaring a Contract Null and Void
In all cases in which a contract is voided, the State agency shall endeavor to return those supplies delivered under the contract that have not been used or distributed. No further payments shall be made under the contract.

(Source: Added at 36 Ill. Reg. _____, effective _____)

SUBPART V: HEARING PROCEDURES~~VIOLATION OF STATUTE OR RULE~~

Section 1.5700 General

Any hearing required by the Code or offered in this Part shall be conducted in accordance with the procedures within this Subpart V.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.5710 Informal Process

The hearing is for the purpose of receiving information from interested persons in a reasonable manner. Formal rules of evidence will not apply, nor will the hearing be conducted in the manner of a trial. The Hearing Officer may record the hearing to aid in producing minutes or may use the recording as the minutes.

(Source: Added at 36 Ill. Reg. _____, effective _____)

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

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Section 1.5720 Hearing Officers

a) The CPO-GS may appoint one or more Hearing Officers to conduct the hearing. If more than one Hearing Officer is assigned to conduct a hearing, one shall be designated as the Chief Hearing Officer.

b) The Hearing Officer may require that the SPO or authorized representative of a university attend a hearing or be part of the Hearing Panel.

c) The Hearing Officer will hear and consider information presented by interested persons and make a recommendation to the CPO-GS regarding the validity of the determination of the subject matter of the hearing.

d) The Hearing Officer shall be responsible for the orderly conduct of the hearing by exercising discretion in:

1) Scheduling, starting and ending the hearing;

2) Setting the order of activities;

3) Setting reasonable time limits for oral statements;

4) Resolving any conflicts that may arise during the hearing.

e) The Hearing Officer may cancel a hearing at any time prior to commencing a hearing, including making an announcement at the scheduled hearing date, time and location, but shall give as much advance notice as possible under the circumstances. A notice confirming the cancellation and any reschedule information will be published in the Bulletin.

f) The Hearing Officer may change a scheduled hearing date, time or location prior to commencing a hearing by posting a notice outside the hearing room and by posting a notice to the Bulletin. The hearing should be continued to the next practicable date. In setting the next practicable hearing date, the Hearing Officer may take into consideration the schedule of the parties, the hardship to witnesses or the general public, travel and logistical considerations and any other matters that would affect public participation in the hearing.

g) After commencing a hearing, the Hearing Officer may reconvene a hearing by announcing the new date and time at the hearing and posting the new date and time outside the hearing room. The hearing shall be continued to the next practicable date.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.5730 Notice of Hearing

a) Notice that a hearing will be held to receive testimony or written comments regarding the subject matter identified in the notice will be published in the Bulletin. The hearing notice shall be published in the Bulletin as soon as practicable and in accordance with any statutory requirements.

b) The hearing may be held as soon as the first working day following the end of the notice period. The notice shall contain the following information and may describe more than one matter to be considered at the same hearing:

1) The name of the affected parties (e.g., State agency and vendor);

2) A description of the subject matter;

3) A justification for the action under review;

4) Requirements for testifying or submitting written comments;

5) Hearing contact information;

6) The date, time and location of the hearing;

7) A statement that all written comments and oral testimony shall be considered public record and open to review by the public;

8) A statement of, or reference to, this hearing procedure.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.5740 Written Comments and Oral Testimony

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

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Interested parties wishing to comment for or against the determination may do so in writing alone, may testify in person and may submit written comments reflecting the oral testimony.

a) Written Comments

1) Submission of Written Comments
Written comments are requested by the hearing registration deadline, shown in the Bulletin notice, to aid the Hearing Officer in preparing for the hearing. However, all written comments received by the hearing date will be considered.

2) Incorporation of Written Comments
If the Hearing Officer has received any written comment, the name and affiliation of the person submitting the comment shall be stated for the record and the written comments shall be incorporated into the record. In addition, the Hearing Officer may read excerpts from or summarize the basic points of the written comments for the record.

b) Oral Testimony

1) Advance Registration
Any person who wishes to testify may register with the Hearing Contact by the hearing registration deadline shown in the Bulletin notice to ensure an opportunity to testify. The registration period begins on the date the notice is posted to the Bulletin. Registration information will be stated in the notice. Those who do not register by the hearing registration deadline shown in the Bulletin notice will be heard as time permits and may submit written comments. The Hearing Officer has discretion to limit testimony for the efficiency of the hearing.

2) Written Copy of Testimony Requested
Written comments reflecting proposed oral testimony are requested by the hearing registration deadline shown in the Bulletin notice to allow the Hearing Officer time to prepare for the hearing. A person testifying may submit written comments along with the testimony. The Hearing Officer may request a written copy of the oral testimony.

3) Witness Slip Required

Each person providing oral testimony must complete a witness slip and provide it to the Hearing Officer as instructed.

4) Duration of Testimony
Each interested party shall have a reasonable period of time to present his or her position based on the complexity of the issue and the press of other business,

c) Sole Source and Emergency Contract Extensions − Supplemental Provisions

1) The notice, including attachments, as shown in the Bulletin represents the position of the State agency and the initial position of the CPO-GS. The Hearing Officer shall have the notice placed into the record. A copy of the notice will be posted in the hearing room.

2) The SPO and a representative of the State agency shall attend the hearing if any person registers in advance to testify in opposition to the sole source or emergency contract extension determination. Attendance may be by video or audio. The SPO and agency representative shall respond to questions of the Hearing Officer and shall be available for consultation after adjournment of the hearing.

3) The Hearing Officer may ask questions or request further written information in response to written comments or testimony or at the Hearing Officer's initiative. The Hearing Officer is not required to respond to substantive questions at the hearing nor make commitments regarding the content of his or her recommendation.

d) Suspension and Debarment − Supplemental Provisions
A party who receives notice of suspension or debarment may request a hearing to protest the suspension or debarment action. The hearing will be conducted in accordance with this Section and the following additional provisions shall apply.

1) The Hearing Officer may ask questions or request further written information in response to written comments or testimony or at the Hearing Officer's initiative. The Hearing Officer is not required to respond to substantive questions at the hearing or make commitments regarding the content of his or her recommendation.

2) Both the affected State agency and the vendor affected by a suspension of debarment may, at the discretion of the Hearing Officer, bring in witnesses to present testimony regarding the facts or circumstances that led to the determination to suspend or debar.

3) In addition to responding to questions of the Hearing Officer, the witnesses shall respond to questions by the affected vendor if, at the discretion of the Hearing Officer, the questions are allowed.

A) The Hearing Officer may allow questions when the subject matter of the question is relevant and the questioning will not unnecessarily delay the proceedings.

B) The Hearing Officer may deny questions when the subject matter seeks only to unnecessarily embarrass the witness or delay the proceedings.

e) Recommendation
After conclusion of the hearing, the Hearing Officer shall review the State agency's position, any information obtained from public comment (written or oral), the applicable Sections of the Procurement Code, other laws and associated rules and written policies and other information deemed relevant.

f) Decision of the CPO-GS

1) The CPO-GS shall, after considering the Hearing Officer's recommendation, make a decision in writing (which may be electronic) to uphold or overturn, in whole or in part, the State agency's decision.

2) The CPO-GS may request additional information from the Hearing Officer, or any other party, including supplemental comments or testimony from the interested parties, prior to making a decision.

3) The CPO-GS may adopt the recommendation, in whole or in part, or may reject the recommendation, or may write a separate decision.

g) Notice of Decision

1) The decision of the CPO-GS shall be posted to the Bulletin.

2) Upon posting notice of a decision upholding the determination, the State agency may take action to have the contract executed.

h) Maintenance of Records
A copy of the public notices, any documents presented, any written comments, the recommendation of the Hearing Officer, and any decision of the CPO-GS shall be maintained in the procurement file. Any transcript or recording of a public hearing shall be available upon request.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1.6010 Supply Management and Dispositions (Repealed)

~~a) Inventory Responsibility~~
~~Each State agency shall have general supervision of and accountability for tangible personal property and other supplies under its control subject to the requirements of the State Property Control Act [30 ILCS 605] and rules implementing that Act.~~

~~b) Supply Management~~
~~State agencies shall order supplies on a schedule and in quantities so as to maintain no more than a 12 month supply in inventory. Supplies shall be ordered so as to maintain the minimum inventory commensurate with ability to meet agency needs. This 12-month inventory restriction does not apply to lifesaving medications, mechanical spare parts, or when a greater quantity is needed to meet minimum order quantities.~~

~~c) Inventory~~
~~State agencies shall periodically inventory all warehouses and similar storage areas under their jurisdiction.~~

~~d) Report of Inventory~~
~~The CPO may require that agencies note on purchase requests compliance with the 12 month restriction on inventory.~~

~~e) Transfer of Excess Supplies~~
~~Insofar as feasible, practical and in accordance with other applicable law, the SPOs shall transfer excess supplies to the Department of Central Management~~

~~Services Surplus Property Division for disposition under the State Property Control Act [30 ILCS 605].~~

(Source: Repealed at 36 Ill. Reg. _____, effective _____)

Section 1.6500 General (Repealed)

~~In an effort to make the procurement process more efficient, State and other governmental units (including not-for-profit entities authorized by law to participate in joint purchasing) may agree to utilize each others' procurement contracts. This authority is governed by this Subpart and the Governmental Joint Purchasing Act [30 ILCS 525]. Only the CPO may enter into contracts under the Act when the State is a party to the contract.~~

(Source: Repealed at 36 Ill. Reg. _____, effective _____)

Section 1.6510 No Agency Relationship (Repealed)

~~In any joint procurement situation, the governmental unit must issue its own purchase order, accept its own deliveries and make its own payments. The State of Illinois shall have no obligation to the vendor for payment of orders placed by other governmental units.~~

(Source: Repealed at 36 Ill. Reg. _____, effective _____)

Section 1.6520 Obligations of Participating Governmental Units (Repealed)

~~If governmental units determine to use contracts established by the CPO, they must:~~

~~a) provide to the CPO a copy of the ordinance or resolution passed by the governing body of the governmental unit giving authority to make purchases from contracts issued by the State of Illinois;~~

~~b) make all purchases under the State contracts for public use only and specifically prohibit personal use or consumption by any individual, public employee or official;~~

~~c) make payment to the vendor within 30 days after receipt of supplies or services;~~

~~d) place orders with the supplier directly using their own purchase order forms. A copy of the purchase order must also be sent to the CPO. This copy will be used~~

~~for statistical purposes and will serve as notice that the governmental unit has complied with the bid action;~~

~~e) inspect all items immediately for compliance with the contract specifications and report to the CPO any failure of suppliers to comply with contract requirements; and~~

~~f) attempt to resolve disputes with the vendor before involving the CPO.~~

(Source: Repealed at 36 Ill. Reg. _____, effective _____)

Section 1.6530 Centralized Contracts − Estimated Quantities (Repealed)

~~Certain centralized contracts for estimated quantities contain a price extension clause permitting governmental units to utilize the contract by placing an order directly with the vendor. Governmental units using these contracts must comply with the following provisions or risk being removed from active participation in this program:~~

~~a) the State purchase order or contract reference number as indicated in the "Notice of Awards" must be shown;~~

~~b) the purchase order or contract reference number must contain a complete description of the item; item number; brand and/or model number; unit of measure; unit price; and price extension;~~

~~c) place orders for at least the minimum quantities shown on the "Notice of Awards" (Vendors are not required to deviate from the terms of their contract.); and~~

~~d) read the "Notice of Awards" carefully to ensure understanding of special provisions, particularly as it may pertain to catalogs and price lists.~~

(Source: Repealed at 36 Ill. Reg. _____, effective _____)

Section 1.6535 Centralized Contracts − Definite Quantities (Repealed)

~~a) Certain items, such as foods and highway salt, are purchased under definite quantity contracts. Governmental units interested in such items, or other items not covered under the estimated quantity contracts, must contact the CPO for instruction on use of those contracts.~~

~~b) If purchase requests are received after the Invitation for Bids has been issued, if the quantities are too small for centralized purchase, or do not lend themselves to joint purchasing, the State will return the purchase request to the governmental unit.~~

~~c) Governmental units must consider the following factors prior to filing purchase requests for definite quantities:~~

~~1) The State issues Invitation for Bids and makes awards based on the requirements covered by purchase requests. The State does not take bids to obtain estimated prices. Withdrawal from participation in the contract after solicitation for bids has been made by the State will not be permitted except in very unusual cases.~~

~~2) Any governmental unit having an existing contract shall complete that contract before participating in joint purchasing for that item.~~

~~3) Overlapping time periods must be identified in the joint purchase requisition so there will be no misunderstanding as to whether or not existing commitments will be honored or as to the date a future commitment will begin.~~

~~4) It should be clearly understood that the governmental unit has delegated its authority to purchase items covered by purchase requests and that the resulting award will be made in exactly the same manner as if the purchase requests had been submitted by a State agency.~~

~~5) Specifications established in the Invitation for Bids shall be accepted.~~

~~6) Location of the vendor will not be a factor in determining the award, except as may be established by State law.~~

~~7) The governmental units are required to purchase items awarded from the successful bidder.~~

(Source: Repealed at 36 Ill. Reg. _____, effective _____)

SUBPART W~~U~~: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 1.7000 Severability

If any provision of this Part or any application of it to any person or circumstance ~~thereof~~ is held invalid, that ~~such~~ invalidity shall not affect other provisions or applications of this Part that can be given effect without the ~~such~~ invalid provision or application and, to this end, the provisions of this Part are declared to be severable.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.7010 Government Furnished Property

If the State provides any property to the vendor in furtherance of the contract, the~~such~~ property shall remain the property of the State, but may be consumed by the vendor if necessary to complete the contract. Vendor will issue a receipt for the property and will be responsible for its safekeeping and for return of unused property to the State.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.7015 Inspections

a) Inspection of Plant or Site
The CPO-GS or a designee ~~State~~ may enter a vendor's or subcontractor's plant or place of business and, pursuant to contract provisions, if any, to:

1) inspect supplies or services for acceptance by the State agency~~pursuant to the terms of a contract~~;

2) audit the books and records of any vendor or subcontractor ~~pursuant to Section 1.7020 (Records and Audits) of this Part~~;

3) investigate an action to debar or suspend a person from consideration for award of contracts pursuant to the Code;

4) determine whether the standards of responsibility have been met or are capable of being met;

5) determine if the contract is being performed in accordance with its terms; and

6) accomplish any other purpose permitted by law.

b) ~~Inspection and Testing of Supplies and Services~~

~~1) Solicitation and Contractual Provisions. State contracts may provide that the State may inspect supplies and services at the vendor's or subcontractor's facility and perform tests to determine whether the supplies or services conform to solicitation requirements, or, after award, to contract requirements, and are therefore acceptable. Such inspections and tests shall be conducted in accordance with the terms of the solicitation and contract.~~

~~2) Procedures for Trial Use and Testing. The Procurement Officers may establish operational procedures governing the testing and trial use of equipment, material, and other supplies by any State agency, and the application of resulting information and data to specifications or procurements.~~

~~c) Conduct of Inspections~~

~~1) Inspectors. Inspections or tests shall be performed so as not to unduly delay the work of the vendor or subcontractor. No inspector other than the Procurement Officer may change any provision of the specifications or the contract without written authorization of the Procurement Officer.~~ The presence or absence of an inspector shall not relieve the vendor or subcontractor from any requirements of the contract.

c)~~2)~~ ~~Location.~~ When an inspection is made in the plant or place of business of a vendor or subcontractor, the ~~such~~ vendor or subcontractor shall provide without charge all reasonable facilities and assistance for the safety and convenience of the person performing the inspection or testing.

d)~~3)~~ ~~Time.~~ Inspection or testing of supplies and services performed at the plant or place of business of any vendor or subcontractor shall be performed so as to not unreasonably delay the work of the vendor or subcontractor~~at reasonable times~~.

e)~~d)~~ Inspection of Construction Projects
On-site inspection of construction shall be performed in accordance with the

terms of the contract.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.7020 Taxes, Licenses, Assessments and Royalties ~~Records and Audits~~

a) The contractor shall pay all current and applicable city, county, State and federal taxes, licenses or assessments, including federal excise taxes, due on the performance of any contract, including, without limiting the foregoing, those required by the Federal Insurance Contribution Act (26 USC 3101 et seq.), the Federal Unemployment Tax Act (26 USC 3301 et seq.) and the State Unemployment Insurance Act [820 ILCS 405], together with all royalties due for any proprietary items. The contractor is exclusively liable for the payment of taxes to the respective governments. In the event the taxes, licenses, assessments or royalties, or any part thereof, are in the first instance charged to the State agency, the contractor shall, upon timely demand of the State agency, pay the State agency the amount of the tax, license, assessment or royalty due, plus all penalties that may have accrued.
~~Retention of Books and Records~~
~~Books and records that relate to performance of a State contract, including subcontracts, and that support amounts charged to the State, shall be maintained:~~

~~1) by a vendor, for three years from the date of final payment under the prime contract;~~

~~2) by a subcontractor, for at least three years from the date of final payment under the subcontract; and~~

~~3) by a vendor and subcontractor for such longer period of time as is necessary to complete ongoing or announced audits.~~

b) The State agency is exempted by Section 3-5 of the Use Tax Act [35 ILCS 105/3-5] from paying any of the taxes imposed by that Act, and sales to the State agency are exempt by Section 2-5(11) of the Retailers' Occupation Tax Act [35 ILCS 120/2-5(11)] from any of the taxes imposed by that Act. The Illinois Department of Revenue, under 86 Ill. Adm. Code 130.2075(d), has declared that sale of materials to construction contractors for conversion into real estate for schools or charities are not taxable retail sales. A State agency making purchases of tangible personal property must provide its exemption numbers to vendors in order to

receive an exemption from tax. Contractors making purchases from vendors of tangible personal property that will be incorporated into real estate owned by a State agency must present vendors with the State agency's exemption number and other required documentation in order to receive an exemption from tax.

~~Contract Audit~~

~~1) Types of Contracts Audited. The type of contract under which books and records should be audited is that in which price is based on costs or is subject to adjustment based on costs, or that in which auditing would be appropriate to assure satisfactory performance, such as a time and materials contract.~~

~~2) Situations in which an audit may be warranted include but are not limited to when a question arises in connection with:~~

~~A) the financial condition, integrity, and reliability of the vendor or subcontractor;~~

~~B) any prior audit experience;~~

~~C) the adequacy of the vendor's or subcontractor's accounting system;~~

~~D) the number or nature of invoices or reimbursement vouchers submitted by the vendor or subcontractor for payment;~~

~~E) the use of federal assistance funds;~~

~~F) the fluctuation of market prices affecting the contract; or~~

~~G) any other situation in which the Procurement Officer finds that such an audit is necessary for the protection of the State's best interest.~~

c) Federal Excise Tax. Bidders must not include in their prices any allowance for payment under Federal Excise Tax if the State agency is exempt from those taxes. If an order or contract is awarded for the purchase of an item that is subject to the Federal Excise Tax, the State agency will furnish the vendor with an exemption certificate upon request.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1.7025 Written Determinations (Repealed)

~~a) Preparation and Execution~~
~~When the Code or this Part requires a written determination, the officer required to prepare the determination may delegate its preparation, but the responsibility for and the execution of the determination shall not be delegated.~~

~~b) Content~~
~~Each written determination shall set out sufficient facts, circumstances, and reasoning as will substantiate the specific determination that is made.~~

~~c) Obtaining Supporting Information~~
~~While an officer is responsible for the execution of the written determination, other State personnel, particularly technical personnel and appropriate personnel in the purchasing agency, are responsible for furnishing to the cognizant official, in an accurate and adequate fashion, the information pertinent to the determination. When requested, such information shall be furnished in writing to the cognizant official who shall have the authority to decide the final form and content of the determination and to resolve any questions or conflicts arising with respect to the determination.~~

~~d) Forms~~
~~The CPO is authorized to prescribe methods and operational procedures to be used in preparing written determinations.~~

~~e) Retention~~
~~Each written determination shall be filed in the solicitation or contract file to which it applies, shall be retained as part of such file for so long as the file is required to be maintained, and, except as otherwise provided by statute or rule, shall be open to public inspection.~~

(Source: Repealed at 36 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Special Education

2) Code Citation: 23 Ill. Adm. Code 226

3) Section Number: 226.840 Proposed Action: Amendment

4) Statutory Authority: 105 ILCS 5/Art. 14 and 2-3.6

5) A Complete Description of the Subjects and Issues Involved: In response to a request from the field, the State Board of Education is proposing that Section 226.840 be modified to authorize only certified school nurses and physicians to conduct medical reviews. In 2010, the rules were amended to expand those qualified to conduct a medical review to include registered nurses and advanced practice nurses, categories of individuals who have the medical expertise necessary to perform the review. This change was made at that time in response to complaints from some school districts that they were having difficulty finding a sufficient number of certified school nurses to conduct these reviews.

Last fall, the Illinois Association of School Nurses Association (IASN) complained to agency staff and to the Joint Committee on Administrative Rules (JCAR) about the rule. The association followed up those complaints in January with a formal request to the agency to restore the original rule by removing the authority for registered nurses and advanced practice nurses to conduct medical reviews. The association stated in its request that medical reviews require that the individuals make "decisions on how to accommodate special education students in the least restrictive setting and environment". This, in turn, requires specialized training that it said registered nurses and advanced practice nurses do not have.

The agency, in making the change in the rule in 2010, believed that medical reviews require medical judgment, and therefore these reviews could be conducted by "non-certified registered professional nurses", including advanced practice nurses. Additionally, staff believed that the inclusion in the rules of these qualified individuals would alleviate concerns about perceived shortages in the availability of certified school nurses. That being said, staff recommend that a second opportunity be provided to formally hear from school districts and special education cooperatives, through the public comment period, about any concerns they may have with limiting the conduct of medical reviews to certified school nurses and physicians.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

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

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objectives: 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 62777-0001

217/782-5270

Comments may also be submitted electronically, 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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

14) This rulemaking was not included on either of the 2 most recent Agendas because: the need for a portion of the rulemaking did not become apparent until after the agenda was published.

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

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

PART 226
SPECIAL EDUCATION

SUBPART A: GENERAL

Section
226.10 Purpose
226.50 Requirements for a Free Appropriate Public Education (FAPE)
226.60 Charter Schools
226.75 Definitions

SUBPART B: IDENTIFICATION OF ELIGIBLE CHILDREN

Section
226.100 Child Find Responsibility
226.110 Evaluation Procedures
226.120 Reevaluations
226.130 Additional Procedures for Students Suspected of or Having a Specific Learning Disability
226.135 Additional Procedures for Students Suspected of or Having a Cognitive Disability
226.140 Modes of Communication and Cultural Identification
226.150 Evaluation to be Nondiscriminatory
226.160 Determination of Eligibility (Repealed)
226.170 Criteria for Determining the Existence of a Specific Learning Disability (Repealed)
226.180 Independent Educational Evaluation
226.190 Reevaluation (Repealed)

SUBPART C: THE INDIVIDUALIZED EDUCATION PROGRAM (IEP)

Section
226.200 General Requirements
226.210 IEP Team
226.220 Development, Review, and Revision of the IEP

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NOTICE OF PROPOSED AMENDMENT

226.230 Content of the IEP
226.240 Determination of Placement
226.250 Child Aged Three Through Five
226.260 Child Reaching Age Three

SUBPART D: PLACEMENT

Section
226.300 Continuum of Placement Options
226.310 Related Services
226.320 Service to Students Living in Residential Care Facilities
226.330 Placement by School District in State-Operated or Nonpublic Special Education Facilities
226.340 Nonpublic Placements by Parents Where FAPE is at Issue
226.350 Service to Parentally-Placed Private School Students
226.360 Placement by School Districts in Remote Educational Programs

SUBPART E: DISCIPLINE

Section
226.400 Disciplinary Actions
226.410 Manifestation Determination Review (Repealed)
226.420 Appeals (Repealed)
226.430 Protection for Children Not Yet Eligible for Special Education (Repealed)
226.440 Referral to and Action by Law Enforcement and Judicial Authorities (Repealed)

SUBPART F: PROCEDURAL SAFEGUARDS

Section
226.500 Language of Notifications
226.510 Notification of Parents' Rights
226.520 Notification of District's Proposal
226.530 Parents' Participation
226.540 Consent
226.550 Surrogate Parents
226.560 Mediation
226.570 State Complaint Procedures

SUBPART G: DUE PROCESS

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NOTICE OF PROPOSED AMENDMENT

Section
226.600 Calculation of Timelines
226.605 Request for Hearing; Basis (Repealed)
226.610 Information to Parents Concerning Right to Hearing
226.615 Procedure for Request
226.620 Denial of Hearing Request (Repealed)
226.625 Rights of the Parties Related to Hearings
226.630 Qualifications, Training, and Service of Impartial Due Process Hearing Officers
226.635 Appointment, Recusal, and Substitution of Impartial Due Process Hearing Officers
226.640 Scheduling the Hearing and Pre-Hearing Conference
226.645 Conducting the Pre-Hearing Conference
226.650 Child's Status During Due Process Hearing (Repealed)
226.655 Expedited Due Process Hearing
226.660 Powers and Duties of Hearing Officer
226.665 Record of Proceedings
226.670 Decision of Hearing Officer; Clarification
226.675 Monitoring and Enforcement of Decisions; Notice of Ineligibility for Funding
226.680 Reporting of Decisions (Repealed)
226.690 Transfer of Parental Rights

SUBPART H: ADMINISTRATIVE REQUIREMENTS

Section
226.700 General
226.710 Policies and Procedures
226.720 Facilities and Classes
226.730 Class Size for 2009-10 and Beyond
226.731 Class Size Provisions for 2007-08 and 2008-09
226.735 Work Load for Special Educators
226.740 Records; Confidentiality
226.750 Additional Services
226.760 Evaluation of Special Education
226.770 Fiscal Provisions
226.780 Procedures for Withdrawal Hearings before the Regional Board of School Trustees

SUBPART I: PERSONNEL

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Section
226.800 Personnel Required to be Qualified
226.810 Special Education Teaching Approval
226.820 Authorization for Assignment
226.830 List of Independent Evaluators
226.840 Qualifications of Evaluators
226.850 List of Qualified Workers
226.860 List of Noncertified Employees

AUTHORITY: Implementing Article 14 and authorized by Section 2-3.6 of the School Code [105 ILCS 5/Art.14 and 2-3.6].

SOURCE: Adopted August 12, 1976; rules repealed and new emergency rules adopted at 2 Ill. Reg. 37, p. 29, effective September 1, 1978, for a maximum of 150 days; rules repealed and new rules adopted at 3 Ill. Reg. 5, p. 932, effective February 1, 1979; emergency amendment at 4 Ill. Reg. 38, p. 328, effective September 15, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 8021, effective July 22, 1981; amended at 6 Ill. Reg. 558, effective December 23, 1981; emergency amendment at 7 Ill. Reg. 6511, effective May 6, 1983, for a maximum of 150 days; emergency amendment at 7 Ill. Reg. 8949, effective July 15, 1983, for a maximum of 150 days; codified at 8 Ill. Reg. 6669; amended at 8 Ill. Reg. 7617, effective May 17, 1984; emergency amendment at 10 Ill. Reg. 3292, effective January 27, 1986, for a maximum of 150 days; emergency expired June 24, 1986; amended at 10 Ill. Reg. 18743, effective October 22, 1986; amended at 10 Ill. Reg. 19411, effective October 31, 1986; amended at 13 Ill. Reg. 15388, effective September 14, 1989; emergency amendment at 14 Ill. Reg. 11364, effective June 26, 1990, for a maximum of 150 days; emergency expired November 23, 1990; amended at 15 Ill. Reg. 40, effective December 24, 1990; amended at 16 Ill. Reg. 12868, effective August 10, 1992; emergency amendment at 17 Ill. Reg. 13622, effective August 3, 1993, for a maximum of 150 days; emergency expired December 31, 1993; amended at 18 Ill. Reg. 1930, effective January 24, 1994; amended at 18 Ill. Reg. 4685, effective March 11, 1994; amended at 18 Ill. Reg. 16318, effective October 25, 1994; amended at 19 Ill. Reg. 7207, effective May 10, 1995; amended at 20 Ill. Reg. 10908, effective August 5, 1996; amended at 21 Ill. Reg. 7655, effective July 1, 1997; Part repealed, new Part adopted at 24 Ill. Reg. 13884, effective August 25, 2000; amended at 27 Ill. Reg. 8126, effective April 28, 2003; amended at 31 Ill. Reg. 9915, effective June 28, 2007; amended at 32 Ill. Reg. 4828, effective March 21, 2008; amended at 34 Ill. Reg. 17433, effective October 28, 2010; amended at 35 Ill. Reg. 8836, effective May 26, 2011; peremptory amendment, pursuant to PA 97-461, at 35 Ill. Reg. 14836, effective August 22, 2011; amended at 36 Ill. Reg. _____, effective _____.

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SUBPART I: PERSONNEL

Section 226.840 Qualifications of Evaluators

The following list identifies the credentials required to administer certain types of evaluations. Where no requirements are established, an evaluation may be performed by an individual who is qualified to administer it according to the technical specifications of the publisher.

TYPE	REQUIRED QUALIFICATIONS
Academic Performance	Teaching certificate/approval appropriate for the age or disability of the child, or School Service Personnel Certificate endorsed for school psychology or guidance. (See Article 21 of the School Code [105 ILCS 5/Art. 21] and the State Board's rules at 23 Ill. Adm. Code 1 and 23 Ill. Adm. Code 25.)
Adapted Physical Education	Special Certificate endorsed for physical education with approval in adapted physical education (23 Ill. Adm. Code 25.43).
Assistive Technology	To the extent that a test is used in performing this assessment, qualification for administering the test according to the instructions provided by the test's publisher.
Audiological	License to practice as an Audiologist issued by the Department of Financial and Professional Regulation pursuant to the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110].
Clinical Psychological	License issued pursuant to the Clinical Psychologist Licensing Act [225 ILCS 15].
Cultural Background Assessment	School Service Personnel Certificate endorsed for school psychology, school social work, or school counseling.

Hearing Screening	License to practice as an Audiologist issued by the Department of Financial and Professional Regulation pursuant to the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110], Special Certificate endorsed for speech and language impairment (23 Ill. Adm. Code 25.45), or certificate of training issued by the Department of Public Health (77 Ill. Adm. Code 675).
Learning Processes Evaluation	School Service Personnel Certificate endorsed for school psychology or Special Preschool-Age 21 Certificate endorsed for Learning Behavior Specialist I.
Medical Review	School Service Personnel Certificate endorsed for school nursing (23 Ill. Adm. Code 25.245), or a license to practice medicine in all of its branches~~, or under Section 60 or 65 of the Nurse Practice Act [225 ILCS 65]~~.
Neurological Evaluation	Licensure/registration issued by the Department of Financial and Professional Regulation pursuant to the Medical Practice Act of 1987 [225 ILCS 60].
Occupational Therapy Evaluation	Certificate/Registration issued by the Department of Financial and Professional Regulation pursuant to the Illinois Occupational Therapy Practice Act [225 ILCS 75].
Orientation/Mobility	Certification for orientation/mobility instruction and evaluation (Certification for Orientation and Mobility, Orientation and Mobility Division, Association for Education and Rehabilitation of the Blind and Visually Impaired, 4600 Duke Street, #430, P.O. Box 22397, Alexandria, Virginia 22304; 1984; no later amendments or editions are included).

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Physical Therapy Evaluation	Certificate/registration issued by the Department of Financial and Professional Regulation pursuant to the Illinois Physical Therapy Act [225 ILCS 90].
Psychiatric Evaluation	Licensure/registration issued by the Department of Financial and Professional Regulation pursuant to the Medical Practice Act of 1987.
School Psychological	School Service Personnel Certificate endorsed for school psychology.
Social Developmental Study (Adaptive Behavior, Cultural Background, Family History)	School Service Personnel Certificate endorsed for social work, guidance, or school psychology (23 Ill. Adm. Code 25.215, 25.225, or 25.235).
Speech and Language Assessment	Special Preschool-Age 21 Certificate endorsed for speech and language impairment or speech-language pathology (23 Ill. Adm. Code 25.45), or School Service Personnel Certificate endorsed for speech-language pathology (23 Ill. Adm. Code 25.250).
Vision Screening	Certificate of training issued by the Department of Public Health (77 Ill. Adm. Code 675).

(Source: Amended at 36 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: School Technology Program

2) Code Citation: 23 Ill. Adm. Code 575

3)

Section Numbers:	Proposed Action:
575.500	Amendment
575.600	Amendment

4) Statutory Authority: 105 ILCS 5/2-3.117a

5) A Complete Description of the Subjects and Issues Involved: The Technology Revolving Loan Fund was created in 1998 as a mechanism for school districts to access three-year loans to be used to purchase technology hardware for students and staff. The Technology Revolving Loan Program is popular among eligible applicants, as evidenced by the fact that the loan amounts requested in applications that are approved often exceed the amount of funding available in the revolving loan fund by the final award determination date, which is December 15. While the agency has spending authority of up to $5 million for the fund, the actual amount of funds that are available at any given time varies depending on the number of outstanding loans and the amount of payments being made. For instance, for FY 2012, only six of the 28 applications approved for loan awards were funded. If an application is not funded by December 15, then the eligible applicant must reapply the following year if it still wishes to receive a loan.

In order to maximize the ability of the agency to make loan awards, two changes are being proposed in the current rules.

Expand the number of loan determination dates by three (see Section 575.500(b)): Currently, loan determinations are made on or before October 15, for applicants other than recognized nonpublic schools, and on or before December 15 for remaining approved applications. It is proposed that loan determinations also be made on September 15, March 15 and May 15 of each fiscal year. The September 15 loan determination date will encourage certain eligible applicants to submit applications for loans sooner in the process, while the two additional spring loan determination dates will allow the agency to continue to make loan awards if sufficient funds remain in the revolving loan fund.

Expand the number of payment due dates by two (see Section 575.600(b)): Loan payments are required to be made on December 1 and June 1. Two additional loan payment opportunities (March 1 and September 1) for those recipients receiving loans in

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March and September will increase the amount of money available for loans, both at the start of the funding cycle in the fall and again in the spring when approved applications not yet funded will be considered for loans.

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 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 90 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 62777-0001

217/782-5270

Comments may also be submitted electronically, addressed to:

rules@isbe.net

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Nonpublic schools

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 2012

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 o: MISCELLANEOUS

PART 575
SCHOOL TECHNOLOGY PROGRAM

SUBPART A: SCHOOL TECHNOLOGY GRANTS

Section
575.10 Purpose (Repealed)
575.20 Eligible Expenditures (Repealed)
575.30 Application Procedure and Content (Repealed)
575.40 Matching Requirements (Repealed)
575.50 Proposal Review and Approval (Repealed)
575.60 Terms of the Grant (Repealed)

SUBPART B: SCHOOL TECHNOLOGY REVOLVING LOAN PROGRAM

Section
575.100 Purpose
575.200 Use of Funds
575.300 Maximum Amount of Loan
575.400 Application Procedures
575.500 Review of Application and Notification of Loan Award
575.600 Repayment Procedures
575.700 Terms and Conditions of Loan Agreement

AUTHORITY: Implementing and authorized by Section 2-3.117a of the School Code [105 ILCS 5/2-3.117a].

SOURCE: Adopted at 20 Ill. Reg. 3522, effective February 13, 1996; emergency amendment at 22 Ill. Reg. 9591, effective May 22, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19770, effective November 2, 1998; amended at 23 Ill. Reg. 8370, effective July 12, 1999; amended at 25 Ill. Reg. 8167, effective June 21, 2001; amended at 26 Ill. Reg. 915, effective January 15, 2002; amended at 28 Ill. Reg. 13227, effective September 17, 2004; amended at 29 Ill. Reg. 18474, effective October 31, 2005; amended at 32 Ill. Reg. 8773, effective May 27,

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2008; amended at 33 Ill. Reg. 11639, effective July 22, 2009; amended at 35 Ill. Reg. 3770, effective February 17, 2011; amended at 36 Ill. Reg. _____, effective _____.

SUBPART B: SCHOOL TECHNOLOGY REVOLVING LOAN PROGRAM

Section 575.500 Review of Application and Notification of Loan Award

a) Applications shall be reviewed for completeness. If an application is incomplete, then State Board of Education staff shall request the needed information from the applicant no later than 20 calendar days after receipt of the application. Applications will not be processed until all requested information is received.

b) All complete applications that demonstrate compliance with Section 2-3.117a of the School Code and this Subpart shall be approved for funding.

1) Approved applications from school districts, charter schools, area vocational centers and laboratory schools received on or before September 1~~30~~ of each fiscal year shall receive a loan on a first-come, first-served basis, as long as funds appropriated for a given fiscal year remain available. Applications from recognized nonpublic schools shall not be considered in this round regardless of date of receipt. Loan award determinations under this subsection (b)(1) shall be made no later than September~~October~~ 15 of each fiscal year.

2) Approved applications from school districts, charter schools, area vocational centers and laboratory schools received between September 1 and~~on or after~~ October 1 ~~and applications from any recognized nonpublic school~~ shall receive a loan on a first-come, first-served basis, as long as funds appropriated for a given fiscal year remain available after funding any loans awarded pursuant to subsection (b)(1) of this Section. Applications from recognized nonpublic schools shall not be considered in this round regardless of date of receipt. Loan award determinations under this subsection (b)(2) shall be made no later than October~~December~~ 15 of each fiscal year.

3) Approved applications from school districts, charter schools, area vocational centers and laboratory schools received on or after October 1 and applications from any recognized nonpublic school shall receive a loan on a first come, first served basis, as long as funds appropriated for a

given fiscal year remain available after funding any loans awarded pursuant to subsection (b)(2) of this Section. Loan award determinations under this subsection (b)(3) shall be made no later than December 15 of each fiscal year.

4) If funds appropriated for a given fiscal year remain after the December 15 loan determination date specified in subsection (b)(3) of this Section, then the State Board of Education, at its option, may fund additional loan requests received by the December 1 due date specified in Section 575.400(d) on a first come, first served basis. Loan award determinations under this subsection (b)(4) shall be made no later than March 15 or no later than May 15 of each fiscal year.

c) Notification of a loan award shall be made no later than 15 calendar days after the applicable award determination date established in subsection (b) of this Section. Applications not approved for funding on or before May~~December~~ 15 of the fiscal year in which the application was made shall expire.

d) Applications received after the December 1 deadline in a given fiscal year shall not be considered for funding in that fiscal year and shall be returned to the applicant.

e) School districts, charter schools, area vocational centers and laboratory schools otherwise eligible but not receiving loans due to insufficiency of the appropriation shall receive first consideration in the next fiscal year in which the grade levels specified on the application shall be eligible for funding. Otherwise eligible but not funded recognized nonpublic schools shall receive first consideration among all applications received on or after October 1 in that fiscal year.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 575.600 Repayment Procedures

Loans shall be repaid within three years (see Section 2-3.117a of the School Code).

a) The rate of interest shall be stipulated on the loan application and *shall not be greater than 50% of the rate for the most recent date shown in the 20 G.O. Bonds Index of average municipal bond yields as published in the most recent edition of The Bond Buyer, published in New York, New York* (Section 2-3.117a(a) of the

School Code). Interest shall be computed semi-annually.

b) Payments on the loan (principal and interest) shall be made by check twice annually in six equal installments.

1) Due dates for loan~~Loan~~ payments shall be based on the date on which the recipient's loan determination was~~due on December 1 and June 1, with the first payment under each loan due on June 1 of the fiscal year in which the loan is~~ made.

A) For recipients with loan determination dates of September 15 or October 15, loan payments shall be due on September 1 and March 1, with the first payment under each loan due on March 1 of the fiscal year in which the loan is made.

B) For recipients with a loan determination date of December 15, loan payments shall be due on December 1 and June 1, with the first payment under each loan due on June 1 of the fiscal year in which the loan is made.

C) For recipients with a loan determination date of March 15, loan payments shall be due on March 1 and September 1, with the first payment under each loan due on September 1 of the fiscal year following the fiscal year in which the loan is made.

D) For recipients with a loan determination date of May 15, loan payments shall be due on December 1 and June 1, with the first payment under each loan due on December 1 of the fiscal year following the fiscal year in which the loan is made.

2) Checks shall be made payable to the "ISBE-School Technology Revolving Loan Fund" and mailed to the Fiscal and Procurement Division, Illinois State Board of Education, 100 North First Street, W-380, Springfield, Illinois 62777-0001.

3) Payments not received within 15 calendar days after the due date shall be assessed a penalty of 5 percent of the payment due; however, the late payment penalty shall be waived when either:

A) the postmark date on the envelope used to submit the payment is dated five days or more before the end of the 15-day grace period; or

B) the payment is not received at the State Board's office within 60 days after the due date, but the participant provides to the State Superintendent of Education no later than 70 days beyond the due date the following:

i) a copy of the original check, dated at least five days before the end of the 15-day grace period;

ii) a copy of the stop payment order placed on the original check; and

iii) a new check issued in the amount due.

c) A participant may prepay the balance due on the loan in its entirety on any scheduled payment date or at the midpoint between any two scheduled payment dates, provided that the participant first contacts the State Superintendent's designee to obtain the total amount of the principal and interest due at that time.

d) A participant may prepay a portion of the balance due on the loan on any scheduled payment date or at the midpoint between any two scheduled payment dates, provided that the participant first contacts the State Superintendent's designee for instructions. The remaining payments shall be recalculated to account for any early repayment, and the participant shall be notified accordingly.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Perinatal HIV Prevention Code

2) Code Citation: 77 Ill. Adm. Code 699

3)

Section Numbers:	Proposed Action:
699.10	Repeal
699.20	Amend
699.30	Amend
699.100	Amend
699.200	Amend
699.300	Amend
699.400	Amend
699.410	Amend
699.420	Amend
699.500	New
699.510	New
699.520	New
699.APPENDIX A	Repeal
699.ILLUSTRATION A	Repeal
699.ILLUSTRATION B	Repeal

4) Statutory Authority: Implementing and authorized by the Perinatal HIV Prevention Act [410 ILCS 335] and Sections 2310-10 and 2310-580 of the Civil Administrative Code of Illinois [20 ILCS 2310/2310-10 and 2310-580]

5) A Complete Description of the Subjects and Issues Involved: The Perinatal HIV Prevention Code will be updated and revised to correspond with new laboratory testing methodologies approved by the U.S. Food and Drug Administration, provide requirements for follow-up services during the perinatal period, and address the protection of confidential information. The sample written informed consent forms are repealed because the Act no longer requires that informed consent be provided in a written format.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.

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6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: 2008 Revised Surveillance Case Definitions for HIV Infection Among Adults, Adolescents, and Children Aged Less than 18 Months and for HIV Infection and AIDS Among Children Aged 18 Months to 13 Years --- United States, 2008, Centers for Disease Control and Prevention (CDC), Morbidity and Mortality Weekly Report (MMWR), December 5, 2008, Vol. 57, No. RR-10; 1-8.

"Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Health-Care Settings" (Centers for Disease Control and Prevention, Morbidity and Mortality Weekly Report (MMWR). MMWR September 22, 2006, Vol. 55, No. RR-14).

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 does not create or expand any state mandates on units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written or e-mail comments may be submitted within 45 days after this issue of the *Illinois Register* to:

Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th floor
Springfield, Illinois 62761

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

13) Initial Regulatory Flexibility Analysis:

DEPARTMENT OF PUBLIC HEALTH

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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 2011

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER k: COMMUNICABLE DISEASE CONTROL AND IMMUNIZATIONS

PART 699
PERINATAL HIV PREVENTION CODE

SUBPART A: GENERAL PROVISIONS

Section
699.10 General Applicability (Repealed)
699.20 Definitions
699.30 Referenced Materials

SUBPART B: HIV PERINATAL COUNSELING AND TESTING

Section
699.100 Perinatal Counseling and Testing

SUBPART C: HIV COUNSELING AND TESTING IN LABOR AND DELIVERY

Section
699.200 HIV Counseling and Testing in Labor and Delivery

SUBPART D: COUNSELING AND TESTING POST-DELIVERY

Section
699.300 HIV Testing of a Newborn Infant Post-Delivery

SUBPART E: HIV TESTING AND TEST RESULT DISCLOSURE

Section
699.400 Approved HIV Tests
699.410 ~~Written~~ Informed Consent for HIV Testing
699.420 Test Result Disclosure

SUBPART F: HIV REPORTING

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Section
699.500 Telephone Reporting of Positive HIV Tests
699.510 Reporting of Perinatal HIV Exposure
699.520 Monthly Reporting of Data

699.APPENDIX A Sample HIV Testing Forms (Repealed)
699.ILLUSTRATION A Sample Written Refusal Form for Testing Newborn Infants (Repealed)
699.ILLUSTRATION B Sample Written Informed Consent to Perform a Rapid HIV Test in the Labor and Delivery Setting (Repealed)

AUTHORITY: Implementing and authorized by the Perinatal HIV Prevention Act [410 ILCS 335] and Sections 2310-10 and 2310-580 of the Civil Administrative Code of Illinois [20 ILCS 2310/2310-10 and 2310-580].

SOURCE: Adopted at 30 Ill. Reg. 9345, effective May 4, 2006; amended at 36 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 699.10 General Applicability (Repealed)

~~a) This Part implements the Perinatal HIV Prevention Act, which concerns the prevention of vertical transmission of HIV infection from mother to newborn infant during pregnancy or labor and delivery. Subpart A includes general provisions that apply to all Sections of the Part, such as definitions and administrative hearing rules.~~

~~b) Subpart B concerns counseling and testing of pregnant women for the presence of antibodies to the human immunodeficiency virus (HIV). These provisions set forth the information that must be included in counseling by a health care professional; the written informed consent that a health care professional must obtain prior to performing an HIV test; and requirements for documentation of testing or test results in accordance with the Perinatal HIV Prevention Act and the AIDS Confidentiality Act.~~

~~c) Subpart C provides for counseling and rapid HIV antibody testing in labor and delivery; the requirement for written informed consent for testing the pregnant~~

~~woman; and post-delivery follow-up services for women who test positive for HIV.~~

~~d) Subpart D provides for testing of a newborn infant when the mother does not have a documented HIV test result during the current pregnancy. Testing of the newborn infant is required upon delivery or within 48 hours after the newborn infant's birth, unless the parent or legally authorized representative provides written refusal for HIV testing of the newborn infant. Referral to post-delivery follow-up services for newborn infants who test positive for HIV is also required.~~

(Source: Repealed at 36 Ill. Reg. _____, effective _____)

Section 699.20 Definitions

~~The following are definitions of terms used in this Part:~~

"Act" means the Perinatal HIV Prevention Act [410 ILCS 335].

"AIDS" *means acquired immunodeficiency syndrome*. (Section 3(b) of the AIDS Confidentiality Act)

"Antiretroviral Preventive Treatment" means a well-established method of preventing vertical HIV transmission.

"Department" means the ~~Illinois~~ Department of Public Health. (Section 5 of the Act)~~(Section 3(a) of the AIDS Confidentiality Act)~~

"Health Care Facility" or "Facility" means any hospital or other institution that is licensed or otherwise authorized to deliver health care services. (Section 5 of the Act)

"Health Care Professional" means a physician licensed to practice medicine in all its branches, a physician assistant who has been delegated the provision of health services by his or her supervising physician, or an advanced practice registered nurse who has a written collaborative agreement with a collaborating physician that authorizes the provision of health services. (Section 5 of the Act)

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NOTICE OF PROPOSED AMENDMENTS

"Health Care Services" means any prenatal medical care or labor or delivery services to a pregnant woman and her newborn infant, including hospitalization. (Section 5 of the Act)

"HIV" means the human immunodeficiency virus or any other identified causative agent of AIDS. (Section 3(c) of the AIDS Confidentiality Act)

"HIV Test" means an HIV test method approved by the federal Food and Drug Administration (FDA) or validated under a laboratory's Clinical Laboratory Improvement Amendments (CLIA) certification.

"Informed Consent" means a written or verbal agreement by the subject of a test or the subject's legally authorized representative obtained without undue inducement or any element of force, fraud, deceit, duress or other form of constraint or coercion.

"Legally Authorized Representative" means an individual who is authorized to consent to HIV testing and/or disclosure of HIV test results for an individual who is:

Under the age of 12,

Deceased,

Declared incompetent by a court of law, or

Otherwise not competent to consent (for reasons other than age, such as lacking decisional capacity~~the apparent inability to understand or communicate with the health care provider~~) as determined by the health care professional~~provider~~ seeking ~~such~~ consent.

The following individuals shall be authorized to consent, in the stated order of priority:

For a living or deceased child under the age of 18:

Parent~~, legally authorized representative or other court-appointed personal representative~~, except as limited by Section 9(k) of the

AIDS Confidentiality Act providing limitations on the ability of a parent or legal guardian to receive the child's test results, and Sections 4 and 5 of the Consent by Minors to Medical Procedures Act [410 ILCS 210] regarding release of test results involving a sexually transmitted infection,

Legal guardian or other court-appointed personal representative,

Adult next-of-kin.

For a living or deceased adult age 18 or over:

Agent authorized by durable power of attorney for health care,

Legal~~Legally authorized representative~~ or other court-appointed personal representative,

Spouse or person in a civil union,

Adult children,

Parent,

Adult next-of-kin.

"Perinatal" means ~~of,~~ relating to~~,~~ or during~~being~~ the period around childbirth, especially the five months before and one month after birth.

"Physician" means a physician licensed to practice medicine under the Medical Practice Act of 1987 [225 ILCS 60].

"Rapid HIV ~~Antibody~~ Test" means any test approved by the FDA or validated under a laboratory's CLIA certification for the detection of HIV~~a federal Food and Drug Administration (FDA) approved screening test to detect antibodies to HIV~~ that can be collected and processed within 60 minutes.~~ a short interval of time (under 60 minutes).~~

"Supplemental Test" means any HIV test approved by the FDA or validated under a laboratory's CLIA certification used to confirm the positive result of a screening test.

~~*"Test" or "HIV Test" means a test to determine the presence of the antibody or antigen to HIV, or of HIV infection*. (Section 3(g) of the AIDS Confidentiality Act)~~

"Vertical Transmission" means transmission of a pathogen such as HIV from mother to fetus or baby during pregnancy or birth.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 699.30 Referenced Materials

The following materials are referenced in this Part:

a) Illinois Statutes

1) AIDS Confidentiality Act [410 ILCS 305]

2) Perinatal HIV Prevention Act [410 ILCS 355]

3) Medical Practice Act of 1987 [225 ILCS 60]~~.~~

4) ~~The~~ Civil Administrative Code of Illinois [20 ILCS 2310]

5) Consent by Minors to Medical Procedures Act [410 ILCS 210]

b) Illinois Administrative Rules

HIV/AIDS Confidentiality and Testing Code (77 Ill. Adm. Code 697)

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART B: HIV PERINATAL COUNSELING AND TESTING

Section 699.100 Perinatal Counseling and Testing

a) *Every health care professional who provides health care services to a pregnant woman shall, unless she has already been tested during the current pregnancy, provide the woman with HIV counseling, as described in* this Section, *and shall test her for~~offer~~ HIV ~~testing~~* as early in the pregnancy as possible*, unless she refuses~~unless she has already received an HIV test during~~ the current ~~pregnancy~~*. (Section 10(a) of the Act)

b) *For women at continued risk of exposure to HIV infection in the judgment of the health care professional, a repeat test should be recommended~~offered~~ late in pregnancy or at the time of labor and delivery*. (Section 10(a) of the Act)

c) HIV *counseling and testing or refusal~~offer~~ of testing shall be documented in the woman's medical record.* (Section 10(b) of the Act)~~ Any testing or test results shall be conducted and documented in accordance with the AIDS Confidentiality Act and the HIV/AIDS Confidentiality and Testing Code.~~

d) *Any testing or test results shall be* conducted in accordance with the AIDS Confidentiality Act and the HIV/AIDS Confidentiality and Testing Code and *shall be documented in accordance with the AIDS Confidentiality Act* and the HIV/AIDS Confidentiality and Testing Code in the woman's medical record. (Section 10(b) of the Act)

e~~d~~) All HIV counseling *must be provided in accordance with the AIDS Confidentiality Act and must include~~shall include~~*, at minimum*, the following* information:

1) *For the health of the pregnant woman, the voluntary nature of the testing, the~~The~~ benefits of HIV testing~~for the pregnant woman~~, including the prevention of transmission and the requirement that the HIV testing be performed unless she refuses and the methods by which she can refuse;*

2) *The benefit of HIV testing for herself and the newborn infant, including interventions to prevent HIV transmission;*

3) *The side effects of interventions to prevent HIV transmission;*

4) *The statutory confidentiality provisions that relate to HIV and AIDS~~AIDS~~ testing;*

5) *The requirement for mandatory testing of the newborn if the mother's HIV status is unknown at the time of delivery;~~The voluntary nature of the testing, including the opportunity to refuse testing of a newborn infant in writing;~~* ~~(Section 10 of the Act)~~

6) *An explanation of the test, including its purpose, limitations, and the meaning of its results;*

7) *An explanation of the procedures to be followed;*

8) *The availability of additional or confirmatory testing, if appropriate. Counseling may be provided in writing, verbally, or by video, electronic, or other means. The woman must be offered an opportunity to ask questions about testing and to decline testing for herself.* (Section 10(d) of the Act)

f) Information shall also be provided concerning the following:

1~~6~~) ~~Information about~~ HIV infection and HIV transmission;

~~7) Information about the meaning of the test and test results, such as: the purpose, potential uses, and limitations of the test, rapid HIV test, rapid HIV test results and the need for confirmatory testing;~~

2~~8~~) Methods of preventing HIV transmission; and

3~~9~~) The~~Information about the~~ *availability of referrals for further information or counseling* (Section 5 of the AIDS Confidentiality Act).

~~e) HIV *testing shall be provided with the woman's* written informed *consent. "Written informed consent" means an agreement in writing executed by the subject of a test or the subject's legally authorized representative without undue inducement or any element of force, fraud, deceit, duress or other form of constraint or coercion, which entails at least the following:*~~

~~1)~~ ~~*A fair explanation of the test, including its purpose, potential uses and limitations and the meaning of its results;*~~

~~2)~~ ~~*A fair explanation of the procedures to be followed, including the voluntary nature of the test; the right to withdraw consent at any time; the right to anonymity to the extent provided by the AIDS Confidentiality Act with respect to participation in the test and disclosure of test results and the right to confidential treatment of information identifying the subject of the test and the results of the test, to the extent provided by law.* (Section 3(d) of the AIDS Confidentiality Act)~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART C: HIV COUNSELING AND TESTING IN LABOR AND DELIVERY

Section 699.200 HIV Counseling and Testing in Labor and Delivery

a) A health care facility providing medical care for labor or delivery services to a pregnant woman and her newborn infant shall develop and follow written policies and procedures concerning the delegation of the responsibilities for carrying out the counseling and testing requirements of Subparts C and D of this Part. These policies and procedures shall be provided to the Department upon request. Delegation of responsibilities shall be in accordance with other personnel policies of the facility and the Act.

b) *Every health care professional or facility that cares for a pregnant woman during labor or delivery shall*, *unless she has already been tested during the current pregnancy* and HIV test results are already documented in the woman's medical record, *provide the woman with HIV counseling and* ~~*offer*~~ rapid *HIV testing* *unless she refuses*, in accordance with Section 699.100(c) and (d)~~ of this Part~~. HIV testing shall be provided with the woman's~~, if HIV test results are not already documented in the woman's medical record. *HIV testing shall be provided with the woman's* written~~ informed *consent* in accordance with Section 699.100(e)~~ of this Part~~. (Section 10(b) of the Act)

~~c)~~ ~~*No counseling or offer of testing is required if* the woman's HIV status during the current pregnancy is *already provided* in her medical record. (Section 10 of the Act)~~

c~~d~~) *The counseling and testing or refusal~~offer~~ of testing shall be documented in the woman's* labor and delivery *medical record*. ~~*Any testing or test results* shall be conducted in accordance with the AIDS Confidentiality Act and the HIV/AIDS Confidentiality and Testing Code and *shall be documented in accordance with the AIDS Confidentiality Act* and the HIV/AIDS Confidentiality and Testing Code in the woman's medical record.~~ (Section 10(b) of the Act)

d) *The health care facility shall adopt a policy that provides that as soon, as possible within medical standards after the infant's birth, the mother's HIV test result, if available, shall be noted in the newborn infant's medical record. It shall also be noted in the newborn infant's medical record if the mother's HIV test result is not available because she has not been tested or has declined testing.* (Section 10(b) of the Act)

e) *Any testing or test results* shall be conducted in accordance with the AIDS Confidentiality Act and the HIV/AIDS Confidentiality and Testing Code and *shall be documented in accordance with the AIDS Confidentiality Ac*t and the HIV/AIDS Confidentiality and Testing Code in the woman's medical record. (Section 10(b) of the Act)

f~~e~~) In addition to the counseling information required in Section 699.100(d)~~ of this Part~~, when disclosing a positive result of a rapid HIV test to a pregnant woman, health care professionals shall provide the woman with post-delivery follow-up referrals to physicians or facilities with experience in providing services to women with HIV.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART D: COUNSELING AND TESTING POST-DELIVERY

Section 699.300 HIV Testing of a Newborn Infant Post-Delivery

a) *Every health care professional or facility caring for a newborn infant shall, upon delivery or as soon as possible within medical standards after the infant's birth, provide counseling as described in* Section 10*(d) of* the Act *to the parent or guardian of the infant and perform rapid HIV testing on the infant, when the HIV status of the infant's mother is unknown.*~~Immediately after birth and *within 48*~~

~~*hours after birth, every health care professional or facility shall provide* to the parent or legally authorized representative an explanation that the newborn infant will be HIV tested when the mother's HIV status is not documented, unless there is a written refusal for HIV testing by the parent or legally authorized representative of the newborn infant.~~ (Section 10(c) of the Act)

~~b)~~ ~~*The health care professional or facility shall document in the woman's medical record that counseling and the offer of* HIV *testing* for the newborn infant were given in accordance with Section 699.100(c) and (d) of this Part, and whether the parent or legally authorized representative provided written refusal for HIV testing for the newborn infant. (Section 10(c) of the Act)~~

b~~1~~) The health care professional providing the positive result of an HIV test on a newborn infant shall provide ~~to~~ the parent or legally authorized representative with an explanation of antiretroviral preventive treatment for HIV-exposed newborn infants.

~~2) When the newborn infant has tested positive, the health care professional providing information on antiretroviral preventive treatment for the newborn infant shall explain to the mother how the test detects HIV antibodies, offer HIV risk counseling, encourage HIV testing for the mother, and provide referrals to physicians or facilities that have experience treating women and children with HIV.~~

c) When the newborn infant has tested positive, the health care professional providing information on antiretroviral preventive treatment for the HIV-exposed newborn infant shall explain to the mother how the test detects maternal HIV infection, offer HIV risk counseling, encourage HIV testing for the mother, and provide referrals to physicians or facilities that have experience treating women and children with HIV.

d~~e~~) *Consent for testing of a newborn infant shall be presumed when a health care professional or health care facility seeks to perform a test on a newborn infant whose mother's HIV status is not known, provided that the counseling required under* Section 10*(d)* of the Act, Section 699.100(d) of this Part *and the AIDS Confidentiality Act* ~~and subsection (d) of this Section *has taken place and the newborn infant's parent or* legally authorized representative *has not indicated in*~~

~~*writing that he or she refuses to allow the newborn infant to receive HIV testing*~~. (Section 10(e) of the Act)

e~~d~~) Counseling required in this Subpart shall include the elements required in Section 699.100(d).~~Counseling Requirements~~

~~1) *Counseling required under this* Subpart *must be provided in accordance with the AIDS Confidentiality Act and must include the following:*~~

~~A) *The benefits of HIV testing for the pregnant woman, including the prevention of transmission.*~~

~~B) *The benefit of HIV testing for the newborn infant, including interventions to prevent HIV transmission.*~~

~~C) *The side effects of interventions to prevent HIV transmission.*~~

~~D) *The statutory confidentiality provisions that relate to HIV and AIDS testing.*~~

~~E) The voluntary nature of the testing, including the opportunity to refuse testing in writing. (Section 10(d) of the Act)~~

~~2) The requirements for counseling and testing must be provided in accordance with the AIDS Confidentiality Act, with the exception of the requirement of consent for testing of newborn infants. (Section 10(e) of the Act)~~

~~3) Information about HIV infection and HIV transmission.~~

~~4) Information about the meaning of the test and test results, such as: the purpose, potential uses, and limitations of the test, rapid HIV test, rapid HIV test results and the need for confirmatory testing.~~

~~5) Methods of preventing HIV transmission.~~

~~6) Information about the *availability of referrals for further information or counseling*. (Section 5 of the AIDS Confidentiality Act)~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART E: HIV TESTING AND TEST RESULT DISCLOSURE

Section 699.400 Approved HIV Tests

HIV ~~antibody~~ testing shall be completed in accordance with Section 697.100 of the ~~77 Ill. Adm. Code 697.100 (~~HIV/AIDS Confidentiality and Testing Code~~)~~.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 699.410 ~~Written~~ Informed Consent for HIV Testing

No person may order an HIV test for a pregnant woman *without first receiving the* documented~~*written*~~ *informed consent of the subject of the test or subject's legally authorized representative*. (Section 4 of the AIDS Confidentiality Act)

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 699.420 Test Result Disclosure

Release of HIV test results shall be as described in 77 Ill. Adm. Code 697.140 ~~77 Ill. Adm. Code 697.140~~ (HIV/AIDS Confidentiality and Testing Code). Positive results from rapid HIV ~~antibody~~ tests may be released in accordance with Section 697.100 of that Code~~77 Ill. Adm. Code 697.100~~.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART F: HIV REPORTING

Section 699.500 Telephone Reporting of Positive HIV Tests

a) Health care facilities shall report a preliminary positive rapid HIV test in a delivering mother or her infant within 24 hours after birth by calling the 24/7 Perinatal HIV Hotline and by submitting a Preliminary Positive Data Collection Report.

b) Health care facilities shall report a preliminary positive rapid HIV test in a pregnant outpatient by calling the 24/7 Perinatal HIV Hotline as soon as possible.

c) Health care facilities reporting a preliminary positive HIV test result shall conduct supplemental testing and communicate the results by telephone to the 24/7 Perinatal HIV Hotline.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 699.510 Reporting of Perinatal HIV Exposure

a) Health care facilities shall report a case of perinatal HIV exposure using the Department's Pediatric HIV/AIDS Confidential Case Report for a person under age 13 when caring for a newborn:

1) Whose mother is confirmed to be HIV positive prior to labor and delivery;

2) Whose mother has a rapid HIV test result that is preliminary positive at labor and delivery, and the supplemental test results are positive; or

3) Who has a rapid HIV test result that is preliminary positive at delivery, and the supplemental test results are positive.

b) *If, after 18 months from the date that the report was submitted, a newborn infant is determined to not have HIV or AIDS, the Department shall remove the newborn infant's name from all reports, records and files collected or created.*

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 699.520 Monthly Reporting of Data

a) Health care facilities shall report monthly aggregate statistics to the Department, including, but not be limited to, the number of:

1) known positive pregnant women presenting for delivery;

2) pregnant women rapidly tested for HIV;

3) newborn infants rapidly tested for HIV;

4) preliminary HIV-positive women;

5) preliminary HIV-exposed newborn infants; and

6) mothers and infants successfully linked to ongoing medical care and case management services.

b) Aggregate monthly data shall be reported on the Perinatal Rapid HIV Testing Monthly Report form provided by the Department, and the report shall be submitted by the tenth day of the following month.

c) Health care facilities shall complete a preliminary positive data report for every case of a preliminary positive HIV result in a mother or newborn infant. Data are reported on the Preliminary Positive Rapid Data Collection form provided by the Department. The report shall be submitted immediately following the identification of the preliminarily positive test result and resent after supplemental test results are available.

(Source: Added at 36 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Section 699.APPENDIX A Sample Rapid HIV Testing Forms (Repealed)

Section 699.ILLUSTRATION A Sample Written Refusal Form for Testing Newborn Infants (Repealed)

~~WRITTEN REFUSAL OF RAPID HIV ANTIBODY TESTING FOR A NEWBORN INFANT~~

~~Test Subject or Number:~~ _____ ~~Date:~~ _____
_____ ~~Time:~~ _____
_____

~~As a parent or legal guardian of a newborn infant, I am not giving my permission for a Food and Drug Administration (FDA) approved test to detect whether my newborn infant has antibodies to HIV (human immunodeficiency virus).~~

~~I understand that:~~

~~The human immunodeficiency virus (HIV) is the virus that causes AIDS.~~

- ~~One way in which HIV is spread is by sexual intercourse, so all sexually active women are potentially at risk for HIV infection.~~
- ~~HIV can be passed from a mother to her baby during pregnancy, at delivery, and through breastfeeding.~~
- ~~If I have HIV, it is a serious illness that can affect my health and the health of my baby.~~
- ~~HIV antibody test results are confidential.~~

~~I have been counseled about HIV, including:~~

- ~~The potential benefit of HIV testing for my newborn infant, including interventions to prevent transmission of infection from mother to baby;~~
- ~~Information about HIV infection and HIV transmission;~~

- ~~Information about the meaning of the HIV test and the test results;~~

- ~~The side effects of interventions to prevent HIV transmission;~~

- ~~Information about the availability of referrals and further counseling;~~

- ~~The voluntary nature of the HIV testing, including the opportunity to refuse, in writing, testing of the newborn infant; and~~

- ~~The confidentiality provisions that relate to HIV/AIDS testing.~~

~~**I understand** that I can refuse HIV testing of my newborn infant. I understand that testing should occur immediately after birth, but no later than 48 hours after birth. I understand that if my newborn infant receives medication no later than 48 hours after birth, the risk of transmission of HIV would be lowered. I understand that delaying testing to a later time will reduce or eliminate the chance that medication can be used to prevent my baby from becoming HIV infected.~~

~~**I understand** that I have received a fair explanation of:~~

- ~~The HIV test procedures to be followed;~~

- ~~My right to withdraw my consent to an HIV test at any time;~~

- ~~The right to anonymity to the extent provided by law with respect to participation in the HIV test and disclosure of test results, and the right to keep confidential information that identifies the subject of the HIV test and the test results.~~

~~**I understand** that if my newborn infant is tested for HIV, the results of the tests are placed in my newborn infant's record and reported to his/her health care provider, and positive results are reported to the Illinois Department of Public Health. Under Illinois law, confidential HIV information can be given only to people to whom I allow it to be given by my written approval, or to people who need to know my newborn infant's HIV status in order to provide medical care and services, including an authorized agent or employee of a health facility or health care provider, if the health facility or provider is authorized to obtain test results; those who are exposed to my newborn infant's blood/body fluids in the course of their employment; and organizations that review the health care services I receive. The law also allows my newborn infant's HIV information to be released under certain limited circumstances to persons whom I~~

~~may designate through an authorization, to my legal representative, to my spouse, to the parent of the child, to public health officials as required by law, for payment for care and treatment, and as required for a temporary caretaker of a child taken into protective custody by the Department of Children and Family Services. The results also will be provided to the State and local health department to use this information to track the disease and to better plan prevention, health care, and other services.~~

~~**I understand** and agree that my REFUSAL of testing will be placed in my medical record. In addition, I understand that I may withdraw my REFUSAL of HIV testing for my newborn infant at any point in time.~~

~~**I understand that HIV may be transmitted from me to my newborn infant during labor and delivery. I understand that if I refuse HIV testing for my newborn infant, he/she will not be able to promptly receive medication that lowers the risk of his/her becoming HIV infected. I understand that if HIV has already been transmitted to my child, not performing the test means he/she will not receive proper treatment. Delaying testing to a later time will reduce or eliminate the chance that medication can be used to prevent my child from becoming HIV infected. I understand that HIV infection causes serious illnesses and these illnesses could result in my newborn's death.**~~

~~**With the information presented above having been completely and clearly explained to me, and all of my questions having been answered, I refuse to authorize testing of my newborn infant for HIV.**~~

_____
~~Patient/Client Signature or Signature of Legally Authorized Representative~~

_____
~~Date~~

_____
~~Health Care Professional/Facility Witness~~

_____
~~Date~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

(Source: Repealed at 36 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Section 699.APPENDIX A Sample HIV Testing Forms (Repealed)

Section 699.ILLUSTRATION B Sample Written Informed Consent to Perform a Rapid HIV Test in the Labor and Delivery Setting (Repealed)

~~WRITTEN INFORMED CONSENT TO PERFORM A RAPID HIV TEST IN THE LABOR AND DELIVERY SETTING~~

~~Test Subject or Number:~~ _____ ~~Date:~~ _____

~~Time:~~ _____

~~I hereby grant my permission for a test to detect whether I have antibodies to HIV (human immunodeficiency virus) in my body.~~

~~HIV testing is voluntary and requires your consent in writing. The purpose of rapid HIV testing is to show whether you are infected with HIV, the virus that causes AIDS.~~

~~If you are HIV infected, rapid HIV testing will allow you to receive immediate medication during labor and delivery to reduce the risk of transmitting HIV to your newborn, and will allow your baby to receive the same medication immediately after birth.~~

~~Before you consent to be tested for HIV, speak to your health care provider about:~~

- **~~How HIV can be passed from person to person and mother to baby;~~**
- **~~Medication that may prevent the transmission of HIV from mother to baby;~~**
- **~~Illinois law that requires all newborn infants to be tested for HIV after birth if the mother's HIV status is unknown, unless the parent provides a written refusal; and~~**

- ~~**The meaning of preliminary HIV test results and how a positive HIV test is confirmed.**~~

~~**If you agree with the following statements and want to consent to rapid HIV testing, please sign this form.**~~

~~**I have been counseled about the benefits of having a rapid HIV test and understand that:**~~

- ~~Human immunodeficiency virus (HIV) is the virus that causes AIDS.~~
- ~~One of the ways in which HIV is spread is by sexual intercourse, so all sexually active women are potentially at risk for HIV infection.~~
- ~~HIV can be passed from a mother to her baby during pregnancy, at delivery, and through breastfeeding;~~
- ~~If I have HIV, it is a serious illness that can affect my health and the health of my baby.~~
- ~~HIV antibody test results are confidential, and the law protects me from discrimination.~~

~~**If I am found to be HIV infected, treatment is available to reduce the risk that HIV will be**~~

~~**transmitted to my baby:**~~

- ~~If I have not yet delivered my baby, I may receive medication as soon as possible to reduce the chance of passing the virus to my baby.~~
- ~~My baby may receive medication that reduces the risk of his/her becoming HIV infected.~~
- ~~In many cases, medications prevent the risk of transmission of HIV. If these medications are given to me during labor and delivery, or to my newborn infant immediately after birth, the chance that my baby will be HIV infected is significantly reduced.~~
- ~~If treatment is started, my health care provider will discuss with me any consequences of taking the medication.~~

~~**I understand** that a preliminary positive result does not mean that I have AIDS, but that my blood may have been exposed to the human immunodeficiency virus, and antibodies to that virus may be present in my body. I understand that if my test results are positive, I will be offered HIV counseling.~~

~~**I understand** that HIV test results may indicate that a person has HIV antibodies when the person does not have the antibodies (a false positive result) or the test may fail to detect that a person has antibodies to the virus when the person does in fact have these antibodies (a false negative result).~~

~~**The test that I am consenting to take will provide me and my health care provider with results within 12 hours:**~~

- ~~If I have the rapid HIV test, I will be given the results no later than 12 hours after my blood is drawn.~~
- ~~If the rapid HIV test result is negative, no further testing will be done at this time.~~
- ~~If my rapid HIV test result is negative, it most likely means that I am not infected with HIV, but it may not detect recent infection.~~
- ~~A preliminary positive HIV test result means there is a possibility that I am HIV infected and that my baby may have been exposed to HIV. A second test, to confirm a preliminary positive HIV test result, will be done.~~
- ~~I understand that if my preliminary test result is positive, I still may not have HIV~~

~~infection (false positive test results can occur), but it may be best to start treatment to help prevent the transmission of infection to my baby while I wait for the confirmatory test result.~~

~~All preliminary positive test results will be confirmed:~~

- ~~If the confirmatory HIV test result is negative, I will immediately be taken off of medication that was started to help prevent transmission of HIV from me to my baby.~~
- ~~If the confirmatory test is positive, any medication that was given to help to prevent transmission of HIV from me to my baby will be continued.~~
- ~~If the confirmatory test is positive, I will be referred to a physician for my own ongoing medical care.~~

~~Confidentiality of HIV Information:~~

~~If you take the rapid HIV test, your test results are confidential. Under Illinois law, confidential HIV information can be given only to people to whom you allow it to be given by your written approval, to people who need to know your HIV status in order to provide medical care and services, including: an authorized agent or employee of a health facility or a healthcare provider if the health facility or provider is authorized to obtain test results; those who are exposed to blood/body fluids in the course of their employment; and organizations that review the services you receive.~~

~~The law also allows your confirmed HIV test results to be released: to public health officials as required by law; for payment for care and treatment; to a temporary caretaker of children taken into protective custody by the Illinois Department of Children and Family Services; and to any other entity permitted by the AIDS Confidentiality Act.~~

~~I understand~~ ~~that my test results will be kept confidential to the extent provided by law. In addition, I understand that I may withdraw from the testing at any point in time prior to the completion of laboratory tests. I understand that my testing is voluntary.~~

~~I agree~~ ~~to be tested using a rapid HIV antibody test and I agree that I may be told of my test results.~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

~~**I have been counseled** that if the result of the rapid HIV antibody test is preliminary positive, then I must undergo additional testing to confirm whether I am HIV positive. I consent to that additional testing.~~

~~**I understand** that a preliminary positive result from my rapid HIV antibody test will be released to designated health care professionals to provide necessary treatment to prevent HIV transmission from mother to child.~~

~~**I agree** that if the result of my HIV test is preliminary positive or if the result of my rapid HIV antibody test is confirmed positive, I may be referred to another health care provider for follow-up testing and care. I consent to the release of my medical information, including my HIV test results and contact information, to that provider for the purpose of follow-up testing and care.~~

~~If I choose not to have a rapid HIV test, **I understand** that:~~

- ~~I may be positive for HIV, which is a serious illness that can affect my health and the health of my baby.~~
- ~~I may be positive for HIV and may not receive appropriate treatment for this serious illness.~~
- ~~I may be HIV positive and my child is at risk of my transmitting HIV to him/her through labor and delivery. As a result, my child could also be HIV positive. I understand that HIV in my child is a serious illness (see above) and this illness (see above) could result in my newborn infant's death, unless my newborn infant is tested and treated.~~

~~**I have been advised about the purpose, potential uses, limitations, and meaning of the test results; the voluntary nature of the test; the right to withdraw consent at any time prior to the completion of laboratory tests; the medical risks if I refuse; and the confidentiality protections under the law. The information presented above has been completely and clearly explained to me, and all of my questions have been answered. I hereby authorize my physician or facility to collect an oral or blood specimen and perform an HIV antibody test on that specimen.**~~

_____

~~Patient/Client Signature or Signature of Legally Authorized Representative~~

_____

~~Date~~

_____

~~Facility/Provider Witness~~

~~Placement of My Medical Information in My Newborn Infant's Medical Record~~

~~**I understand** that, in order to effectively treat my newborn infant, the results of the tests and my HIV status should be placed in my newborn infant's medical record. If this information is placed in my newborn infant's medical record, I understand that my test results and my HIV status in the newborn infant's medical record may be disclosed to those providing care and treatment to my newborn infant. I also understand that my information in my newborn infant's medical record may be disclosed to my spouse; to a legally authorized representative; to a person whom I have designated through an authorization (my written authorization permitting him or her to release my information); to my newborn infant at a later time; or to a court or other entity that has the legal authority to have access to my newborn infant's medical record.~~

☐ ~~**YES.** I consent to have my HIV test results and my HIV status placed in my newborn infant's medical record.~~

_____

~~Patient/Client Signature or Signature of Legally Authorized Representative~~

_____

~~Date~~

☐ ~~**NO.** I do not want my HIV test results and my HIV status placed in my newborn infant's medical record. I understand that this may adversely affect medical treatment for my newborn infant.~~

_____

~~Patient/Client Signature or Signature of Legally Authorized Representative~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

~~Date~~

(Source: Repealed at 36 Ill. Reg. _____, effective _____)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: State Vehicles and Garage

2) Code Citation: 44 Ill. Adm. Code 5040

3)

Section Numbers:	Adopted Action:
5040.130	Amendment
5040.270	Amendment

4) Statutory Authority: Implementing Sections 405-280, 405-285, and 405-215 of the Department of Central Management Services Law [20 ILCS 405/405-280, 405-285, and 405-215] and Sections 1 and 2 of the State Vehicle Identification Act [30 ILCS 610/1 and 2] and authorized by Section 405-280 of the Department of Central Management Services Law [20 ILCS 405/405-280]

5) Effective Date of Amendments: January 24, 2012

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments 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: July 29, 2011; 35 Ill. Reg. 12592

10) Has JCAR issued a Statement of Objection to the amendments? No

11) Differences between proposal and final version. Addition of: specifying the proper form to be used when requesting a vehicle, additional criteria for the State's accepting a vehicle request (outside of just the break-even information), identifying the Dept. of Vehicle's website, inserting a description of the template to be used for approval, and inserting a formula to calculate the break-even mileage and a description of each variable, as well as correcting minor capitalization and grammatical errors.

12) Have all of the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these amendments replace any emergency amendments currently in effect? No

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: Section 5040.130 was amended to add a definition for the term "General purpose passenger and light duty vehicles". Section 5040.270 was amended to change the criteria used in determining the cost effectiveness of the acquisition of vehicles based on a break-even analysis. These changes are based on recommendations made by the Office of the Auditor General as a result of House Resolution 658.

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

Mary Matheny
Illinois Department of Central Management Services
720 Stratton Office Building
Springfield, Illinois 62706

217/557-5404

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

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY MANAGEMENT
SUBTITLE D: PROPERTY MANAGEMENT
CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 5040
STATE VEHICLES AND GARAGE

SUBPART A: GENERAL

Section
5040.100 Authority
5040.110 Policy
5040.120 Applicability
5040.130 Definitions

SUBPART B: ACQUISITION

Section
5040.200 Acquisition of Vehicles
5040.210 Fuel Economy Standards
5040.220 Availability of Vehicles
5040.230 Agency Purchase
5040.240 Motor Pool Lease or Rental
5040.250 Private Firm Lease or Rental
5040.260 Use of Personal Vehicles on State Business
5040.270 Requests for Acquisition of Vehicles

SUBPART C: USE OF VEHICLES

Section
5040.300 Use of Vehicles
5040.310 Title and Registration
5040.320 License Plates
5040.330 Identification of Vehicles
5040.340 Assignment to Individuals
5040.350 Authorized Use
5040.360 Use and Condition Review

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

5040.370 Exceptions to Use Rules
5040.380 Motor Pool

SUBPART D: MAINTENANCE

Section
5040.400 Maintenance of Vehicles
5040.410 Scheduled Inspection and Maintenance
5040.420 DCMS Garages
5040.430 Warranty Work

SUBPART E: MISCELLANEOUS

Section
5040.500 Driver Requirements
5040.510 Insurance
5040.520 Accidents Report Procedures
5040.530 Tickets
5040.540 Credit Card
5040.550 Gasoline Purchase
5040.560 Charges
5040.570 Payment of Charges
5040.580 Credits
5040.590 Cost Information (Repealed)
5040.600 Designation of Vehicle Coordinator
5040.610 DCMS Annual Statement
5040.620 Required Forms and Information
5040.630 Agency Signature Authority
5040.700 Rate Schedule

AUTHORITY: Implementing Sections 405-280, 405-285, and 405-215 of the Department of Central Management Services Law [20 ILCS 405/405-280, 405-285, and 405-215] and Sections 1 and 2 of the State Vehicle Identification Act [30 ILCS 610/1 and 2] and authorized by Section 405-280 of the Department of Central Management Services Law [20 ILCS 405/405-280].

SOURCE: Adopted at 4 Ill. Reg. 28, p. 173, effective July 1, 1980; amended at 4 Ill. Reg. 30, p. 1225, effective July 1, 1980, by the Department of Administrative Services; transferred to the Department of Central Management Services by Executive Order 82-1, effective July 1, 1982;

amended at 7 Ill. Reg. 2483, effective March 1, 1983; codified at 8 Ill. Reg. 8180; amended at 9 Ill. Reg. 13720, effective August 21, 1985; amended at 13 Ill. Reg. 13829, effective August 22, 1989; amended at 15 Ill. Reg. 7553, effective May 7, 1991; amended at 19 Ill. Reg. 14774, effective October 5, 1995; amended at 25 Ill. Reg. 6221, effective April 17, 2001; amended at 26 Ill. Reg. 9695, effective June 19, 2002; amended at 30 Ill. Reg. 4587, effective March 1, 2006; amended at 36 Ill. Reg. 2089, effective January 24, 2012.

SUBPART A: GENERAL

Section 5040.130 Definitions

"Agency Head" – The top appointed or elected person within a State entity or the person authorized to act in his or her behalf.

"CMS~~DCMS~~ Fleet Card" – A card issued by CMS~~DCMS~~ as a means of identifying a particular piece of equipment used to purchase fuel, maintenance and repair goods and services.

"Equipment" – Any motorized implement or vehicle used to perform official State business.

"Executive Department" – All departments, boards, commissions, and agencies of the State of Illinois subject to the Governor.

"General Purpose Passenger and Light Duty Vehicles" – Cars, minivans, sport utility vehicles, crossovers or other vehicles with not more than a 10 passenger capacity, and/or vans, pickups or trucks with less than one ton (8,000 lbs.) gross vehicle weight rating.

"State Employee" – Any person who is paid on a State warrant or providing a service to the State and who has permission from the "agency head" may use a State vehicle.

"Vehicle" – Any automobile, truck, or other conveyance capable of independent locomotion on the roads and highways of the State other than special mobile equipment as defined in Section 1-100 of the Illinois Vehicle Code [625 ILCS 5/1-100].

"Vendor Fleet Card" – A card issued by a private vendor, under contract with CMS~~DCMS~~, as a means of identifying a particular piece of equipment and used to purchase fuel, maintenance and repair goods and services.

(Source: Amended at 36 Ill. Reg. 2089, effective January 24, 2012)

SUBPART B: ACQUISITION

Section 5040.270 Requests for Acquisition of Vehicles

All requests to purchase new or used, lease or acquire surplus (including inter-agency transfer) general purpose passenger and light duty vehicles~~vehicles~~ other than motor pool rental or rental require written submission~~while employee is on travel status must be submitted in writing~~ over the signature of the head of the requesting agency using the current Agency Fleet Request template and approval~~approved~~ by CMS~~DCMS~~, Manager of the Division of Vehicles (located at https://cms.portal.illinois.gov/DOV/vc/default.aspx). The template consists of the following elements: instructions for completing the Agency Fleet Request template; annual mileage information; estimated useful service life; vehicle purchase price, repair price, residual value, parking and operating costs; financial information; vehicle and agency information; agency vehicle use information; exception request information and review criteria under Section 5040.210 and subsection (c)(1) of this Section and flexible or hybrid fuel requirements.

a) Agency requests shall be submitted by Vehicle Coordinators using the current CMS Agency Fleet Request template maintained on the Division of Vehicles webpage and distributed to Coordinators at least annually~~on the forms supplied by DCMS for this purpose~~. If necessary, CMS~~DCMS~~ may request additional information.

b) All acquisitions requests, whether replacements or additions to fleet, must be justified based on work needs. The need for the vehicle and the type requested must be documented.

c) Requests shall be evaluated using the following non-exhaustive criteria:

1) Whether purchasing a vehicle is the most cost effective solution for the State. The most economical mode of transportation should be used to carry out State business. Cost effective transportation for State employees can be obtained through the use of State-owned vehicles or by paying for

miles traveled, such as reimbursement for the use of a personally owned vehicle if operationally feasible. State vehicles should be purchased/owned when that is the lowest cost alternative for the State and when the vehicles will be fully utilized in terms of business mileage.

A) Factors determining which transportation option is cheaper vary, depending on the cost of fuel and the cost of buying and owning vehicles versus the cost of reimbursement. Additional factors to consider when determining if acquiring a vehicle is efficient are: annual overall miles, annual business miles, percentage of commuting miles (if applicable), cargo, passenger carrying, or other special equipment needs. CMS may also approve vehicle acquisitions that are in the State's best interests based on criteria in addition to mileage break-even. For example, developing technologies such as hybrid or electric vehicles have been determined to be beneficial to the State due to reduced harmful emissions.

B) A break-even mileage reference point will be maintained by CMS, Division of Vehicles for use in determining efficient vehicle purchase decisions. New, used and leased general purpose passenger and light duty vehicles should generally be approved to be acquired when they will be fully utilized at or beyond the current standard set by CMS for economic break-even to ensure the State is providing transportation to employees at the lowest possible cost. Usage less than economic break-even may be approved by the Manager of the Division of Vehicles upon explanation from the agency head of operational needs justifying lesser usage, when there is no alternative available to carry out agency work functions, or when it is in the State's best interests to do so. As available, vehicles obtained from CMS, Surplus Property should be substituted for new vehicles when operationally efficient to reduce the State's cost per mile.

C) A break-even mileage threshold by vehicle type will be maintained and published on the CMS, Division of Vehicles website and through communications with agency Vehicle Coordinators at least annually for use in making cost effective vehicle and employee

transportation decisions. Break-even information will be one of the factors CMS considers when making a determination on a vehicle acquisition request.

D) The formula used to calculate break-even mileage is:

$$\frac{BE - FC}{RR - OC}$$

i) Formula variables are defined as follows:

BE (break-even)	=	Accumulated miles required to offset the cost of owning a vehicle when it becomes cheaper than paying an employee for the reimbursement of mileage utilizing a personal vehicle for State business use.
FC (fixed cost)	=	The cost of a vehicle divided by its estimated useful life, plus the cost of insurance.
RR (reimbursement rate)	=	The rate paid to State employees for use of a personal vehicle for State business as established by the Travel Control Board (80 Ill. Adm. Code 2800) and CMS policy.
OC (operating or variable cost)	=	Maintenance, repairs and fuel.

ii) The following is an example of break-even calculations for an intermediate/mid-size vehicle typically utilized in fleet:

$$\frac{9{,}664mi. - 2{,}603.63}{.51 - .236}$$

In this example, annual break-even mileage is

9,664.~~Expected usage. New and leased general purpose passenger vehicles are to be used a minimum of 1,500 miles per month, but lesser usage may be approved upon explanation from the Agency Head of operational needs resulting in lesser usage. Surplus should be used if the 1500 miles per month criteria cannot be met.~~

2) Availability and utilization of other vehicles already in agency control.

3) Compliance with fuel economy and environmental standards.

d) Agencies requesting~~that have~~ specific surplus (including inter-agency transfer) vehicles ~~identified for acquisition~~ shall submit a written request to the Division of Vehicles, utilizing the current Agency Fleet Request template maintained by CMS, Division of Vehicle on its website.~~so inform the Division of Vehicles with the initial request.~~ The Division of Property Control will not release nor approve an inter-agency transfer without authorization from the Division of Vehicles.

(Source: Amended at 36 Ill. Reg. 2089, effective January 24, 2012)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Placement and Visitation Services

2) Code Citation: 89 Ill. Adm. Code 301

3)

Section Numbers:	Adopted Action:
301.20	Amend
301.80	Amend
301.APPENDIX A	Amend

4) Statutory Authority: Child Care Act of 1969 [225 ILCS 10], the Child Product Safety Act [430 ILCS 125], and the Abused and Neglected Child Reporting Act [325 ILCS 5/3]

5) Effective Date of Rulemaking: January 30, 2012

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: May 20, 2011; 35 Ill. Reg. 7767

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: Other then editing and formatting corrections, no other amendments were made.

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? Yes

Section Number:	Proposed Action:	Illinois Register Citation:
301.20	Amendment	35 Ill. Reg. 8018; May 27, 2011

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

15) Summary and Purpose of Amendments: To comply with the Children and Family Services Act [20 ILCS 505/5(v-1)] and the Adam Walsh Child Protection and Safety Act, the Department is amending Section 301.80, Relative Home Placement, requiring that the relative and all members of the household 17 years of age and older must be fingerprinted within 30 days after initial placement of a relative child for a criminal background check and for the worker to reach a final decision on placement within 90 days.

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

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

Telephone: 217/524-1983
TDD: 217/524-3715
E-Mail: cfpolicy@idcfs.state.il.us

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER a: SERVICE DELIVERY

PART 301
PLACEMENT AND VISITATION SERVICES

Section
301.1 Purpose (Renumbered)
301.2 Definition (Repealed)
301.3 Foster Care Placement Goal (Renumbered)
301.4 Plans to Achieve This Goal (Renumbered)

SUBPART A: PLACEMENT SERVICES

Section
301.10 Purpose
301.20 Definitions
301.30 Introduction
301.40 Legal Authority to Place
301.50 Emergency Placement
301.60 Placement Selection Criteria
301.70 Sibling Placement
301.80 Relative Home Placement
301.90 Foster Family Home Care
301.100 Residential Care
301.110 Care in a Medical/Psychiatric Facility
301.120 Sharing Appropriate Information with the Caregiver
301.130 Medical Examinations for Children in Placement
301.140 Education of Children While in Placement

SUBPART B: VISITATION SERVICES

Section
301.200 Purpose
301.210 Family-Child Visitation
301.220 Sibling Visitation
301.230 Contact Among Siblings Placed Apart

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

301.240 Grandparents Visitation

SUBPART C: FOSTER CARE PLACEMENT GOAL

Section
301.310 Purpose
301.320 Foster Care Placement Goal
301.330 Plans to Achieve This Goal

SUBPART D: FOSTER PARENT/RELATIVE CAREGIVER IDENTIFYING INFORMATION

Section
301.410 Purpose
301.420 Confidentiality of Foster Parent/Relative Caregiver Identifying Information
301.430 Routine Disclosure of Foster Parent/Relative Caregiver Identifying Information
301.440 Specific Disclosure of Foster Parent/Relative Caregiver Identifying Information
301.450 Specific Notice of Disclosure
301.460 Disclosure Prohibited
301.470 Redisclosure Prohibited

301.APPENDIX A Criminal Convictions that~~which~~ Prevent Placement of Children with Relatives

AUTHORITY: Implementing and authorized by the Children and Family Services Act [20 ILCS 505]; Section 3-6-2(g) of the Unified Code of Corrections [730 ILCS 5/3-6-2(g)]; Section 1-103 of the Illinois Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301]; the Adoption Assistance and Child Welfare Act of 1980 (42 USC 670 et seq.); 45 CFR 1356.40 and 1356.41; the Juvenile Court Act of 1987 [705 ILCS 405]; and the Adoption Act [750 ILCS 50]; Adam Walsh Child Protection and Safety Act (42 USC 16911); and the Children and Family Services Act [20 ILCS 505/5(v-1)].

SOURCE: Adopted and codified at 7 Ill. Reg. 881, effective January 12, 1983; amended at 9 Ill. Reg. 9904, effective July 1, 1985; amended at 19 Ill. Reg. 9438, effective July 1, 1995; emergency amendment at 20 Ill. Reg. 3961, effective February 16, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 4602, effective March 15, 1996; amended at 20 Ill. Reg. 9036, effective July 11, 1996; amended at 20 Ill. Reg. 9518, effective July 5, 1996; amended at 21 Ill. Reg. 13580, effective October 1, 1997; amended at 23 Ill. Reg. 13062, effective October 20,

1999; emergency amendment at 24 Ill. Reg. 6427, effective March 27, 2000, for a maximum of 150 days; emergency expired August 23, 2000; amended at 25 Ill. Reg. 841, effective January 5, 2001; amended at 25 Ill. Reg. 11803, effective September 14, 2001; amended at 26 Ill. Reg. 11739, effective August 1, 2002; amended at 34 Ill. Reg. 7898, effective May 31, 2010; amended at 36 Ill. Reg. 2098, effective January 30, 2012.

SUBPART A: PLACEMENT SERVICES

Section 301.20 Definitions

"Administrative case review" or "ACR" means case reviews required by 42 USC~~USCA~~ 675(1) and 20 ILCS 505/6a.

"Biological father" means a man who was not married to the mother when the child was born and who has acknowledged his paternity in open court, or who has signed a statement acknowledging paternity, or who is legally presumed to be the father because he married the child's mother after the child's birth and his name appears on the child's official record of birth, or whose paternity is adjudicated in court. When paternity has been established in the above manner, the relatives of the biological father as well as those of the mother may be considered for the placement of related children.

"Child only standard of need" means the assistance standard for cases in which no adult member is included, as established by the Illinois Department of Human Services in 89 Ill. Adm. Code 111 (Assistance Standards).

"Children for whom the Department is legally responsible" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or children whose parents signed an adoptive surrender or voluntary placement agreement with the Department.

"Contact between siblings", as used in this Part, means telephone and written communication among siblings who are placed apart from one another.

"Department" as used in this Part, means the Department of Children and Family Services.

"Diligent search", as used in this Part, means the efforts used by the Department

to find a joint placement for siblings who must be placed apart from their families. Diligent search is further defined in Section 301.70(c) of this Part.

"Family" means one or more adults and children, related by blood, marriage, civil union or adoption and residing in the same household.

"Father" means a man presumed to be the natural father of a child if:

- *he and the child's natural mother are or have been married to each other, even though the marriage is or could be declared invalid, and the child is born or conceived during such marriage;*

- *after the child's birth, he and the child's natural mother have married each other, even though the marriage is or could be declared invalid, and he is named, with his consent, as the child's father on the child's birth certificate pursuant to Section 12 of the Vital Records Act;*

- *he and the natural mother have signed an acknowledgment of paternity in accordance with rules adopted by the Illinois Department of Healthcare and Family Services~~Public Aid~~ under Section 10-17.7 of the Illinois Public Aid Code* [305 ILCS 5/10-17.7] [750 ILCS 45/5]*; or*

- he and the child's mother have signed a petition to establish the parent and child relationship by consent of the parties in accordance with Section 6 of the Act. (See Sections 5(a)(4) and 6 of the Act [750 ILCS 45/5(a)(4) and 6].)

A man can rebut a presumption of paternity before a court of jurisdiction [750 ILCS 45/5]. Father also means a man who adopts a child or has been determined by court or administrative adjudication to be the child's father.

"Federally-funded foster care" means foster care maintenance payments made in accordance with Title IV-E of the Social Security Act for which federal matching grants are received.

"Final placement decision" means the decision made by the Department, within 90 days after the initial placement of a child with a relative, to leave or remove the child in the relative home based on the evaluation of the results of the criminal

background check of the relative and household members and based on the best interest of the child.

"Foster care payment" means the amount paid by the Department for a child's room, board, clothing, and personal allowance in a licensed foster family home.

"Godparent" is a person who sponsors a child at baptism or one in whom the parents have entrusted a special duty that includes assisting in raising the child if the parent cannot raise the child. The worker shall verify the godparent/godchild relationship by contacting the parents to confirm the fact that they did, in fact, designate the person as the godparent. If the parents are unavailable, the worker should contact other close family members to verify the relationship. If the person is considered to be the child's godparent, in order for placement to occur, the same placement selection criteria as contained in Section 301.60~~89 Ill. Adm. Code 302.60~~ (Placement Selection Criteria) must be met. If the godparent is not a licensed foster parent, all the conditions currently in effect for placement with relatives in Section~~89 Ill. Adm. Code~~ 301.80 must be met.

"Joint placement", in the context of sibling placement, means the siblings are placed in the same substitute care setting.

"LEADS" means Law Enforcement Agency Data System.

"Parents" means the child's legal parents whose parental rights have not been terminated and adoptive parents. Biological fathers are considered legal parents when paternity has been established as required by the definition in this Section.

"Permanency goal" means the desired outcome of intervention and service, which is determined to be consistent with the health, safety, well-being, and best interests of the child. A permanent legal status is usually a component of the permanency goal.

"Permanent family placement" means placement in a foster family home or a relative home that is intended to last until the child reaches age 21 or until the child is capable of self-sufficiency. The Department may retain guardianship of the child or the foster parent or relative may assume guardianship of the child.

"Permanent legal status" means a legally binding relationship between a child and

a family as established by birth or a court of law.

"Placement Clearance Process" means the approval of a child's placement in foster care or unlicensed relative care from the Placement Clearance Unit.

"Region" means Cook County or any of the downstate Department of Children and Family Services regions.

"Relative~~,~~", for purposes of placement of children for whom the Department is legally responsible, *means any person, 21 years of age or over, other than the parent, who:*

- *is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin,* first cousin once removed (children of one's first cousin to oneself)*, second cousin* (children of first cousins are second cousins to each other), *godparent* (as defined in this Section), *great-uncle, or great-aunt, or*

- *is the spouse of such a relative, or*

- *is the child's step-father, step-mother, or adult step-brother or step-sister.*

Relative also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. [20 ILCS 505/7(b)]

"Residential facility", for the purposes of the Aristotle P. Consent Decree, means all non-foster care or relative home care placements.

"Service plan" means a written plan on a form prescribed by the Department in the plan toward the permanency goal for the children required by 42 USC 675(5), 325 ILCS 5/8.2, and 89 Ill. Adm. Code 315 (Permanency Planning).

"Short-term diagnostic placement" means a placement limited to 30 days after the time period deemed clinically necessary to complete the appropriate diagnostic evaluation or treatment, and in no event shall last more than 90 days.

"Siblings" means~~mean~~ children in the custody or guardianship of the Department who have a shared biological or adoptive parent.

"Substitute care" means the care of children who require placement away from their families. Substitute care includes foster family care, care of a child for whom the Department is legally responsible provided in a relative family home, care provided in a group home, and care provided in a child care or other institution.

"Visitation", as used in this Subpart, means face-to-face contact between parents and their children who are in substitute care or among siblings who are placed apart from one another.

"Voluntary placement agreement" means a time-limited written request and consent from a parent, guardian or legal custodian of a child for placement of the child out of the home. When signed by designated Department staff, the Department agrees to provide child welfare services which include placement.

(Source: Amended at 36 Ill. Reg. 2098, effective January 30, 2012)

Section 301.80 Relative Home Placement

a) A child for whom the Department is legally responsible may be placed in the home of a relative when the Department has reason to believe that the relative can safely and adequately care for the child in the absence of formal licensing, including training. In determining whether relative home placement is in the best interests of the child, the placing worker shall consider the child's prior relationship with the relative, the comfort level of the child with the relative, and the extent to which the relative complies with the placement selection criteria of Section 301.60(b).

b) No child under age 18 for whom the Department is legally responsible shall be placed with a relative unless the conditions for placement specified in this Section have been met prior to placement of the child with the relative. Staff of the placing agency shall meet with the relative and ascertain that the relative meets the following conditions for placement and signs an agreement to that effect. The relative:

1) will care for no more than the number of children consistent with the number and ages of children permitted in a licensed foster family home (89 Ill. Adm. Code 402, Licensing Standards for Foster Family Homes);

2) is willing and capable of protecting the children from harm by the parents or any other person whose actions or inactions allegedly threatened the children's safety or well-being as determined by a child abuse or neglect investigation pursuant to the Abused and Neglected Child Reporting Act [325 ILCS 5];

3) agrees not to transfer physical custody of the children to anyone, including parents or other relatives, unless previously authorized in writing by the Department;

4) agrees not to allow the indicated or alleged perpetrators of abuse or neglect to reside in the relative's home unless previously authorized in writing by the Department;

5) agrees to notify the Department of any changes in the household composition;

6) agrees to notify the Department of any change of address prior to moving;

7) agrees to seek the prior written consent of the Department for non-emergency medical, psychological, or psychiatric testing or treatment;

8) agrees to take the children out of state only if previously authorized in writing by the Department;

9) agrees to abide by any conditions or limitations on the parent-child visitation plan;

10) is willing to cooperate with the agency, the children's parents and other resource persons to help develop and achieve the permanency goal recorded in the children's service plan;

11) agrees to adequately supervise the children so they are not left in situations or circumstances which are likely to require judgment or actions greater

than the child's level of maturity, physical condition, and/or mental abilities would reasonably dictate;

12) agrees not to subject the child to corporal punishment, verbal abuse, threats, or derogatory remarks about the child or the child's family; ~~and~~

13) agrees that any and all firearms and ammunition shall be locked up at all times and kept in places inaccessible to children. No firearms possessed in violation of a State or federal law or a local government ordinance shall be present in the home at any time; and~~.~~

14) agrees to sign, and have all members residing in the home age 17 and over sign, an authorization for a criminal background check and agrees to be fingerprinted no later than 30 days after the placement for a final child placement decision.

c) Prior to placement with a relative, staff of the placing agency shall visit the home of the proposed caregiver and shall determine whether the following conditions for placement are met:

1) background checks of the Child Abuse Neglect Tracking System (CANTS) as required by 89 Ill. Adm. Code 385 (Background Checks) and a check of the Statewide Child Sex Offender Registry have been completed on all adult members of the household and children age 13 and over, communicated to the supervising agency prior to placement, and appropriate decisions made. If a report of abuse or neglect exists, staff of the placing agency have made appropriate decisions whether the child should be placed with the relative based on the following considerations:

A) the type of indicated abuse and neglect;

B) the age of the individual at the time of the report;

C) the length of time that has elapsed since the most recent indicated report;

D) the relationship of the report to the ability to care for the related children; and

E) evidence of successful parenting;

2) a check of the Law Enforcement Agency Data System (LEADS) on all adult members of the household and children age 13 and over is completed prior to placement of the related children. If the results of the LEADS check identify prior criminal convictions listed in Appendix A ~~of 89 Ill. Adm. Code 301 (Placement and Visitation Services)~~ for any adult member of the household, children shall not be placed in the relative's home unless a waiver has been granted in accordance with the requirements of Appendix A ~~of this Part~~;

3) the home is free from observable hazards;

4) prescription and non-prescription drugs, dangerous household supplies, and dangerous tools are stored in places inaccessible to children;

5) any and all firearms and ammunition are locked up at all times and kept in places inaccessible to children;

6) basic utilities (water, heat, electricity) are in operation;

7) sleeping arrangements are suitable to the age and sex of the children;

8) meals can be provided daily to the related children in sufficient quantities to meet the children's nutritional needs;

9) supervision of the related children can be assured at all times, including times when the relative is employed or otherwise engaged in activity outside of the home;

10) the relative can provide basic necessities for themselves and their own children;

11) the relative can access health care and provide necessary in-home support for any health care needs of the related children;

12) no member of the household appears to have a communicable disease

that~~which~~ could pose a threat to the health of the related children or an emotional or physical impairment that~~which~~ could affect the ability of the caregiver to provide routine daily care to the related children or to evacuate them safely in an emergency;

13) there is no evidence of current drug or alcohol abuse by any household member as determined by the placing agency's observations and statements provided by the relative;

14) the relative has the ability to contact the agency, if necessary, and the ability to be contacted;

15) the relative has immediate access to a telephone when the related child has medical or other special needs;

16) the relative shall cooperate with the supervising agency's educational and service plan for the child;

17) the relative is able to communicate with the child in the parent's or child's preferred language.

d) Within 90 days after initial placement of a relative child, a final placement decision shall be determined by a supervisor of the placing agency based on the criminal background check results of all persons 17 years and older who are living in the home and based on the best interest of the child.

e~~d~~) Prior to or concurrent with placement in a relative's home, staff of the placing agency shall document, on the form prescribed by the Department, that the conditions for placement prescribed by this Section have been met.

f~~e~~) The supervising agency shall reassess the appropriateness of the relative home placement on an on-going basis and at least prior to each administrative case review or at any point the supervising agency has reason to believe the relative caregiver can no longer safely or adequately care for the children. Appropriateness is determined by the extent to which the home is in compliance with the conditions described in subsections (b) and (c) ~~above~~ and by an evaluation of the continued safety of the children, including an evaluation of any pending criminal charges against any adult members of the household.

g~~f~~) The Department may, after providing notice as required by 89 Ill. Adm. Code 337 (Service Appeal Process), move the child to another placement if the Department determines, based on the consideration and assessment of the safety and well-being of the child, the child's permanency goal, and the best interests or special needs of the child, that an alternative placement is necessary.

h~~g~~) Only placements in licensed foster family homes receive the foster care payment rate. Relatives who care for children for whom the Department is legally responsible may, but need not, apply for licensure as a foster family home in accordance with the requirements of 89 Ill. Adm. Code 402 (Licensing Standards for Foster Family Homes). When a relative is licensed under Part 402, the relative will receive the established foster care payment rate appropriate for the number and ages of foster children placed in care. Relatives who are unlicensed receive the child only standard of need.

(Source: Amended at 36 Ill. Reg. 2098, effective January 30, 2012)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section 301.APPENDIX A Criminal Convictions that~~which~~ Prevent Placement of Children with Relatives

a) Children for whom the Department of Children and Family Services is legally responsible shall not be placed with a relative, as defined in this Part, or allowed to remain in the home of a relative if the relative caregiver or any adult member of the household has been convicted of committing any of the following crimes, except as allowed via a waiver process under subsections (b) and (c)~~below~~.

1) Homicide

Murder*

Solicitation of murder*

Solicitation of murder for hire*

Intentional homicide of an unborn child*

Voluntary manslaughter of an unborn child*

Involuntary manslaughter*

Reckless homicide*

Concealment of a homicidal death*

Involuntary manslaughter of an unborn child*

Reckless homicide of an unborn child*

Drug induced homicide*

2) Sex Offenses

Child pornography*

Exploitation of a child*

Sexual exploitation of a child*

Obscenity

Harmful materials

Tie in sales of obscene publications to distributors

Indecent solicitation of a child*

Indecent solicitation of an adult

Public indecency

Sexual relations within families*

Prostitution

Soliciting for a prostitute

Soliciting for a juvenile prostitute*

Solicitation of a sexual act

Pandering

Keeping a place of prostitution*

Keeping a place of juvenile prostitution*

Patronizing a prostitute

Patronizing a juvenile prostitute*

Pimping

Juvenile pimping*

3) Kidnapping and Related Offenses

Kidnapping

Aggravated unlawful restraint

Forcible detention

Aiding and abetting child abduction*

Aggravated kidnapping

Child abduction*

4) Bodily Harm

Aggravated battery of a child*

Criminal sexual assault*

Aggravated criminal sexual assault*

Predatory criminal sexual assault of a child*

Criminal sexual abuse*

Aggravated sexual abuse*

Heinous battery*

Aggravated battery with a firearm

Tampering with food, drugs, or cosmetics

Drug-induced infliction of great bodily harm

Aggravated stalking

Home invasion

Vehicular invasion

Criminal transmission of HIV

Criminal neglect of an elderly or disabled person

Child abandonment*

Endangering the life or health of a child*

Ritual mutilation

Ritualized abuse of a child*

Any violation of the Methamphetamine Control and Community Protection Act [720 ILCS 646].

5) An offense in any other state the elements of which are similar and bear a substantial relationship to any of the ~~foregoing~~ offenses listed in this subsection (a).

b) If the relative caregiver or any adult member of the household has been convicted of one of the crimes in subsections (a)(1) through~~or~~ (5) ~~above~~ marked by an asterisk, any request for a waiver must be submitted in writing to the Director of the Department for his or her personal approval. The supervising agency shall submit the following information along with the request for waiver of the criminal convictions~~conviction(s)~~.

1) the age of the individual at the time of the convictions~~conviction(s)~~;

2) the length of time that has elapsed since the last conviction~~conviction(s)~~;

3) the relationship of the crime and the capacity to care for related children;

4) evidence of rehabilitation; and

5) opinions of community members concerning the individual in question.

c) If the relative caregiver or~~of~~ any adult member of the household has been convicted of one of the crimes identified in subsections (a)(1) through (5) ~~above~~ not marked by an asterisk, related children for whom the Department~~DCFS~~ is legally responsible shall not be placed in or continue to remain in the relative caregiver's household unless a waiver of this prior criminal history has been granted in accordance with the requirements of this subsection. The Director of the Department shall designate specific Department employees who have the authority to grant these~~such~~ waivers on a 24 hour per day basis. When the supervising agency believes that there have been extraordinary circumstances surrounding the criminal history or the convicted persons~~person(s)~~ has been successfully rehabilitated and placement in the relative's household is in the best interests of the children, the supervising agency may request a waiver of this prior criminal history by asking the Department to consider the factors in subsection (b) ~~above~~. These~~Such~~ requests may be made orally, but must be confirmed in writing. The Department's decision with regard to the request for a waiver shall be documented in writing and included in the child's case record.

(Source: Amended at 36 Ill. Reg. 2098, effective January 30, 2012)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED REPEALER

1) Heading of the Part: Intercountry Adoption Services

2) Code Citation: 89 Ill. Adm. Code 333

3)

Section Numbers:	Adopted Action:
333.1	Repealed
333.2	Repealed
333.3	Repealed
333.4	Repealed
333.5	Repealed
333.6	Repealed

4) Statutory Authority: 20 ILCS 505

5) Effective Date of Repealer: January 30, 2012

6) Does this repealer contain an automatic repeal date? No

7) Does this replealer contain and incorporation by reference? No

8) A copy of the adopted repealer, including material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposed Repealer Published in the Illinois Register: May 20, 2011; 35 Ill. Reg. 7786

10) Has JCAR issued a Statement of Objection to this repealer? 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 repealer replace any emergency repealer currently in effect? No

14) Are there any amendments pending on this Part? No

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED REPEALER

15) Summary and Purpose of Repealer: This Part is being repealed and replaced with new rules for Part 333, which are adopted in this issue of the Register.

15) Information and questions regarding this adopted repealer shall be directed 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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED RULES

1) Heading of the Part: Intercountry Adoption Services

2) Code Citation: 89 III. Adm. Code 333

3)

Section Numbers:	Adopted Action:
333.10	New
333.20	New
333.30	New
333.40	New
333.50	New
333.60	New
333.70	New
333.80	New
333.90	New
333.APPENDIX A	New

4) Statutory Authority: Child Care Act of 1969 [225 ILCS 10], Children and Family Services Act [20 ILCS 505], Interstate Compact on the Placement of Children Act [45 ILCS 15] and Adoption Act [750 ILCS 50] and implementing the Immigration and Nationality Act of 1952 (8 USC 1101 et seq.) and the Intercountry Adoption Act of 2000 (42 USC 14901-14952)

5) Effective Date of Rulemaking: January 30, 2012

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 rulemaking, including any material incorporated reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: May 20, 2011; 35 Ill. Reg. 7794

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: No changes were made.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED RULES

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 amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: For clarity in implementing the provisions of the Intercountry Adoption Act of 2000 and current practice, all Sections of this Part are being repealed in another rulemaking in this issue of the Register and new Sections codified in this rulemaking.

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

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

Telephone: 217/524-1983
TDD: 217/24-3715
E-Mail: cfpolicy@idcfs.state.il.us

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED RULES

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

PART 333
INTERCOUNTRY ADOPTION SERVICES

Section
333.10 Purpose
333.20 Definitions
333.30 Requirements of Child Placing Agencies
333.40 Illinois Pre-Adoption Requirements
333.50 Illinois Post-Adoption Requirements
333.60 Guardianship
333.70 Intercountry Adoption Coordinator Services
333.80 Adoption Home Study Services
333.90 Requirements for Adoption of Children Emigrating from the United States
333.APPENDIX A Minimum Requirements of Adoptive Homes

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10], the Children and Family Services Act [20 ILCS 505], the Interstate Compact on the Placement of Children Act [45 ILCS 15] and the Adoption Act [750 ILCS 50] and implementing the Immigration and Nationality Act of 1952 (8 USC 1101 et seq.) and the Intercountry Adoption Act of 2000 (42 USC 14901-14952).

SOURCE: Adopted and codified at 6 Ill. Reg. 14513, effective November 22, 1982; old Part repealed at 36 Ill. Reg. 2117, and new Part adopted at 36 Ill. Reg. 2119, effective January 30, 2012.

Section 333.10 Purpose

The purpose of this Part is to establish appropriate jurisdictional responsibility for intercountry adoptive placements, to outline the requirements of the intercountry adoption process, and to ensure that children from a foreign country who are being placed for adoption in Illinois receive the same rights and protections during an adoptive placement as children who are born in this country. This Part also sets out the requirements for the adoption of children born in the United States or permanent residents of the United States by a resident of a foreign country.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED RULES

Section 333.20 Definitions

"Accredited agency" or "Hague accredited agency" means an adoption agency accredited by the entity designated by the federal government to provide adoption services in the United States for cases subject to the Hague Intercountry Adoption Convention.

"Adoption disruption" occurs when an adoptive placement does not prove successful and it becomes necessary for the child to be removed from placement before the adoption is finalized.

"Adoption services" includes any one or more of the following services performed for any type of compensation or thing of value, directly or indirectly:

arranging for the placement of or placing out a child,

identifying a child for adoption,

matching adoptive parents with biological parents,

arranging or facilitating an adoption,

taking or acknowledging consents or surrenders for termination of parental rights for purposes of adoption, as defined in the Adoption Act,

performing background studies on a child or adoptive parents,

making determinations of the best interests of a child and the appropriateness of adoptive placement for the child, or

post-placement monitoring of a child prior to adoption.

"Adoption services" does not include the following:

the provision of legal services by a licensed attorney for which the attorney must be licensed as an attorney under Illinois law,

adoption-related services performed by public governmental entities or entities or persons performing investigations by court appointment as described in subsection A of Section 6 of the Adoption Act,

prospective biological parents or adoptive parents operating on their own behalf,

the provision of general education and training on adoption-related topics, or

post-adoption services, including supportive services to families to promote the well-being of members of adoptive families or birth families. [225 ILCS 10/2.24]

"Agency in good standing" means a licensed child welfare agency (see 89 Ill. Adm. Code 401) with no substantiated licensing violations.

"Background check", for prospective foster and adoptive parents, means:

A criminal history check of persons age 17 and over whose fingerprints are submitted to the Illinois State Police and the Federal Bureau of Investigation (FBI) for comparison to their criminal history records or the National Crime Information Center (NCIC) database, when applicable, for prospective foster and adoptive parents; and

A check of the Child Abuse and Neglect Tracking System (CANTS) and other state child protection systems, or the National Sex Offenders Registry, as appropriate, to determine whether an individual is currently alleged or has been indicated as a perpetrator of child abuse or neglect; and

A check of the Illinois Sex Offender Registry and the National Sex Offenders Registry, as appropriate.

"Convention" or "Hague" means the Hague Adoption Convention.

"Convention adoption" means an adoption of a child who is a resident of a foreign country that is a party to the Convention by a United States Citizen or an adoption

of a child who is a resident of the United States by an individual residing in another Convention country.

"Convention agency" means an agency that has been accredited on a national level to provide adoption services in Convention adoption cases (currently, COA).

"Convention country" means a country that is a party to the Hague Adoption Convention.

"Department" means the Illinois Department of Children and Family Services.

"Exempt provider" means a social worker professional or organization that performs home studies. Exempt providers are not required to be accredited; however, the home study performed by an exempt provider shall be approved by an accredited agency.

"Foreign placing agency" means an agency or individual operating in a country or territory outside the United States that is authorized by its country to place children for adoption either directly with families in the United States or through U.S.-based international agencies.

"Home study" means a document attesting that the home has been evaluated by an approved agency/entity in accordance with requirements set out in Section 333.80.

"Home study revalidation" means the review and approval of an adoptive home study that is 12 months old or more and adheres to this Part and 8 CFR 204.311 (2011).

"Illinois placing agency" means a child welfare agency licensed in Illinois and operating in Illinois as an adoption agency or placing agency.

"Intercountry adoption" means a process by which a child from a country other than the United States is adopted by a U.S. resident.

"Intercountry Adoption Coordinator" means a staff person of the Department appointed by the Director to coordinate the provision of services by the public and private sector to prospective parents of foreign-born children, and to coordinate

and approve the adoption of children born in the United States by a resident of a foreign country.

"Interstate Compact on the Placement of Children" means a law enacted by most states for the purpose of establishing uniform procedures for handling the interstate placement of children in foster homes, adoptive homes or other child care facilities.

"Investigative report" means a report about a prospective adoptive family that adheres to the Adoption Act submitted to the court with jurisdiction over an adoption proceeding.

"Non-Compact State" means a state or U.S. territory that has not enacted the Interstate Compact on the Placement of Children.

"Non-Convention adoption" means an adoption by a U.S. citizen of a child who is a resident of a foreign country that is not a party to the Convention.

"Placing agency" means both Illinois placing agencies and foreign placing agencies as defined in this Section.

"Post-adoption report" means a written report compiled after the adoption has been finalized that complies with the State requirements regarding the number of post-adoption home visits that must be conducted.

"Post-adoption supervision" means an in-person contact by the placing agency with an adopted child and the family that has adopted the child after an adoption has occurred in a foreign country to meet the requirements of a foreign county.

"Post-placement report" means a written report generated as a result of in-person contact by the supervising agency with a family and child after the family has been granted legal custody and/or guardianship.

"Pre-adoption requirements" means any conditions established by the laws and/or regulations of the federal government or the State that must be met prior to the placement of a child in an adoptive home.

Section 333.30 Requirements of Child Placing Agencies

a) In order to place a foreign born child in the United States for the purpose of adoption or to provide adoption services:

1) An Illinois placing agency shall be a Hague accredited agency or acting under the responsibility and supervision of a Hague accredited agency.

2) An out-of-state Convention adoption agency shall be licensed/certified as a placing agency by the state in which it is located and shall comply with the Interstate Compact on the Placement of Children Act [45 ILCS 15] and shall be Hague accredited.

3) An out-of-state non-Convention adoption agency shall be licensed/certified as a placing agency by the state in which it is located and shall comply with the Interstate Compact on the Placement of Children Act.

4) All foreign placing agencies that intend to place a child for adoption in Illinois shall, upon request, submit to the Intercountry Adoption Coordinator a copy of their license/certification or court documents that authorize the agency to place children for adoption.

5) An Illinois placing agency shall inform the Department of all countries in which the agency has an adoption program. The agency shall provide supporting documentation to show approval or accreditation of adoption services in those countries.

b) Any placing agency shall not, in policy or practice, discriminate against any child or prospective adoptive parents on the basis of race.

c) All agencies, in adoption cases subject to the federal Intercountry Adoption Act (42 USC 14901-14952), shall be Hague accredited agencies or under the supervision of a Hague accredited agency, or be an exempt provider.

d) Any placing agency shall give due consideration to a home study performed in accordance with Section 333.80 by a Hague accredited agency or Hague exempt agency as long as the agency is in compliance with 89 Ill. Adm. Code 401 (Licensing Standards for Child Welfare Agencies).

Section 333.40 Illinois Pre-Adoption Requirements

a) When a foreign-born child is brought to Illinois for finalization of an adoption, the following pre-adoption requirements shall be met:

1) The Department shall authorize a placing agency to place in Illinois.

2) The placing agency shall secure and submit documentation that the child is legally free for adoption prior to entry into the United States that also includes:

A) A medical report on the child by a licensed or certified medical provider from the country of the child's origin;

B) The foster family home license of the adoptive family issued by the Department pursuant to the Child Care Act of 1969; and

C) A home study conducted by a licensed child welfare agency that is in compliance with Section 333.80.

b) When a foreign-born child is brought to the United States by the placing agency and the adoption has not been finalized in a foreign country, the agency responsible for post-adoption services shall submit a copy of the Order of Adoption to the Intercountry Adoption Coordinator within 30 days after finalization of the adoption.

Section 333.50 Illinois Post-Adoption Requirements

The adoptive family shall indicate its agreement in writing to make themselves available to the supervising agency for interviews, observations and post-placement visits, in a manner that is consistent with the supervising agency's policies and procedures.

Section 333.60 Guardianship

The prospective adoptive parents may be named legal guardians or custodians of the child. When prospective adoptive parents are named legal guardians or custodians by a foreign court, the parents shall file an adoption petition within 30 days after the child's entry into the United

States requesting, as part of the interim order, that the Illinois court recognize their guardianship and appoint a guardian ad litem when applicable, with the power to consent to adopt as provided by the Adoption Act.

Section 333.70 Intercountry Adoption Coordinator Services

The Intercountry Adoption Coordinator shall coordinate the provision of services for intercountry adoptions by:

a) Providing authorization to child placing agencies meeting the Illinois requirements for adoptive placements of children immigrating to or emigrating from the United States.

b) Notifying the United States Citizenship and Immigration Services (USCIS) when prospective adoptive parents have complied with the Illinois pre-adoption requirements and/or completed a valid home study by a properly licensed child welfare agency.

c) Notifying the Department's licensing representative when an adoption agency or adoption service closes or is aware of a violation of licensing standards as required in 89 Ill. Adm. Code 401.590 (Adoption Agency Information and Complaint Registry).

d) When the Intercountry Adoption Coordinator has denied an adoption, a new application by a prospective adoptive parent for adoption approval may be filed not sooner than 12 months from the date of denial.

Section 333.80 Adoption Home Study Services

a) A home study shall be completed by a child welfare agency licensed in Illinois and meet the requirements of the Department and the federal Department of Homeland Security (8 CFR 204, Immigrant Petitions (2011)).

b) The Department shall consider a home study to be valid for a maximum period of 12 months from the date of the completion of the home study. Home studies shall also meet the requirements of USCIS. A home study revalidation shall be required when the home study is more than 12 months old and a child has not

been placed. A copy of the revalidation shall be forwarded to the Intercountry Adoption Coordinator.

c) An adoption home study shall consist of:

1) A factual evaluation of the financial, physical and mental suitability of the prospective parent or parents to raise and educate the child properly;

2) Background check results, including a statement as to whether the prospective adoptive parent or parents have a history of substance abuse, child abuse, domestic violence, criminal convictions and/or arrest history, physical or sexual abuse, either as a victim or perpetrator, even if the incident did not result in an arrest or conviction;

3) A statement indicating whether the prospective adoptive parents have ever voluntarily surrendered parental rights or had parental rights involuntarily terminated, including the circumstances;

4) A detailed description of the living accommodations where the prospective parent or parents currently reside that meets the minimum standards of Appendix A;

5) A statement on the motivation for adoption;

6) Documentation of pre-adoptive training;

7) Characteristics of the children who the prospective adoptive parent would be qualified to adopt; and

8) The home study shall be signed and dated by a home study worker who has conducted the home study and the worker's supervisor.

d) Pre-Adoption Requirements
In addition to complying with Section 333.40, the child welfare agency that completes the adoptive home study shall:

1) Offer to provide adoption preservation services or refer families for appropriate services in their community;

2) Obtain a written agreement from the adoptive parents for regular post-adoption visits to take place as required by the State of Illinois, placement agency or country of origin.

e) Post-Placement Requirements
In addition to complying with Section 333.40, the child welfare agency that completes the adoptive home study shall:

1) Submit post-placement or post-adoption reports to the Intercountry Adoption Coordinator within 30 days after the child's immigration to the US;

2) Provide post-placement services until the adoption has been finalized;

3) Complete post-placement reports as required by Section 6 of the Adoption Act; and

4) Complete the investigative report for the adoption as required by the court (see 750 ILCS 50/6).

Section 333.90 Requirements for Adoption of Children Emigrating from the United States

a) An Illinois placing agency shall:

1) Be licensed as a child welfare agency in Illinois;

2) Be Hague accredited; and

3) Obtain prior written approval from the Department's Intercountry Adoption Coordinator to place a child for adoption in a foreign country.

b) Pre-placement Requirements in Outgoing Adoptions

1) The agency shall have written procedures to ensure the safe transportation of the child or transfer of the child if the child is in the company of the adoptive parents or the prospective adoptive parents.

2) The agency shall identify the entity in the receiving country that will provide post-placement supervision and reports and ensure that the child's adoption record contains the information necessary for contacting that entity.

3) The placement agency shall arrange post-placement supervision and/or other support services as required until legal adoption has been achieved, the minor has been returned to the United States, or an alternate adoption plan has been developed.

4) The agency shall obtain a written agreement from the adoptive parents to participate in the post-adoption visits that will take place.

c) Placement Requirements
In the case of a Convention adoption or Non-Convention Adoption involving the emigration of a child residing in the United States to a foreign country, the accredited agency shall do the following prior to placement:

1) Complete and provide to the Department a social study/medical history on the child;

2) Provide documentation that the child is legally available for adoption;

3) Document that a home study report on the prospective adoptive parents has been prepared in accordance with the laws of the receiving country and that the study includes a background check of the prospective adoptive parents;

4) Provide documentation that an Illinois court order granted transfer of custody of the child in adoption.

d) Post-placement Requirements Prior to the Finalization of an Adoption
The agency responsible for post-adoption services shall:

1) Visit the children in the agency's care at least once every 30 days and discuss their wellbeing and concerns. No less than half of the visits shall be conducted in the home where the child resides; and

2) Assess the safety in the pre-adoptive home.

e) Retention of Jurisdiction

1) The Illinois placing agency shall retain jurisdiction over the child to determine all matters related to custody, supervision and care of the child and the final status of the case. This includes situations in which the adoption is disrupted and the agency regains custody of the child and finds an alternative adoptive family for the child. This jurisdiction shall also include the authority to effect or cause the return of the child to the United States or the child's transfer to another location.

2) When applicable, the Illinois placing agency shall retain legal and financial responsibility for the child during the period of placement prior to adoption finalization.

f) An agency found to be in violation of specific conditions of this Part may be subject to civil or criminal penalties.

Section 333. APPENDIX A Minimum Requirements of Adoptive Homes

a) An adoptive home located in Illinois shall be clean, well ventilated, free from observable hazards, properly lighted and heated, and free of fire hazards.

b) The water supply of the adoptive family home shall comply with the requirements of the local health department and the Illinois Department of Public Health. If the adoptive family home accepts children under age 10 or who are developmentally disabled, the maximum hot water temperature from all showers and bathtubs shall be no more than 115° Fahrenheit. If well water is used, a copy of the Inspection Report and Compliance with Regulations shall be on file with the supervising agency.

c) Water Hazards Protection

1) All in-ground swimming pools located in areas accessible to children shall be fenced. The fence shall be at least 5 feet in height and secured by a locked gate.

2) All above-ground pools shall have non-climbable sidewalls that are at least 4 feet high or shall be enclosed with a 5-foot fence that is at least 36 inches away from the pool's side wall and secured with a locked gate. When the pool is not in use, the pool's steps shall be removed or the pool shall be otherwise protected to insure the pool cannot be accessed.

3) Any hot tub not enclosed with a 5-foot fence shall have a securely locked cover.

4) Any portable wading pool not enclosed with a 5-foot fence shall be emptied daily.

5) Adoptive parents residing in homes with pools, hot tubs, ponds, outdoor fountains, decorative water ponds, fishponds, or the like must have current CPR certification.

d) Portable space heaters may be used as a supplementary source of heat if they have an Underwriters Laboratories sticker attached and are used in accordance with local and State building and fire codes. Portable space heaters may not be used in

rooms where children are sleeping. Portable and fixed space heaters in areas occupied by children shall be separated by fire resistant partitions or barriers to prevent contact with the heater.

e) Dangerous household supplies and dangerous tools shall be kept in a safe place inaccessible to children under 12 years of age. These items shall remain inaccessible to children during disposal.

f) When not being dispensed or immediately accessible due to medical necessity, prescription and nonprescription drugs shall be kept in places that are not readily accessible to children under 12 years of age. Expired or unused medications, syringes, medical waste or medication shall remain inaccessible to children during disposal.

g) Any and all firearms and ammunition shall be locked up at all times and kept in places inaccessible to children. No firearms possessed in violation of a State or federal law or a local government ordinance shall be present in the home at any time. Loaded guns shall not be kept in an adoptive home unless required by law enforcement officers and in accordance with their law enforcement agency's safety procedures.

h) The adoptive home shall comply with all requirements of the State laws and municipal codes for household pets. Certificates of inoculation for rabies shall be available for inspection.

i) The adoptive home shall have an operating telephone on the premises unless the supervising agency has approved a written plan detailing immediate and unrestricted access to a telephone.

j) The adoptive home shall be equipped with a minimum of one approved smoke detector in operating condition on every floor level, including basements and occupied attics, in accordance with Section 3 of the Smoke Detector Act [425 ILCS 60].

k) An adoptive home that is not exempted by Section 20 of the Carbon Monoxide Alarm Detector Act [430 ILCS 135] shall be equipped with a minimum of one approved carbon monoxide detector within 15 feet of every sleeping room, in accordance with Section 10 of that Act.

l) Adequate closet and dresser space comparable to that provided to the other children of the household shall be provided for each adoptive child to accommodate personal belongings.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Background Checks

2) Code Citation: 89 III. Adm. Code 385

3)

Section Numbers:	Adopted Action:
385.10	Amend
385.20	Amend
385.30	Amend
385.APPENDIX A	Amend

4) Statutory Authority: The Child Care Act of 1969 [225 ILCS 10]; Section 5(a)(3)(A) and (F) and (v) of the Children and Family Services Act [20 ILCS 505/5(a)(3)(A) and (F) and (v) and (v-1)]; and Section 55a(34) of the Civil Administrative Code [20 ILCS 2605/55a(34)]; Adam Walsh Child Protection and Safety Act (P.L. 109-248)

5) Effective Date of Amendments: January 30, 2012

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: May 20, 2011; 35 Ill. Reg. 7835

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: Other then editing and formatting corrections, no other amendments were made.

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

15) Summary and Purpose of Rulemaking: The Adam Walsh Child Protection and Safety Act and Section v-1 of the Children and Family Services Act require the following amendments:

A) Previous amendments to Part 385 neglected to amend Section 385.30 to clarify that all applicants for a foster family home license shall be subject to a criminal background check. Therefore, this rulemaking provides that.

B) Relatives and all members of the household 17 years and older must be fingerprinted within 30 days after initial placement of a relative child for a criminal background check and for the worker to reach a final decision of placement within 90 days.

The Department is also amending Appendix A, Criminal Convictions, to provide the same waiver provisions granted to relatives in Section 7 of the Children and Family Services Act [20 ILCS 505/7] that were based on Law Enforcement Agency Data Systems (LEADS) check findings only and to update the criminal conviction list by adding "any violation of the Methamphetamine Control and Community Protection Act" as stated in the Child Care Act.

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

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Department of Children and Family Services
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The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER d: LICENSING ADMINISTRATION

PART 385
BACKGROUND CHECKS

Section
385.10 Purpose
385.20 Definitions
385.30 Applicability of This Part
385.40 Authorization for Background Checks
385.50 Child Abuse or Child Neglect
385.60 Criminal Convictions and Pending Criminal Charges
385.70 Disposition of Background Checks
385.80 Appeal of Decision to Deny License or Permit Based on Background Check Information
385.90 Records to be Maintained by the Child Care Facility
385.100 Confidentiality of Background Check Information
385.110 Severability of This Part
385.APPENDIX A Criminal Convictions Preventing Licensure, Employment, ~~or~~ Residence in a Family Home in Which a Child Care Facility Operates, or Placement with Relatives
385.APPENDIX B Matrix of Persons Subject to Background Checks Under Part 385

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10]; Section 5(a)(3)(A) and (F) and (v) of the Children and Family Services Act [20 ILCS 505/5(a)(3)(A) and (F) and (v)]; and Section 55a(34) of the Civil Administrative Code [20 ILCS 2605/55a(34)] Adam Walsh Child Protection and Safety Act (42 USC 16911).

SOURCE: Emergency rules adopted at 10 Ill. Reg. 19123, effective October 29, 1986, for a maximum of 150 days; adopted at 11 Ill. Reg. 6398, effective March 31, 1987; amended at 13 Ill. Reg. 5917, effective May 1, 1989; emergency amendment at 20 Ill. Reg. 3930, effective March 1, 1996, for a maximum of 150 days; modified in response to Joint Committee on Administrative Rules objection at 20 Ill. Reg. 5712; emergency expired July 28, 1996; amended at 21 Ill. Reg. 4444, effective April 1, 1997; emergency amendment at 28 Ill. Reg. 1167, effective January 1, 2004, for a maximum of 150 days; emergency expired May 29, 2004; amended at 28 Ill. Reg.

13432, effective September 30, 2004; amended at 33 Ill. Reg. 4117, effective February 27, 2009; amended at 36 Ill. Reg. 2136, effective January 30, 2012.

Section 385.10 Purpose

a) The purpose of this Part is to ensure the safety and well being of children cared for in an unlicensed relative home or in any facility subject to licensing by the Department of Children and Family Services by requiring that the operators of child care facilities and other persons subject to background checks, as defined in Section 385.20, be screened for a history of child abuse or child neglect, prior criminal convictions or pending criminal charges.

b) Each owner of a for-profit child care facility is required to certify, under penalty of perjury on a form provided by the Department, that he or she is current or not more than 30 days delinquent in complying with a court order for child support.

c) In addition, the Department may require service providers who have access to children as part of their duties to authorize a background check, as required by 89 Ill. Adm. Code 357~~,~~ (Purchase of Service).

(Source: Amended at 36 Ill. Reg. 2136, effective January 30, 2012)

Section 385.20 Definitions

"Access to children" means a child care facility employee's duties require that the employee be present in a licensed child care facility during the hours that children are present in the facility. In addition, any person who is permitted to be alone outside the visual and auditory supervision of facility staff with children receiving care in a licensed child care facility is subject to the background check requirements of this Part.

"Adult" means any person who is 18 years of age or older.

"Assistant" or "child care assistant" means a person who assists a licensed home caregiver in the operation of the day care home, group day care home, or foster family home.

"Authorization for background check" means a complete, signed form prescribed

by the Department which authorizes a background check as defined in this Part and submission of fingerprints, if required. An authorization for a background check may be used for the initial and all subsequent background checks required to determine compliance with the requirements of this Part.

"Background check" means:

a criminal history check via fingerprints of persons age 17 and over that are submitted to the Illinois State Police and the Federal Bureau of Investigation (FBI) for comparison to their criminal history records or the National Crime Information Database (NCID) when applicable for prospective foster and adoptive parents; and

a check of the Child Abuse and Neglect Tracking System (CANTS/SACWIS) and other state child protection systems, or the National Registry, as appropriate, to determine whether an individual is currently alleged or has been indicated as a perpetrator of child abuse or neglect; and

a check of the Illinois Sex Offender Registry and the National Sex Offenders Registry, as appropriate.

"CANTS" means the Child Abuse and Neglect Tracking System operated and maintained by the Illinois Department of Children and Family Services. This system is being replaced by the Statewide Automated Child Welfare Information System (SACWIS).

"Child" means any person under 18 years of age. (Section 2.01 of the Child Care Act of 1969 [225 ILCS 10/2.01])

"Child care facility" means any person, group of persons, agency, association or organization, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody, in any facility as defined in the Child Care Act of 1969, established and maintained for the care of children. "Child care facility" includes a relative who is licensed or who applies for a license as a foster family home under Section 4 of the Child Care Act of 1969. (Section 2.05 of the Child Care Act of 1969) A child

care facility also means those described in the Child Care Act, including but not limited to any child care institution, maternity center, child welfare agency, day care center, day care agency, group home, foster family home, day care home, group day care home, partially exempt secure child care facility or youth emergency shelter ~~(Section 2.05 of the Child Care Act of 1969)~~.

"Conditional employee" means an individual (including any substitute or assistant) who has applied for and been conditionally selected to perform child care functions or administrative, professional, or support functions that allow access to children and who has commenced such duties while awaiting the results of the background check required by this Part.

"Conviction" means a judgment of conviction or sentence entered upon a plea of guilty or upon a verdict or finding of guilty of an offense, rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury. (Section 2-5 of the Criminal Code of 1961 [720 ILCS 5/2-5])

"Date of notice" means the date of the written notice to a license holder that all persons subject to background checks, as defined in this Section, must authorize such checks and submit to fingerprinting, if required.

"Denial of application for license" means the refusal to grant a license or permit to a person, group of persons, agency, association or organization that applied for a license to operate a child care facility.

"Department" means the Illinois Department of Children and Family Services. (Section 2.02 of the Child Care Act of 1969)

"Director" means the Director of the Illinois Department of Children and Family Services.

"Employee" means any staff person employed by a child care facility, and includes any substitute or assistant. This definition includes administrative, professional and other support staff who have access to children.

"Final placement decision" means the decision made by the Department, within 90 days after the initial placement of a child with a relative, to leave or remove the child in the relative home based on the evaluation of the results of the criminal

background check of the relative and household members and based on the best interests of the child.

"Governing body" means the board of directors of a corporation; otherwise, the term means the owners or other persons, agency, association or organization legally responsible for the operation of the child care facility.

"Illinois Sex Offender Registry" means the registry of any person convicted of a felony sex crime or an attempt to commit a felony sex crime operated and maintained by the Illinois State Police.

"License" means a document issued by the Department that authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Child Care Act of 1969.

"License applicant" means, for purposes of background checks, *the operator or person with direct responsibility for daily operation of the facility to be licensed.* (Section 4.4 of the Child Care Act of 1969)

“Licensing entity” means the Department or a supervising agency recommending the license or processing the employment application.

"Licensing representative" means persons authorized by the Department under the Child Care Act of 1969 to examine facilities for licensure.

"Member of the household" means a person who resides in a family home as evidenced by factors, including, but not limited to, maintaining clothing and personal effects at the household address, or receiving mail at the household address, or using identification with the household address.

"Minor traffic violation" means a traffic violation under the laws of the State of Illinois or any municipal authority therein or another state or municipal authority which is punishable solely as a petty offense. (Section 6-601 of the Illinois Driver Licensing Law [625 ILCS 5/6-601])

"Multi-function agency" means an agency, association, or other organization that operates a child care facility, child welfare agency, or day care agency in addition to other services not subject to licensure under the Child Care Act of 1969. A

child care facility, child welfare agency, or day care agency may consist of distinct units, divisions, or departments of a multi-function agency. In a multi-function agency, only the persons with direct authority for the operations of the child care facility and those who have access to children, as defined in this Section, are subject to the background check requirements of this Part.

"National Crime Information Database" or "NCID" means the National Crime Information Center and its incorporated criminal history databases.

"National Registry" means an electronic national registry of substantiated cases of child abuse and neglect supplied by the states, created by the Secretary of Health and Human Services in consultation with the Attorney General.

"National Sex Offender Registry" means an electronic national registry, operated and maintained by the United States Department of Justice, of any person convicted of a felony sex crime or an attempt to commit a felony sex crime in any state.

"Operator" means any person responsible for the day-to-day management of the child facility.

"Parental involvement" means parental assistance with a child care program such as participation in field trips, parties, attendance on special days for special events, or parental support and cooperation in the classroom.

"Persons subject to background checks" means:

the operators of the child care facility;

all current and conditional employees of the child care facility;

any person who is used to replace or supplement staff;

any person who has access to children, as defined in this Section; and

any person who provides services that allow unsupervised access to children if the requirement for background checks is a condition of a contract or agreement or is required otherwise under 89 Ill. Adm. Code

357 (Purchase of Service).

If the child care facility operates in a family home, the license applicants and all members of the household age 13 and over are subject to background checks, as appropriate, even if these members of the household are not usually present in the home during the hours the child care facility is in operation.

For a final placement decision in a relative home, the relative and all members of the household age 17 and over are subject to criminal background checks (see 20 ILCS 505/5(v-1)).

"Replacement or supplemental staff" means any paid or unpaid individual who is used to perform essential staff duties as evidenced by being counted in the staff-child ratio or being allowed to be alone with children in a licensed child care facility outside the visual or auditory supervision of facility staff.

"SACWIS" means the Statewide Automated Child Welfare Information System operated by the Illinois Department of Children and Family Services, replacing the CANTS system.

"Seasonal child care program" means a child care facility that operates a seasonal program, such as summer-only or migrant Head Start program, that is subject to licensing by the Department.

"State Central Register" means the child abuse and neglect data system maintained by the Department pursuant to the Abused and Neglected Child Reporting Act [325 ILCS 40].

"Substitute" means a permanent or temporary employee who is used to replace or supplement regular staff.

"Supervising agency" means a licensed child welfare agency, a licensed day care agency, a license exempt agency, or the Department.

(Source: Amended at 36 Ill. Reg. 2136, effective January 30, 2012)

Section 385.30 Applicability of This Part

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

a) Applicability
All licensed child care facilities shall submit completed, signed authorizations for background checks for all persons subject to background checks as defined in Section 385.20.

b) License Renewals
A child care facility license shall not be renewed until the results of the background check (CANTS/SACWIS, Illinois Sex Offender Registry, and criminal history) have been received for the operator of the child care facility. However, if complete, signed authorizations have been submitted and fingerprints obtained for all persons subject to background checks, as defined in Section 385.20, and a check of the CANTS/SACWIS and Illinois Sex Offender Registry is completed, renewal of the license shall not be delayed pending receipt of the results of the criminal background check for other persons subject to background checks.

c) Scope of Background Checks

1) All persons subject to background checks pursuant to this Part shall be processed through the CANTS/SACWIS, ~~and~~ the Illinois Sex Offender Registry and LEADS. Fingerprints of all persons age 17 and over shall be submitted to the Illinois State Police via the fingerprint vendor stipulated by the Department for a criminal history check.

2) In addition, foreign nationals who have not resided in Illinois for all of the preceding 3 years shall submit to their prospective employer (if seeking employment) or licensing representative (if seeking a license to operate a child care facility) a copy of their valid passport and current visa. A copy of the valid passport and current visa shall be attached to the authorization for background check submitted to:

Department of Children and Family Services
Central Office of Licensing
406 E. Monroe Street, Station #60
Springfield, Illinois 62701

All facsimile transmissions shall be sent to the Employment FAX Line at

(217)785-6368.

3) In addition, each owner of a for-profit corporation, as a condition of license renewal, must *certify under penalty of perjury that he or she is current or not more than 30 days delinquent in complying with a child support order. Failure to so certify may result in a denial of the license application, refusal to renew the license, or revocation of the license.* [5 ILCS 100/10-65(c)]

4) Fingerprints for the following persons age 17 and over shall be submitted to the Federal Bureau of Investigation (FBI) for a search of its records for evidence of prior criminal activity:

A) all applicants for foster family home licensure and members of the household;

B) all relative caregivers and members of the household prior to a final placement decision in a relative home [20 ILCS 505/5(v-1)];

C)~~A)~~ persons who have a record of criminal activity that~~which~~ may impact their suitability for licensure/employment by their own acknowledgment or according to the records of the Illinois State Police; and

D)~~B)~~ persons who have resided outside the State of Illinois for any part of the preceding three years.

5) For *prospective foster or adoptive parents or other adult living in the home* who *resided in another state in the preceding 5 years, the Department shall request a check of that other state's child abuse and neglect registry* and the National Sex Offender Registry. [20 ILCS 505/5(v-2)]

d) A Condition of Employment

1) As a condition of employment in a licensed child care facility in a position that~~which~~ allows access to children, all persons subject to background checks, as defined in Section 385.20, shall complete and sign

authorizations for background checks and submit to fingerprinting, if required. This applies to all current and conditional employees subject to background checks, as defined in Section 385.20, and to any individual used as replacement or supplemental staff in the direct care and supervision of children.

2) Complete, signed authorizations for background checks must be submitted to:

Department of Children and Family Services
Central Office of Licensing
406 E. Monroe Street, Station #60
Springfield, Illinois 62701

All such authorizations must be postmarked within two business days after the person's employment or use in a role as replacement or supplemental staff. All facsimile transmissions shall be sent to the Employment Fax Line at (217) 785-6368.

e) Child Care Facilities that Operate Within a Family Home
If the child care facility operates in a family home, adult members of the household age 17 and older shall be fingerprinted to be screened for prior criminal convictions and current pending criminal charges in accordance with the requirements of this Part. All household members age 13 and over shall be screened for a history of child abuse or neglect and for inclusion in the Illinois Sex Offender Registry. These background checks are required even if members of the household usually are not present in the home during the hours the child care facility is in operation.

f) Programs Operated Under the Auspices of Child Welfare or Day Care Agencies
The background check requirements of this Part apply to:

1) employees of a child welfare agency who are involved in the placement in, licensure of, or supervision of foster family or adoptive homes, relative homes, group homes, child care institutions, youth emergency shelters, or independent living arrangements; and

2) employees of a child welfare agency or day care agency who are involved

in the licensure or supervision of licensed day care homes; and

3) persons used as replacement or supplemental staff identified in subsection (f)(1) or (2).

g) Service Providers
As a condition of a contract or agreement, or as otherwise required under 89 Ill. Adm. Code 357~~,~~ (Purchase of Service), the Department may require a person who provides services that allow unsupervised access to children to authorize a background check under this Part.

h) Issuance of Permits
A permit may be issued when:

1) the facility operator has cleared a complete background check (criminal history, CANTS/SACWIS, and Illinois Sex Offender Registry); and

2) if a for-profit corporation or other for-profit legal entity, the owner has certified that he or she is current or not more than 30 days delinquent in complying with a child support order; and

3) all other persons subject to background checks have been fingerprinted (if required), as verified by a fingerprint receipt, and have obtained their CANTS/SACWIS, and Illinois Sex Offender Registry clearances; and

4) the facility is in compliance with all other applicable licensing requirements for issuance of a permit.

i) Work Study Students
No criminal history check is required unless work study students are used as replacement or supplemental staff, as defined in Section 385.20. However, CANTS/SACWIS and Illinois Sex Offender Registry checks must be completed for all work study students.

j) Volunteers
No background check (CANTS/SACWIS, Illinois Sex Offender Registry, criminal history) is required unless volunteers are used as replacement or supplemental staff, as defined in Section 385.20.

k) Parental Involvement
Parental involvement in a child care facility program does not require a background check unless the parent is used as replacement or supplemental staff, as defined in Section 385.20. [225 ILCS 10/4.2(b)] Nothing in this Part is intended to prohibit a parent from being left alone unsupervised with only his or her own children.

l) Responsibility for Cooperation
Child care facilities shall be responsible for ensuring that persons subject to criminal background checks make themselves available for fingerprinting when scheduled by the Department or its authorized representatives. Failure of a person subject to criminal background checks to appear for scheduled fingerprinting may result in the denial of a license application or refusal to renew or revocation of an existing license unless the child care facility can demonstrate that it took reasonable measures to insure cooperation with the fingerprinting process. Adequate cause for failure to appear for fingerprinting includes, but is not limited to:

1) death in the family of the person; or

2) serious illness of the person or illness in the person's immediate family; or

3) weather or transportation emergencies.

m) Limitations on Criminal Offenders
Persons age 17 and over who have been convicted of committing or attempting to commit the offenses in Section 385.60(a) or (b) (when applicable) and when the Department becomes aware of persons age 13 and over who have been tried as an adult and convicted for the crimes identified in Section 385.60(a) or (b) shall not:

1) receive a license from the Department to operate a child care facility or have such a license renewed; or

2) be employed by a child care facility licensed by the Department in a position which allows access to children; or

3) be a member of the household in a family home in which a child care

facility operates; or

4) obtain a contract or agreement from the Department to provide services which allow access to children if the requirement for such background checks is a condition of the contract or agreement.

n) Limitations on Perpetrators of Child Abuse/Neglect
Persons who have been indicated as the perpetrator of any of the child abuse/neglect allegations identified in Section 385.50(a) are presumed to be unfit for service that allows access to children. These indicated perpetrators are limited in the same manner as the criminal offenders in subsection (m) unless the Director or designee has waived in writing the presumption of unsuitability. Such waivers may be requested in writing in accordance with Section 385.50(b).

o) No Charge for Background Checks
There is no charge to license applicants or licensed child care facilities for the background checks which are required by this Part.

(Source: Amended at 36 Ill. Reg. 2136, effective January 30, 2012)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section 385.APPENDIX A Criminal Convictions Preventing Licensure, Employment, ~~or~~ Residence in a Family Home in Which a Child Care Facility Operates, or Placement with Relatives

a) Criminal Convictions Preventing Licensure, Employment, or Residence in a Family Home in Which a Child Care Facility Operates
If any person subject to background checks has been included in the Illinois Sex Offender Registry or convicted of committing or attempting to commit one or more of the following serious criminal offenses under the Criminal Code of 1961 [720 ILCS 5] or under any earlier Illinois criminal law or code or an offense in another state, the elements of which are similar and bear a substantial relation to any of the criminal offenses specified below, this conviction will serve as a bar to: receiving a license or permit to operate as a child care facility and renewal of an existing license to operate a child care facility; residing in a family home in which a child care facility operates; obtaining employment or continuing in employment in a licensed child care facility which allows access to children as part of the duties; and obtaining a contract or agreement providing services on behalf of the Department that allows unsupervised access to children.

In addition to the list of crimes in this Appendix A, no applicant may receive a license from the Department to operate a foster family home, and no adult person may reside in a foster family home licensed by the Department, who has been convicted of committing or attempting to commit any of the offenses listed in ~~Appendix A, Criminal Convictions Which Prevent Licensure, of~~ 89 Ill. Adm. Code 402.Appendix A (Criminal Convictions Which Prevent Licensure)~~, Licensing Standards for Foster Family Homes~~, which is a more inclusive list of crimes.

The offenses that serve as a bar to licensure, residence in a family home in which a child care facility operates, employment that allows access to children in any child care facility subject to licensing, or providing services that allow unsupervised access to children include:

OFFENSES DIRECTED AGAINST THE PERSON

HOMICIDE

- *Murder*

- *Solicitation of murder*
- *Solicitation of murder for hire*
- *Intentional homicide of an unborn child*
- *Voluntary manslaughter of an unborn child*
- *Involuntary manslaughter*
- *Reckless homicide*
- *Concealment of a homicidal death*
- *Involuntary manslaughter of an unborn child*
- *Reckless homicide of an unborn child*
- *Drug induced homicide* [225 ILCS 10/4.2(b)]

KIDNAPPING AND RELATED OFFENSES

- *Kidnapping*
- *Aggravated kidnapping*
- *Aggravated unlawful restraint*
- *Forcible detention*
- *Child abduction*
- *Aiding and abetting child abduction*
- *Harboring a runaway* [225 ILCS 10/4.2(b)]

SEX OFFENSES UNDER ARTICLE 11 OF THE CRIMINAL CODE OF 1961, EXCEPT OFFENSES DESCRIBED IN SECTIONS 11-7, 11-8, 11-12 AND 11-13

- *Indecent solicitation of a child*
- *Indecent solicitation of an adult*
- *Public indecency*
- *Sexual exploitation of a child*
- *Custodial sexual misconduct*
- *Presence within school zone by child sex offenders*
- *Approaching, contacting, residing, or communicating with a child within a public park zone by child sex offenders*
- *Sexual relations within families*
- *Prostitution*
- *Soliciting for a prostitute*
- *Soliciting for a juvenile prostitute*
- *Solicitation of a sexual act*

- *Pandering*
- *Keeping a place of prostitution*
- *Keeping a place of juvenile prostitution*
- *Patronizing a prostitute*
- *Patronizing a juvenile prostitute*
- *Pimping*
- *Juvenile pimping*
- *Exploitation of a child*
- *Obscenity*
- *Child pornography*
- *Harmful material*
- *Tie-in sales of obscene publications to distributors*
- *Posting of identifying information on a pornographic internet site* [720 ILCS 5/Art. 11]

BODILY HARM

- *Heinous battery*
- *Aggravated battery with a firearm*
- *Aggravated battery of a child*
- *Tampering with food, drugs, or cosmetics*
- *Hate crime*
- *Stalking*
- *Aggravated stalking*
- *Threatening public officials*
- *Home invasion*
- *Vehicular invasion*
- *Drug induced infliction of great bodily harm*
- *Criminal sexual assault*
- *Aggravated criminal sexual assault*
- *Predatory criminal sexual assault of a child*
- *Criminal sexual abuse*
- *Aggravated sexual abuse*
- *Criminal transmission of HIV*
- *Criminal abuse or neglect of an elderly or disabled person*
- *Child abandonment*
- *Endangering the life or health of a child*
- *Ritual mutilation*

- *Ritualized abuse of a child* ~~[225 ILCS 10/4.2(b)]~~
- *Any violation of the Methamphetamine Control and Community Protection Act* [720 ILCS 646] [225 ILCS 10/4.2(b)]

Final approval for licensure shall not be granted if the record check reveals a felony conviction for child abuse or neglect, for spousal abuse, for a crime against children, or for a crime involving violence, including rape, sexual assault or homicide, but not including other felony convictions for *physical assault or battery, or if there is a felony conviction for physical assault, battery or a drug-related offense committed within the past 5 years.* [20 ILCS 505/5(v-1) and (v-2)]

Waiver of Convictions for Placement with Relatives
Criminal convictions that were waived by the Director for the initial placement in accordance with provisions in Section 7(b) of the Children and Family Services Act [20 ILCS 505/7(b)] and 89 Ill. Adm. Code 301.Appendix A(b) and (c) are deemed waived for a final placement decision. If additional criminal convictions appear as a result of the fingerprint results, a new waiver request shall be submitted to the Director or designee.

b) Additional Convictions that Bar Licensure of or Employment in a Child Care Facility
In addition to the requirements of subsection (a), *no new applicant and, on the date of licensure renewal, no current licensee may operate or receive a license from the Department to operate, no person may be employed by, and no adult person may reside in a child care facility licensed by the Department who has been convicted of committing or attempting to commit any of the following offenses or an offense in any other jurisdiction the elements of which are similar to and bear a substantial relationship to any of the following offenses*:

OFFENSES DIRECTED AGAINST THE PERSON

BODILY HARM

- *Felony aggravated assault*
- *Vehicular endangerment*
- *Felony domestic battery*
- *Aggravated battery*
- *Heinous battery*

- *Aggravated battery with a firearm*
- *Aggravated battery of an unborn child*
- *Aggravated battery of a senior citizen*
- *Intimidation*
- *Compelling organization membership of persons*
- *Abuse and gross neglect of a long term care facility resident*
- *Felony violation of an order of protection*

OFFENSES AFFECTING PUBLIC HEALTH, SAFETY, AND DECENCY

- *Felony unlawful use of weapons*
- *Aggravated discharge of a firearm*
- *Reckless discharge of a firearm*
- *Unlawful use of metal piercing bullets*
- *Unlawful sale or delivery of firearms on the premises of any school*
- *Disarming a police officer*
- *Obstructing justice*
- *Concealing or aiding a fugitive*
- *Armed violence*
- *Felony contributing to the criminal delinquency of a juvenile*

DRUG OFFENSES

- *Possession of more than 30 grams of cannabis*
- *Manufacture of more than 10 grams of cannabis*
- *Cannabis trafficking*
- *Delivery of cannabis on school grounds*
- *Unauthorized production of more than 5 cannabis sativa plants*
- *Calculated criminal cannabis conspiracy*
- *Unauthorized manufacture or delivery of controlled substances*
- *Controlled substance trafficking*
- *Manufacture, distribution or advertisement of look-alike substances*
- *Calculated criminal drug conspiracy*
- *Street gang criminal drug conspiracy*
- *Permitting unlawful use of a building*
- *Delivery of controlled, counterfeit, or look-alike substances to persons under age 18, or at truck stops, rest stops, or safety rest areas, or on school property*

- *Using, engaging, or employing persons under 18 to deliver controlled, counterfeit, or look-alike substances*
- *Delivery of controlled substances*
- *Sale or delivery of drug paraphernalia*
- *Felony possession, sale, or exchange of instruments adapted for use of a controlled substance or cannabis by subcutaneous injection*
- *Felony possession of a controlled substance* [225 ILCS 10/4.2(b-1)]

c) Exception Applicable to Child Care Facilities Other than Foster Family Homes Notwithstanding subsection (a), *the Department may issue a new child care facility license or may renew the existing child care facility license of an applicant, or an applicant who has an adult residing in a home child care facility who was convicted of an offense described in subsection (b), or the Department may approve the employment of a person by a child care facility who was convicted of an offense described in subsection (b), provided that all of the following requirements are met*:

1) *The relevant criminal offense or offenses occurred more than 5 years prior to the date of application or renewal, except for drug offenses. The relevant drug offense must have occurred more than 10 years prior to the date of application or renewal, unless the applicant or prospective employee has passed a drug test, arranged and paid for by the child care facility, no less than 5 years after the offense;*

2) *The Department must conduct a background check and assess all convictions and recommendations of the child care facility in accordance* with Section 385.60(d), (e) and (f) and *determine if a waiver is applicable* in accordance with subsection (c)(1);

3) *The applicant meets all other requirements and qualifications to obtain a license to operate the pertinent type of child care facility.* [225 ILCS 10/4.2(b-2)

(Source: Amended at 36 Ill. Reg. 2136, effective January 30, 2012)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Licensing Standards for Child Welfare Agencies

2) Code Citation: 89 III. Adm. Code 401

3)

Section Numbers:	Adopted Action:
401.141	Amend
401.210	Amend
401.250	Amend
401.260	Amend
401.270	Amend
401.300	Amend
401.420	Amend
401.460	Amend
401.510	Amend
401.APPENDIX E	Repeal
401.APPENDIX F	Repeal

4) Statutory Authority: Children and Family Services Act [20 ILCS 505]

5) Effective Date of Amendments: January 30, 2012

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: May 20, 2011; 35 Ill. Reg. 7857

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: Other than editing and formatting corrections, no other amendments were made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

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 Amendments:

Sec. 401.141 deletes the expired grace period for obtaining tax-exempt status.

Sec. 401.210 clarifies that child welfare agency offices cannot be in a private residence and that there shall also be space available for confidential meetings in those offices.

Sec. 401.250 adds the standing practice in place that staff changes shall be reported monthly to the Department.

Sec. 401.270 gives requirements for storage of electronic records. Adoption case records and child welfare case records shall be retained permanently on paper or microfilm in a Department storage facility, and during the time period that the case is active, a hard copy of all electronic records shall be made on a ten-year cycle.

Sec. 401.300 clarifies that a full-time executive director in a child welfare agency must be on site at the facility.

Sec. 401.420 provides that child welfare agencies do not have to monitor a foster home that is in non-active licensure status.

Sec. 401.460, for uniformity throughout the State, requires that a child welfare agency must obtain approval, in writing, from the Department before transferring supervision of a child or family case to another agency.

Sec. 401.510 adds the requirement that adoptive families must be provided with the results of their home study and post adoption reports. Adoptive foster parents must be provided with information about the child's education, child's portion of the service plan, social or behavioral information and other pertinent information about the child to be adopted.

Sec. 401.Appendix E and F containing samples of letters were deleted.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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

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

Telephone: 217/524-1983
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The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 401
LICENSING STANDARDS FOR
CHILD WELFARE AGENCIES

Section

401.1 Purpose (Repealed)
401.2 Definitions (Repealed)
401.3 Effective Date of Standards (Repealed)
401.4 Application for License (Repealed)
401.5 Application for Renewal of License (Repealed)
401.6 Provisions Pertaining to License (Repealed)
401.7 Provisions Pertaining to Permit (Repealed)
401.8 Incorporation (Repealed)
401.9 Composition and Responsibilities of the Governing Body (Repealed)
401.10 Finances (Repealed)
401.11 The Administrator (Repealed)
401.12 Social Work Supervisors (Repealed)
401.13 Child Welfare Workers (Repealed)
401.14 Professional Staff (Repealed)
401.15 Support Personnel (Repealed)
401.16 Volunteers (Repealed)
401.17 Background Checks (Repealed)
401.18 Legal Safeguards of Children Served (Repealed)
401.19 Required Written Consents (Repealed)
401.20 Agency Responsibility (Repealed)
401.21 Interstate Placement of Children (Repealed)
401.22 Health and Medical Services for Children (Repealed)
401.23 Records and Reports (Repealed)
401.24 Records Retention (Repealed)
401.25 Agency Supervised Foster Family Homes, Group Homes and Day Care and Night Care Homes (Repealed)
401.26 Severability of This Part (Repealed)

SUBPART A: INTRODUCTION AND DEFINITIONS

Section

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

401.30 Purpose
401.40 Definitions

SUBPART B: PERMITS AND LICENSES

Section
401.100 Application for License
401.110 Provisions Pertaining to Permits
401.120 Provisional Licenses
401.130 Provisions Pertaining to Licenses
401.140 Application for Renewal of License
401.141 License Transfer for Agencies Providing Adoption Services Seeking 501(c)(3) Status
401.145 Renewal Application Under Deemed Status
401.150 Acceptance of Accreditation through Deemed Status
401.155 Removal of Agency from Deemed Status
401.160 Voluntary Surrender of License

SUBPART C: ADMINISTRATION AND FINANCIAL MANAGEMENT

Section
401.200 Agency Corporate Status
401.210 Composition and Responsibilities of the Governing Body
401.220 Organization and Administration
401.230 Finances
401.240 Background Checks
401.250 Required Reporting to the Department
401.260 Required Record Keeping
401.270 Records Retention

SUBPART D: PERSONNEL REQUIREMENTS

Section
401.300 The Executive Director
401.310 Child Welfare Supervisors
401.320 Child Welfare Workers
401.330 Licensing Staff
401.340 Professional Staff
401.350 Support Personnel
401.360 Use of Volunteer Services
401.370 Non-Discrimination Against Employees Who Report Suspected Licensing

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

Violations
401.380 Personnel Records

SUBPART E: SERVICES TO CHILDREN

Section
401.400 Legal Safeguards of Children Served
401.410 Required Written Consents
401.420 Agency Responsibility
401.430 Interstate Placement of Children
401.440 Health and Medical Services for Children
401.450 Transportation of Children
401.460 Agency Supervised Foster Family Homes, Group Homes and Day Care Homes
401.470 Agency Responsibilities for Adoption Services (Renumbered)
401.480 Agency Responsibilities for Independent Living Programs (Renumbered)

SUBPART F: AGENCY RESPONSIBILITIES FOR ADOPTION SERVICES

Section
401.500 Child Welfare Agency Responsibilities for Adoption Services
401.510 Disclosures
401.520 Adoptive Parents Training
401.530 Annual Reports
401.540 Preferential Treatment in Child Placement
401.550 Waiver Prohibited
401.560 Adoption Services Fees
401.565 Adoption Agency Payment of Salaries or Other Compensation
401.570 Independent Contractors
401.580 Cessation or Dissolution of an Adoption Agency
401.590 Adoption Agency Information and Complaint Registry
401.595 Agency Complaint Policy and Procedure
401.600 Advertisement

SUBPART G: INDEPENDENT LIVING PROGRAMS

Section
401.700 Agency Responsibilities for Independent Living Programs

SUBPART H: ENFORCEMENT AND SEVERABILITY CLAUSE

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section
401.800 Referrals to Law Enforcement and Injunctive Relief
401.850 Severability of This Part

401.APPENDIX A Licensing Progression for Child Welfare Agencies
401.APPENDIX B Requirements for Operation of Branch Offices
401.APPENDIX C Management Representations of Child Welfare Agency Financial Condition and Operations
401.APPENDIX D Minimum Requirements for a Risk Management Plan
401.APPENDIX E Acceptance of Voluntary Surrender of License – No Investigations Pending (Repealed)
401.APPENDIX F Acceptance of Voluntary Surrender of License – Investigations Pending (Repealed)
401.APPENDIX G Acceptable Human Services Degrees
401.APPENDIX H Professionals Who Must Be Registered or Licensed to Practice in the State of Illinois

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10] and the Adoption Act [750 ILCS 50].

SOURCE: Adopted and codified at 5 Ill. Reg. 11351, effective November 12, 1981; amended at 7 Ill. Reg. 3428, effective April 4, 1983; amended at 11 Ill. Reg. 17511, effective October 15, 1987; amended at 21 Ill. Reg. 4502, effective April 1, 1997; emergency amendment at 21 Ill. Reg. 9151, effective July 1, 1997, for a maximum of 150 days; emergency amendment modified in response to JCAR Objection at 21 Ill. Reg. 13929 and 14379; emergency expired on November 26, 1997; amended at 22 Ill. Reg. 10329, effective May 26, 1998; amended at 24 Ill. Reg. 9340, effective July 7, 2000; emergency amendment at 26 Ill. Reg. 6857, effective April 17, 2002, for a maximum of 150 days; emergency expired September 13, 2002; amended at 27 Ill. Reg. 494, effective January 15, 2003; amended at 28 Ill. Reg. 10588, effective August 1, 2004; emergency amendment at 29 Ill. Reg. 15562, effective September 30, 2005, for a maximum of 150 days; emergency expired February 26, 2006; amended at 30 Ill. Reg. 2699, effective February 27, 2006; amended at 36 Ill. Reg. 2157, effective January 30, 2012.

SUBPART B: PERMITS AND LICENSES

Section 401.141 License Transfer for Agencies Providing Adoption Services Seeking 501(c)(3) Status

a) Licensed child welfare agencies providing adoption services shall ~~have a grace period of 24 months from August 15, 2005 to~~ obtain tax-exempt status from the Internal Revenue Service as described in section 501(c)(3) of the Internal Revenue Code of 1986.

b) An existing child welfare agency may retain its current structure and be recognized as a 501(c)(3) organization as required by this Section or complete the process of application as an entity, if the creation of a new entity is required in order to comply with this Section, provided that:

1) The agency provides to the Department a copy of the Internal Revenue Service ruling showing that the agency is officially recognized by the United States Internal Revenue Service as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986;

2) The child welfare agency demonstrates that it continues to meet all other licensing requirements; and

3) The principal officers and directors and programs of the converted child welfare agency or newly organized child welfare agency are substantially the same as the original.

c) The Department, at its sole discretion, may grant a one year extension to a child welfare agency unable to obtain 501(c)(3) status prior to August 15, 2007, provided that the agency has demonstrated good faith effort to obtain a 501(c)(3) status with the Internal Revenue Service prior to August 15, 2007 and presents documentation of that status~~such~~ to the Department.

(Source: Amended at 36 Ill. Reg. 2157, effective January 30, 2012)

SUBPART C: ADMINISTRATION AND FINANCIAL MANAGEMENT

Section 401.210 Composition and Responsibilities of the Governing Body

a) The governing body of a child welfare agency shall be all the members of the board~~Board~~ of directors~~Directors~~ of the corporation.

b) Each member of the governing body of the child welfare agency and principal shareholders (owning 5% or more of the corporate stock) shall be of reputable and responsible character who shall certify that they have never been convicted of a felony or indicated as a perpetrator in a child abuse or neglect report, as defined in Appendix B of 89 Ill. Adm. Code 300 (Reports of Child Abuse and Neglect).

c) The governing body may create an executive committee or a child welfare committee that has been delegated limited decision making authority. The executive committee may act on behalf of the governing body in emergency matters.

d) The governing body shall:

1) Establish written by-laws that govern the major operations of the agency and that~~which~~ outline the duties of the officers of the board of directors and committees to be established by the board of directors;

2) Set long range goals for the agency;

3) If incorporated as a not-for-profit corporation, adopt a conflict of interest policy that~~which~~ requires, at a minimum:

A) That no member of the board of directors may derive any personal profit, directly, by reason of his or her membership on the board of directors or because of services provided to the board (the restriction against~~of~~ deriving profit from a transaction does not apply as long as the goods or services provided to the agency are priced at or below market value~~,~~ and are documented in the agency's financial reports);

B) That each board member must disclose to the board any personal interest that~~which~~ he or she or any member of his or her immediate family may have in any current or potential matter before the board and refrain from participating in any decision on those~~such~~ matters;

C) That no member of the executive director's or the chief financial officer's immediate family shall serve on the board of directors for

the child welfare agency and no member of any board member's immediate family may serve as executive director, the chief financial officer, or an independent contractor of the agency;

D) That there shall be no familial relationship between the executive director and the chief financial officer;~~.~~

4) If incorporated as a for-profit corporation, adopt a code of conduct for the board;

5) Insure that the child welfare agency operates at all times with a qualified, full-time executive director who, by official written notice, is made known to the Department. The governing body shall:

A) Approve a written job description for the agency executive director that delineates the executive director's responsibilities and authority and the governing body's expectations of the agency executive director;

B) Review and authorize all compensation for the agency executive director, including salary, allowances, memberships or other benefits;

C) Evaluate the agency executive director in writing at least annually;

6) Insure that an adequate process is in place for recruiting, hiring, and maintaining qualified child welfare supervisors and other staff required by this Part;

7) Hold at least quarterly meetings, unless the agency holds a provisional license, thus requiring a minimum of bi-monthly meetings of the board of directors. *Unless specifically prohibited by the articles of incorporation or bylaws, directors or non-director committee members may participate in and act at any meeting of such board or committee through the use of a conference telephone or other communications equipment by means of which all persons participating in the meeting can communicate with each other. Participation in such meeting shall constitute attendance and presence in person at the meeting of the person or persons so*

participating [805 ILCS 105/108.15];

8) Keep written records or minutes of all board meetings reflecting official actions of the board that shall contain, at a minimum, the date of each board meeting, the persons who were in attendance, the issues discussed in the meeting, any committee reports made to the board, the decisions made and actions taken. The minutes shall be available for review by the Department's licensing worker, upon request;

9) Officially notify the Department in writing within 30 days after a change in the executive director or chief financial officer of the child welfare agency or of any major changes in the corporate structure, including, but not limited to:

A) Changes in the articles of incorporation or by-laws;

B) Changes in the not-for-profit status or tax exempt status as determined by the Internal Revenue Service (if applicable) or its charitable organization status as determined by the Illinois Attorney General;

C) Addition of any principal shareholder owning at least 5% of the stock of the corporation; or

D) Changes in the governing body or its officers;

10) Establish written policies of the child welfare agency that shall be made available to all board members, employees, and agency clientele, including services to be provided by the agency, admissions, care of children, and other policies as needed to direct the agency, such as family visitation and community contacts with children;

11) Provide and maintain permanent offices accessible to the public and appropriate for the administrative program and supportive services. These offices, including all branch offices, shall be staffed during the business hours established by the agency, shall be equipped with telephones, ~~and~~ shall have a permanent mailing address, shall not be in a private residence and shall have space available for confidential meetings;

12) Maintain and keep all records and documents required by this Part in the State of Illinois where they shall be readily available for review by authorized persons;

13) Insure fidelity bonding of fiscally responsible officers and employees against breach of fiduciary duty or the loss of monies, securities, or other property the agency may sustain through any fraudulent or dishonest act committed by an officer or employee acting alone or in collusion with others. These officers or employees must be bonded regardless of whether elected or appointed or whether compensated by salary;

14) Insure that the child welfare agency maintains adequate assets, as defined in Section 401.40, for responsible fiscal operation of the agency; and

15) Insure that all persons working directly with children are of reputable and responsible character, as verified by their employment history of at least the past three years, the status of any professional license they hold, and completion of the background checks required by 89 Ill. Adm. Code 385 (Background Checks).

(Source: Amended at 36 Ill. Reg. 2157, effective January 30, 2012)

Section 401.250 Required Reporting to the Department

a) Staff and Volunteers

1) The child welfare agency shall maintain and submit reports on staff and volunteers to the Department on forms prescribed by the Department:

A~~1~~) An individual report on each new employee or member of the governing body (including the owner, operator, principal shareholder owning at least 5% of the stock of the corporation or director) shall be filed with the Department within 30 days after the employment of the new employee or appointment of a new member of the governing body. A copy of this report shall be kept at the agency.

B~~2~~) Copies of documentation of verification of educational achievement and documentation of prior work history (when required to qualify for the current position).

2) Staff changes shall be reported monthly to the Department.

b) License Status of Child Care Facilities Supervised by the Child Welfare Agency
The child welfare agency shall report in writing to the Department licensing office when the license status changes for a foster family home or day care home supervised by the agency. The~~Such~~ reports shall be received within five days after the last day of each month for all license status changes in the month. Reportable~~Such~~ changes in license status may include, but are not limited to:

1) failure or refusal to renew the license;

2) revocation or voluntary surrender of the license;

3) change in the status of licensees (death, divorce or separation of a husband and wife, change in not-for-profit status);

4) change of address of the licensee;

5) change in license capacity;

6) transfer of license supervision to another supervising child welfare agency; or

7) foster or adoptive family moves out-of-state.

c) Semiannual Monitoring of Licensed Facilities Supervised by the Agency
The agency shall maintain and submit to the regional licensing office a list of the licensed facilities subject to monitoring, noting both the date that the agency has performed a semiannual monitoring visit at the facility and those facilities with violations or corrective plans, as documentation of compliance with Section 401.420(c) requiring semiannual monitoring.

d) Reports of Child Abuse and Neglect

When there has been a report of child abuse or neglect in a foster family home or day care home that is supervised by the agency and a formal child abuse and neglect investigation begins, the agency shall send a complete copy of the licensing record and any other requested information to the Department's agency and institution licensing representative within 5 days after a request for the~~such~~ information.

e) Licensing Complaint Investigation
The agency shall send a copy of the licensing complaint investigation file to the Department's licensing unit within 5 days after the conclusion of the complaint investigation.

f) Monthly Visits with Children in Placement
The agency shall submit written quarterly reports to the regional licensing office listing the names of all children served by the agency, with the dates on which an agency child welfare worker visited each child, as documentation of compliance with Section 401.420(b) requiring monthly visits with foster parents and children in care.

g) Unusual Incident Reports
The agency shall report to the Department unusual incidents as defined in 89 Ill. Adm. Code 331 (Unusual Incidents).

1) Involving Children
The governing body or its designee shall orally report any unusual incidents involving children at the earliest reasonable time, but no later than the next business day after the incident, to the child's parent or guardian and the Department licensing worker. If the agency is unable to contact the parent or guardian and the Department immediately, it shall document this fact in the child's record. Unusual incidents include accident or injury requiring hospitalization, death, arrest, or other emergency situations. Oral reports shall be confirmed in writing within two business days after the occurrence.

2) Involving Employees, Foster Parents, or Relative Caregivers
The governing body or its designee shall report to the Department licensing worker any work or service related unusual incident that~~which~~ results in the death, accident or injury resulting in hospitalization, or

alleged commission of a felony involving any child welfare agency employee, foster parent, day care provider, or relative caregiver. A verbal report shall be made within 24 hours after the occurrence and shall be confirmed in writing within two business days after the occurrence.

h) Complete Copy of the Licensing File
Upon request, the agency shall provide the Department's licensing unit, within 5 calendar days, a complete copy of the licensing file for a foster home or day care home that is supervised by the agency.

(Source: Amended at 36 Ill. Reg. 2157, effective January 30, 2012)

Section 401.260 Required Record Keeping

a) The child welfare agency shall maintain current records that~~which~~ shall be available for inspection by authorized persons from the Department and that~~which~~ shall include:

1) records of board membership and minutes of board meetings, as required by Section 401.210;

2) financial records, as required by Section 401.230;

3) personnel records, as required by Section 401.380~~401.370~~;

4) children's case records, as required by Section 401.420; and

5) licensing records for foster family and day care homes supervised by the agency, as required by Section 401.460.

b) Records shall be kept in safe, locked places within the State of Illinois. Access to ~~such~~ records shall be limited to authorized persons only.

c) Department licensing workers shall have access to all records and reports pertaining to day care, foster care, relative care, adoption, independent living and residential care programs for minors operated by or supervised by the child welfare agency, even if the Department is not legally responsible for the children involved in those programs. All persons who have access to the records and

reports shall respect their confidential nature.

(Source: Amended at 36 Ill. Reg. 2157, effective January 30, 2012)

Section 401.270 Records Retention

a) General and financial records required of the child welfare agency shall be maintained for at least 5 years.

b) Personnel records shall be retained for at least 5 years after termination of the person's employment.

c) Licensing Records

1) The child welfare agency shall maintain in its office the licensing records of the foster family or day care home license for 4 years after any one of the following occurrences:

A) The license ~~renewal~~ has expired and has not been renewed;

B) The official denial or withdrawal of the application for the license or permit;

C) The date of closure or revocation of the license or permit.

2) After the 4 years, the agency shall transfer the licensing record to the Department, which shall keep it for 5 additional years.

d) If any litigation, claim, financial management review, or audit is started before the expiration of the 5-year period, the records shall be retained for at least 3 years after all litigation, claims or audit findings involving the records have been resolved and final action taken. (See 45 CFR 74.53.)

e) At the date of file closing, adoption case records and child welfare case records shall be retained permanently on paper or microfilm in a Department storage facility, and during the time period that the case is active, a hard copy of all electronic records shall be made on a ten year cycle. ~~Child case records shall be maintained for 5 years after the child attains the age of 21. At least 5 years after~~

~~the child attains the age of 21, the record may be purged so that only family, medical, and biographical information is retained. The family, medical, and biographical information shall be maintained for at least 15 years after the child attains the age of 21, unless the child has been adopted. If the child has been adopted, the family, medical, and biographical information on the child shall be retained for at least 99 years after the child attains the age of 21.~~

f) When an agency license is revoked, the Department refuses to renew the license, or for any other reason the agency ceases operations, the child welfare agency shall provide the Department with the original or a complete copy of all child case records and licensing records for the children and families it has served and for the foster family and day care homes that had been under its supervision.

(Source: Amended at 36 Ill. Reg. 2157, effective January 30, 2012)

SUBPART D: PERSONNEL REQUIREMENTS

Section 401.300 The Executive Director

a) The child welfare agency shall hire an executive director who shall be a full-time employee designated by the governing body to carry out the day-to-day management of the child welfare agency and the policies and procedures established by the governing body who is available to the Department upon request. The requirements of this Section apply to the person who reports to the board about the day to day management of the agency, regardless of the title used to describe the position within the agency. When the child welfare agency operates within a larger, multi-service agency, the executive director responsible for the child welfare agency need not be the chief executive officer for the multi-service agency.

b) The executive director shall have:

1) a Master's of Social Work degree from an accredited school of social work and three years' work experience in social work administration; or

2) a Master's degree in a human services field from an accredited school and five years work experience in human services administration; or

3) a Master's degree in Business Administration or Health Administration and 5 years experience in administration. Such degrees are acceptable only if the executive director never functions as the child welfare supervisor and the child welfare supervisor has a Master's of Social Work degree from an accredited school of social work or a Master's degree in a human services field from an accredited school.

c) If the executive director also serves as the child welfare supervisor, the executive director also must meet the qualifications in Section 401.310 for the child welfare supervisor.

d) All persons ~~currently~~ serving as executive director as of May 26, 1998 who were qualified as the administrator under former Section 401.11 of this Part (The Administrator) and who have served in that capacity for a minimum of 5 years immediately preceding July 1, 1998 shall continue to be deemed qualified for their positions as executive director for the child welfare agency where they are employed as of July 1, 1998.

e) A qualified supervisor or manager shall be appointed to act on behalf of the executive director when the executive director is absent and cannot be reached in the event of an emergency.

f) If the executive director is to be on leave for more than one month or has left his or her position prior to the hiring of a replacement, the Department shall be notified within five business days of the name of the person appointed as acting executive director. The acting executive director shall have the qualifications required of an executive director as specified in this Section.

(Source: Amended at 36 Ill. Reg. 2157, effective January 30, 2012)

SUBPART E: SERVICES TO CHILDREN

Section 401.420 Agency Responsibility

a) Each child served by the agency shall, at all times, have a designated child welfare worker assigned or, for a period of time not to exceed 30 days, the case may be assigned to a child welfare supervisor.

b) Children in placement shall be seen by the child welfare worker assigned to the case at least once every month. Foster parents shall be seen by the child welfare worker at least monthly.

c) Except as otherwise noted in 89 Ill. Adm. Code 402.7(i), each~~Each~~ licensed facility supervised by the child welfare agency shall be visited by the licensing worker of the agency at least semi-annually to insure that the standards for licensing continue to be met.

d) Critical decisions regarding a child, such as accepting for placement, subsequent placements, determination of or changes in the service plan, and discharge from care, shall be reviewed by the child welfare supervisor prior to implementation and when needed. These critical decisions shall result in a revised service plan.

e) A comprehensive written admission study shall be completed within 30 days after admission and shall include:

1) child's name, birth date, place of birth, sex, race, religious affiliation, primary language, legal status including the legal status of the parents, and present address;

2) names, birth dates, places of birth, marital status, sex, race, religious affiliation, primary language, addresses, and telephone numbers of the child's biological and adoptive parents;

3) date and facility of placement and information concerning any special care or treatment provided to the child and his or her family; and

4) reasons for, and the goal of, placement.

f) The child and/or his or her parent or guardian shall be active participants, to the extent possible, in all decisions regarding the reasons for, and the goal of placement, the child's educational plan, and the service agreement.

g) Child welfare agencies that license or supervise foster family homes shall comply with the Foster Parent Law [20 ILCS 520].

h) Records for each child placed in a licensed or license exempt child care facility or

independent living program shall include an admission study, legal documents and agreements for care, as required, and case recording that~~which~~ reflects the on-going placement supervision, service planning, care and treatment of the child.

i) When a child is discharged from the agency's care, records shall include the reason for discharge, the legal status of the child, the name and address of the agency or person to whom the child is discharged, family reunification or aftercare services to be provided to stabilize the family, and any recommendation for the child's future care.

j) The agency shall provide an environment of safety and well being for children in care.

1) Staff shall not abuse or neglect children and shall provide a safe environment at all times.

2) No child shall be subjected to corporal punishment, verbal abuse, threats or derogatory remarks about the child or the child's family.

(Source: Amended at 36 Ill. Reg. 2157, effective January 30, 2012)

Section 401.460 Agency Supervised Foster Family Homes, Group Homes and Day Care Homes

a) Foster family and day care homes operated and supervised by a child welfare agency shall be licensed according to the standards prescribed and published by the Department for licensing ~~such~~ foster family and day care homes.

b) The child welfare agency shall submit an application for a license on forms provided by the Department for each foster family home and day care home supervised by it. The child welfare agency shall recommend the licensure of or denial of license of family homes supervised by the child welfare agency. The child welfare agency shall make these recommendations to the Department in accordance with 89 Ill. Adm. Code 402 (Licensing Standards for Foster Family Homes) and 89 Ill. Adm. 406 (Licensing Standards for Day Care Homes).

c) When an individual submits an initial application for a foster family home license and the applicant was previously licensed as a foster family home, the child

welfare agency shall review and assess all previous licensing history before making a recommendation to issue or deny a license on the current application. The child welfare agency shall share a complete copy of the previous licensing file and any licensing complaint file with an agency reviewing ~~such~~ an application for license.

d) The child welfare agency shall maintain licensing records on all foster family and day care homes under its licensing supervision. The child welfare agency shall insure that facilities operating under its supervision maintain all the records required by the appropriate licensing standards for the facility.

e) The child welfare agency supervising a group home licensed by the Department shall be responsible for ensuring the facility operates in accordance with the applicable licensing standards prescribed by the Department. When the child welfare agency intends to supervise a group home, the child welfare agency shall forward the group home license application and necessary documentation to the Department. Department's licensing staff shall conduct a license study and determine whether the group home is in compliance with 89 Ill. Adm. Code 403 (Licensing Standards for Group Homes).

f) A child welfare agency shall obtain approval in writing from the Department before transferring supervision of a child or family case to another agency.

(Source: Amended at 36 Ill. Reg. 2157, effective January 30, 2012)

SUBPART F: AGENCY RESPONSIBILITIES FOR ADOPTION SERVICES

Section 401.510 Disclosures

a) Information disclosed in accordance with this Subpart shall be subject to the confidentiality requirements of the Child Care Act of 1969 and the Adoption Act.

b) *A child welfare agency providing adoption services shall provide to all prospective clients, including biological parents and adoptive parents, and to the public, the following written disclosures, which shall be posted on the agency's website when there is one:*

1) *Adoption services provided;*

2) *Policy and practices;*

3) *General eligibility criteria;*

4) A general description of *fees; and*

5) *The mutual rights and responsibilities of clients, including* biological parents and adoptive parents.

c) *Agencies providing adoption services shall provide to all potential clients prior to application a written schedule of:*

1) Estimated fees, charges and costs the family will incur in the adoption process; and

2) *Refund policies.*

d) *These written policies shall be part of the standard adoption contract unless additional fees are reasonably required by the circumstances and are disclosed to the adoptive parents or parent before they are incurred.* [225 ILCS 10/7.4(b)]

e) *An eligible adoption agency*, accredited by the Council on Accreditation (COA), *may be deemed compliant with subsections* (b), (c) and (d) of this Section. *This presumption of compliance may be rebutted by the Department with substantiated evidence to the contrary. The Department may require periodic certification of COA accreditation from the agency.* [225 ILCS 10/2.27 and 7.4(b)]

f) *Every agency providing adoption services shall make full and fair disclosure to its clients, including biological parents and adoptive parents, of all circumstances material to the placement of a child for adoption.* [225 ILCS 10/7.4(c)]

g) Contents of the written disclosure policy shall include:

1) Biological parents' rights and responsibilities.

A) Agencies and other resources that are serving biological parents who are making an adoption plan shall provide the biological

parents, in their preferred language, with a written explanation of their rights and responsibilities.

B) The biological parents' rights and responsibilities document shall be prepared by the Department and shall be part of the standard forms that adoption agency staff review with the biological parents before the biological parents sign them.

C) A signed and witnessed copy of the biological parents' rights and responsibilities document shall be kept and maintained in the agency file, and another given to the biological parents.

2) Information that is shared with the biological parents shall include when known:

A) Age of the adoptive parents;

B) The race, religion, and ethnic background of the adoptive parents;

C) The general physical appearance of the adoptive parents;

D) The education, occupation, hobbies, interests and talents of the adoptive parents;

E) The existence of any other children born to or adopted by the adoptive parents;

F) Any information that the adoptive family wishes to include in its Dear Birth Parent letter (which some agencies use).

3) Adoptive parents' rights and responsibilities shall include:

A) Agencies and other resources that are serving adoptive parents shall provide the adoptive parents with a written explanation of their rights and responsibilities.

B) The adoptive parents' rights and responsibilities document shall be prepared by the Department and shall be part of the standard forms

that adoption agency staff review with the adoptive parents before the adoptive parents sign them.

C) A signed and witnessed copy of the adoptive parents' rights and responsibilities shall be kept in the agency files and another given to the adoptive parents.

D) Adoption agencies shall provide the adoptive family with all non-identifying information about the child that has been verified as accurate, whenever possible. If it is not possible to verify the accuracy of the information provided to the adoptive parents, the agency may provide the information to the adoptive family, but shall note that the information has not been verified.

E) Notwithstanding any other provision of this Part to the contrary, the medical and mental health histories of a child legally freed for adoption and of the birth parents, with information identifying the birth parents redacted, shall be provided by an agency to the child's prospective adoptive parent and shall be provided upon request from an adoptive parent when a child has been adopted. The medical and mental health histories shall include all of the following available information.

i) Conditions or diseases believed to be hereditary;

ii) Drugs or medications taken by the child's mother during pregnancy;

iii) Psychological and psychiatric information; and

iv) Any other information that may be a factor influencing the child's present or future health.

4) The agency shall provide, in writing, the following non-identifying information, if known to the adoptive parents, not later than the day of placement with the petitioning adoptive parents:

A) The age of biological parents;

B) The race, religion, and ethnic background of the biological parents;

C) The general physical appearance of biological parents;

D) The education, occupation, hobbies, interests and talents of the biological parents;

E) The existence of any other children born to the biological parents;

F) Information about biological grandparents, reason for emigrating into the United States, if applicable, and country of origin;

G) The relationship between biological parents;

H) Detailed medical and mental health histories of the child, biological parents, and their immediate relatives; and

I) The actual date and place of birth of the adopted person.

5) No information provided under this subsection (g) shall disclose the name or last known address of biological parents, grandparents, siblings of the biological parents, adopted person, or any other relative of the adopted person.

6) The adoptive family shall also be informed about the Illinois Adoption Registry.

7) The adoptive family shall also be informed of the results of their home study and post-adoption reports.

h) Minimum standards for witnessing Final and Irrevocable Surrenders for Purpose of Adoption shall include:

1) Child welfare agencies witnessing biological parents' surrender of parental rights shall require the biological parents to participate in at least one counseling session in person.

A) The counseling session shall take place at least 24 hours before the signing of the documents. If this is not possible, the agency shall document the reason in the biological parent's file.

B) The counseling session should include both biological parents when possible. If one biological parent does not attend the session, his or her absence shall be noted in the agency file.

C) The agency shall review the key issues regarding surrenders with the biological parents prior to taking the surrender.

2) A counseling session summary shall be included in every biological parent's file.

3) The counseling session must be conducted by a counselor with a minimum of a Bachelor's degree who has knowledge of the issues relevant to the surrendering of one's parental rights. The counselor may be an authorized representative of an adoption agency, either employed by or contracted by the agency, who does counseling or a counselor not associated with an agency, such as a licensed social worker, licensed counselor or other mental health professional.

i) Information to be Shared with an Adoptive Foster Parent

1) A licensed child welfare agency placing a child in a licensed foster family home for adoption shall provide the prospective adoptive parent with:

A) Available detailed information concerning the child's educational and health history, copies of immunization records (including insurance and medical card information), a history of the child's previous placements, if any, and reasons for placement changes, excluding any information that identifies or reveals the location of any previous caretaker.

B) A copy of the child's portion of the client service plan, including any visitation arrangement, and all amendments or revisions to it related to the child.

C) Information containing details of the child's individualized educational plan when the child is receiving special education services.

D) Any known social or behavioral information (including, but not limited to, criminal background, fire setting, perpetration of sexual abuse, destructive behavior and substance abuse) necessary to care for and safeguard the child.

2) The agency may prepare a written summary of the information required by this subsection (i) that may be provided to the foster or prospective adoptive parent in advance of a placement. The foster or prospective adoptive parent may review the supporting documents in the child's file in the presence of casework staff. In the case of an emergency placement, casework staff shall at least provide information verbally and must subsequently provide the information in writing, as required, within 10 days. In the case of emergency placements, when time does not allow prior review, preparation and collection of written information, the agency shall provide that information in writing as it becomes available.

3) An adoption agency receiving a request from a confidential intermediary for the full name, date of birth, last known address, or last known telephone number of a sought-after relative pursuant to Section 18.3(g) of the Adoption Act [750 ILCS 50/18.3(g)], or for medical information on behalf of the adopted or surrendered person who would like the information about himself or herself, must satisfactorily comply with this request within a period of 45 days. Agencies are subject to significant civil financial penalties if compliance is not timely.

4) Following the issuance of a court order finding that the adoption agency has not complied with Section 18.3 of the Adoption Act, the adoption agency may be subject to a monetary penalty for each subsequent day of non-compliance. Any reimbursements and fines, notwithstanding any reimbursement directly to the petitioner, paid under this subsection (i)(7) are in addition to other remedies a court may otherwise impose by law. Proceeds from the penalties paid to the Department of Children and Family Services shall be deposited into the DCFS Children's Services Fund. The Department of Children and Family Services shall submit

reports to the Confidential Intermediary Advisory Council by July 1 and January 1 of each year in order to report the penalties assessed and collected under this subsection (i)(7), the amounts of related deposits into the DCFS Children's Services Fund, and any expenditures from those deposits.

(Source: Amended at 36 Ill. Reg. 2157, effective January 30, 2012)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section 401.APPENDIX E Acceptance of Voluntary Surrender of License – No Investigations Pending (Repealed)

~~**OFFER OF VOLUNTARY SURRENDER BY A CHILD WELFARE AGENCY**~~
~~(No investigations pending)~~

~~I, (Name of head of governing body) , affirm that the governing body of the (name of the child welfare agency) met on (date of meeting) and voluntarily agreed to surrender license number _____ , expiration date of _____ (original license attached to this agreement).~~

~~I further state that the agency, to the best of the knowledge of myself and each member of the governing body, is not presently under investigation by the Department of Children and Family Services for any licensing complaint or report of suspected abuse or neglect or by the DCFS-Office of Inspector General or by any other state agency of any state or its inspector general or by any local, State or federal law enforcement agency for any reason.~~

~~I acknowledge that if, at any time after the acceptance of the offered surrender of license, the Department learns that the child welfare agency knew or should have known that it was under investigation at the time it offered to surrender its license and failed to disclose the information to the Department, the Department at its option may set aside its acceptance of the surrender and proceed to take appropriate action against the licensee and the license, including but not limited to, the revocation of the license or the refusal to renew the license.~~

~~I further state that the attached listing is a complete and correct listing of the names and addresses of the child care facilities supervised by this child welfare agency and of the license exempt day care, relative home care, independent living facilities, and other programs operated by the child welfare agency.~~

_____
~~Printed name and title of head of governing body~~

_____
~~Signature~~ ~~Date~~

~~County of _____)~~
~~) ss~~
~~State of Illinois _____)~~

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

~~Subscribed and sworn before me this~~ _____ ~~day of~~ _____~~,~~ _____~~.~~

_____
~~Notary Public~~

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

~~ACCEPTANCE OF VOLUNTARY SURRENDER BY A LICENSING ADMINISTRATOR~~
~~(No investigations pending)~~

~~I, (name of licensing administrator) accept the voluntary surrender of this license and affirm that, , to the best of my knowledge, this child welfare agency is not presently under investigation by the Department of Children and Family Services for any licensing complaint or report of suspected abuse or neglect, and that neither the DCFS-Office of the Inspector General nor any other state agency of any state or its office of inspector general nor any local, any State or any federal law enforcement agency has given the Department notice that this child welfare agency is under investigation. Further, no litigation exists between the Department and this agency.~~

_____
~~Printed name and title of licensing administrator~~

_____
~~Signature of DCFS licensing administrator~~

(Source: Repealed at 36 Ill. Reg. 2157, effective January 30, 2012)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section 401.APPENDIX F Acceptance of Voluntary Surrender of License – Investigations Pending (Repealed)

~~**AGREEMENT FOR THE VOLUNTARY SURRENDER OF A LICENSE**~~
~~(Investigations pending)~~

~~I, (name of head of the governing body) , affirm that the governing body of the (name of the child welfare agency) , met on (date of meeting) and agreed to voluntarily surrender license number _____ , with an expiration date of _____ (original license attached to this agreement).~~

~~I further state that the child welfare agency has reason to believe that it is presently under investigation by the Department of Children and Family Services for a licensing complaint or a report of suspected abuse or neglect, by the DCFS-Office of the Inspector General or by any local, State or federal law enforcement agency for any reason, or that litigation is pending between the Department and the child welfare agency.~~

~~In the following space, identify the investigating agency and summarize the basis of the investigation, if known. Attach additional pages, if necessary.~~

~~In the following space identify all pending litigation between the Department and the child welfare agency. Provide the name of the case, docket number, and:~~

~~a) the county in which it is filed, if a State action,~~

~~b) appellate district, if on appeal,~~

~~c) the district, if it is a federal action, or~~

~~d) the circuit, if it is on appeal.~~

~~I further state that the governing body of the child welfare agency or its successor will not apply for a license as a child welfare agency until (insert date at least one year from today's date).~~

~~I further state that the attached listing is a complete and correct listing of the names and addresses of the child care facilities supervised by this child welfare agency and of the license~~

~~exempt day care, relative home care, independent living facilities, and other programs operated by the child welfare agency. (Attach additional pages, if necessary.)~~

_____
~~Printed name and title of head of governing body~~

_____
~~Signature~~ ~~Date~~

~~County of~~ _____ ~~)~~
~~)~~ ~~ss~~
~~State of Illinois~~ _____ ~~)~~

~~Subscribed and sworn before me this~~ _____ ~~day of~~ _____~~,~~ _____~~.~~

_____
~~Notary Public~~

~~ACCEPTANCE OF VOLUNTARY SURRENDER BY A LICENSING ADMINISTRATOR~~

~~I, (name of the licensing administrator), accept the voluntary surrender of the license and agree that the Department will not seek to revoke the license and will not refuse to renew the license if the statements made above are correct and complete. As part of this agreement, the Department will not accept another application for license as a child welfare agency before (insert date at least one year after the date of acceptance of the voluntary surrender).~~

_____
~~Printed name and title of licensing administrator~~

_____
~~Signature of DCFS licensing administrator/Date~~

(Source: Repealed at 36 Ill. Reg. 2157, effective January 30, 2012)

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Certification

2) Code Citation: 23 Ill. Adm. Code 25

3)

Section Numbers:	Adopted Action:
25.115	Amendment
25.130	Amendment
25.252	Amendment
25.275	Amendment
25.345	Amendment

4) Statutory Authority: 105 ILCS 5/2-3.6

5) Effective Date of Amendments: January 24, 2012

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain an incorporation by reference? Yes; see Section 25.115(d) and (e).

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: October 14, 2011; 35 Ill. Reg. 16443

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: In Section 25.115(e)(4), a delayed effective date of July 1, 2014, was added specific to educator preparation programs' incorporation into their coursework of the State Board of Education's Social and Emotional Learning Standards (23 Ill. Adm. Code 555.Appendix A). In Section 25.345(c), a correction was made concerning the "chief school business official".

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 other proposed rulemakings pending on this Part? No

15) Summary and Purpose of Amendments: This set of amendments addresses several Sections of Part 25 to incorporate changes necessitated by recent legislation and to update requirements specific to educator program approval and speech-language pathologists. The remaining changes are nonsubstantive and technical in nature.

Section 25.115 has been amended to require that educator preparation programs incorporate into their programs the State Board's Social and Emotional Learning Standards. These standards can be found in 23 Ill. Adm. Code 555 (Children's Mental Health Initiative Grants), and school districts receiving grant funds under that initiative are required to incorporate these standards into their educational programs. Additionally, school districts not receiving grants are required under the Children's Mental Health Act of 2003 to address social and emotional development in their educational programs.

Section 25.252, which addresses requirements for non-teaching speech-language pathologists, has been clarified to define acceptable master's or doctoral programs as those that are accredited (as is required under Section 14-1.09b of the School Code) as well as those that hold status as "accreditation candidate". This change acknowledges that a program seeking accreditation from the Council on Academic Accreditation in Audiology and Speech-Language Pathology (CAA) remains in "accreditation status" for five years before being recognized as fully accredited. The change is based upon a request from CAA in June 2011 to consider programs holding "accreditation candidate" status as "approved" for the purposes of meeting Illinois' certification requirements.

Finally, two new public acts have affected Sections 25.275 and 25.345 of the rules. Public Act 97-233, effective August 1, 2011, added a fifth purpose of continuing professional development for school service personnel, necessitating a change in Section 25.275(d).

PA 97-255, effective August 4, 2011, allows individuals with master's degrees in public administration to apply for a chief school business official certification, provided that certain other requirements have been met. A modification to one of those requirements, a six-hour internship in school business management, allows institutions of higher education to consider an individual's time employed in a school business office as contributing to the number of hours required for the internship. Additionally, in recognition of the limited availability of opportunities to complete the internship under the supervision of certified staff from the higher education institution awarding the credit, the internship may be supervised by the school district's chief school business official or financial officer. The intent of the rule is to ensure that the candidate is supervised

during the internship by someone knowledgeable about the position, and this change will preserve that intent while broadening options for appropriately qualified individuals to obtain the endorsement.

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

Linda Jamali, Division Administrator
Division of Educator Certification
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777

217/524-1373

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

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER b: PERSONNEL

PART 25
CERTIFICATION

SUBPART A: DEFINITIONS

Section
25.10 Accredited Institution

SUBPART B: CERTIFICATES

Section
25.11 New Certificates (February 15, 2000)
25.15 Standards for Certain Certificates (Repealed)
25.20 Requirements for the Elementary Certificate (Repealed)
25.22 Requirements for the Elementary Certificate (2004) (Repealed)
25.25 Requirements for "Full" Certification
25.30 Endorsement in Teacher Leadership
25.32 Requirements for the Secondary Certificate (2004) (Repealed)
25.35 Acquisition of Subsequent Certificates; Removal of Deficiencies (Repealed)
25.37 Acquisition of Subsequent Teaching Certificates (2004)
25.40 Requirements for the Special Certificate (Repealed)
25.42 Requirements for the Special Certificate (2004) (Repealed)
25.43 Standards for Certification of Special Education Teachers
25.45 Standards for the Initial Special Preschool-Age 12 Certificate – Speech and Language Impaired
25.46 Special Provisions for the Learning Behavior Specialist I Endorsement
25.47 Special Provisions for the Learning Behavior Specialist I Approval
25.48 Short-Term Emergency Certification in Special Education
25.50 General Certificate (Repealed)
25.60 State Special Certificate, Grades 11-12, For Teaching Elective Subjects (Repealed)
25.65 Alternative Certification
25.67 Alternative Route to Teacher Certification
25.70 Provisional Vocational Certificate

25.72 Temporary Provisional Vocational Certificate
25.75 Part-time Provisional Certificates
25.80 Requirements for the Early Childhood Certificate (Repealed)
25.82 Requirements for the Early Childhood Certificate (2004) (Repealed)
25.85 Special Provisions for Endorsement in Foreign Language for Individuals Currently Certified
25.86 Special Provisions for Endorsement in Foreign Language for Individuals Prepared as Teachers But Not Currently Certified
25.90 Transitional Bilingual Certificate and Examination
25.92 Visiting International Teacher Certificate
25.95 Majors, Minors, and Separate Fields for the Illinois High School Certificate (Repealed)
25.99 Endorsing Teaching Certificates (Repealed)
25.100 Endorsing Teaching Certificates (2004)
25.105 Temporary Substitute Teaching Permit

SUBPART C: APPROVING PROGRAMS THAT PREPARE PROFESSIONAL EDUCATORS IN THE STATE OF ILLINOIS

Section
25.110 System of Approval: Levels of Approval (Repealed)
25.115 Recognition of Institutions and Educational Units, and Approval of Programs
25.120 Standards and Criteria for Institutional Recognition and Program Approval (Repealed)
25.125 Accreditation Review of the Educational Unit (Repealed)
25.127 Review of Individual Programs (Repealed)
25.130 Interventions by the State Board of Education and State Teacher Certification Board
25.135 Interim Provisions for Continuing Accreditation and Approval – July 1, 2000, through Fall Visits of 2001 (Repealed)
25.136 Interim Provisions for Continuing Accreditation – Institutions Visited from Spring of 2002 through Spring of 2003 (Repealed)
25.137 Interim Provisions for Continuing Accreditation and Approval – July 1, 1999, through June 30, 2000 (Repealed)
25.140 Requirements for the Institution's Educational Unit Assessment Systems
25.142 Assessment Requirements for Individual Programs
25.145 Approval of New Programs Within Recognized Institutions
25.147 Approval of Programs for Foreign Language Beginning July 1, 2003
25.150 The Periodic Review Process (Repealed)

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

25.155 Procedures for the Initial Recognition of an Institution as an Educator Preparation Institution and Its Educational Unit
25.160 Notification of Recommendations; Decisions by State Board of Education
25.165 Discontinuation of Programs

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25.200 Relationship Among Credentials in Subpart D
25.210 Requirements for the Certification of School Social Workers (Repealed)
25.215 Certification of School Social Workers (2004)
25.220 Requirements for the Certification of Guidance Personnel (Repealed)
25.225 Certification of School Counselors (2004)
25.227 Interim Certification of School Counselor Interns (2004)
25.230 Requirements for the Certification of School Psychologists (Repealed)
25.235 Certification of School Psychologists (2004)
25.240 Standard for School Nurse Endorsement (Repealed)
25.245 Certification of School Nurses (2004)
25.250 Standards for Non-Teaching Speech-Language Pathologists
25.252 Certification of Non-Teaching Speech-Language Pathologists
25.255 Interim Certification of Speech-Language Pathologist Interns
25.275 Renewal of the School Service Personnel Certificate

SUBPART E: REQUIREMENTS FOR THE CERTIFICATION OF ADMINISTRATIVE AND SUPERVISORY STAFF

Section
25.300 Relationship Among Credentials in Subpart E
25.310 Definitions (Repealed)
25.311 Administrative Certificate (Repealed)
25.313 Alternative Route to Administrative Certification
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25.315 Renewal of Administrative Certificate
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25.322 General Supervisory Endorsement (Repealed)
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25.333 General Administrative Endorsement (Repealed)
25.335 General Administrative Endorsement (Through June 30, 2014)
25.337 Principal Endorsement (2012)

25.338 Designation as Master Principal
25.344 Chief School Business Official Endorsement (Repealed)
25.345 Chief School Business Official (2004)
25.355 Superintendent Endorsement (Repealed)
25.360 Superintendent (2004)
25.365 Director of Special Education

SUBPART F: GENERAL PROVISIONS

Section
25.400 Registration of Certificates; Fees
25.405 Military Service
25.410 Revoked Certificates
25.415 Credit in Junior College (Repealed)
25.420 Psychology Accepted as Professional Education (Repealed)
25.425 Individuals Prepared in Out-of-State Institutions
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25.430 Institutional Approval (Repealed)
25.435 School Service Personnel Certificate – Waiver of Evaluations (Repealed)
25.437 Equivalency of General Education Requirements (Repealed)
25.440 Master of Arts NCATE (Repealed)
25.442 Illinois Teacher Corps Programs
25.444 Illinois Teaching Excellence Program
25.445 College Credit for High School Mathematics and Language Courses (Repealed)
25.450 Lapsed Certificates
25.455 Substitute Certificates
25.460 Provisional Special and Provisional High School Certificates (Repealed)
25.464 Short-Term Authorization for Positions Otherwise Unfilled
25.465 Credit (Repealed)
25.470 Meaning of Experience on Administrative Certificates (Repealed)
25.475 Renewal Requirements for Holders of Multiple Types of Certificates
25.480 Credit for Certification Purposes (Repealed)
25.485 Certification of Persons with Certificates Previously Denied, Suspended, or Revoked
25.486 Certification of Persons Who Are Delinquent in the Payment of Child Support
25.487 Certification of Persons with Illinois Tax Noncompliance
25.488 Certification of Persons Named in Reports of Child Abuse or Neglect
25.489 Certification of Persons Who Are in Default on Student Loans
25.490 Certification of Persons Who Have Been Convicted of a Crime

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

25.493 Part-Time Teaching Interns (Repealed)
25.495 Approval of Out-of-State Institutions and Programs (Repealed)
25.497 Supervisory Endorsements

SUBPART G: PARAPROFESSIONALS AND OTHER NONCERTIFICATED PERSONNEL

Section
25.510 Paraprofessionals; Teacher Aides
25.520 Other Noncertificated Personnel (Repealed)
25.530 Specialized Instruction by Noncertificated Personnel (Repealed)
25.540 Approved Teacher Aide Programs (Repealed)
25.550 Approval of Educational Interpreters

SUBPART H: CLINICAL EXPERIENCES

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25.610 Definitions
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SUBPART I: ILLINOIS CERTIFICATION TESTING SYSTEM

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25.705 Purpose – Severability
25.710 Definitions
25.715 Test Validation
25.717 Test Equivalence
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25.725 Applicability of Scores (Repealed)
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25.735 Frequency and Location of Examination
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25.755 Cancellation of Scores; Voiding of Scores
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25.800 Professional Development Required
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25.832 Validity and Renewal of Master Certificates
25.835 Review of and Recommendation Regarding Application for Renewal
25.840 Action by State Teacher Certification Board; Appeals
25.845 Responsibilities of School Districts
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25.855 Approval of Illinois Providers
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25.865 Awarding of Credit for Activities with Providers
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25.872 Special Provisions for Interactive, Electronically Delivered Continuing Professional Development
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25.880 "Valid and Exempt" Certificates; Proportionate Reduction; Part-Time Teaching
25.885 Funding; Expenses (Repealed)

SUBPART K: REQUIREMENTS FOR RECEIPT OF THE STANDARD TEACHING CERTIFICATE

Section

25.900 Applicability of Requirements in this Subpart
25.905 Choices Available to Holders of Initial Certificates
25.910 Requirements for Induction and Mentoring
25.915 Requirements for Coursework on the Assessment of One's Own Performance
25.920 Requirements for Coursework Related to the National Board for Professional Teaching Standards (NBPTS)
25.925 Requirements Related to Advanced Degrees and Related Coursework
25.930 Requirements for Continuing Professional Development Units (CPDUs)
25.935 Additional Activities for Which CPDUs May Be Earned
25.940 Examination
25.942 Requirements for Additional Options
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25.APPENDIX A Statistical Test Equating – Certification Testing System
25.APPENDIX B Certificates Available Effective February 15, 2000
25.APPENDIX C Exchange of Certificates
25.APPENDIX D Criteria for Identification of Teachers as "Highly Qualified" in Various Circumstances
25.APPENDIX E Endorsement Structure Beginning July 1, 2004

AUTHORITY: Implementing Article 21 and Section 14C-8 and authorized by Section 2-3.6 of the School Code [105 ILCS 5/Art. 21, 14C-8, and 2-3.6].

SOURCE: Rules and Regulations to Govern the Certification of Teachers adopted September 15, 1977; amended at 4 Ill. Reg. 28, p. 336, effective July 16, 1982; amended at 7 Ill. Reg. 5429, effective April 11, 1983; codified at 8 Ill. Reg. 1441; amended at 9 Ill. Reg. 1046, effective January 16, 1985; amended at 10 Ill. Reg. 12578, effective July 8, 1986; amended at 10 Ill. Reg. 15044, effective August 28, 1986; amended at 11 Ill. Reg. 12670, effective July 15, 1987; amended at 12 Ill. Reg. 3709, effective February 1, 1988; amended at 12 Ill. Reg. 16022, effective September 23, 1988; amended at 14 Ill. Reg. 1243, effective January 8, 1990; amended at 14 Ill. Reg. 17936, effective October 18, 1990; amended at 15 Ill. Reg. 17048, effective November 13, 1991; amended at 16 Ill. Reg. 18789, effective November 23, 1992; amended at 19 Ill. Reg. 16826, effective December 11, 1995; amended at 21 Ill. Reg. 11536, effective August 1, 1997; emergency amendment at 22 Ill. Reg. 5097, effective February 27, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 11767, effective June 25, 1998; amended at 22 Ill. Reg. 19745, effective October 30, 1998; amended at 23 Ill. Reg. 2843, effective February 26, 1999; amended at 23 Ill. Reg. 7231, effective June 14, 1999; amended at 24 Ill. Reg. 7206, effective May 1, 2000; emergency amendments at 24 Ill. Reg. 9915, effective June 21, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 12930, effective August 14, 2000; peremptory

amendment at 24 Ill. Reg. 16109, effective October 12, 2000; peremptory amendment suspended at 25 Ill. Reg. 3718, effective February 21, 2001; peremptory amendment repealed by joint resolution of the General Assembly, effective May 31, 2001; emergency amendments at 25 Ill. Reg. 9360, effective July 1, 2001, for a maximum of 150 days; emergency expired November 27, 2001; emergency amendments at 25 Ill. Reg. 11935, effective August 31, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 16031, effective November 28, 2001; amended at 26 Ill. Reg. 348, effective January 1, 2002; amended at 26 Ill. Reg. 11867, effective July 19, 2002; amended at 26 Ill. Reg. 16167, effective October 21, 2002; amended at 27 Ill. Reg. 5744, effective March 21, 2003; amended at 27 Ill. Reg. 8071, effective April 28, 2003; emergency amendments at 27 Ill. Reg. 10482, effective June 26, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 12523, effective July 21, 2003; amended at 27 Ill. Reg. 16412, effective October 20, 2003; emergency amendment at 28 Ill. Reg. 2451, effective January 23, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 8556, effective June 1, 2004; emergency amendments at 28 Ill. Reg. 12438, effective August 20, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 1212, effective January 4, 2005; amended at 29 Ill. Reg. 10068, effective June 30, 2005; amended at 29 Ill. Reg. 12374, effective July 28, 2005; emergency amendment at 29 Ill. Reg. 14547, effective September 16, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 15831, effective October 3, 2005; amended at 30 Ill. Reg. 1835, effective January 26, 2006; amended at 30 Ill. Reg. 2766, effective February 21, 2006; amended at 30 Ill. Reg. 8494, effective April 21, 2006; amended at 31 Ill. Reg. 10645, effective July 16, 2007; amended at 32 Ill. Reg. 3413, effective February 22, 2008; amended at 32 Ill. Reg. 13263, effective July 25, 2008; emergency amendment at 32 Ill. Reg. 18876, effective November 21, 2008, for a maximum of 150 days; amended at 33 Ill. Reg. 5462, effective March 24, 2009; amended at 34 Ill. Reg. 1582, effective January 12, 2010; amended at 34 Ill. Reg. 15357, effective September 21, 2010; amended at 35 Ill. Reg. 4315, effective February 23, 2011; peremptory amendment at 35 Ill. Reg. 14663, effective August 22, 2011; amended at 35 Ill. Reg. 16755, effective September 29, 2011; amended at 36 Ill. Reg. 2191, effective January 24, 2012.

SUBPART C: APPROVING PROGRAMS THAT PREPARE PROFESSIONAL EDUCATORS IN THE STATE OF ILLINOIS

Section 25.115 Recognition of Institutions and Educational Units, and Approval of Programs

As used in this Subpart C, "institution" shall be defined as an Illinois institution of higher education, an out-of-state college or university granted authorization to operate by the Illinois Board of Higher Education as an out-of-state institution, an out-of-state college or university granted authorization to operate by the state in which it is located, or a not-for-profit educational entity subject to the General Not For Profit Corporation Act of 1986 [805 ILCS 105] or

incorporated as a not-for-profit entity in another state but registered to do business in the State of Illinois pursuant to the Business Corporation Act of 1983 [805 ILCS 5].

a) In order for an institution to offer one or more programs that prepare professional educators, that institution must be recognized, and the educational unit responsible for such programs must be recognized, by the State Board of Education in consultation with the State Teacher Certification Board. "Educational unit" means the institution or college, school, department, or other administrative body within the institution that is primarily responsible for the initial and continuing preparation of teachers and other education professionals. Each program that is offered by a recognized institution must also be individually approved by the State Board of Education in consultation with the State Teacher Certification Board. "Program" or "preparation program" means a program that leads to certification. Electronic transmission of written materials pursuant to this Subpart C is required.

b) In order to be considered for recognition under Section 25.155 of this Part, a degree-granting institution of higher education shall:

1) be regionally accredited;

2) be approved by the Illinois Board of Higher Education to operate as a postsecondary degree-granting institution under the provisions of the Private College Act [110 ILCS 1005] and the Academic Degree Act [110 ILCS 1010] or, if the out-of-state institution is not required to seek authorization to operate from the Illinois Board of Higher Education, be approved to offer educator preparation programs by the state that granted it operating authority; and

3) sponsor a course of study leading to a certificate issued under Article 21 of the School Code [105 ILCS 5/Art. 21] and this Part.

c) In order to be considered for recognition under Section 25.155 of this Part, an eligible not-for-profit educational entity shall conduct or propose to conduct at least one approved program that will prepare professional educators and leads to a certificate issued pursuant to Article 21 of the School Code and this Part.

d) In order to be considered for recognition under Section 25.155 of this Part, an educational unit shall meet the standards enumerated in "Professional Standards

for the Accreditation of Teacher Preparation Institutions " (2008), published by the National Council for the Accreditation of Teacher Education (NCATE), 2010 Massachusetts Avenue, N.W., Suite 500, Washington, D.C. 20036-1023 (no later amendments to or editions of these standards are incorporated by this Section).

e) In order to be considered for approval under Section 25.145 of this Part, a recognized institution shall propose a preparation program that:

1) meets the national content standards accepted by the State Board of Education and listed on the State Board of Education's website at www.isbe.net or, if no national content standards are specified, then the applicable content standards set forth at 23 Ill. Adm. 23, 26, 27, or 29;

2) meets the standards set forth at 23 Ill. Adm. Code 24 (Standards for All Illinois Teachers) or the Educational Leadership Policy Standards: ISLLC 2008, adopted by the National Policy Board for Educational Administration and posted at http://www.npbea.org/projects.php (no later additions to or editions of these standards are incorporated by this Part), as applicable; ~~and~~

3) will produce candidates for certification in areas defined as "shortage areas" by the State Superintendent of Education (e.g., the number of individuals holding a particular certificate and the number of positions that are currently vacant or predicted to be available in the next five years; the number of approved programs in Illinois and their capacity). Evidence of need shall be presented in the application submitted under Section 25.145 of this Part; and~~.~~

4) beginning July 1, 2014, meets the State Board of Education's Social and Emotional Learning Standards set forth at 23 Ill. Adm. Code 555.Appendix A.

f) In the case of a not-for-profit entity, all advertising materials, candidate handbooks, catalogues, and candidate contracts shall display prominently the fact that the entity does not offer higher education credit and that there is no guarantee that the Illinois certificate or endorsement earned by the candidate will be honored or accepted for exchange in another state.

g) The recognition of an educational unit shall be subject to review every four years

beginning in 2012. This cycle shall begin in accordance with a timeline established by the State Superintendent of Education or designee. The approval of the educational unit's programs shall be subject to review in each year after the unit receives initial State recognition.

h) Each recognized educational unit shall submit a separate annual program report for each approved program to the State Superintendent of Education, in a format defined by the State Superintendent, no sooner than October 1 and no later than November 30. Subject-area designations (see Section 25.100(a) of this Part) shall be considered separate programs for reporting purposes. The annual program report shall:

1) update any information previously provided;

2) summarize data about the program's overall structure, faculty, and candidates, and the results of various assessments, including the effectiveness of the completers of the program from the performance evaluations conducted under Article 24A of the School Code [105 ILCS 5/Art. 24A] (to be provided for principals beginning in 2014 and for teachers beginning in 2018):

A) If at least 80 percent of an institution's teacher preparation program completers have passed the content area test and applicable form of the assessment of professional teaching (APT) in each of the preceding three years, the institution shall be deemed to be adequately addressing the Standards for All Illinois Teachers set forth at 23 Ill. Adm. Code 24;

B) If at least 80 percent of an institution's administrative certification program completers have passed the applicable content-area examinations for administrative certification in each of the preceding three years, the institution shall be deemed to be adequately addressing the standards set forth in subsection (e)(2) of this Section; and

3) as relevant to the institution, report on all programs provided by the institution that have been approved as an alternative route to certification under Sections 25.65 and 25.67 of this Part.

i) In conjunction with the review set forth in subsection (g) of this Section, each educational unit shall submit a unit report to the State Superintendent, in a format specified by the State Superintendent, no sooner than October 1 and no later than November 30 of the academic year (i.e., September 1 through August 31) in which the review is scheduled. The report shall include:

1) a description of how the unit has addressed any concerns about applicable standards identified in any of the program reports produced pursuant to subsection (h) of this Section submitted in each of the last four years preceding the review;

2) any changes in the institution or in the educational unit that affects the operation of the unit;

3) any new programs approved in the last four years;

4) the percentage of individuals in the last four years who completed the program and received a certificate or endorsement who were hired into a related school position in the field for which the certificate or endorsement was issued; and

5) data regarding the effectiveness of the completers of the program from the performance evaluations conducted under Article 24A of the School Code [105 ILCS 5/Art. 24A] (to be provided for principals beginning in 2014 and for teachers beginning in 2018).

j) No later than April 7 of each year, each institution shall report to the State Board of Education, using a form supplied by the Board, on its program completers' pass rates on the examinations required for initial certification pursuant to this Part and other information required by Title II of the Higher Education Act (20 USCA 1027). Further, each institution shall make this information readily available to the public on an annual basis and shall include it in or with publications routinely sent to potential applicants, guidance counselors, and prospective employers of the institution's program completers.

k) State Board of Education staff may visit a recognized institution at any time with one day's advance notice and may ask to speak with faculty, candidates, or administrators. All records shall be made available to State Board of Education staff upon request.

(Source: Amended at 36 Ill. Reg. 2191, effective January 24, 2012)

Section 25.130 Interventions by the State Board of Education and State Teacher Certification Board

The provisions of this Section shall apply when the State Superintendent of Education receives information through the annual program report or unit report required under Section 25.115 of this Part, or by other means indicating that any educational unit recognized pursuant to this Subpart C or any approved preparation program may not be addressing any applicable standard or may otherwise be failing to offer candidates any of the learning opportunities that are necessary to their preparation as professional educators.

a) The State Superintendent or designee shall inform the affected educational unit of the areas of concern and invite the unit's representatives to appear on a date specified by the State Superintendent before the State Teacher Certification Board ("STCB") to discuss the concerns identified.

b) If the STCB determines, either after the educational unit's appearance or in advance of the appearance, that the concerns raised were unfounded or that the issues have been remedied, the STCB shall recommend to the State Superintendent that no further action is needed with regard to the matter, and the State Superintendent or designee shall notify the institution accordingly.

c) If the institution does not respond to or declines the invitation to appear before the STCB, or if the STCB concludes that the institution, after its appearance, has not satisfied the concerns raised, the STCB shall recommend to the State Superintendent or designee that the program or unit and one or more of its programs be placed on probation. "Probation" is the period of time in which no new candidates shall be enrolled in the unit or any of its programs, regardless of whether an individual program has received "probation" status. The State Superintendent shall notify the institution of the probation status of the program or unit and one or more of its programs.

1) A program, a unit, or a unit and one or more of its programs placed on probation shall submit the applicable report required under subsection (c)(1)(A) or (c)(1)(B) of this Section (in a format to be specified by the State Superintendent) to the State Superintendent or designee, who shall forward the report to the STCB for consideration. The required report

shall be submitted within one year after the date on which the program or unit was scheduled to appear before the STCB pursuant to subsection (a) of this Section. If no report is received within this year, then the approval of the program or recognition of the unit and approval of all of its programs shall be revoked. (See subsection (c)(2)(C) of this Section.)

A) In the case of one or more individual programs being placed on probation, each program about which concerns have been identified shall submit to the STCB a program report, with special emphasis on the areas of concern identified by the STCB and how those concerns will be addressed.

B) In the case of only a unit being placed on probation, the unit shall submit a report that details the concerns identified about any of the NCATE unit standards and the solutions that have been put into place to remedy those concerns.

C) In the case of both a unit and one or more of its programs being placed on probation, both subsections (c)(1)(A) and (B) shall apply.

2) The STCB, after considering the report submitted by the program or unit and the actions the program or unit has taken in response to the concerns identified, shall:

A) determine that the concerns have been remedied and recommend to the State Superintendent that the program or unit and any of its programs for which concerns have been identified be removed from probation and that no further action is needed with regard to the matter, and the State Superintendent or designee shall notify the institution accordingly; or

B) determine that the concerns have been acted upon but have not been remedied and recommend to the State Superintendent that the probation period be extended for not more than an additional 12 months, beginning on the date on which the STCB met to consider the report submitted under subsection (c)(1)(A) or (c)(1)(B):

i) Within the 12-month extension period, the program, or the unit and any of its programs for which concerns have been identified shall resubmit the program proposal required under Section 25.145 of this Part or a report (in the case of a program or unit, respectively), and reappear before the STCB;

ii) If at the time that the program or unit reappears before the STCB or at the end of the 12-month extension period, the program or the unit and any of its programs for which concerns have been identified have not sufficiently addressed the concerns, then the STCB shall recommend to the State Superintendent that approval of the program or recognition of the unit and approval of all of its programs be revoked pursuant to the provisions of subsection (c)(2)(C) of this Section; and

iii) The State Superintendent shall notify the program or the unit and each of its programs of any action taken pursuant to this subsection (c)(2~~1~~)(B); or

C) determine that the concerns have not been acted upon and that the program proposal or actions taken as identified in the report indicate that the standards are not being met or that the program or unit may be failing otherwise to offer candidates any of the learning opportunities that are necessary to their preparation as professional educators and that these concerns cannot be remedied before the end of the 12-month extension period and recommend to the State Superintendent that the State Board of Education revoke approval of the program or recognition of the unit and approval of all of its programs. The actions to be taken upon the recommendation of the STCB to the State Superintendent under this subsection (c)(2)(C) shall be as described in Section 25.160 of this Part. Discontinuation of a program pursuant to revocation of its approval or revocation of recognition, in the case of an educational unit, shall be subject to the requirements of Section 25.165(b) of this Part.

3) The State Superintendent may accept, modify or reject any of the recommendations of the STCB issued in accordance with this ~~to~~ subsection (c) ~~of this Section~~. In cases where the State Superintendent's modification or rejection results in an action that has negative consequences for the program or the unit and one or more of its programs, then the actions to be taken shall be as described in Section 25.160 of this Part.

(Source: Amended at 36 Ill. Reg. 2191, effective January 24, 2012)

SUBPART D: SCHOOL SERVICE PERSONNEL

Section 25.252 Certification of Non-Teaching Speech-Language Pathologists

Certain individuals may qualify for a school service personnel certificate with a non-teaching speech-language pathologist's endorsement, as provided in Section 14-1.09b of the School Code [105 ILCS 5/14-1.09b].

a) Each applicant shall hold one of the licenses identified in Section 14-1.09b(b)(1) of the School Code [105 ILCS 5/14-1.09b(b)(1)].

b) Each applicant shall hold a master's or doctoral degree earned through completion of a program that meets the requirements of Section 14-1.09b(b)(2) of the School Code [105 ILCS 5/14-1.09b(b)(2)]. For the purposes of this subsection (b), *a course of study or program approved or accredited* (Section 14-1.09b(b)(2) of the School Code) includes those courses of study or programs that hold either accreditation or the status of "accreditation candidate" issued by the Council on Academic Accreditation in Audiology and Speech-Language Pathology of the American Speech-Language-Hearing Association at the time that the applicant completed the program.

c) Each applicant shall have met the requirements of Section 14-1.09b(b)(3) of the School Code [105 ILCS 5/14-1.09b(b)(3)].

1) *A program of study that meets the content-area standards for speech-language pathologists approved by the State Board of Education in consultation with the State Teacher Certification Board* is a relevant preparation program that has been approved pursuant to Subpart C of this Part.

2) A comparable out-of-state program is one that leads to qualification as either a teaching or a non-teaching speech-language pathologist.

3) A comparable out-of-state certificate is one authorizing employment in the public schools in either capacity.

4) The required 150 clock hours of supervised, school-based professional experience shall consist of activities related to the aspects of practice that are addressed in the content-area standards for speech-language pathologists (see Section 25.250 of this Part and 23 Ill. Adm. Code 28 (Standards for Certification in Special Education)~~the policies of the State Board of Education, posted at www.isbe.net/rules, related to certification in special education under the federal court order of February 27, 2001, in the matter of Corey H., et al., v. Board of Education of the City of Chicago, et al.~~) with respect to:

A) planning and intervention;

B) the learning environment;

C) service delivery;

D) professional conduct and ethics; and

E) facilitation and advocacy.

5) The required evidence of completion for the 150 clock hours of supervised, school-based professional experience shall be a letter signed by the chief administrator or other designated official of the employing school district or nonpublic school documenting the nature and duration of the individual's experience with students with disabilities in a school setting. This letter shall indicate how the experience related to the knowledge and/or performance aspects of each of the standards identified in subsection (c)(4) of this Section.

d) Each candidate shall be required to pass the applicable content-area test (see Section 25.710 of this Part), as well as the test of basic skills, subject to the provisions of Section 25.720 of this Part.

e) Nothing in this Section is intended to preclude the issuance of a provisional certificate under Section 21-10 of the School Code.

(Source: Amended at 36 Ill. Reg. 2191, effective January 24, 2012)

Section 25.275 Renewal of the School Service Personnel Certificate

The requirements set forth in this Section apply to renewal of school service personnel (SSP) certificates in accordance with Section 21-25 of the School Code [105 ILCS 5/21-25].

a) Pursuant to Section 21-25 of the School Code, the renewal of school service personnel certificates held by individuals employed and performing services in certain types of public schools is contingent upon certificate-holders' presentation of evidence of continuing professional development. Renewal of any affected SSP certificate whose period of validity begins on or after July 1, 2008 shall require the certificate-holder's:

1) possession of one of the State licenses identified in Section 21-25(e) of the School Code, that is:

A) current licensure as either a clinical professional counselor or a professional counselor under the Professional Counselor and Clinical Professional Counselor Licensing Act [225 ILCS 107];

B) current licensure as either a clinical social worker or a social worker under the Clinical Social Work and Social Work Practice Act [225 ILCS 20]; or

C) current licensure as a speech-language pathologist under the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110]; or

2) possession of one of the national certifications identified in Section 21-25(e) of the School Code; or

3) completion of sufficient professional development activities to satisfy the requirements of Section 21-25 of the School Code.

b) An individual who wishes to qualify for certificate renewal based on licensure or national certification as permitted by Section 21-25 of the School Code shall maintain documentation related to the relevant license or certificate, including its date of issue, period of validity, and issuing body. This information shall be included in the individual's application for certificate renewal in place of the statement of assurance called for in subsection (k) of this Section.

c) Completion of the certification process conducted by the National Board for Professional Teaching Standards (NBPTS) may be used to fulfill the entire requirement for professional development under subsection (a)(2) of this Section for the renewal cycle during which completion occurs. Evidence of completion of this process shall be the inclusion of the certificate-holder's name on NBPTS' composite list of those who have completed the certification process (as distinct from having received certification).

d) Except as provided in subsections (b) and (c) of this Section, *each professional development activity used to fulfill the requirements of this Section shall be required to address one or more of the purposes* set forth in Section 21-25(e) of the School Code, and *four~~three~~ of the five~~four~~ purposes must be addressed*. No later than 60 days after the State Board of Education votes to establish or change the list of *areas determined by the Board to be critical for all school service personnel* (Section 21-25 of the School Code), the State Superintendent of Education shall notify each school district superintendent, each regional superintendent of schools, and any organization that requests this notification. The notice shall include a list of the areas and state the date upon which the list takes effect.

e) CPDUs shall be generated for completion of activities in accordance with the provisions of Section 25.875 of this Part, provided that, as necessary to the context:

1) references to Section 21-14 of the School Code shall be understood to mean the comparable provisions of Section 21-25 of the School Code;

2) references to teachers, teaching, and instruction shall be understood to mean holders of the school service personnel certificate and their performance of services;

3) references to the classroom shall be understood to mean the setting where services are provided;

4) references to classes directly taught by the certificate-holder (Section 25.875(e) and (n) of this Part) shall be understood to mean students directly served by the certificate-holder;

5) references specific to the supervision or preparation of candidates for teaching certificates (Section 25.875(h) and (m) of this Part) shall be understood to mean the supervision or preparation of candidates for the school service personnel certificate;

6) references to content-area standards (Section 25.875(i) of this Part) shall be understood to mean the relevant standards set forth at 23 Ill. Adm. Code 23 (Standards for the School Service Personnel Certificate); and

7) the reference to State priorities (Section 25.875(k) of this Part) shall be understood to mean the critical areas identified by the State Board of Education pursuant to Section 21-25(e)(2) of the School Code.

f) The provisions of Sections 25.855, 25.860, 25.865, and 25.872 of this Part shall apply to the awarding of CPDUs for activities offered by providers, provided that, as necessary to the context:

1) references to Section 21-14 of the School Code shall be understood to mean the comparable provisions of Section 21-25 of the School Code;

2) references to Subpart J of this Part shall be understood as referring to this Section; and

3) references to teachers shall be understood to include holders of the school service personnel certificate.

g) Each school service personnel certificate shall be maintained as "valid and active" or "valid and exempt" for each semester of its validity. Periods of exemption and proportionate reductions in the requirements for continuing professional development shall be determined as discussed in Section 25.880(a) of this Part. In addition:

1) *the number of continuing professional development units needed to renew the certificate shall be reduced by 50 percent for any amount of time during which the certificate-holder has been employed and performing services on a part-time basis, i.e., for less than 50 percent of the school day or school term*; and

2) *a certificate-holder who is employed as a substitute on a part-time basis or a day-to-day basis shall only be required to pay the registration fee in order to renew his or her certificate* (Section 21-25(e) of the School Code).

h) Credit earned for any activity that is completed (or for which the certificate-holder receives evidence of completion) on or after April 1 of the final year of a certificate's validity, if not claimed with respect to that period of validity, may be carried over and claimed in the subsequent period of validity, provided that the activity in question is relevant to the requirements that apply to that period.

i) Each certificate-holder shall:

1) maintain the required form of evidence of completion for each activity throughout the period of validity that follows the renewal of the certificate based on completion of the activities documented; and

2) present the evidence of completion upon request by the regional superintendent or a representative of the State Board of Education or if required as part of an appeal under this Section.

j) An Illinois master SSP certificate shall have a ten-year period of validity. When an individual receives an Illinois master SSP certificate, any other SSP certificate held by the same individual shall be renewed as of the date of issuance of the master certificate. Any other SSP certificate shall automatically qualify for renewal at the end of its five-year period of validity, as long as the individual continues to hold the master certificate.

1) When an Illinois certificate-holder successfully renews his or her National Board certification, he or she shall be entitled to renew the Illinois master SSP certificate and any other SSP certificate held if the applicable requirements of this Section have also been met.

2) The holder of an Illinois master certificate whose certification through the NBPTS is not renewed shall nevertheless be entitled to renew the master certificate when it expires, provided that the applicable requirements of this Section have been met during the master certificate's period of validity.

k) Each holder of an SSP certificate shall apply for renewal of that certificate as set forth with respect to teaching certificates in Section 25.830 of this Part, including the submission of a statement of assurance that conforms to the requirements of subsection (b) of that Section, except that:

1) each application for certificate renewal shall be submitted to the regional superintendent of schools, regardless of whether a local professional development committee is in operation in the employing district; and

2) references to "standard" certificates in that Section shall be understood to apply to SSP certificates.

l) Within 14 days after receiving an application for the renewal of a school service personnel certificate, the regional superintendent shall forward to the State Teacher Certification Board a recommendation for renewal or nonrenewal on a form prescribed by the State Superintendent of Education.

1) The regional superintendent shall transmit a list identifying all the certificate-holders with respect to whom the regional superintendent is recommending renewal of SSP certificates, along with verification that:

A) each certificate-holder has completed professional development or otherwise qualifies for certificate renewal in accordance with the requirements of Section 21-25 of the School Code and this Section; and

B) each certificate-holder has submitted the statement of assurance required in accordance with subsection (k) of this Section.

2) If the recommendation is not to renew the certificates held, or if information provided on the application makes the individual subject to the requirements of any of Sections 25.485 through 25.490 of this Part, the certificate-holder's copy shall be sent concurrently by certified mail, return

receipt requested. Each recommendation for nonrenewal shall include the regional superintendent's rationale.

m) A certificate-holder with respect to whom a regional superintendent has recommended nonrenewal of the SSP certificate may appeal to the State Teacher Certification Board in accordance with the provisions of Section 25.835(h) of this Part, except that the requirements of Section 21-25 of the School Code shall be understood to apply rather than those established by Section 21-14 of the School Code.

n) The State Teacher Certification Board shall review regional superintendents' recommendations regarding the renewal of SSP certificates and notify the affected certificate-holders in writing as to whether their certificates have been renewed or not renewed. This notification shall take place within 90 days after the State Teacher Certification Board receives regional superintendents' recommendations, subject to the right of appeal set forth in this subsection (n).

1) Within 60 days after receipt of an appeal filed by a certificate-holder challenging a regional superintendent's recommendation for nonrenewal, the State Teacher Certification Board shall hold an appeal hearing. The Board shall notify the certificate-holder of the date, time, and place of the hearing.

2) The certificate-holder shall submit to the State Teacher Certification Board such additional information as the Certification Board determines is necessary to decide the appeal.

3) The State Teacher Certification Board may request that the certificate-holder appear before it. The certificate-holder shall be given at least ten days' notice of the date, time, and place of the hearing.

4) In verifying whether the certificate-holder has met the renewal criteria set forth in Section 21-25 of the School Code, the State Teacher Certification Board shall review the recommendation of the regional superintendent of schools and all relevant documentation.

o) The State Teacher Certification Board shall notify the certificate-holder in writing, within seven days after completing its review, as to whether the SSP certificate has been renewed. Upon receipt of notification of renewal, the

certificate-holder shall pay the applicable registration fee to the regional superintendent. If the decision is not to renew the certificate, the notice to the certificate-holder shall be transmitted by certified mail, return receipt requested, and shall state the reason for the decision. The decision of the State Teacher Certification Board is final and subject to administrative review as set forth in Section 21-24 of the School Code [105 ILCS 5/21-24].

p) An individual whose certificate is not renewed because of his or her failure to meet the requirements of Section 21-25 of the School Code and this Section may apply for a reinstated certificate valid for one year. After the one-year period of validity of the reinstated certificate, the individual shall receive a renewable SSP certificate only if he or she presents evidence of having:

1) completed the balance of the professional development activities that were required for renewal of the certificate previously held; and

2) earned five additional semester hours of credit from a regionally accredited institution of higher learning relevant to the field of certification.

q) The provisions of Section 25.840(d) of this Part shall apply to the renewal of the school service personnel certificate.

r) If fewer than five years remain in the period of a certificate's validity as of July 1, 2008, the number of CPDUs required in order to renew the certificate at the conclusion of that period shall be proportionately reduced.

s) An individual who performs services both on an SSP certificate and concurrently also on some other type of certificate to which renewal requirements apply shall be subject to the provisions of Section 25.475 of this Part.

(Source: Amended at 36 Ill. Reg. 2191, effective January 24, 2012)

SUBPART E: REQUIREMENTS FOR THE CERTIFICATION OF ADMINISTRATIVE AND SUPERVISORY STAFF

Section 25.345 Chief School Business Official (2004)

This endorsement is required for chief school business officials. (See also 23 Ill. Adm. Code 29.110.)

a) Each candidate for the chief school business official's endorsement shall hold a master's degree or equivalent awarded by a regionally accredited institution of higher education. For the purposes of this subsection (a), "equivalent" shall mean the completion of a degree beyond the bachelor's degree level (e.g., juris doctor (J.D.), doctor of philosophy (Ph.D.), doctor of education (Ed.D.)).

b) Each candidate, other than a candidate whose master's degree was earned in *public administration, business administration, finance, or accounting* (Section 21-7.1(e)(3) of the School Code [105 ILCS 5/21-7.1(e)(3)]), shall:

1) have completed an Illinois program approved for the preparation of school business officials pursuant to Subpart C of this Part or a comparable approved program in another state or country or hold a comparable certificate issued by another state or country (see Section 25.425 of this Part); and

2) have *two years' administrative experience in school business management* (Section 21-7.1(e)(3) of the School Code).

c) Each candidate whose master's degree was earned in *public administration, business administration, finance, or accounting shall complete an internship in school business management equivalent to six semester hours from a regionally accredited institution of higher education* (Section 21-7.1(e)(3) of the School Code) that is conducted under the supervision of an individual~~instructor~~ who holds a current Illinois endorsement for chief school business official or who serves as the school district's chief financial officer. Institutions may consider a candidate's work experience in a school business office that is comparable to the responsibilities of a chief school business official as meeting a portion or all of the six-semester-hour internship requirement. For purposes of this subsection (c), one semester hour shall be equivalent to a minimum of 15-clock hours of experience that a candidate documents as completing.

d) Each candidate shall be required to pass the applicable content-area test (see Section 25.710 of this Part), as well as the test of basic skills if its passage would be required for receipt of a standard certificate pursuant to Section 25.720(a) of this Part.

e) Nothing in this Section is intended to preclude the issuance of a provisional certificate under Section 21-10 of the School Code.

(Source: Amended at 36 Ill. Reg. 2191, effective January 24, 2012)

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Student Records

2) Code Citation: 23 Ill. Adm. Code 375

3)

Section Number:	Adopted Action:
375.10	Amendment
375.30	Amendment
375.40	Amendment
375.60	Amendment
375.70	Amendment
375.75	Amendment
375.80	Amendment
375.90	Amendment
375.110	Amendment

4) Statutory Authority: 105 ILCS 10 and 105 ILCS 5/2-3.13a

5) Effective Date of Amendments: January 24, 2012

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: October 14, 2011; 35 Ill. Reg. 16473

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: In Section 375.10, the definition for "Individually identified" was removed and the requirement to retain in the temporary record any records of social workers, guidance counselors and psychologists was eliminated. Under the definition of "Health-related Information", a modification was made to acknowledge the Mental Health and Developmental Disabilities Confidentiality Act and to eliminate references to records that may fall under the provisions of that Act.

Also, in Section 375.10, the definition of "Official Records Custodian" was modified to limit his or her responsibilities to those listed in 105 ILCS 10/4.

In Section 375.40(a), two references to court orders being signed by an attorney were removed and the definition of "court order" was made applicable to the entire Part.

In Section 375.60(a), a reference to "other emergency" was removed.

In Section 375.80(a)(2)(A) and (B), two nonsubstantive changes were made, the first in a statutory cross-reference and the second to the term "videotape recording".

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 other proposed rulemakings pending on this Part? No

15) Summary and Purpose of Amendments: Part 375 implements the Illinois School Student Records Act [105 ILCS 10], which sets forth procedures specific to retention, maintenance and transfer of educational records of students in public elementary and secondary schools, including State-funded preschools and daycare centers. As more information is generated about students, and communication systems have become more sophisticated, the number of questions from school district personnel about records requirements has increased.

The primary purpose of this rulemaking is to incorporate into Part 375 direction to school districts to help them better comply with the requirements of the Illinois School Student Records Act (ISSRA) and to provide consistency between ISSRA and the federal Family Educational Rights and Privacy Act (FERPA). Additionally, changes have been made in response to recently enacted legislation.

The majority of the changes in Part 375 can be found in Section 375.10, "Definitions", and Section 375.80, "Directory Information". The group of changes under Section 375.10 clarifies the type of information that is required in the student's permanent record, which a school must retain for 60 years, and the student's temporary record, which must be retained for five years. Modifications that are of particular significance include:

- more fully explaining the role and responsibilities of a school's records custodian;
- distinguishing between certain health information necessary for a student's enrollment, such as examinations and immunization data, that is to be included in the

permanent record, and other health and accident information that must be retained in the temporary record; and

- addressing limitations on the consideration of video or other electronic recordings as student records; this proposed modification also incorporates the provisions of Public Act. 95-352, effective August 23, 2007, regarding recordings on school buses.

Section 375.80, last amended in 1986, includes substantial updating that acknowledges the proliferation of electronic and digital images and enables school districts to use these images on their websites and in other publications without having to first secure parental approval for their use. The amendments also prohibit the use of a student's social security number or unique student identifier as directory information. Additionally, changes provide flexibility to determine at the local level the procedures parents should use to request that directory information not be released, rather than notifying parents prior to each occurrence when directory information is being released.

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

Marcilene Dutton, Deputy General Counsel
Office of the General Counsel
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777

217/782-5270

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

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER k: SCHOOL RECORDS

PART 375
STUDENT RECORDS

Section

375.10 Definitions
375.20 Rights of Students
375.30 Notification
375.40 Maintenance and Destruction of School Student Records
375.50 Cost for Copies of Records
375.60 Emergency Release of Information
375.70 Release of Information
375.75 Public and Nonpublic Schools: Transmission of Records for Transfer Students
375.80 Directory Information
375.90 Challenge Procedures
375.100 Implementation
375.110 Enforcement

AUTHORITY: Implementing and authorized by the Illinois School Student Records Act [105 ILCS 10] and Section 2-3.13a of the School Code [105 ILCS 5/2-3.13a].

SOURCE: Emergency rule adopted March 24, 1976; codified at 7 Ill. Reg. 12864; amended at 10 Ill. Reg. 12602, effective July 9, 1986; amended at 12 Ill. Reg. 4818, effective February 25, 1988; amended at 20 Ill. Reg. 15304, effective November 18, 1996; amended at 23 Ill. Reg. 13843, effective November 8, 1999; amended at 26 Ill. Reg. 16202, effective October 21, 2002; amended at 29 Ill. Reg. 5467, effective March 29, 2005; amended at 32 Ill. Reg. 7143, effective April 17, 2008; amended at 32 Ill. Reg. 16475, effective September 29, 2008; amended at 36 Ill. Reg. _____, effective January 24, 2012.

Section 375.10 Definitions

"Accident Report" means documentation of any reportable student accident that results in an injury to a student, occurring on the way to or from school or on school grounds, at a school athletic event or when a student is participating in a school program or school-sponsored activity or on a school bus and that is severe

enough to cause the student not to be in attendance for one-half day or more or requires medical treatment other than first aid. The accident report shall include identifying information, nature of injury, days lost, cause of injury, location of accident, medical treatment given to the student at the time of the accident, or whether the school nurse has referred the student for a medical evaluation, regardless of whether the parent, guardian or student (if 18 years or older) or an unaccompanied homeless youth (as defined by 42 USC 11434a) has followed through on that request.

"Act" means the Illinois School Student Records Act [105 ILCS 10].

"Health Record" means medical documentation necessary for enrollment and proof of dental examinations, as may be required under Section 27-8.1 of the School Code [105 ILCS 5/27-8.1].

"Health-related Information" means current documentation of a student's health information, not otherwise governed by the Mental Health and Developmental Disabilities Confidentiality Act [740 ILCS 110] or other privacy laws, which includes identifying information, health history, results of mandated testing and screenings, medication dispensation records and logs (e.g., glucose readings), long-term medications administered during school hours, and other health-related information that is relevant to school participation (e.g., nursing services plan, failed screenings, yearly sports physical exams, interim health histories for sports).

"Official Records Custodian" means the individual appointed in each school in accordance with Section 4 of the Act [105 ILCS 10/4] who has responsibility for the *maintenance, care and security of all school student records, whether or not the records are in his or her personal custody or control.*

"School Student Record" shall have the meaning set forth in Section 2(d) of the Act [105 ILCS 10/2(d)], except that school student records shall not include:

Video or other electronic recordings created and maintained by law enforcement professionals working in the school or for security or safety reasons or purposes, provided the information was created at least in part for law enforcement or security or safety reasons or purposes; and

Electronic recordings made on school buses, as defined in Section 14-3 of the Criminal Code of 1961 [720 ILCS 5/14-3].

"Special Education Records" means school records that relate to identification, evaluation, or placement of, or the provision of a free and appropriate public education to, students with disabilities under the Individuals with Disabilities Education Act (20 USC 1400 et seq.) and Article 14 of the School Code [105 ILCS 5/Art. 14], to include the report of the multidisciplinary staffing conference on which placement or nonplacement was based, and all records and audio recordings in any format relating to special education placement hearings and appeals.

"Student Permanent Record" means and shall consist of the following, as limited by Section 2(d) of the Act [105 ILCS 10/2(d)]:

Basic identifying information, including the student's name and address, birth date and place, and gender, and the names and addresses of the student's parents;

Academic transcript, including grades, class rank, graduation date, grade level achieved, scores on college entrance examinations, and the unique student identifier assigned and used by the Student Information System established pursuant to Section 1.75 of rules governing Public Schools Evaluation, Recognition and Supervision (see 23 Ill. Adm. Code 1.75);

Attendance record;

Health Accident reports and health record;

Record of release of permanent record information in accordance with Section 6(c) of the Act [105 ILCS 10/6(c)]; and

Scores received on all State assessment tests administered at the high school level (i.e., grades 9 through 12) (see 105 ILCS 5/2-3.64(a)); and

If not maintained in the temporary record, may May also consist of:

Honors and awards received; and

Information concerning participation in school-sponsored activities or athletics, or offices held in school-sponsored organizations.

No other information shall be placed in the student permanent record.

"Student Temporary Record" means all information not required to be in the student permanent record and shall consist of the following, as limited by Section 2(d) of the Act:

A record of release of temporary record information in accordance with Section 6(c) of the Act [105 ILCS 10/6(c)];

Scores received on the State assessment tests administered in the elementary grade levels (i.e., kindergarten through grade 8) (see 105 ILCS 5/2-3.64(a));

The completed home language survey form (see 23 Ill. Adm. Code 228.15);

Information regarding serious disciplinary infractions (i.e., those involving drugs, weapons, or bodily harm to another) *that resulted in expulsion, suspension or the imposition of punishment or sanction*;

Information provided under Section 8.6 of the Abused and Neglected Child Reporting Act [325 ILCS 5/8.6], as required by Section 2(f) of the Act [105 ILCS 10/2(f)]; ~~and~~

Any biometric information that is collected in accordance with Section 10-20.40 or 34-18.34 of the School Code [105 ILCS 5/10-20.40 or 34-18.34]; ~~and~~

Health-related information; and

Accident Reports; and

May also consist of:

Family background information;

Intelligence test scores, group and individual;

Aptitude test scores;

Reports of psychological evaluations, including information on intelligence, personality and academic information obtained through test administration, observation, or interviews;

Elementary and secondary achievement level test results;

Participation in extracurricular activities, including any offices held in school-sponsored clubs or organizations;

Honors and awards received;

Teacher anecdotal records;

Other disciplinary information;

Special education records~~files, including the report of the multidisciplinary staffing on which placement or nonplacement was based, and all records and tape recordings relating to special education placement hearings and appeals~~;

Records associated with plans developed under section 504 of the Rehabilitation Act of 1973 (29 USC 701 et seq.); and

Any verified reports or information from non-educational persons, agencies or organizations~~; and Other verified information~~ of clear relevance to the education of the student.

~~"Substitute" means a person designated by the school to temporarily serve in the event of absence of a person employed by the school.~~

(Source: Amended at 36 Ill. Reg. 2220, effective January 24, 2012)

Section 375.30 Notification

a) Upon the initial enrollment or transfer of a student to the school, the school shall

notify the student and the student's parents of their rights under the Act as specified in subsection (d) of this Section and of their rights with respect to the collection, distribution, and retention of biometric information under Section 10-20.40 or 34-18.34 of the School Code, if the school collects student biometric information.

b) All notification under this Part to parents of children classified under Section 14C-3 of the School Code [105 ILCS 5/14C-3] to be of limited English-speaking ability shall be in English and in the language of the child's primary speaking ability. All notifications shall be in a manner that is accessible to parents with disabilities.

c) This notification may be delivered by any means likely to reach the parents, including direct mail or email, parent-teacher conferences, delivery by the student to the parent, or incorporation in a "parent-student" handbook or other informational brochure for students and parents disseminated by the school.

d) The notification shall consist of:

1) The types of information contained in the permanent and temporary records;

2) The right to inspect and copy permanent and temporary records, the limitations on the right of access established under Sections 10-22.3c and 34-18.6a of the School Code [105 ILCS 5/10-22.3c and 34-18.6a] and Section 5(a) of the Act, and the cost of copying these~~such~~ records;

3) The right to control access and release of school student records, except to the extent the records are authorized by law to be released without consent, and the right to request a copy of information released;

4) The rights and procedures for challenging the contents of the school student record;

5) The persons, agencies or organizations having access to student records without parental consent;

6) The right to copy any school student record or information contained therein proposed to be destroyed or deleted and the school's schedule for

reviewing and destroying this~~such~~ information;

7) The categories of information the school has designated as "directory information" and the right of the parents to prohibit the release of this~~such~~ information;

8) A statement informing the parents that no person may condition the granting or withholding of any right, privilege or benefits or make as a condition of employment, credit or insurance the securing by any individual of any information from a student's temporary record that the individual may obtain through the exercise of any right secured under the Act or this Part;

9) The right of the parents, as limited by Section 7 of the Act, to inspect and challenge the information contained in a school student record prior to transfer of the record to another school district, in the event of the transfer of the student to that district; and

10) Any policies of the school relating to school student records that are not included in the Act or this Part, including any policy related to the collection of biometric information as permitted under Section 10-20.40 or 34-18.34 of the School Code.

e) *The principal of each school or the person with like responsibilities or his or her designate shall take all action necessary to assure that school personnel are informed of the provisions of the Act* and this Part, either orally or in writing [105 ILCS 10/3].

(Source: Amended at 36 Ill. Reg. 2220, effective January 24, 2012)

Section 375.40 Maintenance and Destruction of School Student Records

a) The provisions within the Act and this Part requiring the official records custodian to separate school student records~~be separated~~ into permanent and temporary categories shall apply only to records of students who are enrolled in the school on or after the effective date of this Part. Records of students who have graduated or permanently withdrawn prior to the effective date of this Part are not subject to these classifications except:

1) In compliance with the request of a parent or eligible student that this~~such~~ categorization occur; and

2) The official records custodian shall ensure that information characterized by the Act and this Part as "temporary" shall not be *disclosed except as provided by Section 5 or 6 of the Act or by court order* [105 ILCS 10/4(f)]. For the purposes of this Part, a court order is a document signed by a judge. A subpoena signed by a court clerk, an attorney or an administrative agency official shall not be considered a court order unless signed by a judge.

b) Pursuant to Section 4(g) of the Act [105 ILCS 5/4(g)], student temporary~~Student~~ records shall be reviewed every four years or upon a student's change in attendance centers, whichever occurs first, to verify entries and to eliminate or correct all out-of-date, misleading, inaccurate, unnecessary or irrelevant information pursuant to Section 375.10 of this Part. The records review is required in any given school year at the time a student first changes attendance centers within a district, but it does not need to be conducted if the student enrolls in a different attendance center later in that same school year.

c) Upon graduation, transfer or permanent withdrawal of a student from a school, the school shall notify the parents and the student of the destruction schedule for the student permanent record and the student temporary record and of the right to request a copy of the student's~~such~~ records at any time prior to their destruction. Notification shall consist of the following: date of notification, name of parent, name of official records custodian, name of student, and the scheduled destruction date of temporary and permanent records. Biometric information collected pursuant to the district's policy, if any, shall not be subject to the retention requirements applicable to the remainder of students' temporary records under Section 4(f) of the Act, and its destruction shall not be subject to authorization by the appropriate Local Records Commission under Section 7 of the Local Records Act [50 ILCS 205/7]. Instead, the destruction of students' biometric information shall conform to the requirements of Section 10-20.40 or 34-34.18 of the School Code, as applicable.

d) Upon graduation or permanent withdrawal of a ~~handicapped~~ student with a disability, as defined in Article 14 of the School Code [105 ILCS 5/Art. 14] and 23 Ill. Adm. Code 226: Subpart A (Special Education), special education records,~~psychological evaluations, special education files~~ and other information

contained in the student temporary record that~~which~~ may be of continued assistance to the student may, after five years, be transferred to the custody of the parent or to the student if the student has succeeded to the rights of the parents. The school shall explain to the student and the parent the future usefulness of these records.

e) If a certified copy of an order of protection has been filed with a school district, then the district shall notify its school employees that the student records or information in those records of a protected child identified in the order shall not be released to the person against whom the order was issued (see Section 222(f) of the Illinois Domestic Violence Act of 1986 [750 ILCS 60/222(f)]).

f) Any final finding report required by Section 8.6 of the Abused and Neglected Child Reporting Act that has been filed in a student's temporary record shall be removed from the student's record and returned to the Department of Children and Family Services upon written request made by the Department pursuant to Section 8.6 of the Abused and Neglected Child Reporting Act. If a school that receives ~~such~~ a request from the Department has transferred the report to another school as part of the transfer of the student's records, the sending school shall forward a copy of the Department's request to the receiving school, which shall comply with this subsection (f). No report other than what is required under Section 8.6 of the Abused and Neglected Child Reporting Act shall be placed in the school student record.

g) School student records shall be maintained for at least the period of time set forth in Section 4 of the Act. With the exception of material eliminated in accordance with subsections (b), (d) and (f) of this Section, the destruction or disposal of any records or information contained in those records shall be subject to the provisions of the Act and authorization by the appropriate Local Records Commission (see Section 7 of the Local Records Act).

(Source: Amended at 36 Ill. Reg. 2220, effective January 24, 2012)

Section 375.60 Emergency Release of Information

a) Information may be released without parental consent, in connection with an articulable and significant threat to the health or safety of a student or other individuals~~emergency~~, to appropriate persons if the knowledge of the requested~~such~~ information is necessary to protect the health or safety of the

student or other individuals~~persons~~, provided that the parents are notified, no later than the next school day after the date that~~as soon as possible of~~ the information is released, of the date of the release;~~,~~ the person, agency, or organization receiving the information;~~,~~ and the purpose of the release.

b) Factors to be considered in determining whether records should be released pursuant to this Section~~this paragraph~~ include:

1) The seriousness of the threat to the health or safety of the student or other individuals~~persons~~;

2) The need for the requested~~such~~ records to meet the emergency;

3) Whether the individuals~~persons~~ to whom the requested~~such~~ records are released are in a position to deal with the emergency;

4) The extent to which time is of the essence in dealing with the emergency.

c) When an emergency release of information is provided under this Section, the school or school district shall make a record of the nature of the threat that formed the basis for the disclosure and the parties to whom the school or district disclosed the information.~~The requirements and criteria for release of information pursuant to this Section are to be strictly construed.~~

(Source: Amended at 36 Ill. Reg. 2220, effective January 24, 2012)

Section 375.70 Release of Information

a) Except as otherwise provided in Section 375.75 of this Part, the records of a student shall be transferred by the official records custodian of a school to another school in which the student has enrolled or intends to enroll upon the request of the official records custodian of the other school or the student, provided that the parent receives prior written notice of the nature and substance of the information to be transferred and opportunity to inspect, copy, and challenge the~~such~~ information to be released.

1) If the address of the parents is unknown, notice may be served upon the official records custodian of the requesting school for transmittal to the parents. This service shall be deemed conclusive, and ten calendar days

after this service, if the parents make no objection, the records may be transferred to the requesting school.

2) Biometric information collected pursuant to a district's policy, if any, shall not be transferred to another school district in which a student has enrolled and shall be destroyed as provided in Section 10-20.40 or 34-18.34 of the School Code, as applicable.

3) A copy of records transmitted pursuant to this subsection (a) shall be transferred back to the sending school upon request of the sending school without parental or student notice and consent.

b) The school shall grant access to information contained in school student records to persons authorized or required by State or federal law to gain ~~such~~ access, provided that:

1) The person making the request shall provide the school with appropriate identification and a copy of the statute authorizing ~~such~~ access; and

2) The parent receives prior written notice of the nature and substance of the information to be released and an opportunity to inspect, copy and/or challenge that~~such~~ information. If this release of information relates to more than 25 students, this prior notice may be given in a local newspaper of general circulation or other publication directed generally to parents.

c) The school shall grant access to, or release information from, school student records without parental consent or notification only in accordance with the provisions of Section 6(a) of the Act [105 ILCS 10/6(a)] and Section 10-20.40 or 34-18.34 of the School Code, where applicable.

d) Pursuant to Section 6(a)(5) of the Act, parents of students who are named in a court order shall be deemed to have received the required written notice. The school shall respond to the order no earlier than five school days after its receipt in order to afford parents the opportunity to review, inspect and challenge the records if the parents choose to do so.

e~~d~~) Any release of information other than specified in subsections (a) through (c) of this Section requires the prior, specific, dated, written consent of the parent designating the person to whom the records may be released, the reason for the

release, and the specific records to be released. At the time consent is requested or obtained, the school shall inform the parents of the following rights:

1) To inspect and copy the records;

2) To challenge the contents of the records; and

3) To limit any consent to designated records or designated portions of information within the records.

f~~e~~) Release of information by school personnel shall conform to the requirements of Sections 10-22.3c and 34-18.6a of the School Code [105 ILCS 5/10-22.3c and 34-18.6a] and Section 5(a) of the Act, as limited by Section 5(f) of the Act.

(Source: Amended at 36 Ill. Reg. 2220, effective January 24, 2012)

Section 375.75 Public and Nonpublic Schools: Transmission of Records for Transfer Students

a) This Section implements Section 2-3.13a of the School Code [105 ILCS 5/2-3.13a], Section 5 of the Missing Children Records Act [325 ILCS 50/5] and Section 5 of the Missing Children Registration Law [325 ILCS 55/5]. This Section is applicable to all public, private or nonpublic elementary and secondary schools in the State of Illinois.

b) Within 14 days after enrolling a transfer student, an elementary or secondary school shall comply with the requirements of Section 5 of the Missing Children Records Act and Section 5 of the Missing Children Registration Law regarding the records of that~~such~~ transfer student. The transfer of the record by a public school is subject to the prior notice to parents required by Section 375.70(a) of this Part.

c) The school district or private school holding the records shall transfer a certified copy of student's record, as defined in subsection (h) of this Section, to the school district or private school requesting the records and shall retain the original records in accordance with the requirements of Section 4 of the Act.

de) A request made pursuant to subsection (b) of this Section for a certified copy of a student's record shall satisfy the requirement of Section 2-3.13a(c) of the School Code regarding documentation of enrollment of a transfer student.

ed) If, on or before July 31 following the school year in whichwithin 150 days after a student leaves a school, the student'sthat school or school district has not received a request for the student's record, or been presented with other documentation that the student has enrolled in another school, then the student shall be counted in the school's or school district's calculation of its annual dropout rate (see Section 2-3.13a(c) of the School Code). The school or school district from which a student transfers shall maintain any documentation of the student's transfer, including records indicating the school or school district to which the student transferred, in that student's temporary record.

fe) As used in this Section, "Unofficial Record of Student Grades" means written information relative to the grade levels and subjects in which a student was enrolled and the record of academic grades achieved by that student prior to transfer. TheseSuch records shall also include the name and address of the school, the name of the student to whom the records pertain, the name and title of the school official transmitting the records, and the date of transmittal.

gf) As used in this Section, "Official Transcript of Scholastic Records" means the formal record showing dates of enrollment; courses studied; grades, credits, and awards received; and the unique student identifier assigned and used by the Student Information System; and bearing the signature and title of the certifying official, the seal of the school, if any, and the date of issue.

hg) As used in this Section, "Certified Copy of Student's Record" means:

1) for public schools, the student's permanent and temporary record as defined in Section 375.10 of this Part; and

2) for private and nonpublic schools, the individual student information maintained by thesuch schools for all of their students. ThisSuch information may include:

A) Basic identifying information, including the student's name and address, birth date and place, and gender, and the names and addresses of the student's parents;

B) Academic transcript, including grades, class rank, graduation date, grade level achieved and scores on college entrance examinations;

C) Attendance record;

D) Accident reports and health record;

E) Honors and awards received; and

F) Information concerning participation in school-sponsored activities or athletics, or offices held in school-sponsored organizations.

i~~h~~) If the student has unpaid fines, ~~or~~ fees, or tuition charged pursuant to Section 10-20.12a of the School Code [105 ILCS 5/10-20.12a] and is transferring to a public school located in Illinois or any other state, the school may elect to include in the student's record transferred pursuant to this Section the unofficial record of the student's grades in lieu of the student's official transcript of scholastic records. If the school so elects, the school shall within 10 calendar days after the student has paid all of his or her unpaid fines or fees and at its own expense forward the student's official transcript of scholastic records to the student's new school.

j~~i~~) If the student is transferring to another public school located in Illinois or any other state and at the time of the transfer is currently serving a term of suspension or expulsion for any reason, then the transferring school shall include with the transferred records:

1) the date and duration of the period of any current suspension or expulsion; and

2) whether the suspension or expulsion is for *knowingly possessing in a school building or on school grounds a weapon as defined in the Gun Free Schools Act* (20 USC 8921 et seq.), *for knowingly possessing, selling, or delivering in a school building or on school grounds a controlled substance or cannabis, or for battering a staff member of the school*. (Section 2-3.13a of the School Code)

(Source: Amended at 36 Ill. Reg. 2220, effective January 24, 2012)

Section 375.80 Directory Information

a) Information that may be designated as directory information shall be limited to:

1) Identifying information: student's name, address, gender, grade level, and birth date and place, and parents' names, mailing ~~and~~ addresses, electronic mail addresses, and telephone numbers;

2) Photographs, videos, or digital images used for informational or news-related purposes (whether by a media outlet or by the school) of a student participating in school or school-sponsored activities, organizations, and athletics that have appeared in school publications, such as yearbooks, newspapers, or sporting or fine arts programs, except that:

A) No photograph highlighting individual faces shall be used for commercial purposes, including solicitation, advertising, promotion or fundraising without the prior, specific, dated and written consent of the parent or student, as applicable (see 765 ILCS 1075/30); and

B) No image on a school security video recording shall be designated as directory information;

3~~2~~) Academic awards, degrees, and honors;

4~~3~~) Information in relation to school-sponsored activities, organizations, and athletics;

5~~4~~) Major field of study; and~~,~~

6~~5~~) Period of attendance in the school.

b) No student Social Security Number (SSN) or student identification (ID) or unique student identifier can be designated as directory information.

c~~b~~) "Directory Information" may be released to the general public, unless a parent requests that any or all the directory~~such~~ information not be released on his/her child. School districts shall notify parents annually of the information that is considered to be "directory information" and of the procedures to be used by

parents to request that specific information not be released.~~Prior to the release of directory information, school districts must notify affected parents in writing. The notification must include the following: date of notification, parents' names, name of student, directory information to be released, and the scheduled date of release. The district may provide this notification in the manner specified in Section 375.30 (c) and (d) of this Part.~~

(Source: Amended at 36 Ill. Reg. 2220, effective January 24, 2012)

Section 375.90 Challenge Procedures

a) Parents shall be notified both of their right to a hearing to challenge any entry in the school student records except for academic grades and of the name and contact information for the official records custodian. If the challenge is made at the time the student's school records are being forwarded to another school to which the student is transferring, then parents shall not have the right to challenge references in those records to expulsions or out-of-school suspensions or to academic grades. Challenges to any other entry in the school student records can be made on the basis of:

1) accuracy;

2) relevance; or

3) propriety.

b) The request for a hearing shall be submitted in writing to the school district's official records custodian and shall contain notice of the specific entry or entries to be challenged and the basis of the challenge.

c) Each school shall establish administrative procedures for parents to challenge the contents of student records. These~~Such~~ procedures shall include:

1) An initial informal conference with the parents, within 15 school days of receipt of the request for a hearing.

2) If the challenge is not resolved by the informal conference, formal procedures shall be initiated.

A) A hearing officer, who shall not be employed in the attendance center in which the student is enrolled, shall be appointed by the school.

B) The hearing officer shall conduct a hearing within a reasonable time, but no later than 15 days after the informal conference, unless an extension of time is agreed upon by the parents and school officials. The hearing officer shall notify parents and school officials of the time and place of the hearing.

C) At the hearing each party shall have the rights outlined in Section~~Sections~~ 7(b)(1) through 7(b)(4) of the Act.

D) A verbatim record of the hearing shall be made by a tape recorder or a court reporter. A typewritten transcript may be prepared by either party in the event of an appeal of the hearing officer's decision. However, a typewritten transcript is not required in an appeal.

E) The written decision of the hearing officer shall, no later than 10 school days after the conclusion of the hearing, be transmitted to the parents and the school district. It shall be based solely on the information presented at the hearing and shall be one of the following:

i) To retain the challenged contents of the student record;

ii) To remove the challenged contents of the student record; or

iii) To change, clarify or add to the challenged contents of the student record.

d) Any party shall have the right to appeal the decision of the local hearing officer to the Regional Superintendent within 20 school days after the~~such~~ decision is transmitted. If the parent appeals, the parent shall so inform the school and within 10 school days the school shall forward a transcript of the hearing, a copy of the record entry in question and any other pertinent materials to the Regional Superintendent. The school may initiate an appeal by the same procedures. Upon receipt of the~~such~~ documents, the Regional Superintendent shall examine the

documents and record to determine whether the school district's proposed action in regard to the student's record is in compliance with the Act and this Part, make findings and issue a written decision to the parents and the school within 20 school days of the receipt of the appeal documents. If the subject of the appeal involves the accuracy, relevance or propriety of any entry in special education records, the Regional Superintendent should seek advice from special education personnel:

1) who were not authors of the entry, and

2) whose special education skills are relevant to the subjects~~subject(s)~~ of the entry in question.

e) The school shall be responsible for implementing the decision of the Regional Superintendent.

f) Final decisions of the Regional Superintendent may be appealed to the circuit court of the county in which the school is located (see Section 7(c) of the Act).

(Source: Amended at 36 Ill. Reg. 2220, effective January 24, 2012)

Section 375.110 Enforcement

a) The State Board of Education shall collect and maintain information concerning compliance with the provisions of the Act and this Part and shall take action as specified by the Act to secure compliance in the event of violation.

b) Complaints arising from violations of the Act or this Part, other than challenges of the contents of the school student records as specified in Section 375.90 of this Part, shall be directed to the Regional Superintendent of Schools responsible for the area where the school is located~~Superintendent of the Educational Service Region~~ and then to the State Superintendent of Education as specified in Sections 3-10 and 2-3.8 of the School Code [105 ILCS 5/3-10 and 2-3.8].

(Source: Amended at 36 Ill. Reg. 2220, effective January 24, 2012)

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Voluntary Registration and Recognition of Nonpublic Schools

2) Code Citation: 23 Ill. Adm. Code 425

3)

Section Numbers:	Adopted Action:
425.20	Amendment
425.30	Amendment
425.40	Amendment
425.50	Amendment

4) Statutory Authority: 105 ILCS 5/2-3.6 and 2-3.51.5

5) Effective Date of Amendments: January 26, 2012

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: October 14, 2011; 35 Ill. Reg. 16495

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version: Language was added to Section 425.50(a)(1) to specify the conditions under which a review team would periodically conduct compliance visits for nonpublic schools seeking continued recognition and/or receiving block grant funds under Section 2-3.51.5 of the School Code [105 ILCS 5/2-3.51.5]. Other nonsubstantive technical changes were made in Section 425.30(b)(2).

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 other proposed rulemakings pending on this Part? No

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

15) Summary and Purpose of Amendments: The existing registration deadlines for nonpublic schools allow for renewal of registration no later than December 31. This deadline had the unintended consequence of excluding half of the school year from State recognition visits, since a school cannot receive this visit until it has renewed its registration. A modification to Section 425.20 moved the deadline for registration renewal back from December 31 to November 15, the date by which all nonpublic schools applying for State recognition must furnish to the State Board reports regarding the extent to which students have received required health examinations and immunizations. Language added to Section 425.30 stipulates that schools applying for first-time State recognition must meet the November 15 deadline for re-registration if they wish to be considered for recognition during the current school year.

In addition, amendments to Sections 425.30, 425.40 and 425.50 allow a recognized school to retain its status at the start of a new school year if it was registered the previous school year, instead of automatically losing that status at the end of the previous school year. These modifications reflect past agency procedures for nonpublic schools.

A modification to Section 425.50(a)(1) acknowledges that current agency staffing levels do not allow for on-site visits of recognized schools to be conducted every seven years.

Finally, Section 425.20(a) has been modified to require that schools applying for initial registration submit materials to the State Board by June 25 in order for an applying school to be registered by June 30. This deadline allows the time necessary for a State code to be assigned to the school and for the school's registration information to be entered into the agency's Illinois Web Application Security (IWAS) system database by June 30, the end of the fiscal year.

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

Mark Williams
Career and Technical Education Division
Illinois State Board of Education
100 North First Street, E-240
Springfield, Illinois 62777-0001

217/782-4620

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

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

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

PART 425
VOLUNTARY REGISTRATION AND RECOGNITION OF NONPUBLIC SCHOOLS

Section
425.10 Purpose and Applicability
425.20 Requirements for Registration
425.30 Requirements for Recognition
425.40 Process for Initial Recognition
425.50 Renewal of Recognition
425.60 Changes in Recognition Status
425.70 Appeals
425.80 Block Grant Funds

AUTHORITY: Implementing Sections 2-3.25o and 2-3.51.5 and authorized by Sections 2-3.6 and 2-3.51.5 of the School Code [105 ILCS 5/2-3.25o, 2-3.51.5, and 2-3.6].

SOURCE: Adopted at 33 Ill. Reg. 17123, effective December 7, 2009; amended at 36 Ill. Reg. 2241, effective January 26, 2012.

Section 425.20 Requirements for Registration

a) The State Superintendent of Education shall make available a form to be used for nonpublic schools' voluntary registration. A school's initial registration may occur at any time from October 1 through June 30 of the relevant school year. ~~The application for renewal of a school's registration in any subsequent year must be submitted no sooner than October 1 and no later than December 31 of that school year.~~ Initial registration of a school shall occur by means of a paper submission~~, while annual renewal of a school's registration shall be performed electronically~~. Each paper registration form shall bear the signature of the school's chief administrative officer and must be received by the Illinois State Board of Education no later than June 25 for the school to be registered by June 30. ~~The required electronic format shall be submitted only by the authorized administrator.~~

1)~~a)~~ Descriptive information that must be submitted shall include:

A)~~1)~~ the name of the school, its location and telephone number, its affiliation, and the name of the chief administrator;

B)~~2)~~ data on the students enrolled, by race, ethnicity, and grade level; and

C)~~3)~~ data on the staff employed in various capacities.

2)~~b)~~ The chief administrator of each school shall provide assurances that:

A)~~1)~~ the school offers an academic term of at least 176 days of pupil attendance annually, with at least five clock hours of instruction daily or at least 880 clock hours of instruction annually;

B)~~2)~~ the school *provides instruction in English,* except as otherwise permitted pursuant to Section 27-2 of the School Code [105 ILCS 5/27-2], *in the branches of education taught to children of corresponding age and grade in the public schools* (Section 26-1 of the School Code [105 ILCS 5/26-1]), *including the language arts, mathematics, the biological, physical and social sciences, the fine arts, and physical development and health* (Section 27-1 of the School Code [105 ILCS 5/27-1]);

C)~~3)~~ the school requires the students who are enrolled to attend daily during the entire regular school term;

D)~~4)~~ the physical facilities occupied by the school comply with the applicable local building code and fire safety requirements;

E)~~5)~~ the school will require evidence that, and will furnish to the State Superintendent of Education the required reports regarding the extent to which, students have complied with the requirements of Section 27-8.1 of the School Code [105 ILCS 5/27-8.1] and the rules of the Illinois Department of Public Health at 77 Ill. Adm. Code 665 with respect to health examinations, immunizations, eye examinations, and dental examinations; and will cooperate in the implementation of the Child Vision and Hearing Test Act [410

ILCS 205] and the rules of the Illinois Department of Public Health at 77 Ill. Adm. Code 675 and 685 regarding hearing and vision screenings, respectively; and

F)~~6)~~ the school complies with applicable federal and State laws prohibiting discrimination, including, but not limited to, Title IX of the Education Amendments of 1972 (20 USC 1681 et seq.), the Individuals with Disabilities Education Improvement Act (20 USC 1400 et seq.), the Age Discrimination in Employment Act of 1967 (29 USC 621 et seq.), Titles VI and VII of the Civil Rights Act of 1964 (42 USC 2000d et seq., 2000e et seq.), the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.), the Illinois School Code [105 ILCS 5], and relevant case law, including Plyler v. Doe, 457 U.S. 202, 102 S. Ct. 2382 (1982).

b)~~c)~~ Upon receipt of complete information for initial registration, including the required assurances, the State Superintendent shall assign a unique identifying number to the school. This number shall be evidence of completed registration and shall permit the school's chief administrator to apply for a user account affording access to the Illinois Web Application Security (IWAS) System, which the school may then use to exchange information with the State Superintendent of Education as relevant to its situation.

c) The application for renewal of a school's registration in any subsequent year must be submitted no sooner than October 1 and no later than November 15 of that school year. Annual renewal of a school's registration shall be performed electronically and shall be submitted only by the chief administrator.

d) The chief administrator of each school applying to renew its registration shall submit to the Illinois State Board of Education the same information and assurances required in subsection (a) of this Section.

(Source: Amended at 36 Ill. Reg. 2241, effective January 26, 2012)

Section 425.30 Requirements for Recognition

No nonpublic school shall apply for recognition ~~until it has been registered for at least one full calendar year and~~ unless it was~~is~~ registered for the previous school~~current~~ year, except that a school whose educational program is delivered via correspondence may seek recognition without

registration, in acknowledgment of the fact that students participating in a school of this type do not gather in a physical location and thus the school does not provide assurances about their compliance with requirements for health examinations, as required for registration under Section 2-3.25o(b) of the School Code. Recognition shall be granted only to schools that meet the requirements of this Section. A nonpublic school applying for recognition that has not applied for registration renewal by November 15 of the year in which the recognition application is submitted shall not be considered for recognition during the remainder of that school year.

a) Administrative Requirements

1) Each school's recognition shall be contingent upon evidence of compliance with the administrative requirements that are made applicable to nonpublic schools by relevant statutes.

A) The school shall offer an academic term of at least 176 days of pupil attendance annually, with at least five clock hours of instruction daily or at least 880 clock hours of instruction annually.

B) The school shall require the students who are enrolled to attend daily during the entire regular school term.

C) The school shall comply with applicable federal and State laws prohibiting discrimination, including, but not limited to, Title IX of the Education Amendments of 1972 (20 USC 1681 et seq.), the Individuals with Disabilities Education Improvement Act (20 USC 1400 et seq.), the Age Discrimination in Employment Act of 1967 (29 USC 621 et seq.), Titles VI and VII of the Civil Rights Act of 1964 (42 USC 2000d et seq., 2000e et seq.), the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.), the Illinois School Code [105 ILCS 5], and relevant case law, including Plyler v. Doe, 457 U.S. 202, 102 S. Ct. 2382 (1982).

D) The school shall comply with the requirements of Section 4 of the Abused and Neglected Child Reporting Act [325 ILCS 5/4], Section 5 of the Missing Children Records Act [325 ILCS 50/5], Section 5 of the Missing Children Registration Law [325 ILCS 55/5], and the rules of the State Board of Education promulgated pursuant to Section 2-3.13a of the School Code [105 ILCS 5/2-

3.13a] (see 23 Ill. Adm. Code 375.75, Public and Nonpublic Schools: Transmission of Records for Transfer Students).

E) The school shall comply with the requirements of the School Reporting of Drug Violations Act [105 ILCS 127].

F) The school shall comply with the requirements of Sections 10-27.1A and 10-27.1B of the School Code [105 ILCS 5/10-27.1A and 10-27.1B] regarding firearms and drug-related incidents in schools.

G) The school shall comply with the requirements of Section 10-21.7 of the School Code [105 ILCS 5/10-21.7] regarding the reporting of attacks on school personnel.

2) Recognition shall also be contingent upon evidence of compliance with the additional administrative requirements of this subsection (a)(2).

A) The school shall maintain written descriptions of its governance structure and its policy-making procedure, shall maintain its policies in written form, and shall make its policies routinely available to parents of the students enrolled and to school staff, as well as to other individuals upon request.

B) The school shall maintain a written description of its methods for complying with the nondiscrimination requirements identified in subsection (a)(1)(C) of this Section.

b) Educational Program
Each school's recognition shall be contingent upon evidence of compliance with the programmatic requirements that are made applicable to nonpublic schools by relevant statutes.

1) *Instruction shall be provided in English,* except as otherwise permitted pursuant to Section 27-2 of the School Code [105 ILCS 5/27-2], *in the branches of education taught to children of corresponding age and grade in the public schools* (Section 26-1 of the School Code), *including the language arts, mathematics, the biological, physical and social sciences,*

the fine arts, and physical development and health (Section 27-1 of the School Code).

2) Each school shall provide instruction~~*Each school…shall provide instruction*~~ *in American patriotism, the principles of representative government, as enunciated in the American Declaration of Independence, the Constitution of the United States of America and the Constitution of the State of Illinois, and the proper use and display of the American flag, and shall require pupils to recite the Pledge of Allegiance daily*. (Sections 27-3 and 27-4 of the School Code [105 ILCS 5/27-3 and 27-4]) *Not less than one hour per week~~, or the equivalent,~~ shall be devoted to the study of this subject matter in the seventh and eighth grades or their equivalent and in all high school grades. No student shall receive a certificate of graduation from the eighth grade or from high school without passing an examination on these subjects. No student shall be graduated from the eighth grade unless he or she has received instruction in the history of the United States and has given evidence of a comprehensive knowledge of the subject*. (Section 27-21 of the School Code [105 ILCS 5/27-21])

3) The school shall provide health education as required by the Critical Health Problems and Comprehensive Health Education Act [105 ILCS 110].

c) Personnel Requirements

1) Each school's recognition shall be contingent upon evidence of compliance with the requirements of subsection (c-5) of Section 2-3.25o of the School Code.

2) Each school shall require of each new employee evidence of freedom from communicable disease, including tuberculosis. This evidence shall consist of a tuberculin skin test and, if appropriate, an x-ray, performed by a physician licensed in Illinois or any other state to practice medicine in all its branches, an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes the nurse to perform health examinations, or a physician assistant who has been delegated the authority to perform health examinations by his or her supervising physician, not more than 90 days preceding the date on which the report of the test results is presented to the school's chief administrator.

3) Each school's personnel policies shall require:

A) monitoring the performance of each employee who provides or assists with instruction or has other instructional responsibilities (e.g., teachers, teacher aides, administrators, department chairs); and

B) ~~and~~ formal evaluation at least every two years in terms of proficiency and competency.

4) Students' needs for support services such as counseling and social work shall be evaluated when school staff believe consideration is needed, such as when there are changes in the student body or stresses within the surrounding community, and the school's staffing configuration shall reflect decision-making about how those needs should be addressed.

5) Each individual first assigned to a full-time teaching or administrative position at or after the beginning of the 2011-12 school year shall hold a bachelor's or higher degree.

6) Each individual first assigned to a full-time teaching or administrative position prior to the beginning of the 2011-12 school year who does not hold a bachelor's or higher degree shall participate annually in professional development that is demonstrably designed to strengthen his or her knowledge and skills in areas directly related to job duties (e.g., content-area knowledge or pedagogy for teaching staff, and administration, supervision, evaluation, or school management for administrators).

7) Each individual employed in a field requiring licensure shall hold and practice within the scope of the relevant license.

d) Health and Safety
Each school's recognition shall be contingent upon evidence of compliance with the health and safety requirements that are made applicable to nonpublic schools by the following relevant statutes.

1) The physical facilities occupied by the school shall comply with the applicable local building code and fire safety requirements.

2) If the school provides food service, the nutrition program and the facilities used shall comply with the Richard B. Russell National School Lunch Act (42 USC 1751 et seq.), the Child Nutrition Act of 1966 (42 USC 1771 et seq.), and the School Breakfast and Lunch Program Act [105 ILCS 125].

3) The school shall have a wellness policy on file that complies with the requirements of the Child Nutrition and WIC Reauthorization Act of 2004 (section 204 of Public Law 108-265; 42 USC 1751 note).

4) The school shall require evidence that, and shall furnish to the State Superintendent of Education the required reports regarding the extent to which, students have complied with the requirements of Section 27-8.1 of the School Code [105 ILCS 5/27-8.1] and the rules of the Illinois Department of Public Health at 77 Ill. Adm. Code 665 with respect to health examinations, immunizations, eye examinations, and dental examinations; and shall cooperate in the implementation of the Child Vision and Hearing Test Act [410 ILCS 205] and the rules of the Illinois Department of Public Health at 77 Ill. Adm. Code 675 and 685 regarding hearing and vision screenings, respectively.

5) The school shall comply with the requirements of the School Safety Drill Act [105 ILCS 128].

6) The school shall comply with the requirements of the Eye Protection in School Act [105 ILCS 115].

7) The school shall comply with the requirements of the Toxic Art Supplies in Schools Act [105 ILCS 135].

8) The school shall comply with the applicable requirements of the Asbestos Abatement Act [105 ILCS 105].

(Source: Amended at 36 Ill. Reg. 2241, effective January 26, 2012)

Section 425.40 Process for Initial Recognition

A nonpublic school may choose whether to seek recognition under subsection (a) or subsection (b) of this Section. An application for initial recognition may be submitted at any time.

a) Direct Recognition

1) The chief administrator of a registered nonpublic school shall submit an application for recognition, using a format specified by the State Superintendent of Education. The application shall include summary information about the school, including but not limited to its educational program and its intended calendar for the upcoming school year, as well as a report of the most recent fire inspection conducted by or on behalf of the relevant local authority.

A) For each school whose geographic location falls within the jurisdiction of a code authority, a copy of a certificate of occupancy issued by that authority and valid for the upcoming school year shall be included with the application.

B) For each school not located within the jurisdiction of any code authority, the application shall include a letter provided by a design professional, indicating that that individual has evaluated the facility and found no condition that would constitute a threat to the health and safety of the occupants and no condition that would constitute an obvious violation of the building code incorporated at 23 Ill. Adm. Code 180.60.

C) For each school whose most recent fire inspection report is more than one year old, the application shall include a letter provided by either a design professional or an individual who meets the requirements of the rules of the Office of the State Fire Marshal at 41 Ill. Adm. Code 111.30 (General Requirements for a Qualified Fire Official), indicating that that individual has evaluated the facility and found no condition that would constitute a fire hazard.

D) A "design professional" is an architect licensed to practice in Illinois under the Illinois Architecture Practice Act of 1989 [225 ILCS 305] and the administrative rules of the Department of Financial and Professional Regulation implementing that Act (68 Ill. Adm. Code 1150), an engineer licensed to practice in Illinois

under the Illinois Professional Engineering Practice Act of 1989 [225 ILCS 325] and the applicable administrative rules of the Department of Financial and Professional Regulation (68 Ill. Adm. Code 1380) or an engineer licensed to practice in Illinois under the Structural Engineering Practice Act of 1989 [225 ILCS 340] and the applicable rules of the Department of Financial and Professional Regulation (68 Ill. Adm. Code 1480).

2) Upon receipt of a complete application, the State Superintendent shall schedule a recognition visit and empanel a review team, whose members shall include at least a representative of the State Superintendent, a representative of a public educational entity such as a school district or regional office of education, and either a representative of a nonpublic school, other than the school whose recognition is being considered, or another individual who is familiar with the nonpublic educational milieu. The team shall visit the school to verify its compliance with the requirements of this Part. The chief administrator shall be notified in advance of the visit regarding the documentation that must be presented relative to each requirement of Section 425.30 of this Part.

3) The team shall observe the operations of the school, review the required documentation, and prepare a report of its findings, including a recommendation regarding recognition of the school, for the consideration of the State Superintendent.

4) Upon consideration of the evidence presented and the recommendations of the review team and relevant staff members, the State Superintendent shall recognize the school if it meets the requirements of Section 425.30 of this Part. If recognition is not granted, the State Superintendent's notice to the chief administrative officer shall identify the deficiencies leading to that determination and Section 425.70 of this Part shall apply.

b) Recognition via External Accrediting Organizations

1) The State Superintendent of Education shall review the processes used by various accrediting organizations to identify those entities whose approval, recognition, or accreditation of schools is granted on the basis of compliance with at least the requirements of Section 425.30 of this Part. A nonpublic school shall receive State recognition upon presentation of

evidence that it has received approval, recognition, or accreditation from any of these entities. Probationary recognition shall be assigned if the accrediting body has assigned a comparable status to the school.

2) The State Superintendent shall maintain on the agency's web site a list of all entities whose determinations are accepted pursuant to subsection (b)(1) of this Section.

c) Each school that is recognized shall receive a Certificate of Nonpublic School Recognition reflecting that status.

d) Recognition shall be valid until the school's recognition status is determined in the following school year~~for one school year~~ and shall be subject to renewal as provided in Section 425.50 of this Part.

e) Recognition that is granted pursuant to this Part shall not be extended to any additional campus, site, or school, nor shall it affect students who are not in attendance at the site to which recognition was specifically granted.

(Source: Amended at 36 Ill. Reg. 2241, effective January 26, 2012)

Section 425.50 Renewal of Recognition

a) Cycle for On-Site Review

1) Each school recognized pursuant to Section 425.40(a) of this Part and seeking continued recognition shall receive periodic visits by a review team as may be deemed necessary to ascertain the degree to which the school complies with applicable requirements of Sections 425.30 and 425.40(a) of this Part and, for those schools receiving block grant funds under Section 2-3.51.5 of the School Code [105 ILCS 5/2-3.51.5], the degree to which the school complies with the requirements of Section 425.80 of this Part ~~shall be visited by a review team in preparation for every seventh year for which continued recognition is sought~~. On those occasions, the team shall observe the school's operations, confirm compliance with applicable requirements and prepare a report as provided in Section 425.40 of this Part. When the school's application for renewal of its recognition is received, the State Superintendent shall consider the

evidence presented and proceed as discussed in subsection (c) of this Section.

2) Each school recognized pursuant to Section 425.40(b) of this Part shall be visited in keeping with the review cycle of the relevant accrediting organization. When the school's application for renewal of its recognition is received, the State Superintendent shall:

A) renew the school's recognition, if the accrediting organization has renewed the school's accreditation; or

B) assign another status as provided in subsection (c) of this Section, if the accrediting organization has not renewed the school's accreditation.

b) Renewal in Intervening Years

1) For each school year between on-site reviews, the chief administrator of a school recognized pursuant to Section 425.40(a) of this Part shall apply for renewal of the school's recognition by submitting, in an electronic format specified by the State Superintendent of Education, assurances that the school continues to comply with the requirements of this Part and that no significant changes have been made in its operations, its facilities, or its programs. If annual professional development is required for any staff member pursuant to Section 425.30(c)(6) of this Part, the school's chief administrator shall also submit a written plan for ensuring that the affected individuals complete relevant activities.

2) For each school year between on-site reviews, the chief administrator of a school recognized pursuant to Section 425.40(b) of this Part shall apply for renewal of the school's recognition by submitting evidence that the school's accreditation from the relevant organization is in effect for that school year.

c) Upon consideration of the application materials and the report, and recommendation of the review team if a visit was conducted, the State Superintendent shall assign a recognition status to the school.

1) A school shall be fully recognized if it meets the requirements of this Part, including each school whose accreditation by the relevant organization is in effect until the school's recognition status is determined in the following school year~~for the school year in question~~.

2) A school shall be recognized pending further review if it exhibits areas of noncompliance that:

A) are not serious enough to warrant probation as delineated in subsection (c)(3) of this Section; and

B) can be corrected prior to the end of the school year following the school year in which they are identified.

3) A school shall be placed on probation if it:

A) exhibits deficiencies that present a health hazard or a danger to students or staff;

B) fails to offer required coursework;

C) employs personnel who lack the required qualifications;

D) fails or refuses to serve students according to relevant legal requirements; and/or

E) prolongs or repeats instances of noncompliance to a degree that indicates an intention not to comply with relevant requirements.

d) When a school is recognized pending further review, the chief administrator may, within 30 days after receipt of notification to this effect, request a conference at which representatives of the school will have an opportunity to discuss compliance issues with representatives of the State Board of Education.

e) When a school is placed on probation, the State Superintendent shall schedule a conference at which representatives of the school will discuss compliance issues with representatives of the State Board of Education, unless the chief administrator has appealed the school's status as provided in Section 425.70 of this Part. Within 60 days following a conference under this subsection (e), the

school's chief administrator shall submit to the State Superintendent a plan for corrective action that conforms to the requirements of subsection (f) of this Section.

f) The State Superintendent of Education shall respond to the submission of a plan within 15 days after receiving it. The State Superintendent shall approve a plan if it:

1) specifies steps to be taken that are directly related to the areas of noncompliance cited;

2) provides evidence that the school has the resources and the ability to take the steps described without giving rise to other issues of compliance that would lead to probationary status; and

3) specifies a timeline for correction of the cited deficiencies that is demonstrably linked to the factors leading to noncompliance and is no longer than needed to correct the identified problems.

g) If a school's plan is not approvable under subsection (f) of this Section, the State Superintendent shall notify the chief administrator to this effect. If no plan is submitted, or if no approvable plan is received within 60 days after the conference with representatives of the State Board, the school's recognition shall be withdrawn, subject to appeal under Section 425.70 of this Part.

h) If, at any time while a plan for corrective action is in effect, the State Superintendent determines that the agreed-upon actions are not being implemented in accordance with the plan or the underlying areas of noncompliance are not being remedied, the State Superintendent shall withdraw the school's recognition, subject to appeal under Section 425.70 of this Part.

(Source: Amended at 36 Ill. Reg. 2241, effective January 26, 2012)

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Procedures to Be Followed in the Performance of Inspections of Motor Vehicle Emissions

2) Code Citation: 35 Ill. Adm. Code 276

3)

Section Numbers:	Adopted Action:
276.102	Amended
276.105	New
276.201	Amended
276.210	New
276.405	Amended

4) Statutory Authority: Section 13C-10 and 13C-20 of the Vehicle Emissions Inspection Law of 2005 [625 ILCS 5/13C-10 and 13C-20]

5) Effective Date of Amendments: January 30, 2012

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, are on file in the Illinois Environmental Protection Agency's principal office and are available for public inspection.

9) Notice of Proposal Published in the Illinois Register: October 21, 2011; 35 Ill. Reg. 16918

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Difference 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 agreements were necessary.

13) Will this rulemaking replace any emergency rulemaking currently in effect? No

14) Are there any amendments pending on this Part? No

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

15) Summary and Purpose of Rulemaking: The Illinois Environmental Protection Agency's (Illinois EPA) amendments to Part 276 reflect an amendment to the Vehicle Emissions Inspection Law of 2005 (VEIL of 2005) (625 ILCS 5/13C) (Public Act 97-106). PA 97-106 amends the VEIL of 2005 by repealing the steady-state idle exhaust and evaporative system integrity inspection tests. In addition, it exempts pre-2007 heavy-duty vehicles with a gross vehicle weight rating (GVWR) between 8,501 and 14,000 pounds and any heavy-duty vehicles with a GVWR greater than 14,000 pounds from the requirement to be tested. Also, PA 97-106 adds a visual inspection test as a new substitute for the on-board diagnostic (OBD) test for vehicles that cannot receive the OBD test due to their design or with known OBD communication or software problems. Further, it revises the definition of "malfunction indicator lamp" and "OBD system." Finally, PA 97-106 corrects an error with respect to the exemption for vehicles located and primarily used outside of the affected counties and in other jurisdictions where vehicle emissions tests are not required.

The Illinois EPA's amendments to Part 276 sunset the steady-state idle exhaust and evaporative system integrity inspection test procedures, test equipment specifications, and equipment maintenance and calibration requirements as of February 1, 2012. Also, the amendments add visual inspection test procedures beginning February 1, 2012, and a definition of "visual inspection test." In addition, the amendments reflect the correction made by PA 97-106 to the VEIL of 2005 regarding vehicles located and primarily used outside of the affected counties and in other jurisdictions where vehicle emissions tests are not required.

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

Kent E. Mohr Jr., Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

217/782-5544

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

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 276
PROCEDURES TO BE FOLLOWED IN THE PERFORMANCE
OF INSPECTIONS OF MOTOR VEHICLE EMISSIONS

SUBPART A: GENERAL PROVISIONS

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276.101 Purpose and Applicability
276.102 Definitions
276.103 Abbreviations
276.104 Incorporations by Reference
276.105 Sunset Provisions

SUBPART B: VEHICLE EMISSIONS INSPECTION PROCEDURES

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276.201 General Description of Vehicle Emissions Inspection Procedures
276.202 Pollutants to be Tested – Exhaust Test
276.203 Dilution – Steady-State Idle Exhaust Test
276.204 Steady-State Idle Exhaust Emissions Test Procedures
276.205 Evaporative System Integrity Test Procedures
276.206 Engine and Fuel Type Modifications
276.207 Transient Loaded Mode Exhaust Emissions Test Procedures (Repealed)
276.208 On-Road Remote Sensing Test Procedures
276.209 On-Board Diagnostic Test Procedures
276.210 Visual Inspection Test Procedures

SUBPART C: EMISSIONS COMPLIANCE CERTIFICATE

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276.301 General Requirements
276.302 Determination of Affected Counties
276.303 Emissions Compliance Certificate Design and Content
276.304 Initial Emissions Inspection Stickers or Certificates (Repealed)
276.305 Exempt Emissions Inspection Stickers or Certificates (Repealed)

276.306 Renewal Emissions Inspection Stickers or Certificates (Repealed)
276.307 Temporary Emissions Inspection Stickers or Certificates (Repealed)
276.308 Corrected or Interim Emissions Inspection Stickers or Certificates (Repealed)
276.309 Waiver Emissions Inspection Stickers or Certificates (Repealed)
276.310 Emissions Inspection Sticker and Certificate Display and Possession (Repealed)
276.311 Change of Assigned Test Month (Repealed)
276.312 Economic Hardship Extension Stickers or Certificates (Repealed)

SUBPART D: WAIVER, ECONOMIC HARDSHIP EXTENSION, AND OUTSIDE OF AFFECTED COUNTIES ANNUAL EXEMPTION REQUIREMENTS

Section
276.401 Waiver Requirements
276.402 Low Emissions Tuneups (Repealed)
276.403 Denial or Issuance of Waiver
276.404 Economic Hardship Extension Requirements
276.405 Outside of Affected Counties Annual Exemption Requirements

SUBPART E: TEST EQUIPMENT SPECIFICATIONS

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276.501 General Requirements
276.502 Steady-State Idle Exhaust Test Analysis Systems Functional Requirements
276.503 Steady-State Idle Exhaust Test Analysis Systems Performance Criteria
276.504 Evaporative System Integrity Test Functional Requirements and Performance Criteria
276.505 Transient Loaded Mode Test Systems Functional Requirements (Repealed)
276.506 Transient Loaded Mode Test Systems Performance Criteria (Repealed)
276.507 On-Road Remote Sensing Test Systems Functional Requirements and Performance Criteria
276.508 On-Board Diagnostic Test Systems Functional Requirements and Performance Criteria

SUBPART F: EQUIPMENT MAINTENANCE AND CALIBRATION

Section
276.601 Steady-State Idle Test Equipment Maintenance
276.602 Steady-State Idle Test Equipment Calibration
276.603 Evaporative System Integrity Test Maintenance and Calibration

276.604 Record Keeping
276.605 Transient Loaded Mode Test Equipment Maintenance and Calibration (Repealed)
276.606 On-Road Remote Sensing Test Systems Maintenance and Calibration
276.607 On-Board Diagnostic Test Systems Maintenance and Calibration

SUBPART G: FLEET SELF TESTING REQUIREMENTS

Section
276.701 General Requirements
276.702 Fleet Inspection Permit
276.703 Fleet Inspection Permittee Operating Requirements
276.704 Private Official Inspection Station Auditing and Surveillance
276.705 Fleet Station Auditing and Surveillance (Renumbered)

SUBPART H: GRIEVANCE PROCEDURE

Section
276.801 General Requirements
276.802 Procedure for Filing Grievance
276.803 Agency Investigation
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SUBPART I: NOTICES

Section
276.901 General Requirements
276.902 Vehicle Emissions Test Notice
276.903 Warning Notice (Repealed)
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SUBPART J: RECIPROCITY WITH OTHER JURISDICTIONS

Section
276.1001 Requirements for Vehicles Registered in Affected Counties and Located in Other Jurisdictions Requiring Vehicle Emissions Inspection
276.1002 Requirements for Vehicles Registered in Other Jurisdictions Requiring Vehicle Emissions Inspection and Located in an Affected County

SUBPART K: REPAIR FACILITY PERFORMANCE REPORTING

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

276.1101 Requirements for Collecting and Reporting Data Pertaining to the Repair of Vehicles that Failed or Were Rejected from an Emissions Inspection

276.TABLE A Transient Driving Cycle (Repealed)
276.TABLE B Fast-Pass Speed Variation Limits Using Positive Kinetic Energy (PKE) Measurements (Repealed)

AUTHORITY: Implementing the Vehicle Emissions Inspection Law of 2005 [625 ILCS 5/13C] and authorized by Sections 13C-10 and 13C-20 of the Vehicle Emissions Inspection Law of 2005 [625 ILCS 5/13C-10 and 13C-20].

SOURCE: Adopted at 10 Ill. Reg. 13954, effective August 13, 1986; amended at 16 Ill. Reg. 10230, effective June 15, 1992; amended at 20 Ill. Reg. 8456, effective June 14, 1996; amended at 22 Ill. Reg. 18867, effective September 28, 1998; amended at 26 Ill. Reg. 8113, effective May 17, 2002; amended at 35 Ill. Reg. 11268, effective June 28, 2011; amended at 36 Ill. Reg. 2257, effective January 30, 2012.

SUBPART A: GENERAL PROVISIONS

Section 276.102 Definitions

a) Except as hereinafter stated and unless a different meaning of a term is clear from its context, the definitions of terms used in this Part shall be the same as those used in the Environmental Protection Act [415 ILCS 5] and the Vehicle Emissions Inspection Law of 2005 [625 ILCS 5/13C].

b) The following definitions apply to this Part:

"Accuracy" means the combination of bias and precision errors, technically defined as uncertainty, that quantifies the differences between a measured and true value.

"Affected county" means any county or portion thereof, as defined in Section 13C-5 of the Vehicle Emissions Inspection Law of 2005.

"Agency" means the Illinois Environmental Protection Agency or its designee.

"Calibration gas" means a gas of known concentration used to establish the response curve of the exhaust gas analyzer.

"Diagnostic trouble code" or "(DTC)" means an alphanumeric code that is set in a vehicle's onboard computer when a monitor detects a condition likely to indicate the existence of an emission related malfunction of the vehicle.

"Drift" means the amount of change in analyzer reading over a period of time. Zero drift refers to the change of zero reading. Span drift refers to a change in the reading at a specified span gas calibration point.

"Economic hardship extension" means a one year extension to the test-by date that may be granted to the owners of a vehicle in order for the owners to comply with the requirements of the Vehicle Emissions Inspection Law of 2005.

"Emissions compliance certificate" means a certificate issued to an owner of a vehicle registered in an affected county who successfully complies with the Vehicle Emissions Inspection Law of 2005 and the requirements of this Part. As required by the context, this means an emissions compliance certificate, annual exemption certificate or emissions inspection certificate.

"Emission control devices" means those components of a vehicle that were designed and are used to control vehicle exhaust and evaporative system emissions. For the purpose of this Part, this term refers to components with which the vehicle was originally equipped or direct replacements.

"Evaporative system integrity test" means a test of the fuel cap portion of a vehicle's evaporative system, which consists of either a fuel cap leak flow test, a fuel cap pressure decay test, or a fuel cap visual functional test, as applicable.

"Exhaust gas analyzer" means a device that has the capability to identify unknown concentrations of particular constituents in motor vehicle exhaust gases by comparison with known concentrations of analytical gases.

"Fleet inspection permit" means a permit issued to fleet self-testers in accordance with Subpart G.

"Fleet inventory" means those vehicles that have been registered with the Agency for the purpose of fleet self-testing and that have been assigned a test eligibility date.

"Fleet vehicle" means any non-exempt vehicle registered with the Agency for the purpose of fleet self-testing.

"Fuel cap" means a device used to seal a vehicle's fuel inlet.

"Fuel cap leak flow test" means a test performed in accordance with this Part on a vehicle's fuel cap using a fuel cap leak flow tester to determine whether the vehicle complies with the evaporative system emission standards of 35 Ill. Adm. Code 240.

"Fuel cap leak flow tester" or "fuel cap tester" means a device used to determine the leak flow integrity of a vehicle's fuel cap by comparing the measured leak flow of the fuel cap with an established fuel cap leak flow standard.

"Fuel cap pressure decay test" means the test performed in accordance with this Part on a vehicle's fuel cap using a fuel cap pressure decay tester to determine whether the vehicle complies with the evaporative system emission standards of 35 Ill. Adm. Code 240.

"Fuel cap pressure decay tester" means a device used to determine the pressure decay integrity of a vehicle's fuel cap by monitoring the pressure behind the fuel cap for a 10 second period and comparing the measured pressure decay of the fuel cap to an established fuel cap pressure decay standard.

"Fuel cap visual functional test" means the test performed in accordance with this Part on a vehicle's fuel cap using visual analysis to determine whether the vehicle complies with the evaporative system emission standards of 35 Ill. Adm. Code 240.

"Full-service official inspection station" means an inspection station that

offers the full range of emissions inspection services and customer service functions, including waiver inspections.

"HC hangup" means hydrocarbons that cling to the surface of the analyzer gas sampling stream causing errors in hydrocarbon readings.

"High idle" means a vehicle operating condition with engine disconnected from an external load (placed in either neutral or park) and operating at a speed of 2500 ±300 RPM.

"Household income" means the gross income of all household members, except wage or salary income earned by dependent minors under 18 years of age. A head of household and his or her spouse are not considered as minors. Gross income includes wages, interest, annuities, pensions, social security, retirement, disability, public aid, alimony, child support, unemployment benefits, workers' compensation, and any other indirect income such as utility allowances.

"Idle mode" means that portion of a vehicle emission test procedure conducted with the engine disconnected from an external load and operating at minimum throttle.

"Initial idle mode" means the first of up to two idle mode sampling periods during a steady-state idle mode test, during which exhaust emission measurements are made with the vehicle in "as-received" condition.

"Low income" means the household income during the preceding 12 month period was not more than 150 percent of the latest available poverty guidelines established by the U.S. Department of Health and Human Services for the contiguous United States and the District of Columbia.

"Malfunction indicator light" or "MIL" means the light found on the dashboard of OBD-equipped vehicles that is required to be illuminated when the OBD system detects malfunctions likely to result in emissions exceeding applicable emission standards. The MIL must display the phrase "Check Engine" or "Service Engine Soon". The word "Powertrain" may be substituted for "Engine". Alternatively, the ISO engine symbol may be substituted.

"National Institute of Standards and Technology gas" or "NIST gas" means a standard gas maintained or made available by the National Institute of Standards and Technology for the purpose of determining the accuracy of calibration gases.

"Non-exempt vehicle" means any vehicle subject to emission inspections, regardless of whether the vehicle is in a certified configuration, under the Vehicle Emissions Inspection Law of 2005.

"Non-fleet vehicle" means any non-exempt vehicle except for vehicles registered with the Agency for the purpose of fleet self-testing.

"Official inspection station" means a vehicle emission inspection facility operated by the Agency or the Agency's Contractor for the purpose of conducting emission inspections on non-fleet vehicles.

"On-board diagnostic readiness code" means a status flag stored by a vehicle's onboard computer that indicates whether a given monitor has been run (i.e., whether the component or system in question has been checked to determine if it is functioning properly).

"On-board diagnostic test" means the electronic retrieval of stored readiness status, diagnostic trouble codes, and MIL illumination status from a vehicle's OBD system to determine if any emission related trouble codes are present and if the MIL is commanded to be on, which would indicate the existence of an emission related malfunction with the vehicle.

"On-road remote sensing test" means the observation, measurement, and recording of vehicle exhaust emission concentrations of hydrocarbons (HC), carbon monoxide (CO), and carbon dioxide (CO_2) present in each in-use vehicle while traveling on roadways or in specified areas by equipment that is not connected to the vehicle.

"Preconditioning mode" means a period of steady-state high-idle operation conducted to ensure that the engine and emissions control system components are operating at normal operating temperatures, thus minimizing false failure caused by improper or insufficient warm-up.

"Private official inspection station" means a vehicle emission inspection facility operated by a registered owner or lessee of 15 or more non-exempt fleet vehicles.

"Recognized repair technician" means a person professionally engaged in vehicle repair, employed by a going concern whose purpose is vehicle repair, or possessing nationally recognized certification for emission related diagnosis and repair.

"Second-chance idle mode" means the second of two idle mode sampling periods during a steady-state idle mode test, preceded by a preconditioning mode and utilized as a second chance to pass idle exhaust emission standards immediately following an initial idle mode failure.

"Span gas" means a gas of known concentrations that is used to check or adjust the analyzer response characteristics to those determined by the calibration gases.

"Steady-state idle test" means a vehicle emission test procedure consisting of an initial idle mode measurement of exhaust emissions followed, if necessary, by a high idle preconditioning mode and a second-chance idle mode.

"Test-by date" or "TBD" means the date by which the vehicle is due to have an emissions inspection and corresponds to the date the vehicle's registration will expire. For non-expiring vehicle registrations, the TBD is the date of the vehicle's purchase anniversary month or, if not available, the month the vehicle was added to the Illinois Secretary of State's registration database.

"Test cycle" means the two-year period between a vehicle's test eligibility dates.

"Test eligibility date" or "TED" means the first day of the third month prior to the vehicle's TBD.

"Vehicle emissions test notice" means a notice sent by the Agency to the owners of a vehicle informing the owners of the need to comply with the requirements of the Vehicle Emissions Inspection Law of 2005.

"Vehicle inspection report" means a report issued to the motorist indicating the results of an emission inspection or waiver determination.

"Visual functional test" means a visual examination of a vehicle's fuel cap for any readily apparent wear, tampering, or defects that would prevent the fuel cap from operating properly.

"Visual inspection test" means a visual examination of a vehicle's MIL consisting of verifying the status of the MIL in key on/engine off position followed by verifying the status of the MIL in the key on/engine on position to determine the status of the MIL and existence of an emission related malfunction with the vehicle.

"Waiver" means a suspension of the requirement that a non-exempt vehicle comply with test standards after two or more attempts to do so, as provided for in this Part.

"Waiver inspection" means an inspection conducted by a waiver inspector to determine waiver eligibility.

"Waiver inspector" means a person authorized by the Agency to conduct waiver inspections and to approve or disapprove applications for a waiver.

(Source: Amended at 36 Ill. Reg. 2257, effective January 30, 2012)

Section 276.105 Sunset Provisions

Sections 276.203, 276.204, 276.205, 276.502, 276.503, 276.504, 276.601, 276.602 and 276.603 of this Part shall not apply after January 31, 2012.

(Source: Added at 36 Ill. Reg. 2257, effective January 30, 2012)

SUBPART B: VEHICLE EMISSIONS INSPECTION PROCEDURES

Section 276.201 General Description of Vehicle Emissions Inspection Procedures

Compliance with steady-state idle, evaporative system integrity, OBD, visual inspection, and on-road sensing test standards contained in 35 Ill. Adm. Code 240 shall be determined by use of test

procedures and other requirements as applicable, as set forth in this Part, and shall be performed to the extent practicable. The test procedure applicable to each non-exempt vehicle shall be based on the model year and vehicle type as supplied by the manufacturer. If this information is not available from the manufacturer, the model year and vehicle type shall be based on registration information as supplied by the Illinois Secretary of State.

(Source: Amended at 36 Ill. Reg. 2257, effective January 30, 2012)

Section 276.210 Visual Inspection Test Procedures

a) Applicability
Beginning February 1, 2012, the visual inspection test may be substituted for the OBD test for those vehicles identified in Section 13C-25(h) of the Vehicle Emissions Inspection Law of 2005. The visual inspection test consists of a two-part test. The first part of the visual inspection test consists of a visual examination of the MIL in the key-on/engine off position. The second part of the visual inspection test consists of a visual examination of the MIL in the key on/engine on position. The visual inspection test shall be performed in accordance with subsections (b) and (c) of this Section.

b) Test Procedures

1) Key on/engine off
The key on/engine off test starts with the ignition in the key off/engine off position. The ignition shall then be turned to the key on/engine off position. The inspector shall observe whether the MIL is illuminated.

2) Key on/engine on
The key on/engine on test starts with the ignition in the key on/engine off position. The ignition shall then be turned to the key on/engine on position. The inspector shall observe whether the MIL is continuously illuminated.

c) Pass/Fail Determination
A pass or fail determination is made for each part of the visual inspection test identified in subsection (b) based on a comparison of the test results to the visual inspection test standards contained in 35 Ill. Adm. Code 240.202.

(Source: Added at 36 Ill. Reg. 2257, effective January 30, 2012)

SUBPART D: WAIVER, ECONOMIC HARDSHIP EXTENSION, AND OUTSIDE OF AFFECTED COUNTIES ANNUAL EXEMPTION REQUIREMENTS

Section 276.405 Outside of Affected Counties Annual Exemption Requirements

a) The owner of a vehicle that is located and being primarily operated outside of the affected counties and~~, or~~ in other jurisdictions in which vehicle emission inspections are not required, may be issued a one year emissions compliance certificate allowing the motorist to renew the registration without having an emissions inspection. Written proof of the vehicle's location must be provided by one of the following:

1) Tax bill;

2) Utility bill;

3) Tuition bill;

4) Storage receipt;

5) Military orders; or

6) Other written proof deemed acceptable by the Agency.

b) Vehicles obtaining a one year emissions compliance certificate under this Section will be subject to inspection by the next TBD unless the motorist complies with subsection (a) of this Section.

c) A vehicle owner who is currently in the military and deployed outside the affected counties may be issued a one year emissions compliance certificate under this Section if written proof as specified in subsection ~~Section 276.405~~(a)(5) or (a)(6) is provided.

(Source: Amended at 36 Ill. Reg. 2257, effective January 30, 2012)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Medical Payment

2) Code Citation: 89 Ill. Adm. Code 140

3)

Section Numbers:	Adopted Action:
140.414	Amendment
140.445	Amendment
140.446	Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Effective Date of Amendments: February 1, 2012

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendments, 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: July 29, 2011; 35 Ill. Reg. 12600

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences Between Proposal and Final Version: The following changes were made:

In Section 140.414, subsection (b)(2) changed the effective date from "October 1, 2011" to "February 1, 2012" and added "the provider's usual and customary charge to the public; or".

In Section 140.414(b)(1)(B), "In cases in which ASP is not available," was added at the beginning of the first sentence.

In Section 140.445, subsection (b) changed "$4.60" to "$6.35" and after the first sentence added the following: "If the generic dispensing rate during the quarter ending June 30, 2014 is not 2% higher than the generic dispensing rate during the quarter ending December 31, 2011, then effective January 1, 2015, the dispensing fee shall be $4.60 for generic drugs and $3.40 for brand name drugs."

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

In subsection 140.445(b)(1)(A) deleted "Wholesale Acquisition Cost (WAC) the average wholesale price plus 1 minus 25" and replaced with "Suggested Wholesale Price (SWP) minus 25%".

In subsection 140.445(b)(1)(D) deleted in entire "the average wholesale price for drugs where that price is based upon the actual market wholesale price."

In subsection 140.445(b)(2)(C) deleted in entire "the average wholesale price for drugs where that price is based upon the actual market wholesale price."

In Section 140.446 changed "October 1, 2011" to "February 1, 2012".

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 these amendments replace emergency amendments currently in effect? No

14) Are there any other amendments pending on this Part? Yes

Section Numbers:	Proposed Action:	Illinois Register Citation:
140.1300	New Section	35 Ill. Reg. 19368; November 15, 2011
140.1310	New Section	35 Ill. Reg. 19368; November 15, 2011
140.1320	New Section	35 Ill. Reg. 19368; November 15, 2011
140.1330	New Section	35 Ill. Reg. 19368; November 15, 2011
140.80	Amendment	35 Ill. Reg. 12202; July 22, 2011
140.82	Amendment	35 Ill. Reg. 12202; July 22, 2011
140.84	Amendment	35 Ill. Reg. 12202; July 22, 2011
140.462	Amendment	35 Ill. Reg. 11126; July 15, 2011

15) Summary and Purpose of Amendments: These amendments make changes to the reimbursement methodology for drugs dispensed or administered by practitioners will reduce physician program costs by an estimated $16 million annually. Likewise, changes to reimbursement methodology for generic and brand name drugs, as well as OTC products, is projected to reduce pharmacy costs by an estimated $42 million in State FY12.

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

Jeanette Badrov

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/782-1233

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES
SUBCHAPTER d: MEDICAL PROGRAMS

PART 140
MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section
140.1 Incorporation By Reference
140.2 Medical Assistance Programs
140.3 Covered Services Under Medical Assistance Programs
140.4 Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
140.5 Covered Medical Services Under General Assistance
140.6 Medical Services Not Covered
140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
140.8 Medical Assistance For Qualified Severely Impaired Individuals
140.9 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
140.10 Medical Assistance Provided to Incarcerated Persons

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section
140.11 Enrollment Conditions for Medical Providers
140.12 Participation Requirements for Medical Providers
140.13 Definitions
140.14 Denial of Application to Participate in the Medical Assistance Program
140.15 Recovery of Money
140.16 Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
140.18 Effect of Termination or Revocation on Persons Associated with Vendor
140.19 Application to Participate or for Reinstatement Subsequent to Termination,

Suspension or Barring
140.20 Submittal of Claims
140.21 Reimbursement for QMB Eligible Medical Assistance Recipients and QMB Eligible Only Recipients and Individuals Who Are Entitled to Medicare Part A or Part B and Are Eligible for Some Form of Medicaid Benefits
140.22 Magnetic Tape Billings (Repealed)
140.23 Payment of Claims
140.24 Payment Procedures
140.25 Overpayment or Underpayment of Claims
140.26 Payment to Factors Prohibited
140.27 Assignment of Vendor Payments
140.28 Record Requirements for Medical Providers
140.30 Audits
140.31 Emergency Services Audits
140.32 Prohibition on Participation, and Special Permission for Participation
140.33 Publication of List of Sanctioned Entities
140.35 False Reporting and Other Fraudulent Activities
140.40 Prior Approval for Medical Services or Items
140.41 Prior Approval in Cases of Emergency
140.42 Limitation on Prior Approval
140.43 Post Approval for Items or Services When Prior Approval Cannot Be Obtained
140.44 Withholding of Payments Due to Fraud or Misrepresentation
140.55 Recipient Eligibility Verification (REV) System
140.71 Reimbursement for Medical Services Through the Use of a C-13 Invoice Voucher Advance Payment and Expedited Payments
140.72 Drug Manual (Recodified)
140.73 Drug Manual Updates (Recodified)

SUBPART C: PROVIDER ASSESSMENTS

Section
140.80 Hospital Provider Fund
140.82 Developmentally Disabled Care Provider Fund
140.84 Long Term Care Provider Fund
140.94 Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
140.95 Hospital Services Trust Fund
140.96 General Requirements (Recodified)
140.97 Special Requirements (Recodified)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

140.98	Covered Hospital Services (Recodified)
140.99	Hospital Services Not Covered (Recodified)
140.100	Limitation On Hospital Services (Recodified)
140.101	Transplants (Recodified)
140.102	Heart Transplants (Recodified)
140.103	Liver Transplants (Recodified)
140.104	Bone Marrow Transplants (Recodified)
140.110	Disproportionate Share Hospital Adjustments (Recodified)
140.116	Payment for Inpatient Services for GA (Recodified)
140.117	Hospital Outpatient and Clinic Services (Recodified)
140.200	Payment for Hospital Services During Fiscal Year 1982 (Recodified)
140.201	Payment for Hospital Services After June 30, 1982 (Repealed)
140.202	Payment for Hospital Services During Fiscal Year 1983 (Recodified)
140.203	Limits on Length of Stay by Diagnosis (Recodified)
140.300	Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
140.350	Copayments (Recodified)
140.360	Payment Methodology (Recodified)
140.361	Non-Participating Hospitals (Recodified)
140.362	Pre July 1, 1989 Services (Recodified)
140.363	Post June 30, 1989 Services (Recodified)
140.364	Prepayment Review (Recodified)
140.365	Base Year Costs (Recodified)
140.366	Restructuring Adjustment (Recodified)
140.367	Inflation Adjustment (Recodified)
140.368	Volume Adjustment (Repealed)
140.369	Groupings (Recodified)
140.370	Rate Calculation (Recodified)
140.371	Payment (Recodified)
140.372	Review Procedure (Recodified)
140.373	Utilization (Repealed)
140.374	Alternatives (Recodified)
140.375	Exemptions (Recodified)
140.376	Utilization, Case-Mix and Discretionary Funds (Repealed)
140.390	Subacute Alcoholism and Substance Abuse Services (Recodified)
140.391	Definitions (Recodified)
140.392	Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
140.394	Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
140.396	Rate Appeals for Subacute Alcoholism and Substance Abuse Services

(Recodified)
140.398 Hearings (Recodified)

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section
140.400 Payment to Practitioners
140.402 Copayments for Noninstitutional Medical Services
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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].

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NOTICE OF ADOPTED AMENDMENTS

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill.

Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg.7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and 140.Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill.

Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of

150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December

19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897,

effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002; amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513, effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005; emergency amendment at 29 Ill. Reg. 8509, effective June 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12534, effective

August 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 14957, effective September 30, 2005; emergency amendment at 29 Ill. Reg. 15064, effective October 1, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 15985, effective October 5, 2005, for the remainder of the maximum 150 days; emergency amendment at 29 Ill. Reg. 15610, effective October 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 16515, effective October 5, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 349, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 573, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 796, effective January 1, 2006; amended at 30 Ill. Reg. 2802, effective February 24, 2006; amended at 30 Ill. Reg. 10370, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 12376, effective July 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14280, effective August 18, 2006; expedited correction at 31 Ill. Reg. 1745, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18648, effective November 27, 2006; emergency amendment at 30 Ill. Reg. 19400, effective December 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 388, effective December 29, 2006; emergency amendment at 31 Ill. Reg. 1580, effective January 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 2413, effective January 19, 2007; amended at 31 Ill. Reg. 5561, effective March 30, 2007; amended at 31 Ill. Reg. 6930, effective April 29, 2007; amended at 31 Ill. Reg. 8485, effective May 30, 2007; emergency amendment at 31 Ill. Reg. 10115, effective June 30, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 14749, effective October 22, 2007; emergency amendment at 32 Ill. Reg. 383, effective January 1, 2008, for a maximum of 150 days; peremptory amendment at 32 Ill. Reg. 6743, effective April 1, 2008; peremptory amendment suspended at 32 Ill. Reg. 8449, effective May 21, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 32 Ill. Reg. 18323, effective November 12, 2008; peremptory amendment repealed by emergency rulemaking at 32 Ill. Reg. 18422, effective November 12, 2008, for a maximum of 150 days; emergency expired April 10, 2009; peremptory amendment repealed at 33 Ill. Reg. 6667, effective April 29, 2009; amended at 32 Ill. Reg. 7727, effective May 5, 2008; emergency amendment at 32 Ill. Reg. 10480, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 32 Ill. Reg. 17133, effective October 15, 2008; amended at 33 Ill. Reg. 209, effective December 29, 2008; amended at 33 Ill. Reg. 9048, effective June 15, 2009; emergency amendment at 33 Ill. Reg. 10800, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 11287, effective July 14, 2009; amended at 33 Ill. Reg. 11938, effective August 17, 2009; amended at 33 Ill. Reg. 12227, effective October 1, 2009; emergency amendment at 33 Ill. Reg. 14324, effective October 1, 2009, for a maximum of 150 days; emergency expired February 27, 2010; amended at 33 Ill. Reg. 16573, effective November 16, 2009; amended at 34 Ill. Reg. 516, effective January 1, 2010; amended at 34 Ill. Reg. 903, effective January 29, 2010; amended at 34 Ill. Reg. 3761, effective March 14, 2010;

amended at 34 Ill. Reg. 5215, effective March 25, 2010; amended at 34 Ill. Reg. 19517, effective December 6, 2010; amended at 35 Ill. Reg. 394, effective December 27, 2010; amended at 35 Ill. Reg. 7648, effective May 1, 2011; amended at 35 Ill. Reg. 7962, effective May 1, 2011; amended at 35 Ill. Reg. 10000, effective June 15, 2011; amended at 35 Ill. Reg. 12909, effective July 25, 2011; amended at 36 Ill. Reg. 2271, effective February 1, 2012.

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section 140.414 Requirements for Prescriptions and Dispensing of Pharmacy Items – Prescibers

For the purpose of this Section, "prescriber" shall mean any person who, within the scope of his or her professional licensing requirements, may prescribe or dispense drugs.

a) Prescriptions

1) A prescriber may prescribe any pharmacy item, not otherwise excluded, that, in the prescriber's professional judgment, is essential for the diagnosis or accepted treatment of a recipient's present symptoms. The Department may require prior approval of any drug except as outlined in Section 140.442(a)(9).

2) A prescriber shall:

A) Use a tamper-resistant prescription form, as defined at Section 140.443(b)(2), for non-electronic prescriptions. Non-electronic prescriptions are defined at Section 140.443(b)(1). In addition, the prescriber shall ensure the prescription form is compliant with Section 3(e) of the Pharmacy Practice Act of 1987 [225 ILCS 85/3(e)], 68 Ill. Adm. Code 1330 and 42 USC 1936(i)(23); and

B) Enter on the form all data elements required under Section 3(e) of the Pharmacy Practice Act of 1987 [225 ILCS 85/3(e)], 68 Ill. Adm. Code 1330 and 42 USC 1936(i)(23), as well as one of the following data elements identifying the prescriber:

i) Drug Enforcement Administration (DEA) Number; or

ii) National Provider Indentifier (NPI); or

iii) Medical Assistance Program Provider Number; or

iv) Illinois State License Number.

3) The prescriber shall not charge for writing a prescription.

4) Items that shall not be prescribed are listed in Section 140.441.

b) Dispensed Items

1) A participating prescriber may dispense pharmacy items subject to the Department's coverage policies. The prescriber shall not charge for any samples dispensed or anesthesia agents administered for office surgical procedures.

2) Effective February 1, 2012, the~~The~~ Department shall pay for covered outpatient drug items dispensed or administered by a non-pharmacy provider at a rate equal to the lowest of the provider's usual and customary charge to the public; or

A) The Average Sales Price (ASP) plus 6 percent. ASP means the ASP as defined in the Social Security Act, Title XVIII, section 1847A(c) (42 USC 1395 w-3a(c)) and calculated by the federal Centers for Medicare and Medicaid Services (CMMS); or

B) In cases in which ASP is not available, the Department's lowest maximum allowable price for all covered NDCs assigned to the HCPCS billing code (the methodology for determining the Department's maximum prescription prices is specified in Section 140.445(b)(1) and (b)(2)).

3) Reimbursement rates for drugs dispensed or administered by non-pharmacy providers shall be updated no less frequently than twice per calendar year.~~items dispensed in an emergency or when not readily available from a pharmacy at the rate of the cost to the prescriber for the item, plus 20% of the cost when itemized. The Department will pay a maximum of $1.00 for unitemized items.~~

(Source: Amended at 36 Ill. Reg. 2271, effective February 1, 2012)

Section 140.445 Legend Prescription Items (Not Compounded)

Effective February 1, 2012, for~~For~~ legend (prescription) drugs, the Department shall pay the lower of:

a) the pharmacy's usual and customary~~prevailing~~ charge to the general public; or

b) the Department's maximum price plus the established dispensing fee of $6.35~~$4.60~~ for generic drugs and $3.40 for brand name drugs. If the generic dispensing rate during the quarter ending June 30, 2014 is not 2% higher than the generic dispensing rate during the quarter ending December 31, 2011, then effective January 1, 2015, the dispensing fee shall be $4.60 for generic drugs and $3.40 for brand name drugs.

1) For generic drugs, the Department's maximum price is calculated as the lowest of:

A) Suggested Wholesale Price (SWP) minus 25%; or~~the average wholesale price minus 25 percent; or~~

B) the Federal upper limit as established under section 1927(e)(4) of the Social Security Act (42 USC 1396r-8(e)(4))~~Upper Limit for drugs that have been evaluated as therapeutically equivalent in the Food and Drug Administration's publication entitled Approved Drug Products with Therapeutic Equivalence Evaluations~~; or

C) the State upper limit.~~Upper Limit for drugs listed in the Illinois Formulary for the Drug Product Selection Program and not having an established Federal Upper Limit at the time of listing; or~~

~~D) the average wholesale price for drugs where that price is based upon the actual market wholesale price.~~

2) For brand name drugs, the Department's maximum price is calculated as the lowest~~lower~~ of:

A) WAC plus 1%~~the average wholesale price minus 12 percent~~; or

B) the State upper limit.~~the average wholesale price for drugs where that price is based upon the actual market wholesale price.~~

(Source: Amended at 36 Ill. Reg. 2271, effective February 1, 2012)

Section 140.446 Over-the-Counter Items

Effective February 1, 2012, for~~For~~ those over-the-counter items that~~which~~ are covered, the Department shall pay the lower of:

a) the pharmacy's usual and customary~~prevailing~~ charge to the general public; or

b) Wholesale Acquisition Cost (WAC)~~the average wholesale price,~~ plus 25 percent; or~~.~~

c) The State upper limit.

(Source: Amended at 36 Ill. Reg. 2271, effective February 1, 2012)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Emergency Medical Services and Trauma Center Code

2) Code Citation: 77 Ill. Adm. Code 515

3)

Section Number:	Adopted Action:
515.750	Amend

4) Statutory Authority: Emergency Medical Services (EMS) Systems Act [210 ILCS 50]

5) Effective Date of Rulemaking: January 25, 2012

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 Proposed Amendments Published in Illinois Register: August 19, 2011; 35 Ill. Reg. 14071

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version: 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? No agreements were necessary.

13) Will this rulemaking replace any emergency rulemaking currently in effect? No

14) Are there any amendments pending on this Part? Yes

Section Number:	Proposed Action:	Ill. Reg. Citation:
515.620	Amend	35 Ill. Reg. 18565; November 14, 2011

15) Summary and Purpose of Rulemaking The Section of the rules governing certification of Trauma Nurse Specialists is being amended to ensure consistency with current standards of care and health care practices. The amendment has taken out specifics of the Trauma

Nurse Specialist Course and has made reference to The State of Illinois Trauma Nurse Specialist Program, which is the Department approved course outline. The amendment changes the continuing education requirements from 80 to 64.

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, 5th Floor
Springfield, Illinois 62761
e-mail: dph.rules@illinois.gov

217-782/2043

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 f: EMERGENCY SERVICES AND HIGHWAY SAFETY

PART 515
EMERGENCY MEDICAL SERVICES AND TRAUMA CENTER CODE

SUBPART A: GENERAL

Section
515.100 Definitions
515.125 Incorporated and Referenced Materials
515.150 Waiver Provisions
515.160 Facility, System and Equipment Violations, Hearings and Fines
515.170 Employer Responsibility

SUBPART B: EMS REGIONS

Section
515.200 Emergency Medical Services Regions
515.210 EMS Regional Plan Development
515.220 EMS Regional Plan Content
515.230 Resolution of Disputes Concerning the EMS Regional Plan
515.240 Bioterrorism Grants

SUBPART C: EMS SYSTEMS

Section
515.300 Approval of New EMS Systems
515.310 Approval and Renewal of EMS Systems
515.315 Bypass Status Review
515.320 Scope of EMS Service
515.330 EMS System Program Plan
515.340 EMS Medical Director's Course
515.350 Data Collection and Submission
515.360 Approval of Additional Drugs and Equipment
515.370 Automated Defibrillation (Repealed)
515.380 Do Not Resuscitate (DNR) Policy
515.390 Minimum Standards for Continuing Operation
515.400 General Communications

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

515.410 EMS System Communications
515.420 System Participation Suspensions
515.430 Suspension, Revocation and Denial of Licensure of EMTs
515.440 State Emergency Medical Services Disciplinary Review Board
515.445 Pediatric Care
515.450 Complaints
515.455 Intra- and Inter-system Dispute Resolution
515.460 Fees
515.470 Participation by Veterans Health Administration Facilities

SUBPART D: EMERGENCY MEDICAL TECHNICIANS

Section
515.500 Emergency Medical Technician-Basic Training
515.510 Emergency Medical Technician-Intermediate Training
515.520 Emergency Medical Technician-Paramedic Training
515.530 EMT Testing
515.540 EMT Licensure
515.550 Scope of Practice – Licensed EMT
515.560 EMT-B Continuing Education
515.570 EMT-I Continuing Education
515.580 EMT-P Continuing Education
515.590 EMT License Renewals
515.600 EMT Inactive Status
515.610 EMT Reciprocity
515.620 Felony Convictions
515.630 Evaluation and Recognition of Military Experience and Education
515.640 Reinstatement

SUBPART E: EMS LEAD INSTRUCTOR, EMERGENCY MEDICAL DISPATCHER, FIRST RESPONDER, PRE-HOSPITAL REGISTERED NURSE, EMERGENCY COMMUNICATIONS REGISTERED NURSE, AND TRAUMA NURSE SPECIALIST

Section
515.700 EMS Lead Instructor
515.710 Emergency Medical Dispatcher
515.720 First Responder
515.725 First Responder – AED
515.730 Pre-Hospital Registered Nurse

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

515.740 Emergency Communications Registered Nurse
515.750 Trauma Nurse Specialist
515.760 Trauma Nurse Specialist Program Plan

SUBPART F: VEHICLE SERVICE PROVIDERS

Section
515.800 Vehicle Service Provider Licensure
515.810 EMS Vehicle System Participation
515.820 Denial, Nonrenewal, Suspension and Revocation of a Vehicle Service Provider License
515.825 Alternate Response Vehicle
515.830 Ambulance Licensing Requirements
515.835 Stretcher Van Provider Licensing Requirements
515.840 Stretcher Van Requirements
515.845 Operation of Stretcher Vans
515.850 Reserve Ambulances
515.860 Critical Care Transport

SUBPART G: LICENSURE OF SPECIALIZED EMERGENCY MEDICAL SERVICES VEHICLE (SEMSV) PROGRAMS

Section
515.900 Licensure of SEMSV Programs – General
515.910 Denial, Nonrenewal, Suspension or Revocation of SEMSV Licensure
515.920 SEMSV Program Licensure Requirements for All Vehicles
515.930 Helicopter and Fixed-Wing Aircraft Requirements
515.935 EMS Pilot Specifications
515.940 Aeromedical Crew Member Training Requirements
515.945 Aircraft Vehicle Specifications and Operation
515.950 Aircraft Medical Equipment and Drugs
515.955 Vehicle Maintenance for Helicopter and Fixed-wing Aircraft Programs
515.960 Aircraft Communications and Dispatch Center
515.965 Watercraft Requirements
515.970 Watercraft Vehicle Specifications and Operation
515.975 Watercraft Medical Equipment and Drugs
515.980 Watercraft Communications and Dispatch Center
515.985 Off-Road SEMSV Requirements
515.990 Off-Road Vehicle Specifications and Operation

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

515.995 Off-Road Medical Equipment and Drugs
515.1000 Off-Road Communications and Dispatch Center

SUBPART H: TRAUMA CENTERS

Section
515.2000 Trauma Center Designation
515.2010 Denial of Application for Designation or Request for Renewal
515.2020 Inspection and Revocation of Designation
515.2030 Level I Trauma Center Designation Criteria
515.2035 Level I Pediatric Trauma Center
515.2040 Level II Trauma Center Designation Criteria
515.2045 Level II Pediatric Trauma Center
515.2050 Trauma Center Uniform Reporting Requirements
515.2060 Trauma Patient Evaluation and Transfer
515.2070 Trauma Center Designation Delegation to Local Health Departments
515.2080 Trauma Center Confidentiality and Immunity
515.2090 Trauma Center Fund
515.2100 Pediatric Care (Renumbered)
515.2200 Suspension Policy for Trauma Nurse Specialist Certification

SUBPART I: EMS ASSISTANCE FUND

Section
515.3000 EMS Assistance Fund Administration

SUBPART J: EMERGENCY MEDICAL SERVICES FOR CHILDREN

Section
515.3090 Pediatric Recognition of Hospital Emergency Departments and Inpatient Critical Care Services
515.4000 Facility Recognition Criteria for the Emergency Department Approved for Pediatrics (EDAP)
515.4010 Facility Recognition Criteria for the Standby Emergency Department Approved for Pediatrics (SEDP)
515.4020 Facility Recognition Criteria for the Pediatric Critical Care Center (PCCC)

515.APPENDIX A A Request for Designation (RFD) Trauma Center
515.APPENDIX B A Request for Renewal of Trauma Center Designation

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515.APPENDIX C	Minimum Trauma Field Triage Criteria
515.APPENDIX D	Standing Medical Orders
515.APPENDIX E	Minimum Prescribed Data Elements
515.APPENDIX F	Template for In-House Triage for Trauma Centers
515.APPENDIX G	Credentials of General/Trauma Surgeons Level I and Level II
515.APPENDIX H	Credentials of Emergency Department Physicians Level I and Level II
515.APPENDIX I	Credentials of General/Trauma Surgeons Level I and Level II Pediatric Trauma Centers
515.APPENDIX J	Credentials of Emergency Department Physicians Level I and Level II Pediatric Trauma Centers
515.APPENDIX K	Application for Facility Recognition for Emergency Department with Pediatrics Capabilities
515.APPENDIX L	Pediatric Equipment Recommendations for Emergency Departments
515.APPENDIX M	Inter-facility Pediatric Trauma and Critical Care Consultation and/or Transfer Guideline
515.APPENDIX N	Pediatric Critical Care Center (PCCC)/Emergency Department Approved for Pediatrics (EDAP) Recognition Application
515.APPENDIX O	Pediatric Critical Care Center Plan
515.APPENDIX P	Pediatric Critical Care Center (PCCC) Pediatric Equipment/Supplies/Medications Requirements

AUTHORITY: Implementing and authorized by the Emergency Medical Services (EMS) Systems Act [210 ILCS 50].

SOURCE: Emergency Rule adopted at 19 Ill. Reg. 13084, effective September 1, 1995 for a maximum of 150 days; emergency expired January 28, 1996; adopted at 20 Ill. Reg. 3203, effective February 9, 1996; emergency amendment at 21 Ill. Reg. 2437, effective January 31, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 5170, effective April 15, 1997; amended at 22 Ill. Reg. 11835, effective June 25, 1998; amended at 22 Ill. Reg. 16543, effective September 8, 1998; amended at 24 Ill. Reg. 8585, effective June 10, 2000; amended at 24 Ill. Reg. 9006, effective June 15, 2000; amended at 24 Ill. Reg. 19218, effective December 15, 2000; amended at 25 Ill. Reg. 16386, effective December 20, 2001; amended at 26 Ill. Reg. 18367, effective December 20, 2002; amended at 27 Ill. Reg. 1277, effective January 10, 2003; amended at 27 Ill. Reg. 6352, effective April 15, 2003; amended at 27 Ill. Reg. 7302, effective April 25, 2003; amended at 27 Ill. Reg. 13507, effective July 25, 2003; emergency amendment at 29 Ill. Reg. 12640, effective July 29, 2005, for a maximum of 150 days; emergency expired December 25, 2005; amended at 30 Ill. Reg. 8658, effective April 21, 2006; amended at 32 Ill. Reg. 16255, effective September 18, 2008; amended at 35 Ill. Reg. 6195, effective March 22, 2011; amended at 35 Ill. Reg. 15278, effective August 30, 2011; amended at 35 Ill. Reg. 16697, effective

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September 29, 2011; amended at 35 Ill. Reg. 18331, effective October 21, 2011; amended at 35 Ill. Reg. 20609, effective December 9, 2011; amended at 36 Ill. Reg. 880, effective January 6, 2012; amended at 36 Ill. Reg. 2296, effective January 25, 2012.

SUBPART E: EMS LEAD INSTRUCTOR, EMERGENCY MEDICAL DISPATCHER, FIRST RESPONDER, PRE-HOSPITAL REGISTERED NURSE, EMERGENCY COMMUNICATIONS REGISTERED NURSE, AND TRAUMA NURSE SPECIALIST

Section 515.750 Trauma Nurse Specialist

a) Trauma Nurse Specialist (TNS) Training Sites

1) Trauma Nurse Specialist courses shall be conducted only at hospitals that have been designated by the Department as TNS Training Sites.

2) The Department shall designate TNS Training Sites based upon Regional needs ~~for course availability~~, the ~~trauma~~ educational ~~and clinical~~ capabilities of interested hospitals to provide advanced trauma education to nurses, ~~prior Department approval of a hospital as a TNS Training Site,~~ and participation in an EMS System.

3) The Trauma Nurse Specialist Program Plan (see Section 515.760) shall serve as a standard TNS program plan. The Department will approve program plans based on compliance with Section 515.760. ~~Any hospital seeking designation as a TNS Training Site must submit a Trauma Nurse Specialist Program Plan on a form provided by the Department.~~

4) The Chief Executive Officer of the hospital designated as a TNS Training Site shall appoint, and endorse in writing to the Department, a Trauma Nurse Specialist Course Coordinator (TNSCC) to plan, coordinate, implement and evaluate the TNS course and TNS program activities, who meets the following requirements:

A) Is a Registered Professional Nurse with an unencumbered license in the State in which he or she practices~~licensed under the Nursing and Advanced Practice Nursing Act~~;

B) Is employed by the TNS Training Site;

C) Has at least three years of experience as a Registered Professional Nurse in an emergency department or critical care setting in a trauma center;

D) Holds a certificate~~Certificate~~ of TNS course completion~~Completion~~ issued by the Department ~~or its equivalent~~ as provided in this Section; and

E) Has a minimum of 50 hours of teaching experience in emergency/critical care nursing courses.

b) The TNSCC shall admit to the TNS course only those individuals who have met the following requirements:

1) Are currently licensed as a Registered Professional Nurse in the state in which they are practicing, as verified by the submission of a photocopy of the official license~~document~~ showing the license number and expiration date; and

2) Have at least 1500 hours of clinical care experience in an emergency department or critical care unit (preferred)~~one year of experience~~ as a Registered Professional Nurse, with successful completion of a unit orientation.

c) The TNS course shall reflect evidence-based content as created by the TNSCC and approved by the Department as being in compliance with the Trauma Nurse Specialist Program (see Section 515.760).~~include at least 80 hours of didactic sessions. The course content shall include but not be limited to the following topics:~~

~~1) EMS/Trauma System concepts,~~

~~2) Stabilization and transportation of the critically ill or injured,~~

~~3) Assessment and management of the traumatized patient,~~

~~4) Maxillofacial trauma,~~

~~5) Ocular trauma,~~

~~6) Neurological, respiratory and cardiac anatomy, physiology and assessment,~~

~~7) Head trauma,~~

~~8) Spinal trauma,~~

~~9) Cardiopulmonary trauma,~~

~~10) Adjuncts for airway control and ventilation,~~

~~11) Acid base-balance and Arterial Blood Gases (ABGs),~~

~~12) Abdominal trauma,~~

~~13) Genitourinary trauma,~~

~~14) Trauma in pregnancy,~~

~~15) Musculoskeletal/vascular/surface trauma,~~

~~16) Thermal trauma,~~

~~17) Fluid and electrolytes,~~

~~18) Pathogenesis of shock syndrome,~~

~~19) Pediatric trauma,~~

~~20) Family violence,~~

~~21) Organ procurement,~~

~~22) Legal issues,~~

~~23) Kinematics,~~

~~24) Hypothermia,~~

~~25) Trauma in the elderly, and~~

~~26) Complications of trauma.~~

~~d) The TNS course shall include eight hours of supervised observational experience from among the following areas:~~

~~1) Pre-hospital;~~

~~2) Critical care; or~~

~~3) Emergency Department.~~

d)~~e)~~ Testing

~~1) A written pre-test consisting of a minimum of 100 multiple choice questions developed by the TNSCC and approved by the Department shall be administered on the first day of class. The TNSCC shall develop the questions based upon the topic outlines and objectives of the curriculum.~~

1)~~2)~~ A standardized practical examination shall be administered~~ at the conclusion of the didactic sessions and clinical experience~~. The practical examination shall include an~~consist of a simulated trauma patient~~ assessment station at which the student will evaluate and stabilize a simulated critically injured trauma patient.

A) The student shall have a maximum of 10~~ten~~ minutes to evaluate and stabilize the patient.

B) The TNSCC shall develop the passing criteria, which shall be included in the program plan developed in accordance with Section 515.760.~~The student shall be rated on Primary Patient Assessment, Secondary Patient Assessment, Management, Stabilization, and Supervision and Leadership, in accordance with the Trauma Nurse Specialist Course Practical Examination Grading Form developed and provided by the Department along with the TNSCC.~~

C) A student ~~who receives a failing grade on the practical examination~~ shall be given three attempts to successfully complete~~one opportunity to repeat~~ the practical examination. ~~A failing grade is defined as failure to attain at least 80 percent overall and/or failure to pass all lifesaving techniques asterisked on the Clinical Examination Grading Form.~~

2)~~3)~~ A student who has successfully completed course requirements per procedure and paid all fees~~the didactic sessions and clinical experience~~ shall be eligible to take the final written examination. The TNSCC shall develop the~~This~~ final examination and shall provide the examination to the Department. The TNSCC shall develop passing criteria, which shall be included in the Program Plan developed in accordance with Section 515.760.~~shall consist of 150 multiple choice questions developed by the TNSCC using the objectives and topics of the TNS curriculum and approved by the Department. A score of 80 percent or above shall be a passing grade.~~

A) A student shall be given three attempts to successfully complete~~one opportunity to retake~~ the final written examination ~~within ten days after the original examination date~~.

B) The candidate shall successfully achieve a passing score on the State examination within 12 months after completing the training program.

~~B) The TNSCC shall extend the ten day retake period on an individual basis for reasons of a death in the student's family, or illness or injury to the student or student's family.~~

3) Examination Application

A) Candidates for the TNS examination shall apply to take the examination using the Department form. Information is available on the Department's website.

B) A roster of examination candidates from each TNS training site is created by the TNSCC who approves the candidate's application and is submitted to the Department.

C) The candidate shall submit a fee for each written examination attempt (see Section 515.460).

~~4) Each TNS course site shall offer practical and final written examinations based upon Regional needs.~~

~~5) Any individual who has met the admission requirements provided in subsection (b) of this Section has the option of taking the TNS Practical Examination and final written examination without having completed the didactic sessions or clinical experience. The individual must file a request for this testing option with the TNS Training Site at least 30 days prior to the scheduled practical examinations.~~

e) Failure to appear for the examination on the scheduled date, at the time and place specified, shall result in forfeiture of the examination fee.

f) If a candidate does not achieve a passing grade on the written examination, the fee for the re-test is the same as for initial examination.

g) All fees submitted for certification are non-refundable.

h) Testing Option − Challenge
Any individual who has met the admission requirements provided in subsection (b) of this Section has the option of taking the TNS practical examination and final examination without having completed the didactic sessions (referred to as "challenging" the examination). The individual shall file a request to challenge the examination with the TNS Training Site at least 30 days prior to the scheduled practical examination. Candidates who elect to challenge the examination will have only one attempt to successfully complete the written and practical examinations to demonstrate proficiency.

i)~~f)~~ Certification as a TNS

1) The Department will certify a student or candidate after the student or candidate has achieved a passing score on the final written and practical examinations and has paid any required fees (see Section 515.460).~~A student may apply to the Department for certification by submitting:~~

~~A) Documentation provided by the TNSCC of receiving a passing score on the final written examination and the practical examination;~~

~~B) A fee of $25 in the form of a certified check or money order made payable to the Department (personal checks or cash will not be accepted); and~~

~~C) A completed TNS Certification Application form.~~

2) Certification is effective for four years.

~~3) After initial recertification, a TNS may apply for recertification by submitting the following at least 40 days but no more than 90 days prior to certification expiration:~~

~~A) TNS Certification/Recertification Application;~~

~~B) Verification of successful completion of the examination; or~~

~~C) Documentation of any 40 hours of continuing education every two years, which may include hours required for ECRN certification, and which must include any of the following:~~

~~i) Trauma nursing seminars;~~

~~ii) Emergency/perioperative critical care nursing seminars relating to trauma management;~~

~~iii) Teaching of trauma or emergency nursing classes;~~

~~iv) Basic Trauma Life Support (BTLS), Pre-hospital Trauma Life Support (PHTLS), Pediatric Advanced Life Support (PALS) or Trauma Nurse Core Curriculum (TNCC);~~

~~v) Other topics/offerings approved by the Department and the TNSCC;~~

~~D) The recertification candidate is responsible for his/her record~~

~~keeping and submission of continuing education documentation.~~

j)~~g)~~ TNS Recertification

1) A TNS may be recertified by either submitting approved trauma-specific continuing education or taking the current TNS final written examination as provided in this Section.~~Standardized renewal dates will be assigned per Region by the TNSCC.~~

2) A TNS may apply for recertification by submitting the following to a TNSCC at least 40 days, but no more than 90 days, prior to certification expiration: ~~The TNS final written examination will be used for initial recertification.~~

A) Documentation of 64 hours of approved trauma-specific continuing education/activities for nursing or CME acquired over four years, using the TNS Continuing Education (CE) Summary Submission form. Continuing education approval will be granted provided that the application is complete and the content of the program educational activity is based on topics listed in the Trauma Nurse Specialist Program in place at the time the CE is acquired;

B) Completed Child Support form supplied by the Department; and

C) Recertification fee (see Section 515.460).

3) The TNS final written examination is an alternative option for recertification. A total of three attempts are allowed for the recertification candidate to achieve a successful examination score prior to the lapse date. The process used in subsection (d)(3) of this Section is used for the application, assignment to an examination site, and fee submission.

4) The recertification candidate is responsible for his/her record keeping and timely submission of continuing education documentation.

5) The certification of a TNS who has failed to file an application for recertification or an application for an extension prior to the lapse date shall terminate on the day following the expiration date shown on the

certificate.

3) A TNS certification will be effective for four years.

4) The certificate of a TNS who has failed to file an application for recertification shall terminate on the day following the expiration date shown on the certificate.

h) A Department-issued certificate of completion for a Department-sponsored trauma nurse specialist course completed prior to the adoption of this Section shall be recognized as equivalent to the Certificate of TNS Course Completion issued pursuant to this Part.

k)i) Inactive Status

1) Prior to the expiration of the current certification, a TNS may request to be placed on inactive status. The request shall be in writing, on a form prescribed by the Department, and shall contain the following information:

A) Name of individual;,

B) Date of certification;,

C) Circumstances requiring inactive status;, and

D) A statement that recertification requirements have been met by the date of the application for inactive status. Continuing education hours shall be current at the prorated rate of 1.3 hours per month for the current certification period.

2) The Department will review requests for inactive status. The Department willshall notify the individual TNS in writing of its decision based on subsection (k)(i)(1) of this Section.

3) ToFor the TNS to return to active status, the TNS shall applyapplication must be in writing within 36 months after being placed on inactive status. The application shall include a current unencumbered RN license and a fee (see Section 515.460). and include a statement that the TNS's knowledge and clinical skills are at the active TNS level, and that the TNS

~~has completed any refresher training deemed necessary by the respective TNSCC.~~

4) Inactive status is valid for only 36 months. If status is not reactivated, the individual shall successfully complete the examination or retake the course (see subsection (h) of this Section).

5)~~4)~~ During inactive status, the individual shall not function as a TNS.

l)~~j)~~ A TNS whose certification has expired may, within 60 days after certification expiration, submit all recertification material as required in this Section and a fee (see Section 515.460)~~of $50~~ in the form of an organization's payment, a certified check, or a money order (cash or personal check will not be accepted). If the recertification request~~all~~ material meets the requirements of this Section~~is in order~~ and there is no disciplinary action pending against the TNS, the Department will recertify the TNS.

m)~~k)~~ A TNS shall notify the Department within 30 days after any change in name or address. Notification may be in person, or by mail, phone, fax, or electronic mail.

n) *The Department shall have the authority and responsibility to suspend, revoke or deny renewal of the certification of a TNS, after an opportunity for hearing by the Department, if findings show that the TNS has failed to maintain proficiency in the level of skills for which the TNS is certified or has failed to comply with recertification requirements.* (Section 3.75 of the Act) Hearings shall be conducted in accordance with Practice and Procedure in Administrative Hearings.

(Source: Amended at 36 Ill. Reg. 2296, effective January 25, 2012)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Loan Repayment Assistance for Dentists

2) Code Citation: 77 Ill. Adm. Code 580

3)

Section Numbers:	Adopted Action:
580.100	Amend
580.110	Amend
580.120	New
580.200	Amend
580.210	Amend
580.220	Amend
580.230	Amend
580.240	Amend
580.250	New

4) Statutory Authority: Loan Repayment Assistance for Dentists Act [110 ILCS 948]

5) Effective Date of Rulemaking: January 27, 2012

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 Proposed Amendments Published in Illinois Register: October 14, 2011; 35 Ill. Reg. 16381

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version: 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? No agreements were necessary.

13) Will this rulemaking replace any emergency rulemaking currently in effect? No

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: The amendments to this Part added several definitions. New clarifying language was added regarding application requirements and terms of performance. Also, new sections were added for administrative hearings and the applicable provisions of the Illinois Grant Funds Recovery Act.

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

Susan Meister
Division of Legal Services
Department of Public Health
535 West Jefferson, 5th Floor
Springfield, Illinois 62761
e-mail: dph.rules@illinois.gov

217/782-2043

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER g: GRANTS TO DENTAL AND MEDICAL STUDENTS

PART 580
LOAN REPAYMENT ASSISTANCE FOR DENTISTS

SUBPART A: GENERAL PROVISIONS

Section
580.100 Definitions
580.110 Incorporated and Referenced Materials
580.120 Administrative Hearings

SUBPART B: EDUCATIONAL LOAN REPAYMENT APPLICATION, ELIGIBILITY AND PROGRAM REQUIREMENTS

Section
580.200 Application
580.210 Eligibility
580.220 Grant Awards
580.230 Grant Terms and Obligations
580.240 Penalty for Failure to Fulfill Obligation
580.250 Grant Funds Recovery

AUTHORITY: Implementing and authorized by the Loan Repayment Assistance for Dentists Act [110 ILCS 948].

SOURCE: Adopted at 33 Ill. Reg. 7166, effective May 14, 2009; amended at 34 Ill. Reg. 20105, effective December 9, 2010; amended at 36 Ill. Reg. 2313, effective January 27, 2012.

SUBPART A: GENERAL PROVISIONS

Section 580.100 Definitions

"Act" means the Loan Repayment Assistance for Dentists Act [110 ILCS 948].

"Administrative law judge" shall have the meaning ascribed in the Department's Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100).

"Applicant" means a person who submits an application to the Department to receive a dental loan repayment assistance grant.

"Business day" means Monday through Friday. It does not include a federal or State government declared holiday, Saturday or Sunday.

"Calendar day" means all days in a month or prescribed time frame. It includes weekends and federal or State government declared holidays.

"Commercial lending institution" means a bank, credit union or financial company that makes loans.

"*Dental hygienist~~Hygienist~~*" *means a person who holds a* dental hygienist *license under the Illinois Dental Practice Act to perform dental services as authorized by Section 18 of the Illinois Dental Practice Act*. (Section 10 of the Act)~~.~~

"*Dental payments~~Payments~~*" *means compensation provided to dentists and dental specialists for services rendered under Article V of the Illinois Public Aid Code* [305 ILCS 5/Art. V], *the Covering ALL KIDS Health Insurance Act* [215 ILCS 170] *, or the Children's Health Insurance Program ~~Insurance~~ Act* [215 ILCS 106] administered by the Illinois Department of Healthcare and Family Services (HFS). (Section 10 of the Act)

"*Dental specialist~~Specialist~~*" *means a person who has received a license as a dentist in this State and who is trained and qualified to practice in one or more of the following specialties of dentistry: endodontics, oral and maxillofacial surgery, orthodontics, pedodontics, periodontics, and prosthodontics.* (Section 10 of the Act)

"*Dentist*" *means a person who has received a general license pursuant to Section 11(a) of the Illinois Dental Practice Act* [225 ILCS 25/11(a)], *who may perform any intraoral and extraoral procedure required in the practice of dentistry, and to whom* are *reserved the responsibilities specified in Section 17 of the Illinois Dental Practice Act.* (Section 10 of the Act)

"*Department*" *means the Department of Public Health.* (Section 10 of the Act)

"*Designated shortage area~~Shortage Area~~*" *means a* dental Health Professional *Shortage Area* (HPSA) *as defined by the United States Department of Health and Human Services* (Designation of Health Professional Shortage Areas (42 CFR 5, 51c) and the Public Health Service Act (42 USC 216, 254c)) *or as otherwise designated by the Department of Public Health.* (Section 10 of the Act)

"*Educational loans~~Loans~~*" *means higher education student loans that a person has incurred in attending a registered professional dental education program.* (Section 10 of the Act)

"Full-Time Practice" means a dental practice with a 40-hour work week where at least 32 hours of the 40 hours per week are spent providing clinical services. These services shall be conducted during normally scheduled clinic hours in the ambulatory care setting offices. The remaining hours shall be spent providing inpatient care and/or in practice-related administrative activities. The 40 hours per week may be compressed into no fewer than four days per week, with no more than 12 hours of work to be performed in any 24-hour period. Time spent in "on-call" status will not count toward the 40-hour week. Hours worked over the required 40 hours per week will not be applied to any other work week.

"Grant" means funds awarded under the Act.

"Grant agreement" means the agreement entered into between the Department and any person or entity for obligation, capital expenditure or use for a specific purpose.

"Grantee" means a *person or entity which may use grant funds* (Section 2(c) of the Illinois Grant Funds Recovery Act)~~refers to a person who is the recipient of a grant for educational loan repayment assistance under the Act and this Part~~.

"*Grant funds*" means *public funds dispensed* by the Department *to any person or entity for obligation, expenditure or use for a specific purpose.* (Section 2(b) of the Illinois Grant Funds Recovery Act)

"Grant period" means the duration of the loan repayment benefit, which is one year.

"Health Professional Shortage Area" or "HPSA" means a designation provided by the U.S. Department of Health and Human Services, Health Resources and

Services Administration. The HPSA designation indicates the shortage of primary medical care, dental or mental health providers. The designation may be geographic (a county or service area), demographic (low income population) or institutional (comprehensive health center, FQHC~~federally qualified health center~~ or other public facility). HPSA designations can be found at http://hpsafind.hrsa.gov/.

"Health Professional Shortage Area Score" or "HPSA Score" means~~refers to~~ the HPSA shortage severity score calculated by the United States Department of Health and Human Services, Bureau of Health Professionals when a~~an~~ HPSA is federally designated. ~~This severity score provides a relative number of the amount of dental shortage in a geographic area.~~

"Illinois resident" means a person who has been a resident of Illinois for at least one year prior to applying for loan repayment assistance and is a citizen or lawful permanent resident of the United States.

"Lawful permanent resident" means a person who is not a citizen of the United States but who resides in the United States under legally recognized requirements and lawfully records his/her permanent residence.

"Low income person~~Income Person~~" means~~refers to~~ a person whose income is at or below ~~the~~ 200% of the federal poverty level guideline as determined by the most recent U.S. Census Bureau's decennial census information.

"Low income patients~~Income Patients~~" mean~~refers to the~~ patients in the dental practice whose income is at or below ~~the~~ 200% of the federal poverty level guideline as determined by the most recent U.S. Census Bureau's decennial census information.

"Medical assistance~~Assistance~~" means services for medical and dental assistance provided under Article V of the Illinois Public Aid Code.

"Medical assistance reimbursement documentation~~Assistance Reimbursement Documentation~~" means~~refers to~~ the documentation of medical assistance reimbursement dollars that dentists receive from the Illinois Department of Healthcare and Family Services for dental services provided to medical assistance recipients. ~~The Department of Healthcare and Family Services periodically provides this data to the Department.~~

"Metropolitan Statistical Area" or "MSA" means one or more adjacent counties that have at least one urban core area of at least 50,000 in population, plus adjacent territory that has a high degree of social and economic integration with the core as measured by commuting ties.

"Program" means the educational loan repayment assistance program for dentists and dental specialists or dental hygienists established by the Department under the *Act.* (Section 10 of the Act)

"Registered professional dental education program~~Professional Dental Education Program~~" means a dental school accredited by the American Dental Association Commission on Dental Accreditation~~ (CODA)~~.

"Rural" means any geographic area not located in a U.S. Census Bureau Metropolitan Statistical Area; or a county located within a Metropolitan Statistical Area but having a population of 60,000 or less; or a geographic area located within a Metropolitan Statistical Area but having a population of 2,500 or less.

"Service area~~Area~~" means~~refers to~~ the geographic area of the HPSA.

"Service term~~Term~~" means~~refers to~~ the length of time that the dentist, dental hygienist or dental specialist will receive loan repayment funds from the Department while serving a dental HPSA.

"Urban" means any geographic area that does not meet the definition of "rural" in this Section~~rural geographic area definition in this Part~~.

(Source: Amended at 36 Ill. Reg. 2313, effective January 27, 2012)

Section 580.110 Incorporated and Referenced Materials

The following are referenced or incorporated in this Part:

a) ~~The following~~ Illinois statutes~~ are referenced in this Part~~:

1) Loan Repayment Assistance for Dentists Act [110 ILCS 948]

2) Illinois Public Aid Code [305 ILCS 5]

3) Illinois Dental Practice Act [225 ILCS 25]

4) Children's Health Insurance Program Act [215 ILCS 106]

5) Covering ALL KIDS Health Insurance Act [215 ILCS 170]

6) Illinois Grant Funds Recovery Act [30 ILCS 705]

7) Illinois Administrative Procedure Act [5 ILCS 100]

b) Illinois rule: Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)

c~~b~~) Federal statutes:~~The following federal statute is referenced in this Part:~~

1) Designation of Health Professional Shortage Areas, section 332 of the Public Health Service Act (42 USC 254(e)).

2) Designation of Medically Underserved Areas, section 330(b)(3) of the Public Health Service Act (42 USC 254(b)(3)).

~~Public Health Service Act [42 USC 216, 254b and 254e]~~

d~~c~~) Federal regulation:~~The following federal regulation is incorporated in this Part:~~

Designation of Health Professional Shortage Areas (42 CFR 5, 51c) (October 1, 2007)

e~~d~~) Incorporations by reference of federal regulations refer to the regulations on the date specified and do not include any later amendments or editions.

(Source: Amended at 36 Ill. Reg. 2313, effective January 27, 2012)

Section 580.120 Administrative Hearings

Administrative hearings conducted concerning the provisions of this Part shall be governed by the Department's Practice and Procedure in Administrative Hearings.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

(Source: Added at 36 Ill. Reg. 2313, effective January 27, 2012)

SUBPART B: EDUCATIONAL LOAN REPAYMENT APPLICATION, ELIGIBILITY AND PROGRAM REQUIREMENTS

Section 580.200 Application

a) The~~*The*~~ *Department shall, each year, consider 4 applications for assistance under the program.* (Section 20 of the Act) The Department will review all applications received.

b) The Department will prepare and make available applications to eligible applicants.~~Applicants shall complete an application on forms available from the Department.~~ The applicant shall indicate the location of the dental practice in a designated shortage area where service will be performed.

c) Applicants shall document currently existing educational loan indebtedness to a governmental or commercial lending institution incurred for educational expenses in pursuit of the applicant's dental or dental hygienist degree. The documentation of indebtedness shall include a photocopy or original copy of promissory notes or other evidence of indebtedness with disclosure of the lending institution or agency, loan amount, loan period, ~~and~~ interest rate, and any amounts repaid prior to the date of submission of the application.

d) An applicant~~Applicants~~ shall demonstrate that he or she~~the applicant~~ meets all of the eligibility criteria in Section 580.210.

(Source: Amended at 36 Ill. Reg. 2313, effective January 27, 2012)

Section 580.210 Eligibility

a) Individuals who receive educational loan repayment assistance with federal funds or from loan funds requiring service commitments that would prevent the grantee from meeting the requirements of the Act and this Part are ineligible for assistance from this program.

b) *To be eligible for assistance under the program, an applicant must meet all of the following qualifications:*

1) *He or she must be a citizen or* lawful *permanent resident of the United States.*

2) *He or she must be a resident of this State.*

3) *He or she must be practicing full time in this State as a dentist, dental specialist, or dental hygienist.*

4) *He or she must currently be repaying educational loans.*

5) *He or she must accept dental payments as defined in* the *Act.*

6) *He or she must practice or commit to practice full time in this State in a designated shortage area.*

7) *He or she must allocate at least 20% of all patient appointments to patients covered by Article V of the Illinois Public Aid Code, the Covering ALL KIDS Health Insurance Act, or the Children's Health Insurance Program Act.* (Section 25 of the Act)

(Source: Amended at 36 Ill. Reg. 2313, effective January 27, 2012)

Section 580.220 Grant Awards

a) For~~*For*~~ *each year that a qualified applicant* who is selected as a grantee~~recipient~~ *practices full time in this State in a designated shortage area as a dentist or dental specialist, the Department shall, subject to appropriation, award a grant to that person in an amount equal to the amount in educational loans that the person must repay that year. However, the total amount in grants that a person may be awarded under the program must not exceed $25,000 per year for a 4-year period. The Department shall require recipients to use the grants to pay off their educational loans.* (Section 30(a) of the Act)

b) *The initial grant awarded to a dentist or dental specialist under* the *Act shall be for a 2-year period. Based on the successful completion of the initial 2-year grant, the grantees may be awarded up to 2 subsequent one-year grants. Grantees are eligible to receive grant funds for no more than a 4-year period. Previous grant recipients shall be given priority for years 3 and 4 grant funding, provided that the grantee continues to meet the eligibility requirements set forth*

in Section 25 of the *Act* and Section 580.210. *Grantees shall practice full time in a designated shortage area for the period of each grant awarded.* (Section 30(c) of the Act)

c) *The Department shall award grants to otherwise eligible dental applicants by using the following criteria:*

1) *Dental specialist willing to practice in any designated shortage area.*

2) *Dentist willing to practice in a designated shortage area with the highest Health Professional Shortage Area (HPSA) score.*

3) *Dentist willing to practice in a designated shortage area with the highest HPSA score and agreeing to allocate the highest percentage of patient appointments to those that are covered by Article V of the Illinois Public Aid Code, the Covering ALL KIDS Health Insurance Act, or the Children's Health Insurance Program Act.* (Section 30(e) of the Act)

d) Grants will be awarded in the order listed in subsection (c)~~ of this Section~~. Dental specialists shall be the first group to receive funding. Once dental specialists are funded (or if no dental specialists apply) and if remaining funds allow, dentists ~~will receive funding~~ who fulfill the requirements of subsection (c)(2) will receive funding~~of this Section~~. If there are more dentists applying for assistance than available funds, the Department shall award funding to dentists who fulfill the requirements of subsection (c)(3)~~ of this Section~~.

e) For each year that a qualified applicant who is selected as a grantee~~recipient~~ practices full time in this State in an HPSA as a dental hygienist, the Department shall, subject to appropriation, award a grant to that person in an amount equal to the amount in educational loans that the person must repay that year. However, the total amount in grants that a dental hygienist may be awarded under the program shall~~must~~ not exceed $5,000~~$25,000~~ per year for a two-year period. *The Department shall require a recipient to use the grants to pay off his or her educational loans.* (Section 30(c) of the Act)

f) Funds received from the Department~~Payments~~ shall be used for the repayment of educational loans, including principal, interest and related expenses of government and commercial loans~~, received by the individual~~ and used for tuition expenses while attending a registered professional dental education program.

g) The Department will award loan repayment grants to individuals who meet the eligibility requirements of Section 580.210. For dental specialists and dentists, awards will be made in accordance with the requirements of subsection (c). For dental hygienists, awards will be made once all awards to dental specialists and dentists are complete and if funds are available. If the amount of funding received for the program in a fiscal year is insufficient to award grants to all qualified dental hygienist applicants, the loan repayment grants shall be prorated to all dental hygienist grantees.~~accept applications for funding between July 1 and September 30 of each year. If enough eligible applications are received, all awards will be made.~~ If~~However, if~~ funds remain available after all loan repayment awards have been made, subsequent applications will be evaluated individually as received.

h) Payments shall be made on a quarterly basis to grantees~~grant recipients~~ following the completion of each three-month period of compliance with the terms of the grant agreement.

(Source: Amended at 36 Ill. Reg. 2313, effective January 27, 2012)

Section 580.230 Grant Terms and Obligations

a) Each dentist, dental specialist, or dental hygienist selected for educational loan repayment shall enter into a written grant agreement with the Department prior to receiving assistance. The agreement shall contain terms and conditions that ensure compliance with this Part and the laws of the State of Illinois, and enforcement of the agreement.

1) The grant agreement shall contain, at a minimum, the following:

A) Identifying information of the grantee, including name, mailing address, phone number and e-mail address;

B) A description of the grant's purpose;

C) Specific information on how payments to the grantee will be made;

D) Details on what constitutes permissible expenditure of grant funds;

E) Financial controls applicable to the grant; and

F) The time frame within which the grant is valid, including the time frame during which grant funds can be expended.

2) Grants are effective on the date that a grant agreement is executed between the Department and the grantee.

A) A grant is valid for the time frame outlined in the grant agreement.

B) The Department will deem a grant agreement null and void if the grantee does not fulfill the requirements stipulated in the agreement.

C) Grants are not assignable or transferable. Any assignment or transfer shall render the grant agreement null and void.

b) Grantees shall complete service in the HPSA designated in their application. Grantees who wish to move their practice from the location described in their~~the grantee's~~ original application and retain status as a grantee~~recipient~~ shall receive written approval from the Department prior to relocating and shall relocate to an area that qualifies for the same or a higher HPSA score. Without prior approval from the Department, time in a practice location will not count toward the grantee's service obligation.

c) Grants are effective on the date that a grant agreement is executed between the Department and the grantee.

1) A grant is valid for the time frame outlined in the grant agreement.

2) The Department will deem a grant agreement null and void if the grantee does not fulfill the requirements stipulated in the grant agreement.

3) Grants are not assignable or transferable. Any assignment or transfer shall render the grant agreement null and void.

d~~e~~) Every three months from the date the grant agreement is executed, the grantee shall submit a report to the Department that documents compliance with the terms

and conditions of the grant agreement. The report shall contain the following~~Mandatory reporting requirements every six months include~~:

1) The ~~grantee shall provide documentation of the~~ percentage of low income patients served in his or her practice. Medical assistance reimbursement documentation and practice documentation will be accepted for this purpose.

2) The ~~grantee shall provide documentation that the~~ amount of money paid for educational loan debt. Documentation shall demonstrate that the amount of money paid is greater than or equal to the amount of money paid by the Department under this program. Cancelled checks or documentation from the lending institution will be accepted for this purpose.

e~~d~~) For dentists and dental specialists, the grant program allows~~administered under this Part will allow~~ for an initial two-year grant and two additional one-year grants. Grantees cannot receive grant funds after the four-year time frame has elapsed~~are eligible to receive grant funds for no more than a four-year period~~. Previous grantees shall receive priority for years three and four of grant funding, provided that:

1) The grantee successfully completes the initial two-year grant; and

2) The grantee continues to meet the eligibility requirements stipulated in Section 25 of the Act and Section 580.210.

f~~e~~) *The grant award for a dental hygienist shall be for a maximum of 2 years.* (Section 30(c) of the Act)

g) If the grantee is disabled or is otherwise unable for reasons beyond the grantee's control to perform the loan repayment obligations, these obligations shall be suspended until the grantee is able to resume the loan repayment obligations. However, the suspension shall not exceed two years.

1) To request a suspension of the loan repayment obligation, a grantee shall submit a suspension request in writing to the Department. This request shall detail the reason for the suspension and, if temporary, the duration of the suspension and shall be supported by clear and convincing

documentation.

2) The Department shall approve a request for suspension if the request is supported by a letter from the grantee's licensed physician fully explaining and attesting to the grantee's inability (either temporarily or permanently) to continue the loan repayment obligation.

3) If the Department denies the suspension request, the grantee shall fulfill the loan repayment obligation.

4) Based on the information contained in the suspension request, the Department's acceptance or denial of the request will be provided in writing, under the Director's signature.

5) If the grantee suffers total and permanent disability, is adjudicated as incompetent or dies, the grantee shall be discharged from all obligations to the Department in connection with this Part and the Act.

(Source: Amended at 36 Ill. Reg. 2313, effective January 27, 2012)

Section 580.240 Penalty for Failure to Fulfill Obligation

a) If the~~Upon breach of~~ grant agreement is breached, *loan repayment recipients shall repay the Department a sum equal to the amount received under the program, plus* an annual percentage rate (APR) of 7% *interest.* (Section 35 of the Act) Repayment of the obligation shall be made as agreed to by the grantee and the Department in the grantee's agreement and in accordance with Section 580.250.

~~b) The grantee shall repay all funds provided by the Department under this Part within a period of time equal to the grantee's service term.~~

b~~e~~) A breach of grant agreement shall include, but not be limited to, the~~ following situations~~:

1) Failure to practice *full time*~~full-time~~ *in a designated shortage area* at the location specified and for the time period required in the grant agreement (Sections 30(c) and~~Section~~ 35 of the Act);

2) Relocation to an area that has a lower priority ranking as a designated shortage area;

3) Material misstatement in reporting information to the Department, for example, misstating the percentage of low income patients served;

4) Making any material misrepresentation to the Department for the purpose of obtaining a grant;

5) Failure to allocate at least 20% of all patient appointments as required by Section 25 of the Act and Section 580.210(b)(7).~~Failure to practice *in a designated shortage area for two years.* (Section 35 of the Act)~~

c) When the Department determines that the grant agreement has not been fulfilled and all applicable requirements of Section 580.250 have been met, the Department and grantee shall enter into a contract for the repayment of the obligation.

1) To fulfill the repayment requirements of the Act and this Section, the grantee shall have 30 calendar days after the conclusion of all applicable requirements of Section 580.250 to enter into a contract with the Department.

2) Payment shall be made in equal monthly installments in amounts so that all sums due shall be paid within a period of time equal to the grantee's service term, or remaining portion thereof, or as otherwise approved by the Department.

d) If the grantee does not repay all funds owed to the Department within the required time period, the Department shall refer the matter to the Illinois Attorney General, a collection agency, or a licensed attorney for resolution.

(Source: Amended at 36 Ill. Reg. 2313, effective January 27, 2012)

Section 580.250 Grant Funds Recovery

a) If a grantee fails to comply with this Part or any terms of the grant agreement, the Department, after notice and opportunity for hearing, shall suspend or revoke the grant and recover any grant funds previously disbursed to the grantee.

b) If the Department believes that a grant should be suspended, revoked or recovered because of a grantee's failure to comply with this Part or the terms of the grant agreement, the grantee shall have the opportunity for at least one informal hearing before the Department or the Department's designee to determine the facts and issues and to resolve any conflicts as amicably as possible before any formal recovery action is taken.

c) If, based on the outcome of the informal hearing, the Department believes that a grant should be suspended, revoked or recovered because of a grantee's failure to comply with this Part or the terms of the grant agreement, written notice of the proposed action will be given to the grantee identifying the action to be taken and specific facts that permit the action. The grantee shall have 35 calendar days after the receipt of the notice to request a formal hearing (see 77 Ill. Adm. Code 100) to show why recovery is not justified or proper.

d) If a grantee requests a hearing pursuant to subsection (c), the Department will hold a hearing at which the grantee or the grantee's attorney is permitted to present evidence and witnesses to show why the recovery action should not be taken.

e) After the conclusion of the hearing, the Department will issue a written final order setting forth its findings of fact and decision. A copy of the order will be sent to the grantee.

f) In addition to the terms of the grant agreement regarding suspension or termination, the Department may suspend or terminate the grant agreement if the grantee breaches the grant agreement, fails to comply with the Act or this Part, makes any material misrepresentation to the Department or creates any situation that constitutes a threat to the public's health, safety or welfare. Notice of opportunity for hearing will be provided with the notice of suspension. If a grantee requests a hearing pursuant to subsection (c), the Department may not take any action of recovery until at least 35 calendar days after the Department has issued a final recovery order pursuant to subsection (e). If a grantee does not request a hearing, the Department may proceed with recovery of the grant funds identified in the notice at any time after the expiration of the 35 calendar day request period established in subsection (c).

g) Any notice or mailing required or permitted by this Part shall be deemed received five business days after the notice or mailing is deposited in the United States mail, properly addressed with the grantee's current or last known business address and with sufficient U.S. postage affixed.

(Source: Added at 36 Ill. Reg. 2313, effective January 27, 2012)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Loan Repayment Assistance for Physicians

2) Code Citation: 77 Ill. Adm. Code 581

3)

Section Numbers:	Adopted Action:
581.100	Amend
581.110	Amend
581.120	New
581.200	Amend
581.210	Amend
581.220	Amend
581.230	Amend
581.240	Amend
581.250	New

4) Statutory Authority: Loan Repayment Assistance for Physicians Act [110 ILCS 949]

5) Effective Date of Rulemaking: January 27, 2012

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 Proposed Amendments Published in Illinois Register: October 14, 2011; 35 Ill. Reg. 16399

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version:

The following change was made in response to comments and suggestions of JCAR:

In Section 581.100, for the definition of "Lawful permanent resident", added the following before the period "with the U.S. Department of Homeland Security".

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

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: The adopted amendments to this Part added several definitions. New clarifying language was added regarding the terms of performance required and the process for repayment of funds. Also, new Sections were added for administrative hearings and the applicable provisions of the Illinois Grant Funds Recovery Act.

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

Susan Meister
Division of Legal Services
Department of Public Health
535 West Jefferson, 5th Floor
Springfield, Illinois 62761
e-mail: dph.rules@illinois.gov

217/782-2043

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER g: GRANTS TO DENTAL AND MEDICAL STUDENTS

PART 581
LOAN REPAYMENT ASSISTANCE FOR PHYSICIANS

SUBPART A: GENERAL PROVISIONS

Section
581.100 Definitions
581.110 Referenced Materials
581.120 Administrative Hearings

SUBPART B: EDUCATIONAL LOAN REPAYMENT FOR PHYSICIANS

Section
581.200 Application
581.210 Eligibility
581.220 Grant Awards
581.230 Grant Terms and Obligations
581.240 Penalty for Failure to Fulfill Obligation
581.250 Grant Funds Recovery

AUTHORITY: Implementing and authorized by the Loan Repayment Assistance for Physicians Act [110 ILCS 949].

SOURCE: Adopted at 33 Ill. Reg. 12263, effective August 17, 2009; amended at 36 Ill. Reg. 2331, effective January 27, 2012.

SUBPART A: GENERAL PROVISIONS

Section 581.100 Definitions

"Act" means the Loan Repayment Assistance for Physicians Act [110 ILCS 949].

"Administrative law judge" shall have the meaning ascribed in the Department's Practice and Procedure in Administrative Hearings.

"Applicant" means a person who submits an application to the Department to receive a physician loan repayment assistance grant.

"Business day" means Monday through Friday. It does not include a federal or State government declared holiday, Saturday or Sunday.

"Calendar day" means all days in a month or prescribed time frame. It includes weekends and federal or State government declared holidays.

"Commercial lending institution" means a bank, credit union or financial company that makes loans.

"Department" means the Department of Public Health. (Section 10 of the Act)

"Educational loans~~Loans~~" means higher education student loans that a person has incurred in attending a registered professional physician education program. (Section 10 of the Act)

"Full-time practice~~Time Practice~~" means maintaining office hours for patient care that equal or exceed the mean number of office hours and face to face patient visits per week reported by physicians, by specialty, and published in the American Medical Association's "Socioeconomic Characteristics of Medical Practice, 2002", incorporated by reference in Section 581.110.

"Grant" means funds awarded under the Act.

"Grant agreement" means the agreement entered into between the Department and any person or entity for obligation, capital expenditure or use for a specific purpose.

"Grantee" means a *person or entity which may use grant funds* (Section 2(c) of the Illinois Grant Funds Recovery Act).~~refers to a person who is the recipient of a grant for educational loan repayment assistance under the Act and this Part.~~

"*Grant funds*" means *public funds dispensed* by the Department *to any person or entity for obligation, expenditure or use for a specific purpose.* (Section 2(b) of the Illinois Grant Funds Recovery Act)

"Grant period~~Period~~" means the duration of the loan repayment benefit, which is one year.

"Illinois resident" means a person who has been a resident of Illinois for at least one year prior to applying for loan repayment assistance and is a citizen or lawful permanent resident of the United States.

"Lawful permanent resident" means a person who is not a citizen of the United States but who resides in the United States under legally recognized requirements and lawfully records his/her permanent residence with the U.S. Department of Homeland Security.

"Metropolitan statistical area" or "MSA" means one or more adjacent counties that have at least one urban core area of at least 50,000 population, plus adjacent territory that has a high degree of social and economic integration with the core, as measured by commuting ties.

"Physician" means a person licensed under the Medical Practice Act of 1987 [225 ILCS 60] *to practice medicine in all of its branches.* (Section 10 of the Act)

"Program" means the educational loan repayment assistance program for physicians established by the Department under the Act. (Section 10 of the Act)

"Registered professional physician education program" means any accredited private or public nonprofit school that provides education leading to a doctor of medicine or doctor of osteopathy degree.

"Rural" means any geographic area not located in a U.S. Census Bureau Metropolitan Statistical Area; or a county located within a Metropolitan Statistical Area but having a population of 60,000 or less; or a geographic area located within a Metropolitan Statistical Area but having a population of 2,500 or less.

"Service term~~Term~~" means~~refers to~~ the length of time that the physician is obligated to serve as a physician in Illinois as the result of receiving loan repayment funds from the Department.

"Urban" means any geographic area that does not meet the definition of "rural" in this Section~~rural geographic area definition in this Part~~.

(Source: Amended at 36 Ill. Reg. 2331, effective January 27, 2012)

Section 581.110 Referenced Materials

The following materials are incorporated or referenced in this Part:

a) Illinois Statutes:

1) Medical Practice Act of 1987 [225 ILCS 60]

2) Loan Repayment Assistance for Physicians Act [110 ILCS 949]

3) Illinois Grant Funds Recovery Act [30 ILCS 705]

4) Illinois Administrative Procedure Act [5 ILCS 100]

5) Department of Public Health Powers and Duties Law [20 ILCS 2310/2310-200]

b) Illinois Administrative Rule: Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)

c)~~b)~~ Other Guidelines
"Socioeconomic Characteristics of Medical Practice, 2002" prepared by the American Medical Association's Center for Health Policy Research (515 N. State St., #16, Chicago IL 60654, 312-434-5000~~(312)464-5000)~~

d)~~c)~~ All incorporations by reference of standards of nationally recognized organizations refer to the standards on the date specified and do not include any amendments or editions~~additions or deletions~~ subsequent to the date specified.

(Source: Amended at 36 Ill. Reg. 2331, effective January 27, 2012)

Section 581.120 Administrative Hearings

Administrative hearings conducted concerning the provisions of this Part shall be governed by the Department's Practice and Procedure in Administrative Hearings.

(Source: Added at 36 Ill. Reg. 2331, effective January 27, 2012)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

SUBPART B: EDUCATIONAL LOAN REPAYMENT FOR PHYSICIANS

Section 581.200 Application

a) The Department will prepare and make available applications to eligible applicants. *The form of* the *application and the information required shall be determined by the Department*. (Section 20 of the Act)~~Applicants shall complete an application on forms available from the Department.~~

b) Applicants shall document currently existing educational loan indebtedness to a governmental or commercial lending institution incurred for educational expenses in pursuit of the applicant's medical degree~~ in Illinois~~. The documentation of indebtedness shall include a photocopy or original copy of promissory notes or other evidence of indebtedness with disclosure of lending institution or agency, loan amount, loan period, interest rate, and any amounts repaid prior to the date of submission of the application.

c) An applicant shall demonstrate that he or she meets all of the eligibility criteria in Section 581.210.

d~~e~~) Applicants shall provide their practice location and their medical specialty in the application.

e~~d~~) *The total amount of grants that a person may be awarded under the program shall not exceed $25,000.* (Section 30 of the Act)

(Source: Amended at 36 Ill. Reg. 2331, effective January 27, 2012)

Section 581.210 Eligibility

a) *To be eligible for assistance under the program, an applicant must meet all of the following qualifications:*

1~~a~~) *He or she must be a citizen or* lawful *permanent resident of the United States.*

2~~b~~) *He or she must be a resident of Illinois.*

3~~c~~) *He or she must be practicing full time in Illinois as a physician.*

4~~d~~) *He or she must currently be repaying educational loans*; and~~.~~

5~~e~~) *He or she must agree to continue full-time practice in Illinois for 3 years.* (Section 25 of the Act)

b) Individuals who receive educational loan repayment assistance from other programs that require service commitments that would prevent the grantee from meeting the requirements of the Act and this Part are ineligible for assistance from this program.

(Source: Amended at 36 Ill. Reg. 2331, effective January 27, 2012)

Section 581.220 Grant Awards

a) For~~*Under the program, for*~~ *each year that a qualified applicant who is selected as a recipient practices full-time in Illinois as a physician, the Department shall, subject to appropriation, award a grant to that person in an amount equal to the amount in educational loans that the person must repay that year. However, the total amount in grants that a person may be awarded under the program shall not exceed $25,000. The Department shall require recipients to use the grants to pay off their educational loans.* (Section 30 of the Act)

b) Payments received from the Department shall be used to repay educational loans (including principal, interest and related expenses) received by the grantee from federal, State or local governments or from commercial lending institutions and used for tuition expenses while attending a registered professional physician education program.

~~b) Payments received must be used for the repayment of education loans, including principal, interest and related expenses of government and commercial loans received by the individual and used for tuition expenses while attending a registered professional physician education program in the State.~~

c) When ~~qualified~~ applications are available to support a geographical separation into urban and rural groupings, an equal number of applicants will be selected from each group~~of the groups~~.

d) When appropriations are insufficient to provide loan repayment to all qualified applicants, awards will be prorated.

e) Applications shall be accepted between July 1 and September 30 of each calendar year. If all funds are not expended, subsequent applications will be evaluated individually as received.

(Source: Amended at 36 Ill. Reg. 2331, effective January 27, 2012)

Section 581.230 Grant Terms and Obligations

a) Each physician selected for educational loan repayment assistance shall enter into a written grant agreement with the Department prior to receiving loan repayment funds. The agreement shall contain terms and conditions that ensure compliance with this Part and the laws of the State of Illinois, and enforcement of the agreement.

1) The grant agreement shall contain, at a minimum, the following:

A) Identifying information of the grantee, including name, mailing address, phone number and e-mail address;

B) A description of the grant's purpose;

C) Specific information on how payments to the grantee will be made;

D) Details on what constitutes permissible expenditure of grant funds;

E) Financial controls applicable to the grant; and

F) The time frame within which the grant is valid, including the time frame during which grant funds can be expended.

2) Grants are effective on the date that a grant agreement is executed between the Department and the grantee.

A) A grant is valid for the time frame outlined in the grant agreement.

B) The Department will deem a grant agreement null and void if the grantee does not fulfill the requirements stipulated in the agreement.

C) Grants are not assignable or transferable. Any assignment or transfer shall render the grant agreement null and void.

b) Grantees shall complete three years of service in Illinois. Grantees who were awarded a grant based on geographical preference and who wish to move their practice from the location described in the ~~grantee's~~ original application and retain status as a grantee shall receive approval from the Department prior to relocating to another~~and shall relocate to an~~ area in Illinois. Without prior approval from the Department, time in a practice location will not count toward the grantee's service obligation.

c) Every three~~six~~ months, the grantee shall provide documentation to the Department that the amount of money paid for educational loan debt is greater than or equal to the amount of money paid by the Department under this program. Cancelled checks or documentation from the lending institution will be accepted for this purpose.

d) The grant program administered under this Part will allow for initial three year grants and subsequent one year grants. Grantees~~Grant recipients~~ will be given priority for additional year funding provided that~~so long as~~ they continue to meet the eligibility requirements described in Section 25 of the Act and Section 581.210.

e) If the grantee is disabled or is otherwise unable for reasons beyond the grantee's control to perform the loan repayment obligations, these obligations shall be suspended until the grantee is able to resume the loan repayment obligations. However, the suspension shall not exceed two years.

1) To request a suspension of the loan repayment obligation, a grantee shall submit a suspension request in writing to the Department. This request shall detail the reason for the suspension and, if temporary, the duration of the suspension and shall be supported by clear and convincing documentation.

2) The Department shall approve a request for suspension if the request is supported by a letter from the grantee's licensed physician fully explaining and attesting to the grantee's inability (either temporarily or permanently) to continue the loan repayment obligation.

3) If the Department denies the suspension request, the grantee shall fulfill the loan repayment obligation.

4) Based on the information contained in the suspension request, the Department's acceptance or denial of the request will be provided in writing, under the Director's signature.

5) If the grantee suffers total and permanent disability, is adjudicated as incompetent or dies, the grantee shall be discharged from all obligations to the Department in connection with this Part and the Act.

(Source: Amended at 36 Ill. Reg. 2331, effective January 27, 2012)

Section 581.240 Penalty for Failure to Fulfill Obligation

a) Upon execution of the grant agreement with the Department, the grantee shall provide full-time medical services in Illinois. The term of this service shall be for three years.

b)~~a)~~ If the~~Upon breach of~~ grant agreement is breached, the grantee *shall repay the Department a sum equal to 3 times the amount of funds*~~*loan repayment recipients who fail to practice full-time in Illinois for three years shall repay the Department a sum equal to three times the amount*~~ *received under the program.* (Section 35 of the Act)

c)~~b)~~ A breach of the grant agreement shall include, but not be limited to, the following ~~situations~~:

1) Failure to practice full-time at the location specified in the grant agreement;

2) Relocation to an area ~~that is~~ outside ~~of the State of~~ Illinois;

3) Material misstatement in furnishing information to the Department;

4) Making any misrepresentation for the purpose of obtaining a loan repayment assistance grant; ~~or~~

5) Failure~~*Failure*~~ *to practice full-time in Illinois for three years*~~.~~ (Section 25 of the Act); or

6) A determination made by the Department that the grantee has two or more concurrent loan repayment obligations from the federal, State or local government or other entity.

d) When the Department determines that the grant agreement has not been fulfilled and all applicable requirements of Section 581.250 have been met, the Department and grantee shall enter into a contract for the repayment of the obligation.

1) To fulfill the repayment requirements of the Act and this Section, the grantee shall have 30 calendar days after the conclusion of all applicable requirements of Section 581.250 to enter into a contract with the Department. This contract shall contain terms of the repayment and provisions for enforcement of the contract.

2) Payment shall be made in equal monthly installments in amounts so that all sums due shall be paid within a period of time equal to the grantee's service term, or remaining portion thereof, or as otherwise approved by the Department.

~~e)~~ ~~*Loan repayment recipients who fail to practice full-time in Illinois for three years shall repay the Department a sum equal to three times the amount received under the program.* (Section 35 of the Act).~~

~~d)~~ ~~The grantee shall repay all funds provided by the Department under this Part within a period of time equal to the recipient's service term.~~

e) If the grantee fails to pay monies~~does not repay all funds~~ owed to the Department within the required time period, the Department shall~~will~~ refer the matter to the Illinois Attorney General, a collection agency or a licensed attorney for resolution.

f) The amounts paid to the Department shall be deposited into the Community Health Center Care Fund and shall be used by the Department to improve access to primary health care services as authorized under Section 2310-200(a) of the Department of Public Health Powers and Duties Law.

(Source: Amended at 36 Ill. Reg. 2331, effective January 27, 2012)

Section 581.250 Grant Funds Recovery

a) If a grantee fails to comply with this Part or any terms of the grant agreement, the Department, after notice and opportunity for hearing, shall suspend or revoke the grant and recover any grant funds previously disbursed to the grantee.

b) If the Department believes that a grant should be suspended, revoked or recovered because of a grantee's failure to comply with this Part or the terms of the grant agreement, the grantee shall have the opportunity for at least one informal hearing before the Department or the Department's designee to determine the facts and issues and to resolve any conflicts as amicably as possible before any formal recovery action is taken.

c) If, based on the outcome of the informal hearing, the Department believes that a grant should be suspended, revoked or recovered because of a grantee's failure to comply with this Part or the terms of the grant agreement, written notice of the proposed action will be given to the grantee identifying the action to be taken and specific facts that permit the action. The grantee shall have 35 calendar days after the receipt of the notice to request a formal hearing (see 77 Ill. Adm. Code 100) to show why recovery is not justified or proper.

d) If a grantee requests a hearing pursuant to subsection (c), the Department will hold a hearing at which the grantee or the grantee's attorney is permitted to present evidence and witnesses to show why the recovery action should not be taken.

e) After the conclusion of the hearing, the Department will issue a written final order setting forth its findings of fact and decision. A copy of the order will be sent to the grantee.

f) In addition to the terms of the grant agreement regarding suspension or termination, the Department may suspend or terminate the grant agreement if the

grantee breaches the grant agreement, fails to comply with the Act or this Part, makes any material misrepresentation to the Department or creates any situation that constitutes a threat to the public's health, safety or welfare. Notice of opportunity for hearing will be provided with the notice of suspension. If a grantee requests a hearing pursuant to subsection (c), the Department may not take any action of recovery until at least 35 calendar days after the Department has issued a final recovery order pursuant to subsection (e). If a grantee does not request a hearing, the Department may proceed with recovery of the grant funds identified in the notice at any time after the expiration of the 35 calendar day request period established in subsection (c).

g) Any notice or mailing required or permitted by this Part shall be deemed received five business days after the notice or mailing is deposited in the United States mail, properly addressed with the grantee's current or last known business address and with sufficient U.S. postage affixed.

(Source: Added at 36 Ill. Reg. 2331, effective January 27, 2012)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Allied Health Care Professional Assistance Code

2) Code Citation: 77 Ill. Adm. Code 598

3)

Section Numbers:	Adopted Action:
598.10	Amend
598.20	Amend
598.30	Amend
598.100	Amend
598.110	Amend
598.120	Amend
598.130	Amend
598.140	Amend
598.150	New

4) Statutory Authority: Allied Health Care Professional Assistance Law [110 ILCS 905]

5) Effective Date of Rulemaking: January 27, 2012

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 Proposed Amendments Published in Illinois Register: October 14, 2011; 35 Ill. Reg. 16413

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version: 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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: The adopted amendments to this Part added several definitions, including advanced practice nurse, primary care and medically underserved areas. New clarifying language was added regarding the terms of performance required of scholarship recipients and to clarify the process for repayment of funds.

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

Susan Meister
Division of Legal Services
Department of Public Health
535 West Jefferson, 5th Floor
Springfield, Illinois 62761
e-mail: dph.rules@illinois.gov

217/782-2043

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER g: GRANTS TO INCREASE ACCESS TO
PRIMARY HEALTH CARE AND SCHOLARSHIPS
FOR HEALTH PROFESSIONAL STUDENTS

PART 598
ALLIED HEALTH CARE PROFESSIONAL ASSISTANCE CODE~~LAW~~

SUBPART A: GENERAL PROVISIONS

Section
598.10 Definitions
598.20 Referenced Materials
598.30 Administrative Hearings

SUBPART B: ALLIED HEALTH CARE PROFESSIONAL SCHOLARSHIPS

Section
598.100 Limitations on Use of Scholarship Funds
598.110 Eligibility for Application
598.120 Criteria for Selecting Scholarship Recipients
598.130 Terms of Performance
598.140 Scholarship Repayment
598.150 Grant Funds Recovery

AUTHORITY: Implementing and authorized by the Allied Health Care Professional Assistance Law [110 ILCS 905].

SOURCE: Adopted at 18 Ill. Reg. 11931, effective August 1, 1994; emergency amendment at 19 Ill. Reg. 6020, effective April 7, 1995, for a maximum of 150 days; emergency expired September 4, 1995; amended at 20 Ill. Reg. 6034, effective April 1, 1996; amended at 36 Ill. Reg. 2345, effective January 27, 2012.

SUBPART A: GENERAL PROVISIONS

Section 598.10 Definitions

"Academic year" means the period of time each year during which an approved school is open and classes are in session.

"Act" means the Allied Health Care Professional Assistance Law ~~(Ill. Rev. Stat. 1991, ch. 144, par. 1481 et seq.)~~[110 ILCS 905].

"Accepted for admission" means that a student has completed the requirements for entry at an approved school, as documented by the approved school.

"Administrative law judge" shall have the meaning ascribed in the Department's Practice and Procedure in Administrative Hearings.

"Advanced practice nurse" or "APN" *means a person who has met the qualifications for a certified nurse midwife (CNM); certified nurse practitioner (CNP); certified registered nurse anesthetist (CRNA); or clinical nurse specialist (CNS) and has been licensed by the Department* of Financial and Professional Regulation. (Section 50-10 of the Nurse Practice Act)

"Allied health care professional" means a person who is licensed in Illinois as a certified nurse practitioner, physician assistant, certified registered nurse anesthetist or certified nurse midwife.

"Applicant" means a person who submits an application to the Department to receive an allied health care professional assistance scholarship.

"Approved school" means *a medical or other school located in Illinois and accredited in its field or otherwise approved by the Department.* (Section 2003(a)(1) of the Act)

"Arrears" means an overdue amount that has not been paid.

"Business day" means Monday through Friday. It does not include a federal or State government declared holiday, Saturday or Sunday.

"Calendar day" means all days in a month or prescribed time frame. It includes weekends and federal or State government declared holidays.

"Department" means the Illinois Department of Public Health. (Section 2003(b) of the Act)~~"Department" means the Illinois Department of Public Health~~.

"Designated Shortage Area" means an area designated by the Director of Public Health as a physician shortage area, a medically underserved area, or a critical health manpower shortage area as defined by the United States Department of Health and Human Services, or as further defined by the Department to enable it to effectively fulfill the purpose stated in Section 2002 of the Act. *Such areas may include the following:*

an urban or rural area which is a rational area for the delivery of health services;

a population group; or

a public or nonprofit private medical facility. (Section 2003(c) of the Act)

"Director" means the Director of the Illinois Department of Public Health.

"Eligible allied health care professional" means a person who meets all of the following qualifications:

he or she is studying an allied health care field in a medical or other school located in Illinois and accredited in its field or otherwise approved by the Department, and agrees to obtain a license to practice in his or her field in this State;

he or she exhibits financial need as determined by the Department; and

he or she agrees to practice full-time in a Designated Shortage Area~~designated shortage area~~ as an allied health care professional one year for each year he or she is a scholarship recipient. (Section 2003(a) of the Act)

"Federally Qualified Health Center" or "FQHC" means a health center funded under section 330 of the federal Public Health Service Act.

"Federally Qualified Health Center Look-Alike" or "FQHC Look-Alike" means an organization that meets the requirements for receiving a grant under section 330 of the federal Public Health Service Act but does not receive federal funding under that authority.

"Fees" means those mandatory charges, in addition to tuition, that all enrolled students at an approved school must pay, including required course or lab fees.

"Fund" means the Community Health Center Care Fund.

"Full-time academic work" means enrollment for the number of hours required per term by a school for its full-time students.

"Full-time employment" means being available at the practice location for face-to-face direct patient visits a minimum of 32 hours per week.

"Full-time student" means a student who is enrolled for at least the number of hours required per term by a school for its full-time students.

"Grant" means funds awarded under the Act.

"Grantor Agency" means any agency of State government which dispenses grant funds. (Section 2(a) of the Illinois Grant Funds Recovery Act)

"Grant agreement" means the agreement entered into between the Department and any person or entity for obligation, capital expenditure or use for a specific purpose.

"Grantee" means a *person or entity which may use grant funds*. (Section 2(c) of the Illinois Grant Funds Recovery Act)

"Grant funds" means public funds dispensed by the Department *to any person or entity for obligation, expenditure or use for a specific purpose.* (Section 2(b) of the Illinois Grant Funds Recovery Act)

"Good academic standing" means that a student is matriculating with the rest of his or her class and is demonstrating minimum competence in his or her field of study at an approved school.

"Health Professional Shortage Area" or "HPSA" is a designation provided by the U.S. Department of Health and Human Services, Health Resources and Services Administration. The HPSA designation indicates the shortage of primary medical care, dental or mental health providers. The designation may be geographic (a

county or service area), demographic (low income population) or institutional (comprehensive health center, FQHC or other public facility). HPSA designations can be found at http://hpsafind.hrsa.gov/.

"Health Professional Shortage Area Score" or "HPSA Score" refers to the HPSA shortage severity score calculated by the U.S. Department of Health and Human Services, Bureau of Health Professionals when an HPSA is federally designated.

"Illinois resident" means a person who has been a resident of Illinois for at least one year prior to applying for an Allied Health Care Professional Scholarship and is a citizen or lawful permanent resident of the United States.

"Lawful permanent resident" means a person who is not a citizen of the United States but who resides in the United States under legally recognized requirements and lawfully records his/her permanent residence.

"Medically underserved population" or "MUP" means individuals who reside in a U.S. Department of Health and Human Services health professional shortage area or medically underserved area; or who are designated a medically underserved population by the U.S. Department of Health and Human Services; or who reside in an area designated by the Department as underserved.

"Metropolitan statistical area" or "MSA" means one or more adjacent counties that have at least one urban core area of at least 50,000 in population, plus adjacent territory that has a high degree of social and economic integration with the core as measured by commuting ties.

"Mid-level providers" include health professionals who have completed specialized training and who meet the requirements of nationally recognized health professional organizations granting certification to certified nurse practitioners, certified nurse midwives, certified registered nurse anesthetists and physician assistants.

"Part-time academic work" means enrollment for at least one-third of the number of hours required per term by a school for its full-time students.

"Part-time student" means a student who is enrolled for at least one-third of the number of hours required per term by a school for its full-time students.

"Physician assistant" means an individual licensed under the Physician Assistant Practice Act of 1987 [225 ILCS 95].

"Primary care" means health care that encompasses prevention services, basic diagnostic and treatment services and support services, including laboratory, radiology, transportation and pharmacy. Primary care is comprehensive in nature and not organ or problem specific, is oriented toward the longitudinal care of the patient, and includes responsibility for coordination of other health and social services as they relate to the patients' needs.

"Quarter" means a term within an academic year that marks the beginning and end of classes. Quarters are approximately eight to 10 weeks in duration and there are four quarters in an academic year.

"Rational area" means a geographic area for the delivery of primary health care services. In determining a rational area, one of the following conditions must be met: a county or a group of contiguous counties whose population centers are within 30 minutes travel time of each other; a portion of a county whose population has limited access to a contiguous area's resources, as measured by travel time greater than 30 minutes; or established communities within a metropolitan statistical area that have limited interaction with contiguous areas, and have a maximum population of 20,000.

"Rural practice" means providing primary care services in any geographic area of Illinois that is not located in a Metropolitan Statistical Area or a county located within a Metropolitan Statistical Area but having a population of less than 60,000, or a community located within a Metropolitan Statistical Area but having a population of 2,500 or less.

"School term" means an academic term, such as a semester, quarter or trimester, or number of clock hours, as defined by an approved school.

"Semester" means a term within an academic year that marks the beginning and end of classes. Semesters are approximately 15 to 16 weeks in duration and there are two semesters in an academic year.

"Summer term" means a term within an academic year that marks the beginning and end of classes. The term is approximately four to nine weeks in duration and is typically offered during June, July and August of an academic year.

"Trimester" means a term within an academic year that marks the beginning and end of classes. Trimesters are approximately 12 to 15 weeks in duration, and there are three trimesters in an academic year.

"Tuition" means the established charges of an institution of higher learning for instruction at the institution.

"Urban practice" means providing primary care services in any geographic area of Illinois that does not meet the rural practice definition.

(Source: Amended at 36 Ill. Reg. 2345, effective January 27, 2012)

Section 598.20 Referenced Materials

The following materials are referenced in this Part:

a) Illinois Statutes: ~~Illinois Health Care Professional Assistance Law (Ill. Rev. Stat 1991, ch. 144, par. 1481 et seq.) [110 ILCS 905].~~

1) Allied Health Care Professional Assistance Law [110 ILCS 905]

2) Illinois Administrative Procedure Act [5 ILCS 100]

3) Physician Assistant Practice Act of 1987 [225 ILCS 95]

4) Nurse Practice Act [225 ILCS 65]

5) Department of Public Health Powers and Duties Law [20 ILCS 2310/2310-200]

6) Illinois Grant Funds Recovery Act [30 ILCS 705]

b) Illinois Rule~~Rules~~: ~~Rules of~~ Practice and Procedure in Administrative Hearings (77 Ill. Adm.~~Admin.~~ Code 100).

c) Federal Statutes:

1) Designation of Health Professional Shortage Areas, section 332 of the Public Health Service Act (42 USC 254(e))

2) Designation of Medically Underserved Areas, section 330(b)(3) of the Public Health Service Act (42 USC 254(b)(3))

(Source: Amended at 36 Ill. Reg. 2345, effective January 27, 2012)

Section 598.30 Administrative Hearings

Administrative~~Any administrative~~ hearings conducted by the Department concerning the provisions of this Part shall be governed by the Department's ~~Rules of~~ Practice and Procedure in Administrative Hearings ~~(See 77 Ill. Adm. Code 100)~~.

(Source: Amended at 36 Ill. Reg. 2345, effective January 27, 2012)

SUBPART B: ALLIED HEALTH CARE PROFESSIONAL SCHOLARSHIPS

Section 598.100 Limitations on Use of Scholarship Funds

a) Scholarships in the amount of $7,500 shall be issued per academic year to each recipient and shall be used for tuition, ~~and matriculation~~ fees and living expenses for students of allied health care professional programs.

b) Scholarships may be made to part-time (but not less than ⅓ time) students and full-time students.

c) Scholarship funds shall be expended by the recipient only while enrolled and in good academic standing at an approved school.

d) Scholarship funds shall not be awarded for expenses incurred when the student must repeat ~~more than once~~ an academic term or terms, if the repetition is necessary because the student has an academic performance below an acceptable level as determined by the student's approved school.

e) Scholarship awards shall be made directly to the recipient.

f) Scholarship awards shall be made for a maximum of two ~~(2)~~ years.

g) Scholarship awards shall not be made if recipient is in arrears on tuition payments to recipient's approved school.

(Source: Amended at 36 Ill. Reg. 2345, effective January 27, 2012)

Section 598.110 Eligibility for Application

a) Students eligible to apply for Allied Health Care Professional Scholarships shall meet the following qualifications:

1) be~~*he or she is*~~ *studying an allied health care field in a medical or other school located in Illinois and accredited in its field or otherwise approved by the Department and agrees to obtain a license to practice in his or her field in this State;*

2) exhibit~~*he or she exhibits*~~ *financial need as determined by the Department; and*

3) agree~~*he or she agrees*~~ *to practice full-time in a Designated Shortage Area~~designated shortage area~~ as an allied health care professional one year for each year he or she is a scholarship recipient.* (Section 2003(a) of the Act)

b) Students receiving funds from other scholarship or loan funds requiring service commitments that would prevent the student~~applicant~~ from meeting the requirements of the Act and this Part~~Allied Health Care Professional Scholarship~~ shall ~~not~~ be ineligible~~eligible~~ for scholarships described in this Subpart.

(Source: Amended at 36 Ill. Reg. 2345, effective January 27, 2012)

Section 598.120 Criteria for Selecting Scholarship Recipients

a) Preference shall be given to those scholarship applicants who, in written narratives and personal interviews, ~~can~~ demonstrate the following:

1) Interest in pursuing a degree and licensure or certification as a certified nurse practitioner, physician assistant, certified registered nurse anesthetist or certified nurse midwife;

2) Previous experience with medically underserved populations;

3) Previous experience in rural practice, with preference given to those whose experience has involved one of the primary care specialty areas;

4) Academic capabilities as reported by the applicant's approved school;

5) Financial need as reported by standard financial analysis documentation supplied by the applicant's school on the student's behalf;

6) Greater number of years of school remaining;

7) Stated interest in providing primary health care to ~~Illinois~~ citizens residing in designated shortage areas of Illinois;

8) Most number of years of residence in Illinois; and

9) United States citizens~~,~~ or lawful permanent residents~~those granted permanent residence in the United States by the Immigration and Naturalization Service~~.

b) Of all applicants, priority shall be given to those individuals who have previously received a scholarship~~an Allied Health Care Professional Scholarship~~, provided that:

1) Recipient requests, in a format determined by the Department, a continuation of scholarship funds;

2) Recipient would not be repeating the same year of school for the second consecutive year because of poor academic performance; and

3) Recipient has not voluntarily withdrawn from school.

c) When the number of applicants is~~are~~ sufficient, scholarships will be equally distributed among all applicants by profession.

(Source: Amended at 36 Ill. Reg. 2345, effective January 27, 2012)

Section 598.130 Terms of Performance

a) Each scholarship recipient shall sign a written agreement with the Department prior to receiving a scholarship~~contract~~. The agreement shall contain ~~contract contains~~ terms and conditions that~~which~~ ensure compliance with this Part and~~,~~ the laws of the State of Illinois, and enforcement of the agreement~~contract~~.

b) Scholarship recipients who fail to complete school because of~~due to~~ academic failure, as documented by the recipient's school, shall repay to the Department the amount received in scholarship assistance. Repayment shall be in accordance with the provisions of the recipient's agreement and Section 598.150~~be discharged from all obligations~~.

c) Scholarship recipients who fail to complete school because of~~due to~~ voluntary actions (e.g., withdrawal from school) on their part shall repay to the Department an amount equal to three~~3~~ times the amount of the annual scholarship ~~grant~~ received for each unfulfilled year of the obligation together with interest at 7% ~~percent~~ per year on that amount. Repayment of obligation shall be in accordance with the provisions of the recipient's agreement and Section 598.150.

d) Scholarship recipients who complete school but fail to become licensed in Illinois shall repay to the Department an amount equal to three times the amount of the annual scholarship received for each unfulfilled year of the obligation, together with interest at 7% per year on that amount. Repayment of the obligation shall be in accordance with the provisions of the recipient's agreement and Section 598.150.

e)~~d)~~ If~~In the event~~ the scholarship recipient is disabled or is otherwise unable for reasons beyond the recipient's control to perform the scholarship obligations, these obligations shall be suspended until ~~such time as~~ the scholarship recipient is able to resume the scholarship obligations. However, the suspension shall not exceed two years. ~~Such suspension shall be requested in writing by the scholarship recipient. The Department's acceptance or denial of the suspension request will be provided in writing under the Director's signature. The Department shall accept a request for a suspension when supported by a letter from the recipient's physician attesting to the recipient's inability (either temporarily or permanently) to continue (either school or the practice of the allied health care professional field) and the recipient's agreeing to not continue either his or her education in the profession (or the practice of the allied health care profession) in any state.~~

1) To request a suspension of the scholarship obligation, a recipient shall submit a suspension request in writing to the Department. This request shall detail the reasons for the suspension and, if temporary, the duration of the suspension and shall be supported by clear and convincing documentation.

2) The Department shall approve a request for a suspension if the request is supported by a letter from the recipient's licensed physician fully explaining and attesting to the recipient's inability (either temporarily or permanently) to continue either school or the recipient's profession and if the recipient agrees not to continue either his or her education or practice in any state.

3) If the Department denies the suspension request, the recipient shall fulfill the scholarship obligation.

4) Based on the information contained in the suspension request, the Department's acceptance or denial of the request will be provided in writing, under the Director's signature.

5) If a scholarship recipient suffers total and permanent disability, is adjudicated as incompetent, or dies, the recipient shall be discharged from all obligations to the Department in connection with the Act and this Part. (Section 2005 of the Act)

f) If the recipient involuntarily leaves the *profession due to a decrease in the number of health care professionals employed in* Illinois, the scholarship recipient shall be discharged from all obligations by the Department. (Section 2005 of the Act)

g)~~e)~~ Misrepresentation of any material~~the~~ facts presented in the scholarship~~recipient's~~ application shall be considered a breach of contract. If the Department determines that a breach of contract occurred, the recipient shall repay to the Department an amount equal to three times the amount of the annual scholarship received for each unfulfilled year of the obligation, together with interest at 7% per year on that amount. Repayment of the obligation shall be made as agreed to by the recipient and the Department in the recipient's agreement and in accordance with Section 598.150~~All funds provided by the Department to the~~

~~student shall be due in full, immediately~~.

h) A breach of contract shall include, but not be limited to, the following:

1) Failure to practice full time at the location specified in the scholarship agreement;

2) Relocation to an area that is outside Illinois;

3) Material misstatement in furnishing information to the Department; or

4) Making any misrepresentation for the purpose of obtaining a scholarship.

(Source: Amended at 36 Ill. Reg. 2345, effective January 27, 2012)

Section 598.140 Scholarship Repayment

a) Upon successful completion of all educational requirements at the approved school and all applicable Illinois licensure requirements for the profession, the scholarship recipient shall provide health care services as an allied health care professional in a designated shortage area of Illinois. The term of this service shall be *one year for each year he or she is a scholarship recipient*. (Section 2003(a)(3) of the Act)

b) Service as an allied health care professional shall begin no~~not~~ later than 30 calendar days after completion of the allied health training program, or, if licensure is required, 30 calendar days after the issuance of a temporary license by the Illinois Department of Financial and Professional Regulation.

c) The scholarship recipient shall submit a written request to the Department for approval for a proposed practice location. The Department will provide approval or disapproval, in the form of a letter, to the scholarship recipient. A letter of approval shall include a description of the terms of the service obligation.~~Written approval of the Department for a proposed practice location shall be requested and received by the scholarship recipient.~~

1) Without the Department's~~such~~ approval, time in practice at this~~such a~~ location shall not meet the scholarship recipient's service obligation.

2) The scholarship recipient may request and receive approval for a practice location up to 18 months preceding the time practice at the location is to begin.

3) Approval for a practice location is granted for the duration of the scholarship recipient's service obligation.

d) The scholarship recipient's practice shall meet the following requirements:

1) Be located in a designated shortage area;

2) Be a full-time practice providing face-to-face direct patient care; and

3) Provide~~Be providing~~ continuous service at the rate of 12 months for each academic year of school supported by the scholarship.

e) Scholarship recipients may relocate to another practice location or practice in more than one location if prior written approval is granted by the Department.

f) Scholarship recipients shall enter into a written contract with the Department that~~which~~ describes terms of the service obligation and contains provisions for enforcement of the contract.

g) *Scholarship recipients who fail to fulfill the obligation described in* the Act and in Section 598.130(c) and (d)~~ of this Part~~ *shall pay to the Department an amount equal to 3 times the amount of the annual scholarship grant received for each unfulfilled year of the obligation together with interest at 7% per year on that amount.* (Section 2005 of the Act) Repayment of the obligation shall be in accordance with the provisions of the recipient's agreement and Section 598.150.

1) After the Department determines that the scholarship obligation has not been fulfilled and after the Department has satisfied all of the applicable requirements of Section 598.150, the Department and recipient shall enter into a contract for the repayment of the scholarship obligation.

2) To fulfill the repayment requirements of the Act and this Section, the scholarship recipient shall have 30 calendar days after the conclusion of all applicable requirements of Section 598.150 to enter into a contract with the Department.

3)~~1)~~ Payments~~Payment~~ shall be made in equal monthly installments in ~~such~~ amounts so all sums due shall be paid within a period of time equal to the recipient's service term, or remaining portion thereof, or as otherwise approved by the Department.

4)~~2)~~ Both the scholarship recipient~~Recipient~~ and Department shall enter into a written contract that~~which~~ describes terms of the repayment and contains provisions for enforcement of the contract.

5) The amounts paid by the recipient to the Department under this Section shall be deposited into the Community Health Center Care Fund and shall be used by the Department to improve access to primary health care services as authorized under Section 2310-200(a) of the Department of Public Health Powers and Duties Law.

h) If~~In the event~~ a scholarship recipient fails to pay monies owed to the Department, the Department shall~~may~~ refer the matter to the Illinois Attorney General, ~~or to~~ a collection agency, or a licensed attorney for restitution.

(Source: Amended at 36 Ill. Reg. 2345, effective January 27, 2012)

Section 598.150 Grant Funds Recovery

a) If a grant recipient fails to comply with this Part or any terms of the grant agreement, the Department, after notice and opportunity for hearing, shall suspend or revoke the grant and recover any grant funds previously disbursed to the recipient.

b) If the Department believes that a grant should be suspended, revoked or recovered because of a grant recipient's failure to comply with this Part or the terms of the grant agreement, the recipient shall have the opportunity for at least one informal hearing before the Department or the Department's designee to determine the facts and issues and to resolve any conflicts as amicably as possible before any formal recovery action is taken.

c) If, based on the outcome of the informal hearing, the Department believes that a grant should be suspended, revoked or recovered because of a recipient's failure to comply with this Part or the terms of the grant agreement, written notice of the

proposed action shall be given to the recipient identifying the action to be taken and specific facts that permit the action. The recipient shall have 35 calendar days after the receipt of the notice to request a formal hearing (see 77 Ill. Adm. Code 100) to show why recovery is not justified or proper.

d) If a recipient requests a hearing pursuant to subsection (c), the Department shall hold a hearing at which the recipient or the recipient's attorney is permitted to present evidence and witnesses to show why the recovery action should not be taken.

e) After the conclusion of the hearing, the Department shall issue a written final order setting forth its findings of fact and decision. A copy of the order shall be sent to the recipient.

f) In addition to the terms of the grant agreement regarding suspension or termination, the Department may suspend or terminate the grant agreement if the recipient breaches the grant agreement, fails to comply with the Act or administrative rules in this Part, makes any material misrepresentation to the Department or creates any situation that constitutes a threat to the public's health, safety, or welfare. Notice of opportunity for hearing will be provided with the notice of suspension. If a recipient requests a hearing pursuant to subsection (c), the Department may not take any action of recovery until at least 35 calendar days after the Department has issued a final recovery order pursuant to subsection (e). If a recipient does not request a hearing, the Department may proceed with recovery of the grant funds identified in the notice at any time after the expiration of the 35 calendar day request period established in subsection (c).

g) Any notice or mailing required or permitted by this Part shall be deemed received five business days after the notice or mailing is deposited in the United States mail, properly addressed with the recipient's current or last known business address and with sufficient U.S. postage affixed.

(Source: Added at 36 Ill. Reg. 2345, effective January 27, 2012)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Income Tax

2) Code Citation: 86 Ill. Adm. Code 100

3) Section Number: 100.2580 — Adopted Action: Amendment

4) Statutory Authority: 820 ILCS 153/85

5) Effective Date of Amendment: January 25, 2012

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 rulemaking, including any material incorporated by reference, is on file in the Department of Revenue's principal office and is available for public inspection.

9) Notice of Proposals Published in Illinois Register: 35 Ill. Reg. 16939; October 21, 2011

10) Has JCAR issued a Statement of Objection to this Rulemaking? No

11) Differences between proposal and final version: Several non-substantive grammatical corrections were made in agreement with 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: The rulemaking provides guidance regarding the tax consequences of repeal of the Medical Care Savings Act of 2000 effective January 1, 2010.

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

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

217/782-7055

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 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))
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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].

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

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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, 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. 14168, effective September 28, 2009; amended at 33 Ill. Reg. 15044, effective October 26, 2009; amended at 34 Ill. Reg. 550, effective December 22, 2009; amended at 34 Ill. Reg. 3886, effective March 12, 2010; amended at 34 Ill. Reg. 12891, effective August 19, 2010; amended at 35 Ill. Reg. 4223, effective February 25, 2011; amended at 35 Ill. Reg. 15092, effective August 24, 2011; amended at 36 Ill. Reg. 2363, effective January 25, 2012.

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))

a) For the purposes of this Section, "Act" means the Medical Care Savings Account Act [820 ILCS 152], repealed January 1, 2000, or the Medical Care Savings

Account Act of 2000 [820 ILCS 153], which re-enacted the provisions of the repealed Act.

b) *"Medical care savings account" or "account" means an account established in this State pursuant to a medical care savings account program to pay the eligible medical expenses of an employee and his or her dependents.* (Section 5 of the Act) An employer, except as otherwise provided by statute, contract, or a collective bargaining agreement, may offer a medical care savings account program to the employer's employees.

c) A medical care savings account program must include the following:

1) *The purchase by an employer of a qualified higher deductible health plan for the benefit of an employee and his or her dependents.* (Section 5 of the Act)

2) *The contribution on behalf of an employee into a medical care savings account by his or her employer of all or part of the premium differential realized by the employer based on the purchase of a qualified higher deductible health plan for the benefit of the employee. An employer that did not previously provide a health coverage policy, certificate, or contract for his or her employees may contribute all or part of the deductible of the plan purchased pursuant to* subsection (c)(1). *For 1994, a contribution under this Section may not exceed $6,000 for 2 taxpayers filing a joint return, if each taxpayer has a medical care savings account but neither is covered by the other's health coverage, or $3,000 in all other cases. These maximum amounts shall be adjusted annually by the Department of Revenue to reflect increases in the consumer price index for the United States as defined and officially reported by the United States Department of Labor.* (Section 5 of the Act)

A) The Department will announce adjustments in the maximum amounts, as well as in the minimum higher deductible, by annual publication of a Notice of Public Information in the Illinois Register.

B) The Consumer Price Index (CPI) annual average for all urban consumers was 144.5 for calendar year 1993 and 148.2 for calendar year 1994. Therefore, the thresholds established under

the Act were adjusted upward by 2% for 1995. Hence, for 1995, the minimum higher deductible is $1026, the maximum higher deductible is $3078, the maximum contribution for 2 taxpayers filing a joint return is $6156 and the maximum contribution for all others is $3078.

C) For the years 1994 through 2006, the thresholds are as follows:

Year	Minimum Higher Deductible	Maximum Higher Deductible	Maximum Contribution For Two	Maximum Contribution All Others
1994	$1,000	$3,000	$6,000	$3,000
1995	$1,026	$3,078	$6,156	$3,078
1996	$1,055	$3,164	$6,238	$3,164
1997	$1,086	$3,256	$6,512	$3,256
1998	$1,111	$3,331	$6,662	$3,331
1999	$1,129	$3,384	$6,768	$3,384
2000	$1,154	$3,458	$6,917	$3,458
2001	$1,193	$3,576	$7,152	$3,576
2002	$1,226	$3,676	$7,352	$3,676
2003	$1,246	$3,735	$7,470	$3,735
2004	$1,275	$3,821	$7,642	$3,821
2005	$1,309	$3,924	$7,848	$3,924
2006	$1,354	$4,057	$8,114	$4,057

3) *An account administrator to administer the medical care savings account from which payment of claims is made. Not more than 30 days after an account administrator begins to administer an account, the administrator shall notify in writing each employee on whose behalf the administrator administers an account of the date of the last business day of the administrator's business year.* (Section 5 of the Act)

d) Section 5 of the Act contains a number of definitions:

1) *"Account administrator" means any of the following:*

A) *A national or state chartered bank, a federal or State chartered savings and loan association, a federal or State chartered savings bank, or a federal or State chartered credit union.*

B) *A trust company authorized to act as a fiduciary.*

C) *An insurance company authorized to do business in this State under the Illinois Insurance Code or a health maintenance organization authorized to do business in this State under the Health Maintenance Organization Act.*

D) *A dealer, salesperson, or investment adviser registered under the Illinois Securities Law of 1953.*

E) *An administrator as defined in Section 511.101 of the Illinois Insurance Code who is licensed under Article XXXI¼ of that Code.*

F) *A certified public accountant registered under the Illinois Public Accounting Act.*

G) *An attorney licensed to practice in this State.*

H) *An employer, if the employer has a self-insured health plan under the federal Employee Retirement Income Security Act of 1974 (ERISA).*

I) *An employer that participates in the medical care savings account program.*

2) *"Deductible" means the total deductible for an employee and all the dependents of that employee for a calendar year.*

3) *"Dependent" means the spouse of the employee or a child of the employee if the child is any of the following:*

A) *under 19 years of age, or under 23 years of age and enrolled as a full-time student at an accredited college or university,*

B) *legally entitled to the provision of proper or necessary subsistence, education, medical care, or other care necessary for his or her health, guidance, or well-being and not otherwise emancipated, self-supporting, married, or a member of the armed forces of the*

United States, or

C) *mentally or physically incapacitated to the extent that he or she is not self-sufficient.*

4) *"Domicile" means a place where an individual has his or her true, fixed, and permanent home and principal establishment, to which, whenever absent, he or she intends to return. Domicile continues until another permanent home or principal establishment is established.*

5) *"Eligible medical expense" means an expense paid by the taxpayer for medical care described in Section 213(d) of the Internal Revenue Code.*

6) *"Employee" means the individual for whose benefit or for the benefit of whose dependents a medical care savings account is established. Employee includes a self-employed individual.*

7) *"Higher deductible" means a deductible of not less than $1,000 and not more than $3,000 for 1994. This minimum and maximum shall be adjusted annually by the Department of Revenue to reflect increases in the consumer price index for the United States as defined and officially reported by the United States Department of Labor.*

8) *"Qualified higher deductible health plan" means a health coverage policy, certificate, or contract that provides for payments for covered benefits that exceed the higher deductible and that is purchased by an employer for the benefit of an employee for whom the employer makes deposits into a medical care savings account.*

e) *Before making any contribution to an account, an employer that offers a medical care savings account program shall inform all its employees in writing of the federal tax status of contributions made.* (Section 10(b) of the Act) The contributions made pursuant to the Medical Care Savings Account Act will be taxable federally unless and to the extent the medical care savings account qualifies as a tax-favored medical savings account under section 220 of the Internal Revenue Code (26 USC 220).

f) Use of Account Moneys

1) *The account administrator shall utilize the moneys held in a medical care savings account solely for the purpose of paying the medical expenses of the employee or his or her dependents or to purchase a health coverage policy, certificate, or contract if the employee does not otherwise have health insurance coverage. Moneys held in a medical care savings account may not be used to cover medical expenses of the employee or his or her dependents that are otherwise covered, including but not limited to medical expenses covered pursuant to an automobile insurance policy, worker's compensation insurance policy or self-insured plan, or another health coverage policy, certificate, or contract.* (Section 15(a) of the Act)

2) *The employee may submit documentation of medical expenses paid by the employee in the tax year to the account administrator, and the account administrator shall reimburse the employee from the employee's account for eligible medical expenses.* (Section 15(b) of the Act)

3) *If an employer makes contributions to a medical care savings account program on a periodic installment basis, the employer may advance to an employee, interest free, an amount necessary to cover medical expenses incurred that exceed the amount in the employee's medical care savings account when the expense is incurred if the employee agrees to repay the advance from future installments or when he or she ceases to be an employee of the employer.* (Section 15(c) of the Act)

4) *Upon the death of the employee, the account administrator shall distribute the principal and accumulated interest of the medical care savings account to the estate of the employee.* (Section 20(d) of the Act)

g) Illinois Income Tax Consequences

1) Except as provided in subsection (f)(2), principal contributed to and interest earned on a medical care savings account and money reimbursed to an employee for eligible medical expenses are exempt from taxation under the Illinois Income Tax Act and shall be a modification decreasing federal adjusted gross income in arriving at Illinois taxable income of the employee for the taxable year.

2) *Notwithstanding* subsection (f)(3), *and subject to* subsection (f)(4), *an employee may withdraw money from his or her medical care savings*

account for any purpose other than a purpose described in subsection (f)(1) *only on the last business day of the account administrator's business year. Money withdrawn pursuant to this* subsection (g)(2) *shall be a modification increasing federal adjusted gross income in arriving at Illinois taxable income of the employee in the taxable year of the withdrawals.* (Section 20(a) of the Act)

3) *If the employee withdraws money for any purpose other than a purpose described in* subsection (f)(1) *at any other time, all of the following apply:*

A) *The amount of the withdrawal shall be a modification increasing federal adjusted gross income in arriving at Illinois taxable income of the employee in the taxable year of the withdrawal.*

B) *The administrator shall withhold and on behalf of the employee shall pay a penalty to the Department equal to 10% of the amount of the withdrawal.* (Section 20(a)(2) of the Act) The administrator must remit the penalty to the Department along with a copy of Form IL-601 "Medical Care Savings Account Penalty Payment."

C) Interest earned on the account during the taxable year in which a withdrawal under this subsection is made shall be a modification increasing federal adjusted gross income in arriving at Illinois taxable income of the employee.

4) *The amount of a disbursement of any assets of a medical care savings account pursuant to a filing for protection under Title 11 of the United States Code, 11 USC 101 to 1330, by an employee or person for whose benefit the account was established is not considered a withdrawal for purposes of this Section. The amount of a disbursement is not subject to taxation under the Illinois Income Tax Act, and* subsection (g)(3) *does not apply.* (Section 20(c) of the Act)

5) In the event that all of the following occur:

A) *an employee is no longer employed by an employer that participates in a medical care savings account program,*

B) *the employee, not more than 60 days after his or her final day of*

employment, transfers the account to a new account administrator or requests in writing to the former employer's account administrator that the account remain with that administrator, and

C) *that account administrator agrees to retain the account, then the money in the medical care savings account may be utilized for the benefit of the employee or his or her dependents subject to this Act, remains exempt from taxation, and shall be a modification decreasing federal adjusted gross income in arriving at Illinois taxable income of the employee or his or her dependents for the taxable year. Not more than 30 days after the expiration of the 60 days, if an account administrator has not accepted the former employee's account, the employer shall mail a check to the former employee, at the employee's last known address, for an amount equal to the amount in the account on that day, and that amount is subject to taxation pursuant* to subsection (g)(3)(A), *and shall be a modification increasing federal adjusted gross income in arriving at Illinois taxable income of the employee but is not subject to the penalty* under subsection (g)(3)(B). *If an employee becomes employed with a different employer that participates in a medical care savings account program, the employee may transfer his or her medical care savings account to that new employer's account administrator.* (Section 20(e) of the Act)

h) The Act ~~and this Section~~ shall expire on 1/1/2010. As a result of repeal of the Act, for taxable years beginning on and after January 1, 2010:

1) The subtraction modification provided for in subsection (g)(1) of this Section and IITA Section 203(a)(2)(S) and (T) for principal contributed to and interest earned on a medical care savings account shall not apply;

2) The subtraction modification provided for in subsection (g)(1) of this Section and Section 10(c) of the Act for money reimbursed to an employee for eligible medical expenses shall not apply;

3) The addition modification provided for in subsection (g)(2) of this Section and Section 20(a) of the Act for money withdrawn from a medical care savings account for any purpose other than a purpose described in subsection (f)(1) of this Section shall not apply;

4) The addition modification provided for in subsection (g)(3) of this Section and IITA Section 203(a)(2)(D-5) for the amount of a withdrawal for any purpose other than a purpose described in subsection (f)(1) of this Section and for interest earned on the account during the taxable year of the withdrawal shall not apply;

5) The penalty provided for in subsection (g)(3) of this Section and Section 20(c) of the Act equal to 10% of the amount of a withdrawal for any purpose other than a purpose described in subsection (f)(1) of this Section shall not apply.

(Source: Amended at 36 Ill. Reg. 2363, effective January 25, 2012)

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: School Bus Driver Permit

2) Code Citation: 92 Ill. Adm. Code 1035

3)

Section Numbers:	Adopted Action:
1035.10	Amendment
1035.15	Amendment
1035.35	Amendment
1035.45	Amendment
1035.50	Amendment

4) Statutory Authority: 625 ILCS 5/2-104, 625 ILCS 5/6-106.1 and 6-106.1(c)

5) Effective Date of Amendments: January 30, 2012

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 Department's Division of Driver's Services, and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: October 21, 2011; 36 Ill. Reg. 16960

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Difference 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 agreements were necessary.

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 Amendments:

NOTICE OF ADOPTED AMENDMENTS

Section 1035.10 contains the following amended definition: "Multifunction school activity bus. A multifunction school-activity bus (MFSAB) means a school bus manufactured for the purpose of transporting 11 or more persons, including the driver, whose purposes do not include transporting students to and from school or school bus stops.".

Section 1035.15(i) includes new statutory language requiring that all applicants must not have been "under an order of court supervision for or" convicted of 2 or more serious traffic offenses within one year prior to the date of a school bus permit application.

In Section 1035.15, new language is added in subsection (j) stating that all applicants must not have been "under an order of court supervision for or" convicted of reckless driving, aggravated reckless driving, driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof, or reckless homicide resulting from the operation of a motor vehicle within 3 years of the date of application.

In Section 1035.15, a new subsection (k) is added that reads "consent, in writing, to the release of results of reasonable suspicion drug and alcohol testing under Section 6-106.1(c) of this Code by the employer of the applicant to the Secretary of State."

In Section 1035.35(a)(3), the wording is changed to remove the word "restricted".

In 1035.35(a)(4), new language is added to say that a person cannot be "under an order of court supervision for or" convicted of 2 or more serious violations during the duration of the permit.

New language is added to Section 1035.35(i) that reads: "The Secretary shall suspend a school bus driver permit for a period of three years upon receiving notice from an employer that the permit holder has failed or refused a reasonable suspicion alcohol or drug test outlined in IVC Section 6-106.1(c).".

In Section 1035.45, a new subsection (g) is added requiring notification of the Secretary of State within 48 hours of a school bus driver failing a reasonable suspicion drug or alcohol test or refusing to be tested in accordance with IVC Section 6-106.1 (c).

In Section 1035.50(c), a reference to "Section 6-106.1(c)" is added to reflect a new section in the authorizing statute.

16) Information and questions regarding this rulemaking shall be directed to:

Jennifer Egizii
Office of the Secretary of State
Driver Services Department
2701 South Dirksen Parkway
Springfield, Illinois 62723

217/557-4462

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

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATE

PART 1035
SCHOOL BUS DRIVER PERMIT

Section
1035.10 Definitions
1035.15 Requirements of Applicants for a School Bus Driver Permit
1035.20 Annual Medical Examination and Certificate
1035.25 Permit Application Process
1035.30 Training
1035.32 Random Drug Testing for Alcohol and Controlled Substances
1035.35 Denial, Cancellation, or Suspension of a School Bus Driver Permit
1035.40 Notice
1035.45 Employer Responsibility
1035.46 Military Deferrals
1035.50 Hearings

AUTHORITY: Implementing Section 6-106.1 and authorized by Section 6-521 of the Illinois Vehicle Code [625 ILCS 5/6-521].

SOURCE: Adopted at 19 Ill. Reg. 10716, effective July 11, 1995; amended at 24 Ill. Reg. 1269, effective January 10, 2000; amended at 24 Ill. Reg. 12092, effective July 31, 2000; amended at 26 Ill. Reg. 12045, effective July 22, 2002; amended at 33 Ill. Reg. 17093, effective December 1, 2009; amended at 34 Ill. Reg. 7750, effective May 20, 2010; amended at 34 Ill. Reg. 19082, effective November 22, 2010; amended at 35 Ill. Reg. 7412, effective April 21, 2011; amended at 36 Ill. Reg. 2384, effective January 30, 2012.

Section 1035.10 Definitions

For purposes of this Part, the following definitions shall apply:

"Active Duty" – *active duty pursuant to an executive order of the President of the United States, an act of the Congress of the United States, or an order of the Governor* (IVC Section 6-106.1(j)).

"Adulterated Specimen" − a urine specimen that contains a substance not expected to be present in human urine, or contains a substance expected to be

present, but is at a concentration so high that it is not consistent with human urine (see 49 CFR 40.3 (2008)).

"Cancellation" – the cancellation of a school bus driver permit − the annulment or termination by formal action of the Secretary of State of a person's school bus driver permit because of some error or defect in the permit, because the permit holder is no longer entitled to the permit, refusal or neglect of the person to submit to an alcohol and drug evaluation or submit to or fail to successfully complete the examination, in accordance with IVC Sections 1-110, 6-106.1 and 6-207.

"Cellular Radio Communication Device" – a device capable of sending or receiving telephone communications without an access line for service and that requires the operator to dial a number manually. It does not include citizens band radios or citizens band radio hybrids.

"Chain of Custody" – a procedure used to document the handling of the urine specimen from the time the employee gives the specimen to the collector until the specimen is destroyed. This procedure uses the Federal Drug Testing Custody and Control Form (see 49 CFR 40 (2008)).

"Chain of Custody Form" or "CCF" – an employer copy of the Federal Drug Testing Custody and Control Form used to notify the employer that the applicant has taken a split specimen test and the results of that test.

"Collector" − a person who instructs and assists employees at a collection site, who receives and makes an initial inspection of the specimen provided by those employees and who initiates and completes the CCF.

"Conviction" – an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law, by a court of original jurisdiction or by an authorized administrative tribunal; an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court; a plea of guilty or nolo contendere accepted by the court; the payment of a fine or court cost, regardless of whether the imposition of sentence is deferred and ultimately a judgment dismissing the underlying charge is entered; or a violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended or probated pursuant to IVC Section 6-500(8).

"Curriculum-Related School Activity" − includes from home to school or from school to home, tripper or shuttle service between school attendance centers, transportation to vocational or career center or other trade-skill development site or regional safe school or other school-sponsored alternative learning program, or a trip that is directly related to the regular curriculum of a student for which he or she earns credit.

"Denial" – to prohibit or disallow the privilege to obtain a school bus driver permit and/or the privilege to operate a school bus in accordance with IVC Section 6-106.1.

"Dilute Specimen" – a urine specimen with creatinine and specific gravity values that are lower than expected for human urine pursuant to 49 CFR 40.3.

"Disqualification" – *a withdrawal of the privilege to drive a commercial motor vehicle* [625 ILCS 5/1-115.3].

"Driver" – every person who drives or is in actual physical control of a vehicle [625 ILCS 5/1-116].

"Employer" – any public or private school district, individual, corporation, partnership or association who employs school bus drivers licensed pursuant to IVC Section 6-106.1.

"Employer Certification/Notification" – a form prescribed by the Secretary of State and submitted by the employer that certifies an applicant has met all pre-employment conditions and all conditions for reapplication, or that a driver who is no longer eligible for a school bus driver permit has been removed from service.

"Fingerprint Process" – a method by which a person's fingerprints are taken for the purpose of certification of a criminal background investigation for a school bus driver permit and submitted to the Illinois Department of State Police and the Federal Bureau of Investigation (FBI).

"Hearing" – a hearing conducted by the Secretary of State, pursuant to IVC Sections 2-118 and 6-106.1, upon written request of the driver or applicant.

"Home State" – the States of Indiana, Michigan, Wisconsin, Iowa, Missouri and Kentucky, when they have issued a valid and properly classified driver's license.

"Illinois Vehicle Code" or "Vehicle Code" or "IVC" – 625 ILCS 5.

"Initial Training" – an initial training class, including first aid procedures, in school bus safety administered by the Illinois State Board of Education through the Regional Office of Education and approved by the Secretary of State pursuant to IVC Section 6-106.1. Initial training will provide sufficient practical behind-the-wheel instruction.

"Lapse" – a period of time following the expiration of a driver's license or school bus driver permit in which the driver can renew or reapply without penalty.

"Medical Examination" − a physical examination by a medical examiner that includes tests for drug and alcohol use and the medical qualifications needed to drive a school bus.

"Medical Examiner" − a person who is a licensed physician, an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes him or her to perform medical examinations, or a physician assistant who has been delegated the performance of medical examinations by his or her supervising physician.

"Medical Examiner's Certificate" – a form, developed by the Secretary of State, upon which a medical examiner records the results of a physical examination and certifies whether a person is qualified to apply for a school bus driver permit.

"Medical Review Officer" or "MRO" − a person who is a licensed physician and is responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results (see 49 CFR 40.3 (2008)).

"Military Order" − official military documents that indicate the date the school bus driver permit holder will be called to active duty and the expected date the permit holder will return from active duty.

"Miscellaneous Suspension" – a safety and family financial responsibility suspension, unsatisfied judgment suspension, auto emissions suspensions, parking ticket suspension, failure to appear suspension, failure to pay toll suspension, nighttime driving restriction suspension, and all suspensions that are rescinded

and are no longer in effect.

"Multifunction School Activity Bus" or "MFSAB" − a school bus manufactured for the purpose of transporting 11 or more ~~15~~ persons, including the driver, whose purposes do not include transporting students to and from school or school bus stops.

"Possession of a School Bus" – the period of time from which a school bus driver takes possession until the school bus driver returns possession of the school bus, whether or not the school bus driver is operating the school bus.

"Pre-Employment Conditions" – an applicant must have been interviewed by the prospective employer; completed a school bus driver permit application and prescribed medical report form; successfully passed a physical examination; successfully completed a fingerprint-based Illinois specific background check with fingerprints forwarded to the FBI for a national background check; and received the required initial training.

"Pre-Trip and/or Post-Trip Inspection" – requires the school bus driver to test the cellular radio telecommunication device or two-way radio and ensure it is functioning properly before the bus is operated and before leaving the bus at the end of each route, work shift or work day, to walk to the rear of the bus, and to check the bus for children or other passengers in the bus.

"Provisional Status" – the temporary privilege to operate a school bus pending completion of the FBI criminal background check.

"Random Testing" – a drug and/or alcohol test having no specific time pattern.

"Refresher Course" – a classroom course in school bus safety approved by the Secretary of State. Refresher training courses shall be a minimum of 2 hours in length, part of which must be first aid training, taught by an instructor certified by the Illinois State Board of Education under 23 Ill. Adm. Code 1.515.

"Repeatedly Convicted of Offenses against Laws and Ordinances Regulating the Movement of Traffic" – a driver for whom an order has been entered to suspend or revoke a license or permit under IVC Section 6-206(a)(3).

"Repeatedly Involved as a Driver in Motor Vehicle Collisions" – a driver for

whom an order has been entered to suspend or revoke a license or permit under IVC Section 6-206(a)(3).

"Rescind Order" – a removal by formal action of an order canceling, suspending or denying issuance of a school bus permit.

"Review of Driving Records" – a review of the applicant's driving record maintained by the Secretary of State or documentation from another licensing jurisdiction, which has been certified within 30 days prior to the date of application, to insure that the requirements of IVC Sections 6-106(1), (2), (3), (9), (10), (11), (12), (13) and (14) have been met.

"School Bus" – every motor vehicle, except as provided in this definition, owned or operated by or for any of the following entities for the transportation of persons regularly enrolled as students in grade 12 or below in connection with any activity of the entity:

Any public or private primary or secondary school;

Any primary or secondary school operated by a religious institution; or

Any public, private or religious nursery school.

This definition shall not include the following:

A bus operated by a public utility, municipal corporation or common carrier authorized to conduct local or interurban transportation of passengers when the bus is not traveling a specific school bus route but is:

On a regularly scheduled route for the transportation of other fare paying passengers;

Furnishing charter service for the transportation of groups on field trips or other special trips or in connection with other special events; or

Being used for shuttle service between attendance centers or other education facilities.

A motor vehicle of the first division.

A motor vehicle designed for the transportation of not fewer *than seven nor more than 16 persons that is operated by or for a public or private primary or secondary school, including any primary or secondary school operated by a religious institution, for the purpose of transporting not more than 15 students to and from interscholastic athletic or other interscholastic or school sponsored activities*. [625 ILCS 5/1-182]

"School Bus Driver Active Duty Form" − the form submitted by an employer as notification of the date the school bus permit holder is placed on active military duty.

"School Bus Driver Inactive Status" − status of school bus permit while the school bus permit holder is on active military duty.

"School Bus Driver Permit" – permit issued for a period of one year to school bus drivers by the Office of the Secretary of State pursuant to IVC Section 6-106.1.

"School Bus Driver Permit Application" – the form or document prescribed by the Secretary of State upon which a request for a school bus driver permit is made.

"School Bus Driver Return From Active Duty Form" − the form submitted by employer as notification of the date the school bus driver permit holder returned from active duty.

"Secretary of State" – the Secretary of State of Illinois [625 ILCS 5/1-184].

"Serious Traffic Violation" – notwithstanding convictions that in and of themselves result in the immediate suspension or revocation of a driver's license and privilege, the following offenses or a similar violation of a law or local ordinance of any state relating to motor vehicle traffic control, other than a parking violation, shall be considered a serious traffic violation:

A conviction, when operating a motor vehicle, for a violation of or relating to:

IVC Section 11-402(a) − a motor vehicle accident involving damage to a vehicle;

IVC Section 11-403 − failure to stop and exchange information after a motor vehicle collision, property damage only;

IVC Section 11-502(a) − illegal transportation, possession or carrying of alcoholic liquor within the passenger area of any vehicle;

IVC Section 6-101 − operating a motor vehicle without a valid license or permit;

IVC Section 11-403 − failure to stop and exchange information or give aid after a motor vehicle collision involving personal injury or death;

Excessive speeding − a single speeding charge of 15 miles per hour or more above the legal speed limit;

IVC Section 11-503 − Reckless driving;

IVC Section 11-707(d) − passing in a no-passing zone; or IVC Section 11-1414 − passing a stopped school bus;

IVC Section 11-1402(b) − limitations on backing upon a controlled access highway;

IVC Section 11-707(b) − driving on the left side of a roadway in a no-passing zone;

IVC Section 11-1002(e) − failure to yield the right-of-way to a pedestrian at an intersection;

IVC Section 11-1008 − failure to yield to a pedestrian on a sidewalk;

IVC Sections 11-1201 and 11-1202 − failure to stop for an approaching railroad train or signal;

Any State law or local ordinance relating to motor vehicle traffic control, other than parking violations, arising in connection with a fatal traffic accident;

IVC Section 6-501 − having multiple driver's licenses;

IVC Section 6-507(a) − the requirement to have a valid CDL;

Improper or erratic traffic lane changes;

Following another vehicle too closely;

IVC Section 6-104(d) − possession of a valid school bus permit;

IVC Section 11-605 − school speed zones;

Any other similar violation of a law or local ordinance of any state relating to motor vehicle traffic control, other than parking violations, that the Secretary of State determines by administrative rule to be serious.

"Service Member" − *a member of the Armed Services or reserve forces of the United States or a member of the Illinois National Guard* (IVC Section 6-106.1(j)).

"Specimen Bottle" − the bottle that, after being sealed and labeled according to the procedures in this Part, is used to hold the urine specimen during transportation to the laboratory (see 49 CFR 40.3 (2008)).

"Split Specimen" − in drug testing, a part of the urine specimen sent to a first laboratory and retained unopened, and that is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result (see 49 CFR 40.3 (2008)).

"State" – a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico or a province of the Dominion of Canada [625 ILCS 5/1-195].

"Substituted Specimen" − a specimen with creatinine and specific gravity values so diminished that they are not consistent with human urine.

"Suspension of Driver's License" – the temporary withdrawal by formal action of the Secretary of State of a person's license or privilege to operate a motor vehicle on the public highways, for a period specifically designated by the Secretary of State [625 ILCS 5/1-204].

"Suspension of School Bus Driver Permit" – the temporary withdrawal, by formal action by the Secretary of State, of a person's permit that grants and specifies limited privileges to operate a school bus on the public highways, for a period specifically designated by the Secretary of State.

"Waiver" – an exemption allowed under certain conditions rendering an ineligible applicant eligible.

(Source: Amended at 36 Ill. Reg. 2384, effective January 30, 2012)

Section 1035.15 Requirements of Applicants for a School Bus Driver Permit

In order for the Secretary of State to issue a school bus driver permit, all applicants must:

a) be 21 years of age or older;

b) possess a valid and properly classified driver's license issued by the Secretary of State or a valid license issued in the applicant's home state;

c) possess a valid driver's license that has not been revoked, suspended, canceled or disqualified for 3 years immediately prior to the date of application, and shall not have had his or her commercial motor vehicle driving privileges disqualified within the 3 years immediately prior to the date of application, except for miscellaneous suspensions, (see IVC Section 1-115.3). A lapse in the renewal of the driver's license of 30 days or less shall not render the applicant ineligible. The Secretary of State may, in his or her discretion, grant a waiver for a lapse in the renewal of the driver's license in excess of 30 days;

d) pass written examinations administered by the Secretary of State on school bus operation, school bus safety, and special traffic laws relating to school buses and submit to a review of the applicant's driving habits by the Secretary of State at the

time the written examination is given;

e) demonstrate the ability to exercise reasonable care in the operation of a school bus in accordance with the requirements of 92 Ill. Adm. Code 1030.85;

f) be physically able to safely operate a school bus. An applicant for a school bus driver permit must demonstrate physical fitness to operate a school bus by undergoing a medical examination in accordance with Section 1035.20;

g) affirm under penalty of perjury that he or she has not made a false statement or knowingly concealed a material fact in any application for a permit;

h) complete initial training. After satisfactory completion of initial training, an annual refresher course will be required. Refresher courses and the agency or organization conducting those courses shall be approved by the Secretary of State. Failure to complete the annual refresher course shall result in cancellation of the permit until the course is completed;

i) not have been under an order of court supervision for or convicted of 2 or more serious traffic offenses, as defined by Section 1035.10, within one year prior to the date of application, that may endanger the life and safety of any of the driver's passengers within the duration of the permit period;

j) not have been under an order of court supervision for or convicted, within 3 years prior to the date of application, of reckless driving (see IVC Section 11-503), aggravated reckless driving, driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof (see IVC Section 11-501) or reckless homicide (see Section 9-3 of the Criminal Code of 1961 [720 ILCS 5/9-3]) resulting from the operation of a motor vehicle;

k) consent, in writing, to the release of results of reasonable suspicion drug and alcohol testing under IVC Section 6-106.1c by the employer of the applicant to the Secretary of State;

l)~~k)~~ not have been convicted of committing or attempting to commit any one or more of the offenses set forth in IVC Section 6-106.1(a)(11);

m)~~l)~~ not have been repeatedly involved as a driver in motor vehicle collisions or been repeatedly convicted of offenses against laws and ordinances regulating the

movement of traffic, to a degree that indicates lack of ability to exercise ordinary and reasonable care in the safe operation of a motor vehicle or disrespect for the traffic laws and the safety of other persons upon the highway in accordance with 92 Ill. Adm. Code 1040.40;

n)~~m)~~ not have, through the unlawful operation of a motor vehicle, caused an accident resulting in the death of any person;

o)~~n)~~ not have, within the last 5 years, been adjudged to be afflicted with or suffering from any mental disability or disease.

(Source: Amended at 36 Ill. Reg. 2384, effective January 30, 2012)

Section 1035.35 Denial, Cancellation, or Suspension of a School Bus Driver Permit

a) The Secretary of State shall deny or cancel a school bus driver permit of an applicant:

1) whose criminal background investigation discloses that he or she is not in compliance with any of the provisions of IVC Section 6-106.1(a);

2) upon receiving notice that the permit holder fails to comply with any provision of this Part;

3) upon receiving notice that the permit holder's ~~restricted~~ commercial driving permit or commercial driving privileges are withdrawn or otherwise invalidated;

4) upon receiving notice that the permit holder has been under an order of court supervision for or convicted of 2 serious violations during the duration of the permit.

b) The Secretary of State shall suspend a school bus driver permit for a period of 3 years upon receiving notice that the holder has failed to obtain a negative result on a drug test as required by IVC Section 6-106.1 or under 49 CFR 382.303, 382.305, 382.307 and 382.309 (2008).

c) The Secretary of State shall suspend a school bus driver permit for a period of 3 years upon receiving notice from the employer that the holder failed to perform

the pre-trip and/or post-trip inspection procedure set forth in IVC Section 12-816 (a) or (b).

d) The Secretary of State shall deny an applicant for a school bus driver permit for a period of 3 years who fails to obtain a negative result on a drug test as required by IVC Section 6-106.1 or under 49 CFR 382.301 (2008).

e) The Secretary of State shall deny an applicant or re-applicant for a school bus driver permit upon an indication on a driving record that he or she has failed to pay any fines, costs or fees that deny the renewal or reissuance of a driver's license or any other indication on a driving record that denies the renewal or reissuance of a driver's license.

f) A cancellation of a school bus driver permit shall remain in effect pending the outcome of a hearing pursuant to IVC Section 2-118.

g) An order may be rescinded provided the cause is removed and the applicant continues to meet the requirements outlined in IVC Section 6-106.1(a).

h) The Secretary shall suspend a school bus driver permit for a period of three years upon receiving notice from the employer that the holder has failed to perform the inspections required by IVC Section 12-816.

i) The Secretary shall suspend a school bus driver permit for a period of three years upon receiving notice from an employer that the permit holder has failed or refused a reasonable suspicion alcohol or drug test outlined in IVC Section 6-106.1c.

(Source: Amended at 36 Ill. Reg. 2384, effective January 30, 2012)

Section 1035.45 Employer Responsibility

It shall be the responsibility of a prospective or current employer of an applicant or holder of a school bus driver permit to:

a) conduct a pre-employment interview with the prospective school bus driver applicant;

b) distribute school bus driver permit applications and medical forms;

c) insure that applicants submit to a fingerprint-based criminal background investigation;

d) certify in writing to the Secretary of State that an applicant has successfully completed all pre-employment conditions;

e) notify the Secretary of State in writing that the employer has certified the removal from service of a school bus driver whose permit has been canceled or suspended by the Secretary of State, prior to the start of that school bus driver's next work shift;

f) upon receipt of notification from an MRO that an employee has had a positive drug test or refused to be tested, immediately notify the Secretary of State of that result. Notification to the Secretary of State shall include a copy of the CCF form, medical examiner's certificate, positive drug results or notation of failure to complete testing. This information shall be privileged and maintained for use by the Secretary of State;

g) notify the Secretary of State within 48 hours of a school bus driver that has failed a reasonable suspicion drug or alcohol test or refused to be tested in accordance with IVC Section 6-106.1c;

h)~~g)~~ notify the Secretary of State in writing, within 10 working days, of the employment or termination of a school bus driver permit holder;

i)~~h)~~ notify the Secretary of State that a school bus driver has failed to perform the pre-trip and/or post-trip inspection process;

j)~~i)~~ notify the Secretary of State as soon as possible, but not later than within one business day, whenever a school bus is involved in an accident and the driver is required to submit to the post-accident testing requirements set forth in 349 CFR 382.303;

k)~~j)~~ maintain records of certifications for a period of 2 years; these records shall be available for inspection by the Secretary of State.

(Source: Amended at 36 Ill. Reg. 2384, effective January 30, 2012)

Section 1035.50 Hearings

a) The Secretary of State shall conduct a hearing pursuant to IVC Section 2-118 upon the request of an applicant or holder whose school bus driver permit has been denied, canceled or suspended.

b) The petition requesting a hearing shall be in writing and shall contain the reason the individual believes he or she is entitled to a school bus driver permit.

c) The scope of the hearing shall be limited to the issuance criteria contained in IVC Section 6-106.1(a) and IVC Section 6-106.1c.

(Source: Amended at 36 Ill. Reg. 2384, effective January 30, 2012)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Roadside Memorials

2) Code Citation: 92 Ill. Adm. Code 549

3)

Section Numbers:	Adopted Action:
549.100	Amend
549.300	Amend

4) Statutory Authority: Implementing, and authorized by Section 25 of, the Roadside Memorial Act [605 ILCS 125] and Sections 27.5 and 27.6 of the Clerk of Courts Act [705 ILCS 105/27.5 and 27.6] and Section 5-9-1.17 of the Unified Code of Corrections [730 ILCS 5/5-9-1.17]

5) Effective Date of Amendments: January 24, 2012

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments 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 Division of Highways and Office of Chief Counsel and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: October 14, 2011; 35 Ill. Reg. 16512

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 substantive changes/agreements were necessary. A grammatical change was made in agreement with JCAR.

13) Will these amendments replace any emergency amendments currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: By this rulemaking, the Department has amended this Part for consistency with Public Act 97-304, effective August 11, 2011.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

The Public Act amends the Roadside Memorial Act by providing that the fatal accident memorial marker program is repealed on December 31, 2012, instead of December 31, 2011.

Additionally, the Department added language at Section 549.100(a) to clarify that this Part applies only to roads and streets under the jurisdiction of the Department. The Roadside Memorial Act requires each supporting jurisdiction to develop its own program and requirements.

Finally, the Department amended Section 549.300(f) to remove the specific repeal date of the fatal accident memorial markers program from the Part in the event that the legislature should, once again, extend the repeal date or eliminate it in the future.

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

Mr. Justan Mann, Acting Engineer of Operations
Illinois Department of Transportation
Division of Highways
2300 South Dirksen Parkway, Room 009
Springfield, Illinois 62764

217/782-7231

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER f: HIGHWAYS

PART 549
ROADSIDE MEMORIALS

Section
549.100 Introduction
549.200 Definitions
549.300 Criteria for DUI Memorial Markers, Fatal Accident Memorial Markers, and Commemorative Plaques
549.400 Design of DUI Memorial Markers, Fatal Accident Memorial Markers, and Commemorative Plaques
549.500 Application, Fees and Other Regulations
549.APPENDIX A District Offices and Counties (Repealed)

AUTHORITY: Implementing, and authorized by Section 25 of, the Roadside Memorial Act [605 ILCS 125] and Sections 27.5 and 27.6 of the Clerk of Courts Act [705 ILCS 105/27.5 and 27.6] and Section 5-9-1.17 of the Unified Code of Corrections [730 ILCS 5/5-9-1.17].

SOURCE: Adopted at 32 Ill. Reg. 8047, effective May 8, 2008; amended at 33 Ill. Reg. 15885, effective October 30, 2009; amended at 34 Ill. Reg. 7330, effective May 4, 2010; amended at 35 Ill. Reg. 1081, effective December 29, 2010; amended at 36 Ill. Reg. 2402, effective January 24, 2012.

Section 549.100 Introduction

a) This Part has been developed in accordance with the Roadside Memorial Act [605 ILCS 125] to regulate the use, by the Illinois Department of Transportation, of DUI memorial markers, fatal accident memorial markers and associated commemorative plaques along streets and highways under the jurisdiction of the Department. This Part establishes standards and financial responsibility for a program of placing markers and plaques at locations under the jurisdiction of the Department~~within the respective jurisdictional areas~~. The DUI memorial marker program became effective on January 1, 2008. The fatal accident memorial marker program became~~will become~~ effective on January 1, 2011.

b) This program does not apply to freeways within the State of Illinois that are under the jurisdiction of the Department.

(Source: Amended at 36 Ill. Reg. 2402, effective January 24, 2012)

Section 549.300 Criteria for DUI Memorial Markers, Fatal Accident Memorial Markers, and Commemorative Plaques

a) Only a qualified relative of a deceased victim may request a DUI or fatal accident memorial marker of the Department. (See Section 15(a) of the Act.)

b) The Department shall deny the request if any qualified relative of any decedent involved in the crash objects in writing to the placement of the DUI or fatal accident memorial marker. (See Section 15(c) of the Act.)

c) The Department shall deny the request or, if a DUI or fatal accident memorial marker has already been installed, may remove the marker, if the qualified relative requesting the memorial marker has provided false or misleading information in the application. (See Section 15(d) of the Act)

d) *The qualified relative shall agree not to place or encourage the placement of flowers, pictures or other items at the crash site*. (Section 15(e) of the Act)

e) The Department shall not erect a DUI or fatal accident memorial marker for a deceased driver involved in a fatal crash who is shown by toxicology reports to have been in violation of state DUI law, unless the qualified relative of any other victim or victims killed in the crash consents in writing to the erection of the memorial. (See Section 15(f) of the Act)

f) When requested and approved, DUI memorial markers and fatal accident memorial markers may be installed for any crash occurring on or after January 1, 1990. ~~When requested and approved, fatal accident memorial markers may be installed for any crash occurring from January 1, 1990 to December 31, 2011.~~ (See Section~~Sections~~ 15(b) ~~and 23(k)~~ of the Act.)

g) DUI or fatal accident memorial markers shall not be installed on freeways except that they may be installed on ramps leading from other highways to freeways.

h) DUI or fatal accident memorial markers shall not be installed within the median of any divided highway.

(Source: Amended at 36 Ill. Reg. 2402, effective January 24, 2012)

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 January 24, 2011 through January 30, 2012 and have been scheduled for review by the Committee at its March 6, 2012 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.

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
3/8/12	Pollution Control Board, Underground Storage Tanks (35 Ill. Adm. Code 731)	10/14/11 35 Ill. Reg. 16183	3/6/12
3/8/12	Pollution Control Board, Petroleum Underground Storage Tanks (Releases Reported September 23, 1994 through June 23, 2002) (Repealer) (35 Ill. Adm. Code 732)	10/14/11 35 Ill. Reg. 16191	3/612
3/8/12	Pollution Control Board, Petroleum Underground Storage Tanks (Releases Reported On or After June 24, 2002) (35 Ill. Adm. Code 734)	10/14/11 35 Ill. Reg. 16338	3/6/12
3/8/12	Department of Natural Resources, Sport Fishing Regulations for the Waters of Illinois (17 Ill. Adm. Code 810)	10/7/11 35 Ill. Reg. 15868	3/6/12
3/8/12	Department of Natural Resources, Designation of Restricted Waters in the State of Illinois (17 Ill. Adm. Code 2030)	11/18/11 35 Ill. Reg. 19045	3/6/12
3/11/12	Illinois Gaming Board, Video Gaming (General) (11 Ill. Adm. Code 1800)	9/23/11 35 Ill. Reg. 15418	3/6/12

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

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