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TABLE OF CONTENTS

December 09, 2005 Volume 29, Issue 50

PROPOSED RULES

CENTRAL MANAGEMENT SERVICES, DEPARTMENT OF
State (of Illinois) Employees' Deferred Compensation Plan
80 Ill. Adm. Code 2700 19737

EDUCATION, ILLINOIS STATE BOARD OF
Nonpublic Special Education Facilities
23 Ill. Adm. Code 401 19740

ELECTIONS, ILLINOIS STATE BOARD OF
Practice and Procedure
26 Ill. Adm. Code 125 19766

GAMING BOARD, ILLINOIS
Riverboat Gambling
86 Ill. Adm. Code 3000 19773

HEALTHCARE AND FAMILY SERVICES, DEPARTMENT OF
Specialized Health Care Delivery Systems
89 Ill. Adm. Code 146 19775

HUMAN SERVICES, DEPARTMENT OF
Office of Inspector General Adults with Disabilities Abuse Project
59 Ill. Adm. Code 51 19807

STATE TOLL HIGHWAY AUTHORITY, ILLINOIS
Americans With Disabilities Act Grievance Procedure
4 Ill. Adm. Code 1750 19812
State Toll Highway Rules
92 Ill. Adm. Code 2520 19819
State Toll Highway Rules (Repealed)
92 Ill. Adm. Code 2520 19856

ADOPTED RULES

EDUCATION, ILLINOIS STATE BOARD OF
Public Schools Evaluation, Recognition and Supervision
23 Ill. Adm. Code 1 19891
Providers of Supplemental Educational Services
23 Ill. Adm. Code 675 19942

HEALTHCARE AND FAMILY SERVICES, DEPARTMENT OF
State Responsibility for Medicare Part D Low-Income Subsidy
89 Ill. Adm. Code 127 19968
Hospital Services
89 Ill. Adm. Code 148 19973
Hospital Reimbursement Changes
89 Ill. Adm. Code 152 19997

PUBLIC HEALTH, ILLINOIS DEPARTMENT OF
Illinois Home Health Agency Code
77 Ill. Adm. Code 245 20003

RACING BOARD, ILLINOIS
Procedures for License Hearings
11 Ill. Adm. Code 205 20033
EMERGENCY RULES
CENTRAL MANAGEMENT SERVICES, DEPARTMENT OF
State (of Illinois) Employees' Deferred Compensation Plan
80 Ill. Adm. Code 2700 20050
GAMING BOARD, ILLINOIS
Riverboat Gambling
86 Ill. Adm. Code 3000 20095
JOINT COMMITTEE ON ADMINISTRATIVE RULES AGENDA
JOINT COMMITTEE ON ADMINISTRATIVE RULES
December Agenda.....20110
SECOND NOTICES RECEIVED
JOINT COMMITTEE ON ADMINISTRATIVE RULES
Second Notices Received.....20116
EXECUTIVE ORDERS AND PROCLAMATIONS
PROCLAMATIONS
Lake County Chamber of Commerce Day
2005-384.....20117
Pearl Harbor Remembrance Day
2005-385.....20117

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: State (of Illinois) Employees' Deferred Compensation Plan

2) Code Citation: 80 Ill. Adm. Code 2700

3)

Section Numbers:	Proposed Action:
2700.110	Amendment
2700.120	Repealed
2700.200	Amendment
2700.320	Amendment
2700.400	Amendment
2700.410	Amendment
2700.415	New Section
2700.420	Amendment
2700.430	Amendment
2700.435	New Section
2700.440	Amendment
2700.450	Amendment
2700.610	Amendment
2700.620	Amendment
2700.630	Amendment
2700.640	Amendment
2700.660	Amendment
2700.680	New Section
2700.690	New Section
2700.700	Amendment
2700.710	Amendment
2700.720	Repealed
2700.730	Amendment
2700.735	Amendment
2700.745	New Section
2700.750	Amendment
2700.760	Amendment
2700.800	Amendment
2700.850	New Section
2700.860	New Section
2700.870	New Section
2700.920	Amemdment

4) Statutory Authority: Implementing Section 457 of the Internal Revenue Code (26 USC 457 et seq.) and implementing and authorized by Section

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

22A-11.1 and Article 24 of the Illinois Pension Code [40 ILCS 5/22A-11.1 and Art. 24].

5) A Complete Description of the Subjects and Issues Involved: Generally, the proposed rulemaking outlines the eligibility and participation requirements for the State of Illinois Deferred Compensation Plan (Plan). Specifically, the proposed amendments clarify the tax requirements for the Plan; remove a number of existing Sections and replace them with new language provided by the IRS that streamlines the Plan process; remove reliance upon the Economic Growth and Tax Relief Reconciliation Act of 2001 Good Faith Amendment (which was designed only as a temporary measure) and incorporate any remaining provisions from the Act into the body of the rule; add new Sections to clarify the time frames for enrollment, the allowable beneficiaries and the permissible "catch-up" deferments for employees nearing retirement; and make it simpler for participants to transfer funds between two or more qualifying plans, allow for an increase in the amount of funds available for deferment and expand the methods for distribution for both participants and beneficiaries. Additional modifications have been made based upon terminology changes by the IRS as well as for consistency of terminology within the rule.

6) Will this rulemaking replace any emergency rulemaking currently in effect? Yes

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? Yes

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objective: These proposed amendments neither create nor expand any State mandate on units of local government, school districts or community college districts.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after the date of publication to:

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

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

217/785-1793

OR

Janice Bonneville
Legal Office
Department of Central Management Services
720 Stratton Office Building
Springfield, Illinois 62706

217/782-9491

12) 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: The proposed changes will not have an impact on current agency practices relating to the Deferred Compensation Plan.

C) Types of professional skills necessary for compliance: None. The proposed changes will not have an impact on current agency practices relating to the Deferred Compensation Plan.

13) Regulatory Agenda on which this rulemaking was summarized: July 2005

The full text of the Proposed Amendments is identical to the text of the Emergency Rules and begins on page _____ in this issue of the *Illinois Register*:

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Nonpublic Special Education Facilities

2) Code Citation: 23 Ill. Adm. Code 401

3)

Section Numbers:	Proposed Action:
401.5	Amendment
401.10	Amendment
401.20	Amendment
401.30	Amendment
401.110	Amendment
401.120	Amendment
401.130	Amendment
401.140	Amendment
401.150	Amendment
401.210	Amendment
401.220	Amendment
401.230	Amendment
401.240	Amendment
401.250	Amendment
401.260	Amendment
401.270	Amendment
401.280	Amendment

4) Statutory Authority: 105 ILCS 5/14-7.02 and 14-8.01

5) A Complete Description of the Subjects and Issues Involved: This rulemaking results from the comprehensive review of the agency's rules. Part 401 is being streamlined to the extent possible and updated as needed. Changes that are worthy of mention include the following:

- The title of Part 401 is being revised to acknowledge that not only nonpublic entities may establish facilities under Section 14-7.02 of the School Code. Part 401's applicability also includes public out-of-state schools as well as facilities owned or operated by public authorities such as regional superintendents of schools. Numerous uses of the word "nonpublic" throughout the rules are therefore being struck.

- A number of provisions are being streamlined by referring to statements in Part 226 of ISBE's rules (Special Education), and in other cases language is being added for purposes of clarification, such as to distinguish between providers, the programs they offer, and the facilities where the programs are offered.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- Specific provisions are being added to express the approach to be used in approving out-of-state programs.

- A two-year approval cycle is being instituted for purposes of efficiency.

- The timeframe for notification regarding changes in personnel is being liberalized in cases where the changes do not affect compliance with the relevant requirements.

6) Will this rulemaking replace any emergency amendments currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.

11) 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:

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

(217) 782-5270

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

rules@isbe.net

12) Initial Regulatory Flexibility Analysis:

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Some of the entities that operate facilities that are subject to this Part may be small businesses or not-for-profit corporations.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory agenda on which this rulemaking was summarized: July 2004

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 l: NONPUBLIC ELEMENTARY AND SECONDARY SCHOOLS

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

SUBPART A: APPROVAL OF PROGRAMS~~NONPUBLIC FACILITIES~~

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

SUBPART B: PLACEMENT AND EDUCATION OF STUDENTS

Section
401.110 Use by School Districts
401.120 Placement Procedures
401.130 Operating Schedule
401.140 Provision of Instructional Program
401.150 Classroom Records

SUBPART C: OPERATIONAL REQUIREMENTS

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

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

SOURCE: Adopted July 25, 1973; emergency amendment at 4 Ill. Reg. 39, p. 323, effective September 15, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 4576, effective April 9, 1981; codified at 7 Ill. Reg. 14966; Part repealed, new Part adopted at 19 Ill. Reg. 7185, effective May 10, 1995; amended at 30 Ill. Reg. _____, effective _____.

SUBPART A: APPROVAL OF PROGRAMS~~NONPUBLIC FACILITIES~~

Section 401.5 Definitions

~~"Exceptional Children" means all children designated eligible for services under Article 14 of the School Code [405 ILCS 5/Art. 14].~~

"Individualized Education Program (IEP)" is~~means~~ a written statement for a student with a disability~~an exceptional child~~ that conforms to the requirements of 23 Ill. Adm. Code 226.230 (Content of the IEP).~~provides at least a statement of: the child's present levels of educational performance; annual goals and short-term instructional objectives; specific special education and related services; the extent of participation in the regular education program; the projected dates for initiation of services; anticipated duration of services; appropriate objective criteria and evaluation procedures; and a schedule for annual determination of short-term objectives.~~

~~"Instructional Programs" means those activities which are intended to meet the annual goals and the instructional objectives set forth in the individualized education programs for exceptional children.~~

"Professional Staff" means administrators, supervisors, teachers, and providers of related services who either provide or direct the provision of instruction or related services specified in the IEPs~~IEP's~~ of students served, or who evaluate student progress or evaluate the provision of such instruction or related services. Professional staff does not include persons providing services other than instructional and related services specified in the IEP or whose duties are limited to assisting professional staff.

"Provider" is any organization that offers special education and/or residential services to students with disabilities under contract to one or more Illinois school districts and pursuant to Section 14-7.02 of the School Code.

"Facility" is the physical premises where a provider offers services.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

"Program" is a set of educational and/or residential services designed to serve students who have similar educational needs~~means either an instructional program or a residential program~~.

A "combination program" is one that includes both educational and residential services.

An "educational program" is one that consists of instruction and other activities intended to meet the annual goals and the short-term objectives set forth in IEPs for students with disabilities.

A "residential-only program" is one that provides room and board and may also include related services but provides no educational services.

"Related Services" has the meaning given to that term in the rules of the State Board of Education for special education (see 23 Ill. Adm. Code 226.75)~~means the developmental, corrective, and other supportive services provided by qualified personnel such as social workers, psychologists, guidance counselors, or other qualified personnel, which services are required to assist a handicapped child to benefit from special education and may include: speech pathology and audiology, psychological services, physical and occupational therapy, recreation, early identification and assessment of disabilities in children, counseling services, medical services for diagnostic or evaluation purposes, transportation, school health services, social work services, and parent counseling and training~~.

~~"Residential Programs" means programs to provide placements pursuant to 23 Ill. Adm. Code 226.420 which do not include services included in instructional programs.~~

"Special Education" has the meaning given to that term at 23 Ill. Adm. Code 226.75~~means those instructional and resource programs and related services, unique materials, physical plant adjustments, and other special educational facilities described or implied in Article 14 of the School Code which, to meet the unique needs of exceptional children, modify, supplement, support, or are in the place of the standard educational program of the public schools. The term includes speech pathology and vocational education~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

Section 401.10 Application for Eligibility

Each provider~~nonpublic facility~~ seeking to become eligible to contract with Illinois public school districts to serve students with disabilities under Section 14-7.02 of the School Code [105 ILCS 5/14-7.02] shall be subject to the approval process described in this Section. Approval shall be specific to individual programs offered by a provider, and the same type of program conducted at two separate facilities shall be treated as two separate programs for purposes of approval. A program not approved in accordance with the requirements of this Part shall not be used by school districts to serve students with disabilities under Section 14-7.02 of the School Code. ~~The requirements of this Part shall also apply to the use of nonpublic facilities by public school districts pursuant to Section 14-7.03a of the School Code [105 ILCS 5/14-7.03a].~~

a) An application for initial approval of educational programs~~program(s)~~ and/or residential programs~~program(s)~~, presented on forms supplied by the State Board of Education and containing all the items enumerated in this subsection (a), shall be submitted to the State Board. Each application shall include:

1) An accurate, written description of each program for which approval is requested, which shall indicate the categories and ages of students with disabilities for whom it is specifically intended and the maximum number of students the program is intended to accommodate.

2) A written plan for the administration and organization of the programs~~program(s)~~, including but not limited to:

A) The stated purpose and scope of the ~~nonpublic~~ facility and its programs;

B) A plan for the allocation of space solely for program purposes; and

C) An organizational chart that reflects the provider's governance, administrative, and educational structures ~~of the nonpublic facility~~.

3) The provider's~~facility's~~ proposed calendar for the program for which approval is sought, setting forth an operating schedule reflecting at least 176 days of operation, for at least five hours per school day during the regular school year and, with respect to a summer session, if any is to be offered, at least 120 hours of operation.

4) A copy of the State Fire Marshal's most recent inspection report for the facility, which shall be no more than 24 months old at the time of application and shall indicate no violations, or, for an out-of-state facility, equivalent, current documentation of compliance with applicable state fire codes, or if there is no state fire code the applicable local fire code, clearly identifying the issuing authority.

5) Assurances, signed by the facility's chief administrator, conveying such information as the State Board of Education may require regarding the facility's compliance with other applicable federal, state, and local laws, ordinances, and regulations (such as public health and safety codes, building codes, and licensure requirements).

6) If the facility is located in Illinois and offers a residential component, evidence of the facility's current licensure or approval by the responsible agency of Illinois government~~the Department of Children and Family Services, the Department of Mental Health and Developmental Disabilities, or the Department of Public Health~~, if applicable.

7) If the facility is located outside Illinois, evidence of the facility's current licensure, certification, or approval to operate its educational and/or residential programs~~program(s)~~ in the state where it is located, including a copy of the standards or criteria used by the responsible agency in that state.

8) For instructional programs, summary information about all professional staff positions, and copies of the relevant credentials of persons employed in those positions, which demonstrate that the facility has sufficient staff available who are qualified pursuant to the requirements of Section 401.240 of this Part in order to operate the program.

9) For instructional programs, summaries of related services provided by the facility's professional staff or available to the provider~~facility~~ under contract, demonstrating ~~which demonstrate~~ that the provider~~facility~~ has sufficient related services available to operate the program.

~~10) A copy of the facility's policy and procedures for safeguarding students' privacy and dignity, as required by Section 401.220(b) of this Part.~~

b) If the application is complete and the facility is located in Illinois or within 50

miles of Illinois, State Board staff ~~or, in the case of an out-of-state facility, a designee~~ shall conduct an on-site review~~visit~~ and evaluate the facility and the programs offered for the purpose of verifying the accuracy of the application, evaluating their~~the facility's~~ conformance with the other requirements of this Part, and recommending approval or disapproval of the programs~~its program(s)~~.

1) An out-of-state program conducted more than 50 miles outside of Illinois shall be approved without a site visit from an Illinois representative if:

A) the educational program is an approved special education program in the state where the facility is located and this approval was granted in light of the information gathered during a site visit by a representative of the responsible agency;

B) the residential component, if any, is licensed by the responsible agency in the state where the facility is located; and

C) the application provides evidence that the requirements of Section 410.140 of this Part will be met.

2) An out-of-state program conducted more than 50 miles outside of Illinois that was approved in the state where the facility is located without a site visit by the responsible agency shall be visited by a representative of the Illinois State Board of Education in order to verify the accuracy of the application and determine whether the requirements of this Part have been met so that Illinois approval can be granted.

c) A program determined to comply with the requirements of this Part shall be designated as "Approved" and shall be available to Illinois public school districts to serve students with disabilities under Section 14-7.02 of the School Code beginning on the day the application is approved, provided that the other requirements of Section 401.110 of this Part have also been met. The provider operating the facility shall be notified in writing of the date of program approval.

1) Initial~~Such~~ approval shall end on the last day of the program's approved calendar for the school year in question, unless approval is changed pursuant to Section 401.30 of this Part.

2) A program shall serve only the specific student populations~~population(s)~~ described in the approved application.

d) The nonapproval of an initial application shall include a notice of specific deficiencies that~~which~~ caused the nonapproval and the opportunity for the provider to request a hearing pursuant to the Illinois Administrative Procedure Act [5 ILCS 100] and the State Board's rules for Contested Cases and Other Formal Hearings (23 Ill. Adm. Code 475).

e) An application for renewal of approval, consisting of all the components set forth in subsection (a) of this Section, must be submitted for any subsequent period~~year~~ in which a provider~~facility~~ seeks to contract with Illinois public school districts to serve students with disabilities in the facility under Section 14-7.02 of the School Code. The submission deadline shall be the April 15 prior to the beginning of the school year in question. If April 15 is not a business day, the deadline shall fall on the next business day. The approval process for any such subsequent period~~year~~ may also involve on-site reviews~~site visits~~, at the sole discretion of the State Board of Education.

1) The denial of an application for renewal of approval shall cause the program approval status to change to "nonapproved" subject to the procedures set forth in Section 401.30(c) of this Part.

2) Renewed approval granted for the 2006-2007 school year or later shall generally be valid for two school years, ending on the last day of the program's approved calendar for the second school year, unless approval is changed pursuant to Section 401.30 of this Part. However, the State Board of Education shall approve approximately half the renewal applicants for the 2006-2007 school year, selected at random, for one year only, in order to stagger the two-year renewal process for subsequent periods.

3) A program shall not be eligible for two-year renewed approval if it was not approved for the immediately preceding year, or if it was approved "pending further review" at any time during the immediately preceding period of approval. Applications for approval of such programs shall be treated as for initial approval.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 401.20 Notification Requirements

a) A provider that operates a ~~nonpublic~~ facility subject to the requirements of this Part and~~which~~ intends to cease operations, to move to a new location, or to discontinue any of the facility's~~its~~ approved programs shall ensure that the State Board of Education and each school district with which it has entered into contracts for services receive no less than 60 calendar days' written notice of such an intention.

b) A provider~~nonpublic facility~~ shall also notify the State Board of Education in writing, so that such notification is reasonably calculated to be received at the State Board's office at 100 North First Street, Springfield, Illinois 62777, within 60~~five~~ calendar days, after~~of~~:

1) Any change in a special education program described in its approved application;

2) Any change in its educational administration and organization, as described in its approved application; and

3) Any change in the number, type or duties of the professional positions identified as part of the application for approval or in the licensure status or credentials of any individual employed in such a position, provided that the change does not affect the program's or facility's compliance with the requirements of this Part.

b) A provider shall notify the State Board of Education in writing, so that such notification is reasonably calculated to be received at the State Board's office at 100 North First Street, Springfield, Illinois 62777, within five calendar days after:

1~~3~~) Any change in the facility's compliance with applicable fire prevention regulations or other federal, state, and local laws, ordinances, or regulations, as described in its approved application pursuant to Section 401.10(a)(5) of this Part, or in the physical facilities used;

2~~4~~) Any change in the facility's approval or licensure to provide a residential program as described in its approved application, if applicable;

3~~5~~) Any change in the facility's approval or licensure to operate in a state other than Illinois as described in its approved application, if applicable;

4~~6~~) Any~~For instructional programs, any~~ change in the number, type or duties

of the professional or paraprofessional positions identified as part of the ~~facility's~~ application for approval of an educational program or the education component of a combination program, or in the licensure status/credentials of any individual employed in such a position, if the change will affect the program's compliance with the requirements of this Part.

A) If any professional position subject to the notification requirements of this subsection (b)(4)~~Section~~ remains vacant, the provider~~nonpublic facility~~ must provide written notification to the State Board and to the placing school districts after 30 calendar days and again after 60 calendar days of its attempts to permanently fill such positions and of other efforts, including the use of substitutes, undertaken in order to provide necessary instruction and related services to the students enrolled.

B) If the State Board determines that the provider~~facility~~ has not reported staffing changes in a program as required, the State Board shall change the approval status of the program accordingly, pursuant to the provisions of Section 401.30 of this Part.

c) Should a provider elect to terminate a student's placement in a facility under this Part, the provider shall give written notice to this effect to the placing school district at least 30 calendar days prior to the date of termination, unless the health and safety of any student are endangered. The notice shall include the reasons for the termination.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 401.30 Changes in Approval Status

Programs approved to serve students with disabilities under Section 14-7.02 of the School Code, whether located in Illinois or out of state, shall be evaluated periodically by the State Board of Education. Such evaluation may take place for any reason, with or without prior notice to the provider~~facility~~, and at the sole discretion of the State Board of Education and may or may not involve an on-site review~~a site visit~~. The~~Such~~ evaluation shall result in either retention of approved status or assignment of one of the following.

a) A status of "Approved with Administrative Review" shall be assigned when an instance of noncompliance by an approved program is first identified during a

school year and the State Superintendent~~Board~~ determines that such noncompliance does not substantially affect the safety of, or provision of appropriate education to, the students enrolled. The provider~~facility~~ shall have 60 calendar days to remedy the noncompliance.

1) No more than 30 calendar days after notification that it is approved with administrative review, an affected provider~~facility~~ shall file with the State Superintendent~~Board~~ of Education a progress report describing actions taken to correct the instances~~instance(s)~~ of noncompliance identified.

2) If the State Superintendent~~Board~~ determines that the provider~~nonpublic facility~~ has corrected the instances of noncompliance within the time allotted, the program's "Approved" status shall be restored.

3) If the State Superintendent~~Board~~ determines that the provider~~nonpublic facility~~ has failed to correct the instances of noncompliance within the time allotted, the provider~~facility~~ shall not accept any new students from public school districts into the affected programs~~program(s)~~, nor shall it be approved for any programs for the next school year unless the noncompliance has been resolved.

b) A status of "Pending Further Review" shall be assigned whenever a program is determined to be in noncompliance with one or more requirements of this Part that~~which~~ may substantially affect the safety of or provision of appropriate education to students but that~~which~~ does not constitute imminent danger, or exhibits recurrent instances of minor noncompliance. The provider~~facility~~ shall have 30 calendar days to remedy the noncompliance.

1) No more than seven calendar days after receipt of notification from the State Superintendent~~Board~~ of Education that program approval status is pending further review, an affected provider~~facility~~ shall submit a written report to the State Superintendent~~Board of Education~~ describing its plans for correcting the noncompliance identified and the actions taken to correct it.

2) If the provider~~facility~~ demonstrates that it has corrected the instances of noncompliance within the time allotted, its "Approved" status shall be restored.

3) If the provider~~facility~~ fails to demonstrate that it has corrected the

instances of noncompliance within the time allotted, its status shall be changed to "Nonapproved."

4) A provider that is subject to the requirements of this Part~~nonpublic facility~~ shall not accept any new students from public school districts into any program whose status is "Pending Further Review" and public school districts shall not make new placements into such programs. Upon notification of the designation of "Pending Further Review" status, a public school district shall identify alternative arrangements for its students in the program, for implementation in the event that the State Superintendent~~Board~~ of Education notifies the district that the violations are not remedied. Notification of "Pending Further Review" status shall not be used as a basis for removing students from the program by the public school district.

c) A status of "Nonapproved" shall be assigned to a program or programs previously assigned a status of "Approved with Administrative Review" or "Pending Further Review" when the nonpublic facility or any of its programs exhibits substantial and/or recurrent instances of noncompliance, showing that the provider~~facility~~ is consistently unable to meet the approval requirements of this Part. A program may be determined "Nonapproved" without previously having been assigned a status of "Approved with Administrative Review" or "Pending Further Review~~;~~", if any instances of noncompliance that~~which~~ present imminent danger to the students exist or if the State Superintendent~~Board~~ verifies that the provider~~facility~~ has unilaterally and intentionally ceased providing appropriate education pursuant to a school district's contracts~~contract(s)~~ and one or more students' IEPs~~IEP's~~.

1) A status of "Nonapproved" voids the provider's~~facility's~~ eligibility to contract with Illinois public school districts to serve students and receive funds under Section 14-7.02 of the School Code in the nonapproved programs~~program(s)~~ for the remainder of that school year.

2) Providers~~Facilities~~ shall be given ten business days' notice by the State Superintendent~~Board~~ before nonapproval becomes effective, unless imminent danger to students precludes such notice. The State Superintendent~~Board~~ shall also give ten business days' notice to affected school districts to enable them to implement other arrangements prior to the effective date of nonapproval, as required.

3) The provider of any~~Any~~ previously approved program placed on

nonapproved status shall be afforded an opportunity for a hearing pursuant to the Illinois Administrative Procedure Act and the State Board's rules for Contested Cases and Other Formal Hearings. Unless the State Superintendent~~Board~~ identifies that the reasons for nonapproved status are a danger to student health or safety, a request for a hearing shall stay the effect of the change in status and the program shall remain approved pending the hearing.

d) Any provider~~facility~~ whose license or approval to operate a residential program is revoked shall immediately have its residential programs~~program(s)~~ nonapproved and will be ineligible to provide residential services to students under Section 14-7.02 of the School Code.

e) Any out-of-state provider~~facility~~ whose license or approval to operate a program is revoked by the responsible authority in the state where its facility~~it~~ is located shall immediately have its affected programs~~program(s)~~ nonapproved and will be ineligible to contract with Illinois public school districts to serve students under Section 14-7.02 of the School Code.

f) Nonapproval of a program during a school year shall be cause for termination of all the provider's~~facility's~~ contracts with Illinois school districts for that program, and the provider~~facility~~ shall be ineligible to contract with Illinois public school districts for the nonapproved program for the remainder of the school year in question.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART B: PLACEMENT AND EDUCATION OF STUDENTS

Section 401.110 Use by School Districts

Each school district shall be responsible for monitoring the performance of each ~~nonpublic~~ facility where its students are placed, to ensure that the implementation of each student's Individualized Education Program (IEP) conforms to the applicable requirements of 23 Ill. Adm. Code 226 (Special Education). In addition, no school district shall place any student in a ~~nonpublic~~ special education program that is subject to the requirements of this Part, nor shall the provider of any such program accept placement of any student under Section 14-7.02 of the School Code, unless all the following conditions have been met.

a) The program has been approved by the State Board of Education for the school

year for which placement is sought.

b) The allowable costs for the program have been established pursuant to Section 14-7.02 of the School Code.

c) The district has made the certification of inability to meet the student's needs to the State Superintendent of Education, if required pursuant to Section 14-7.02 of the School Code, and the State Superintendent has found the district in substantial compliance with Section 14-4.01 of the School Code [105 ILCS 5/14-4.01].

d) The program has been approved by the State Board of Education for all of the categories of impairment applicable to the student and requiring services as identified in the IEP.

e) The program has been approved by the State Board of Education for the age range that includes the age of the student.

f) The district has determined that ~~all~~ educational programming and related services specified on the student's IEP will be provided to the student ~~by the facility~~. The use of a ~~nonpublic~~ facility or program in accordance with this Part does not relieve the district of the responsibility for ensuring that the student will receive~~providing~~ all programming and related services required by the IEP, whether from one source or from multiple sources.

g) The district and the provider~~facility~~ have entered into the contractual agreement called for in 23 Ill. Adm. Code 226.330~~226.440~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 401.120 Placement Procedures

Placement of students shall conform to the applicable requirements of 23 Ill. Adm. Code 226, Subpart D (Placement)~~Subparts H (State Operated or Private Programs) and I (Identification, Evaluation and Placement of Exceptional Children)~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 401.130 Operating Schedule

Each ~~nonpublic~~ facility's operating schedule shall ensure that 176 school days and, if a summer

program is operated, 120 hours of instruction, are provided for each program.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 401.140 Provision of Educational~~Instructional~~ Program

Each educational~~instructional~~ program shall be conducted in accordance with the requirements of 23 Ill. Adm. Code 226.720, 226.730, and 226.800, the latter as affected by the policies of the State Board of Education that are in effect due to a federal court order of August 15, 2001 in the matter of Corey H., et al., v. Board of Education of the City of Chicago, et al.~~226, Subpart D (Special Education Instructional Programs and Resource Programs).~~ All students placed in facilities that are subject to this Part are considered to require a student-staff ratio that is no greater than the ratio specified in 23 Ill. Adm. Code 226.730(a)(2), regardless of age or primary disability, subject also to the provisions of Section 226.730(a)(7). Deviations from this ratio or from the age range ~~and class size~~ requirements of Section 226.720~~Sections 226.220 and 226.225~~ may be requested in writing. A rationale for the request and plan for evaluation of the deviations shall be submitted with the request. Initial denial of a request for deviation may be appealed to the State Superintendent of Education.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 401.150 Classroom Records

In addition to records meeting the requirements of 23 Ill. Adm. Code 226.740~~226.135~~, there shall be an educational file for each student, maintained by the classroom teacher on a daily basis and updated as circumstances may require. This file shall contain at least the following:

a) The student's IEP, including a copy of any behavior management plan;

b) Documentation of ongoing evaluation procedures, indicating the student's progress toward fulfillment of the objectives set forth in the IEP according to the criteria specified therein;

c) A schedule that accurately reflects the type and frequency of all related services received;

d) Medically related information necessary to ensure the student's health and safety.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

SUBPART C: OPERATIONAL REQUIREMENTS

Section 401.210 General Requirements

a) Every provider with one or more facilities or programs~~facility~~ subject to this Part shall maintain the written program descriptions and the educational administration and organization plans described in Section 401.10 of this Part, as well as the current, approved application for each affected program, and shall make these available to the public schools, parents and guardians of students, and other interested individuals and organizations upon request.

b) Every provider~~facility~~ subject to this Part shall maintain copies of this Part and the State Board's rules for Special Education (23 Ill. Adm. Code 226) and make these available to staff and parents or guardians of students enrolled, so that these parties may be aware of rules that pertain to the education of students with disabilities served ~~in nonpublic facilities~~ under Section 14-7.02 of the School Code.

c) Every provider~~facility~~ subject to this Part shall maintain a separate and current roster of students served in that provider's facility and programs~~there~~ pursuant to Section 14-7.02 of the School Code.

d) Every provider~~facility~~ subject to this Part shall maintain records of and report changes in its administration, staff, instructional programs, and physical facilities, as required pursuant to Section 401.20 of this Part.

e) All facilities, programs, and records required, established, or maintained pursuant to this Part shall be made available by the provider~~nonpublic facility~~ at any time, with or without prior notification, for inspection and evaluation by official representatives of the State Board of Education.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 401.220 Health and Safety Requirements

a) Responsible staff at every~~Every~~ Illinois facility subject to this Part shall maintain and make available for review a copy of the most recent inspection report issued by the State Fire Marshal. To the extent that evidence of compliance is routinely issued by state or local fire, building, or health authorities, Illinois and out-of-state facilities' staff~~facilities~~ shall maintain and make available such evidence of

compliance with applicable codes. Any such documentation shall clearly identify the issuing authority.

b) Responsible staff at every ~~Every~~ facility subject to this Part shall develop a written policy and procedures for safeguarding students' privacy and dignity during toileting, diapering, and other activities of personal care, as appropriate for the student population served. Facility staff shall adhere to such policy and procedures at all times and shall make copies available upon request.

c) Responsible staff at every ~~Every~~ facility subject to this Part shall develop a written policy addressing the administration of medication to students who may require it. Each facility's policy shall conform to the requirements set forth in Sections 10-20.14b and 10-22.21b of the School Code [105 ILCS 5/10-20.14b and 10-22.21b]. Facility staff shall adhere to this policy at all times and shall make copies available upon request.

d) Responsible staff at every~~Every~~ facility subject to this Part and all materials used by students shall be maintained in a clean, sanitary, and safe condition.

e) Smoking and the use of tobacco products by students shall not be permitted on the campus of any facility subject to this Part.

f) The policies of every~~Every~~ facility subject to this Part shall allow visitation at any time, with or without prior notice, by personnel from the State Board of Education or the school district of residence of any enrolled student.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 401.230 Student Progress Reports and Reviews

a) Responsible staff at each~~Each~~ facility shall maintain attendance records for each student served pursuant to Section 14-7.02 of the School Code.

1) Each student's attendance shall be reported in writing or electronically to the public school district of residence by the 15th of each month for the preceding month.

2) A student's public school district of residence shall be notified immediately in writing or electronically after five consecutive days of unexcused absence, unless the district requires a more frequent reporting

schedule.

3) Attendance records shall be retained as long as the student is placed at the facility.

b) Each student's progress shall be reviewed with his or her parent or guardian and school district of residence in accordance with 23 Ill. Adm. Code 226.230~~226, Subparts H (State Operated or Private Programs) and I (Identification, Evaluation and Placement of Exceptional Children)~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 401.240 Staffing Requirements

a) The composition and qualifications of each ~~nonpublic~~ facility's professional and paraprofessional staff shall be in accordance with the needs and requirements of the ~~categories of~~ students with disabilities placed under Section 14-7.02 of the School Code. Each provider~~facility~~ subject to this Part shall employ sufficient professional staff, including staff having professional expertise and training in the disability-related educational needs of the students served, to meet the applicable requirements of 23 Ill. Adm. Code 226, Subpart I (Personnel), as affected by the policies of the State Board of Education regarding the certification of instructional personnel in special education that took effect on July 1, 2001, pursuant to a federal court order in the matter of Corey H., et al., v. Board of Education of the City of Chicago, et al.~~226.225.~~ Paraprofessionals employed by facilities under this Part shall be subject to the requirements of 23 Ill. Adm. Code 25.510 (Paraprofessionals; Teacher Aides).

b) ~~For applications for approval for the 1995-96 school year submitted after July 1, 1995, at least 67 percent of the professional staff members who are teachers providing direct instruction shall be qualified in accordance with applicable State Board certification requirements. All professional staff who are administrators, supervisors, or providers of related services who either provide or direct the provision of related services specified in the IEPs of students served, or who evaluate student progress or evaluate the provision of such instruction or related services, but who do not provide direct instruction, shall either be qualified in accordance with State Board certification requirements or have credentials or licensure appropriate to their duties. Until April 15, 1999, "qualified in accordance with applicable State Board certification requirements" shall include persons who have experience in providing instruction to students with disabilities~~

~~appropriate to the students being served and who hold an Early Childhood Education (Type 02 or 04), Elementary (Type 03), High School (Type 09), or Special (Type 10) certificate.~~

~~c)~~ ~~Beginning with the 1996-97 school year, 100% of the professional staff members who are teachers providing direct instruction shall be qualified in accordance with requirements of subsection (b) of this Section.~~

~~d)~~ Substitute teachers holding valid early childhood, elementary, secondary, special K-12, special preschool-age 21,~~certificates, special education approvals,~~ or substitute certificates shall be employed to replace absent teachers. Only teachers holding certification or teaching approval in special education, as applicable to the students to be taught, shall~~Substitute teachers may not~~ be used to open new classrooms, begin a school year, or meet the staffing requirements set forth in this Section for purposes of approval of an~~a facility's~~ application for eligibility.

c~~e~~) Facilities~~Nonpublic facilities~~ located outside Illinois shall employ personnel who possess the specific qualifications comparable to those issued in Illinois in connection with the positions in question.

d~~f~~) If the State Superintendent~~Board~~ determines that a program has been operated for more than 60 consecutive calendar days in noncompliance with the requirements of this Section, the State Superintendent~~Board~~ shall change the provider's approval status ~~of the facility~~ accordingly, pursuant to the provisions of Section 401.30 of this Part.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 401.250 Staff Training

Responsible staff at each~~Each nonpublic~~ facility subject to this Part shall develop and implement ongoing inservice training programs related to the duties of all staff.

a) Training sessions shall be planned and designed to assist staff members in improving their ability to fulfill their duties as defined in their job descriptions, as necessary to educate the student population served.

b) As appropriate to the student population served, each provider~~facility~~ shall provide specific training to all personnel, including but not limited to:

1) the ~~facility's~~ policy and procedures regarding the maintenance of student privacy and dignity;

2) disposal of hazardous waste materials;

3) procedures for preventing the transmission of blood-borne pathogens;

4) the use of physical restraint, if any, subject to the requirements of 23 Ill. Adm. Code 1.285;

5) behavior management procedures; and

6) the administration of medication.

c) Responsible staff at each ~~Each~~ facility shall provide training to all assistants and aides before they assume their duties.

d) Responsible staff at each ~~Each~~ facility shall maintain accurate, written and dated records of all training provided, as described in Section 401.260 of this Part.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 401.260 Staff Records

a) A~~Facilities subject to this Part shall maintain a~~ separate, current record shall be maintained for each staff member employed either full-time or part-time who provides direct services or who is directly involved in the development and implementation of instructional and related services for students enrolled under Section 14-7.02 of the School Code. All staff files shall be available on site for inspection by representatives of the State Board of Education and placing public school districts and shall include the following:

1) Individual job descriptions that~~which~~ reflect the duties to be performed and the qualifications required and that~~which~~ are updated as this information changes;

2) Reports of initial physical examinations, records indicating freedom from tuberculosis, and reports of such subsequent medical examinations as may be required by the facility;

3) Copies of high school, college, or university transcripts indicating graduation, degrees, or special training or education completed, and/or copies of state certificates, approvals, licenses, or registrations, as applicable to the individual staff member and position;

4) Copies of the criminal background investigation reports completed for all personnel pursuant to Section 10-21.9 of the School Code [105 ILCS 5/10-21.9];

5) Records of the transmission of all criminal background investigation reports to each public school district currently contracting with the provider~~nonpublic facility~~.

b) Responsible staff at each~~Each~~ facility shall maintain a separate file containing a record of all inservice training. This file shall be available for inspection and shall include at least the following:

1) Records of initial orientation and training for new staff members, showing that each received training appropriate to the position held at the site;

2) The agenda of each formal staff training session conducted at the facility, showing the dates~~date(s)~~ and amount of time used;

3) Records of seminars, conferences, lectures, and other training events attended by staff members off the facility's premises;

4) Records of ongoing training offered as a part of the assignment of professional support personnel; and

5) The signatures of the staff members who attended each session or event referred to in subsections (b)(1) through (4) of this Section.

c) The training file referred to in subsection (b) of this Section may also contain such similar records as may be required by other state or federal agencies.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 401.270 Student Records

a) A~~Each facility subject to this Part shall maintain a~~ separate student record file

shall be maintained for each student served under Section 14-7.02 of the School Code. Such files shall be maintained in a central location on the premises of the facility. Each student's file shall contain the information listed below, or the information shall be made readily accessible for inspection.

1) Documentation of the date of the student's most recent enrollment in the program in question under Section 14-7.02 of the School Code.

2) Copies of the most recent~~all~~ reports that address the domains covered in~~used by the public school district of residence as part of~~ the student's most recent case study evaluation, documentation of the IEP Team's determination of the domains that would be included (see 23 Ill. Adm. Code 226.120), and a copy of the most recent eligibility determination~~including a copy of the case study evaluation report~~.

3) Evidence of compliance with 23 Ill. Adm. Code 226.330(d)~~226.440~~.

4) The student's current IEP developed for the ~~nonpublic~~ placement in accordance with 23 Ill. Adm. Code 226, Subpart C (The Individualized Education Program (IEP))~~226.560~~.

5) ~~Accurate, current attendance records, and evidence that the student's attendance has been reported to the public school district of residence as required by Section 401.230 of this Part. 6)~~Reports of review procedures conducted with respect to the student's progress as specified in Section 401.230(b)~~401.230~~ of this Part, including copies of all progress reports provided to parents and the sending school district.

~~7) Copies of all progress reports to the public school district of residence.~~

~~8) Copies of all progress reports to parents.~~

~~9) Termination records, when applicable.~~

b) All material in the student record file shall be signed as required, dated, and placed in chronological order for the purpose of inspection and evaluation by representatives of the State Board of Education and the public school district of the student's residence.

c) The record of a student enrolled in a program at a facility subject to this Part

pursuant to Section 14-7.02 of the School Code shall be the property of the student's public school district of residence and shall be subject to the policies and procedures established by that school district to govern school student records and to the provisions of the Illinois School Student Records Act [105 ILCS 10] regarding confidentiality of such records.

d) When a student is no longer served in a ~~nonpublic~~ facility under this Part for any reason, and regardless of any monetary amount due to the ~~nonpublic facility~~ from the public school district that placed the student, all the student's records shall be returned or provided to the district within 30 calendar days, and staff of the facility shall maintain a record of having returned them. The records to be returned include, but are not limited to:

1) The temporary public school records that were provided by the district at the time of the student's placement.

2) Other records of an academic or instructional nature that have accumulated during the student's enrollment at the nonpublic facility, including:

A) Records of behavior management plans; and

B) Records of all psychological and social work and any therapeutic tests related to goals and objectives included in the student's IEP.

3) A transcript of any academic credits earned while the student was served at the ~~nonpublic~~ facility.

4) Records of the student's attendance while served at the ~~nonpublic~~ facility.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 401.280 Fiscal Provisions

a) Tuition charged a public school district by a provider~~nonpublic facility~~ for the term specified in an individual student's placement agreement shall not exceed the allowable costs approved pursuant to Section 14-7.02 of the School Code.

b) A status of "Nonapproved" shall be assigned to any program whose provider ~~which~~ has not accepted the allowable costs approved pursuant to Section 14-7.02

of the School Code within 60 days after their approval or within 60 days after approval of the ~~facility's~~ application for eligibility by the State Board of Education, whichever occurs later.

c) The tuition charge for all students with disabilities who, pursuant to the IEP, are served in a facility less than full-time shall be prorated according to the percentage of the time the students are actually served in the program.

d) Providers~~Nonpublic facilities~~ shall not charge parents for special education, related services, or room and board provided to students placed by Illinois public school districts.

e) Nothing in this Part shall be construed as prohibiting a provider~~facility~~ from contracting with any local school district for individual student services, transportation, diagnosis and evaluation, or other services that~~which~~ are not included in the determination of allowable costs.

1) Contracts for any such services must be separate from individual placement agreements.

2) All costs and revenues resulting from such contracts shall be included in the facility's rate calculations under Section 14-7.02 of the School Code.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Practice and Procedure

2) Code Citation: 26 Ill. Adm. Code 125

3) Section Number: 125.60 Proposed Action: Amendment

4) Statutory Authority: Authorized by Sections 1A-8(9), 9-15(3), 9-21 and 9-23.

5) A Complete Description of the Subjects and Issues involved: Allows the use of attorneys licensed in other states by parties participating in Board proceedings.

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain any incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objective: To permit out of state attorneys to practice before the Board or in administrative hearings.

11) Time, place and manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication in the *Illinois Register* to:

Steven S. Sandvoss
General Counsel
State Board of Elections
1020 S. Spring St.
PO Box 4187
Springfield IL 62708

217/557-9939
ssandvoss@elections.state.il.us

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking affects any party wishing to use an attorney not licensed in Illinois.

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENT

B) Reporting, bookkeeping or other procedures required for compliance: Application to the Supreme Court for Pro Hac Vice status.

C) Types of professional skills necessary for compliance: None

13) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: At the time of the publication of the regulatory agendas, this amendment had not been anticipated.

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

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENT

TITLE 26: ELECTIONS
CHAPTER I: STATE BOARD OF ELECTIONS

PART 125
PRACTICE AND PROCEDURE

SUBPART A: DEFINITION AND GENERAL PROVISIONS

Section
125.5 Applicability
125.10 Definitions
125.15 Board Offices and Business Hours
125.20 Documents Pertaining to Hearings
125.30 Form of Documents
125.40 Service of Documents
125.50 Computation of Time
125.55 Time of Notices
125.60 Appearances
125.70 Non-Legal Assistance
125.75 Parties
125.80 Answer
125.90 Qualifications of Hearing Examiner
125.95 Authority of Hearing Examiner
125.100 Disqualification of Hearing Examiner
125.110 Motions
125.115 Consolidation and Severance of Claims: Additional Parties
125.120 Amendments
125.130 Intervention
125.135 Pre-hearing Conferences
125.140 Settlement Pursuant to Conference
125.150 Record of Conferences
125.160 Continuances
125.170 Order of Proceedings
125.175 Failure of Party to Appear
125.180 Evidence
125.185 Official Notice
125.190 Examination of Adverse Party or Agent
125.192 Participation by Board Members and Staff
125.195 Hostile Witnesses
125.197 Admission of Business Records in Evidence

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENT

125.199 Compelling Appearance at Hearing

SUBPART B: CLOSED PRELIMINARY HEARINGS

Section
125.210 Applicability
125.220 Commencement of Proceeding
125.230 Form of Complaint
125.235 Board Members as Complainants
125.240 Service of Complaint
125.245 Appointment of Examiner – Order of Closed Preliminary Hearing
125.250 Time of Preliminary Hearing (Repealed)
125.252 Scope of Preliminary Hearing – Procedures – Evidence
125.253 Responsibilities of the General Counsel
125.254 Stipulated Settlement
125.255 Transcript of Preliminary Hearing (Repealed)
125.260 Report of Hearing Examiner (Repealed)
125.262 Board Determination
125.265 Judicial Review
125.270 Record of Preliminary Hearing on Appeal Administrative Review
125.272 Order of Public Hearing
125.275 Time and Conduct of Public Hearing (Repealed)

SUBPART C: PUBLIC ADJUDICATIVE HEARINGS

Section
125.310 Applicability
125.320 Initiation of Hearing
125.330 Appointment of Hearing Examiner
125.340 Notice of Hearing
125.350 Discovery Procedures
125.360 Subpoenas
125.370 Transcript of Proceedings
125.380 Official Record
125.390 Briefs and Oral Argument

SUBPART D: FINAL ORDERS

Section
125.410 Hearing Examiners Report

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENT

125.420 Order of the Board; Civil Penalties
125.425 Civil Penalty Assessments
125.430 Enforcement Actions in the Circuit Court
125.440 Reconsideration

SUBPART E: INVESTIGATIONS, INQUIRIES AND HEARINGS PURSUANT TO SECTION 9-18

Section
125.510 Applicability (Repealed)
125.520 Staff Review and Enforcement of Reporting Requirements
125.530 Compliance Conference
125.540 Staff Initiated Complaint (Repealed)
125.550 Investigations, Inquiries or Hearings

SUBPART F: RULEMAKING AND NON-ADJUDICATIVE HEARINGS

Section
125.610 Applicability
125.620 Adoption of Rules
125.630 Non-Adjudicative Hearings
125.640 Notice of Hearing
125.650 Conduct of the Hearing
125.660 Examination of Witness
125.670 Record
125.680 Report of Hearing

SUBPART G: ADVISORY OPINIONS

Section
125.710 Advisory Opinions
125.720 Reconsideration of Advisory Opinions
125.730 Public Availability of Advisory Opinion
125.740 Conflict Between this Part and the APA

SUBPART H: MISCELLANEOUS PROVISIONS

Section
125.810 Ex Parte Communications
125.820 Effective Date

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENT

125.830 Interpretation
125.840 Severability

AUTHORITY: Authorized by Sections 1A-8(9), 9-15(3), 9-21 and 9-23 of the Election Code [10 ILCS 5/1A-8(9), 9-15(3), 9-21 and 9-23].

SOURCE: Adopted at 5 Ill. Reg. 12115, effective October 26, 1981; amended at 7 Ill. Reg. 230, effective December 16, 1982; amended at 7 Ill. Reg. 239, effective December 16, 1982; amended at 7 Ill. Reg. 15803 and 15810, effective November 9, 1983; codified at 8 Ill. Reg. 3278; amended at 9 Ill. Reg. 4050, effective March 14, 1985; amended at 14 Ill. Reg. 10832, effective June 22, 1990; amended at 16 Ill. Reg. 6986, effective April 21, 1992; amended at 19 Ill. Reg. 6546, effective May 1, 1995; emergency amendment at 23 Ill. Reg. 1122, effective January 7, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 6807, effective May 24, 1999; amended at 24 Ill. Reg. 14203, effective September 11, 2000; emergency amendment at 28 Ill. Reg. 1408, effective January 5, 2004, for a maximum of 150 days; emergency expired June 2, 2004; amended at 29 Ill. Reg. 18796, effective November 7, 2005; amended at 30 Ill. Reg. _____, effective _____.

SUBPART A: DEFINITIONS AND GENERAL PROVISIONS

Section 125.60 Appearances

a) Any person entitled to participate in Board proceedings may appear as follows:

1) A natural person may appear in his own behalf or by an attorney at law licensed and registered to practice in the State of Illinois, or both;

2) A business, unincorporated association, nonprofit, or government organization may appear by any bona fide officer, employee, or representative, or may be represented by an attorney licensed and registered to practice in the State of Illinois, or both.

b) The Board is not authorized to permit attorneys not licensed in the State of Illinois to appear in its proceedings. However, attorneys licensed in states other than Illinois may apply to the Illinois Supreme Court for the right to practice before the Board. The title of the pleading should be "Motion to Appear Pro Hac Vice Before an Administrative Agency" and should be directed to the Clerk of the Illinois Supreme Court. The moving attorney must provide written confirmation of his successful admission to the Board's hearing officer prior to entering his appearance in any Board Proceeding~~Attorneys not licensed and registered to~~

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENT

~~practice in the State of Illinois may appear on motion~~.

c) An attorney appearing in a representative capacity shall file a written notice of appearance with the Board, together with proof of service on all parties or their respective attorneys.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Riverboat Gambling

2) Code Citation: 86 Ill. Adm. Code 3000

3) Section Number: 3000.1071 Proposed Action: Amendment

4) Statutory Authority: Riverboat Gambling Act [230 ILCS 10] (specifically 230 ILCS 10/5(b)(4) and 5(c)(3), and Public Act 94-673)

5) A Complete Description of the Subjects and Issues Involved: The General Assembly passed Senate Bill 316 on May 31, 2005, which became Public Act 94-673 upon approval by the Governor on August 23, 2005. P.A. 94-673 amends, among others, Section 12(a) of the Riverboat Gambling Act, 230 ILCS 10/12(a), to change the admission tax rate imposed upon holders of owners licenses to conduct riverboat gaming operations. P.A. 94-673 became effective immediately. An emergency amendment is necessary in order to ensure that the Board's adopted rules properly reflect the collection of admission fees pursuant to the new tax rates, which were applied to the August 23, 2005 Gaming Day and continue to be applied to each subsequent Gaming Day.

6) Will this proposed amendment replace any emergency amendment currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No. However, P.A. 94-673 also amends Section 13 by providing for a hold harmless payment of privilege taxes starting on June 15, 2006 and contains an automatic repeal date. Rules implementing that provision will be submitted in separate rulemaking.

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: The General Assembly amended the admission tax rate and fee paid by licensed owners of riverboat gaming operations to the State of Illinois. This amendment allows the rules to reflect the collection of admission taxes and fees at the correct rates.

11) Time, place and manner in which interested persons may comment on this proposed rulemaking: Any interested person may submit comments in writing concerning this

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENT

proposed rulemaking not later than 45 days after publication of this notice in the *Illinois Register* to:

Jeannette P. Tamayo
Deputy Chief Counsel
Illinois Gaming Board
160 N. LaSalle, Suite 300S
Chicago, Illinois 60601

(312) 814-4700; FAX (312) 814-4602

12) 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: Not applicable

C) Types of professional skills necessary for compliance: Not applicable

13) Regulatory Agenda on which this rulemaking was summarized: This proposed amendment was not included on the January 2005 Regulatory Agenda. S.B. 316 was filed on February 15, 2005 and not passed by both chambers until May 31, 2005.

The full text of the Proposed Amendment is identical to the text of the Emergency Amendment published in this edition of the *Illinois Register* that begins on page ____:

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Specialized Health Care Delivery Systems

2) Code Citation: 89 Ill. Adm. Code 146

3)

Section Numbers:	Proposed Action:
146.200	Amendment
146.205	Amendment
146.215	Amendment
146.220	Amendment
146.230	Amendment
146.235	Amendment
146.245	Amendment
146.265	Amendment
146.295	Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13], Public Act 94-0342 and Public Act 94-0665

5) Complete Description of the Subjects and Issues Involved: A number of proposed changes are being made to the administrative rules concerning Supportive Living Facilities. The changes include the following:

Section 146.200(a) - Under Public Act 94-0342, the Supportive Living Program is no longer a demonstration project.

Section 146.215(n) – SLF requirements are specified concerning instances when an identified sex offender is admitted to the facility. This change reflects Public Act 94-0163, which pertains to nursing facilities.

Section 146.220 – These changes eliminate the screening requirements for residents who transfer between SLFs or who transfer from a nursing facility to an SLF.

Section 146.235 - Infection control is being added to the list of subjects that must be covered in SLF staff training. Under the Health Care Worker Background Check Act (Public Act 94-0665), changes are being made to expand the definition of staff who must undergo background checks.

Section 146.265 – The requirement on Utilization Data Reports is being stricken because the necessity for such reports was related to the demonstration project status of SLFs.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 146.295 – Changes are being made on SLF emergency contingency plans that require review of the plans by local emergency response entities.

6) Will this rulemaking replace any emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Scattoloni
Office of the General Counsel, Rules Section
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002

(217) 524-0081

The Department requests the submission of written comments within 30 days after the publication of this Notice. The Department 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].

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Supportive Living Facilities

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

13) Regulatory Agenda on Which this Rulemaking Was Summarized: July 2005

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES
SUBCHAPTER d: MEDICAL PROGRAMS

PART 146
SPECIALIZED HEALTH CARE DELIVERY SYSTEMS

SUBPART A: AMBULATORY SURGICAL TREATMENT CENTERS

Section
146.100 General Description
146.105 Definitions
146.110 Participation Requirements
146.115 Records and Data Reporting Requirements
146.125 Covered Ambulatory Surgical Treatment Center Services
146.130 Reimbursement for Services

SUBPART B: SUPPORTIVE LIVING FACILITIES

Section
146.200 General Description
146.205 Definitions
146.210 Structural Requirements
146.215 SLF Participation Requirements
146.220 Resident Participation Requirements
146.225 Reimbursement for Medicaid Residents
146.230 Services
146.235 Staffing
146.240 Resident Contract
146.245 Assessment and Service Plan and Quarterly Evaluation
146.250 Resident Rights
146.255 Discharge
146.260 Grievance Procedure
146.265 Records and Reporting Requirements
146.270 Quality Assurance Plan
146.275 Monitoring
146.280 Termination or Suspension of SLF Provider Agreement
146.285 Voluntary Surrender of Certification
146.290 Geographic Groups
146.295 Emergency Contingency Plan

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

146.300 Waivers

SUBPART C: STATE HEMOPHILIA PROGRAM

Section
146.400 Definitions
146.410 Patient Eligibility
146.420 Hemophilia Treatment Centers
146.430 Comprehensive Care Evaluation
146.440 Home Transfusion Arrangements
146.450 Obligations of the Department

SUBPART D: CHILDREN'S COMMUNITY-BASED HEALTH CARE CENTERS

Section
146.500 General Description
146.510 Definitions
146.520 Participation Requirements
146.530 Records and Data Reporting Requirements
146.540 Covered Children's Community-Based Health Care Center Services
146.550 Reimbursement for Services
146.560 Individuals Eligible for Services Provided in a Children's Community-Based Health Care Center
146.570 Prior and Post Approval of Services

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

SOURCE: Old Part repealed at 14 Ill. Reg. 13800, effective August 15, 1990; new Part adopted at 20 Ill. Reg. 4419, effective February 29, 1996; emergency amendment at 21 Ill. Reg. 13875, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 4430, effective February 27, 1998; emergency amendment at 22 Ill. Reg. 13146, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19914, effective October 30, 1998; amended at 23 Ill. Reg. 5819, effective April 30, 1999; emergency amendment at 23 Ill. Reg. 8256, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13663, effective November 1, 1999; amended at 24 Ill. Reg. 8353, effective June 1, 2000; emergency amendment at 26 Ill. Reg. 14882, effective October 1, 2002, for a maximum of 150 days; amended at 27 Ill. Reg. 2176, effective February 1, 2003; emergency amendment at 27 Ill. Reg. 10854, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18671, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 12218, effective August 11, 2004, for a maximum of 150

days; emergency amendment at 28 Ill. Reg. 14214, effective October 18, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 852, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2014, effective January 21, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 4360, effective March 7, 2005; expedited correction at 29 Ill. Reg. 14127, effective March 7, 2005; amended at 29 Ill. Reg. 6967, effective May 1, 2005; amended at 29 Ill. Reg. 14987, effective September 30, 2005; amended at 30 Ill. Reg. _____, effective _____.

SUBPART B: SUPPORTIVE LIVING FACILITIES

Section 146.200 General Description

a) The Public Aid Code [305 ILCS 5/5-5.01a] calls for the Department to establish and provide oversight for a program~~a demonstration project to determine the viability~~ of supportive living facilities (SLFs) that seeks~~seek~~ to promote independence, dignity, respect and well-being for residents in the most cost effective manner. When submitting an application for participation in the Supportive Living Program, each SLF shall designate which population it will serve, either:

1) persons with a disability who are 22 to 64 years of age; or

2) persons who are 65 years of age and over who meet the requirements described in Section 146.220.

b) An SLF is a residential setting in Illinois that provides or coordinates flexible personal care services, 24 hour supervision and assistance (scheduled and unscheduled), activities, and health related services with a service program and physical environment designed to minimize the need for residents to move within or from the setting to accommodate changing needs and preferences; has an organizational mission, service programs and a physical environment designed to maximize residents' dignity, autonomy, privacy and independence; and encourages family and community involvement.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 146.205 Definitions

For purposes of this Part, the following terms shall be defined as follows:

"Activities of Daily Living" means eating, bathing, dressing, transferring,

toileting, walking and grooming.

"Bank Nursing Facility Beds" means SLF providers that choose to participate by converting a distinct part of a nursing facility. Such facilities shall be allowed to retain the Certificate of Need for nursing beds that were converted.

"Complaint" means a phone call, letter or personal contact to the Department from a resident, family member, resident representative or any other interested person expressing a concern related to the health, safety or well-being of one or more SLF residents.

"Comprehensive Resident Assessment Instrument" or "RAI" means the Department designated resident assessment instrument designed for use in SLFs.

"Department" means the Illinois Department of Healthcare and Family Services~~Public Aid~~.

"Direct Care Staff" means staff who provide professional nursing services, assistance with activities of daily living or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of an individual.

"Distinct Part" means a separate building or an entire wing or other physically identifiable space of an existing nursing facility licensed under the Nursing Home Care Act or the Hospital Licensing Act that is operated as an SLF distinguishable~~distinguishably~~ from the rest of the facility. The distinct part of a nursing facility will not be subject to provisions of the Nursing Home Care Act. The distinct part of a hospital will be subject to provisions of the Hospital Licensing Act while complying with provisions of this Subpart B. Distinct part does not include the conversion of an entire nursing facility or hospital.

"Follow-up Care" means the response to, and documentation of, the service plan that is discussed with, and agreed to by, the resident and/or the resident's guardian~~designee~~. It may include, but is not limited to, physician referrals, revision of the service plan to incorporate nursing services, health promotion counseling and teaching self care in meeting health~~heath~~ needs.

"Freestanding Facility" means a separate building that is not part of an existing nursing facility or hospital. Freestanding facility includes new construction, an existing building or conversion of an entire nursing facility or hospital into an

SLF.

"Licensed Nurse" means a person whose services are paid for by an SLF and who is licensed as a registered nurse, registered professional nurse, practical nurse or licensed practical nurse under the Nursing and Advanced Practice Nursing Act [225 ILCS 65].

"Medicaid" means the Department's Medical Assistance Program.

"Medicaid Resident" means a person with a disability (as determined by the Social Security Administration) age 22 years and over, or a person who is age 65 years and over who has been determined eligible for Medicaid payment for SLF services. Eligibility for a person residing in an SLF shall be determined in accordance with 89 Ill. Adm. Code 120.10 and 120.61 (excluding subsection (f) of Section 120.61). Provisions for property transfers as described at 89 Ill. Adm. Code 120.387 shall apply to a person residing in an SLF. Provisions for the prevention of spousal impoverishment as described at 89 Ill. Adm. Code 120.379 shall apply to a person residing in an SLF.

"Medical Assistance Program" means the program administered under Article V of the Illinois Public Aid Code [305 ILCS 5/Art. V] or successor programs and Title XIX of the Social Security Act (42 USC 1396) and related federal and State rules and regulations.

"Personal Allowance" means the $90 minimum protected monthly amount that is retained by Medicaid-eligible residents for their personal use.

"Rehabilitated Nursing Facility" means the conversion of a distinct part of an existing nursing facility into an SLF.

"Related Parties" means affiliates of an SLF; entities for which investments are accounted for by the equity method by the entire enterprise; trusts for the benefit of employees, such as pensions and profit-sharing trusts that are managed by or under the trusteeship of management; any general partner; management of the SLF; members of the immediate families of principal owners of the SLF or its management; and other parties with which the SLF may deal if one party controls or can significantly influence management or operating policies of the other to an extent that one of the transacting parties might be prevented from fully pursuing its own separate interests. An entity or person shall be deemed by the Department to be a related party if it can significantly influence management or operating

policies of the transacting parties or if it has an ownership interest in one of the transacting parties and can significantly influence the other to an extent that one or more of the transacting parties might be prevented from fully pursuing its own separate interests.

"Resident" means a person living in an SLF, including Medicaid residents as defined in this Section and individuals who are not eligible for Medicaid payment for SLF services.

"Room and Board" means the housing, utilities and meals provided under the resident contract. Unless otherwise specified in the resident contract, room and board does not include phone or cable charges.

"Services" means the personal and health care related services provided by an SLF pursuant to Section 146.230.

"Service Plan" means the written plan of care on the Department designated form that is developed for each resident based upon the initial assessment, annual comprehensive resident assessment or quarterly evaluation.

"SLF" or "Supportive Living Facility" means a residential setting that meets the requirements of this Subpart B.

"SSI" means Supplemental Security Income under Title XVI of the Social Security Act.

"Subcontractors~~subcontractor~~" means any person who assumes any duties and responsibilities from an SLF for the performance of SLF services pursuant to Section 146.230.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 146.215 SLF Participation Requirements

a) Facilities or distinct parts of facilities that are certified as SLFs and are in good standing with provisions contained in this Subpart B are exempt from the provisions of the Nursing Home Care Act [210 ILCS 45], the Illinois Health Facilities Planning Act [20 ILCS 3960] and the Assisted Living and Shared Housing Act [210 ILCS 9]. Nursing facilities rehabilitating a portion of the facility to conform with this Subpart B shall be allowed to retain their Certificate

of Need for the nursing facility beds that were converted until the conclusion of the project or until the facility wishes to withdraw from the project and convert the SLF beds back to NF beds.

b) An SLF does not include:

1) A home, institution, or other place operated by the federal government or agency thereof, or by the State of Illinois;

2) A "long term care facility" licensed by the Nursing Home Care Act or Hospital Licensing Act. However, a nursing facility licensed under the aforementioned Acts can convert a distinct part to an SLF;

3) Any "facility for child care" as defined in the Child Care Act of 1969 [225 ILCS 10];

4) Any "Community Living Facility" as defined in the Community Living Facilities Licensing Act [210 ILCS 35];

5) Any "community residential alternative" as defined in the Community Residential Alternatives Licensing Act [405 ILCS 30];

6) Any nursing home or sanitarium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed of any well recognized church or religious denomination;

7) Any facility licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135];

8) Any "Supportive Residence" licensed under the Supportive Residences Licensing Act [210 ILCS 65];

9) Any freestanding hospice facility [210 ILCS 60];

10) Any "life care facility" as defined in the Life Care Facilities Act [210 ILCS 40]; or

11) Any "assisted living and shared housing establishment" licensed under the Assisted Living and Shared Housing Act [210 ILCS 9].

c) In order to participate in the Supportive Living Program, an SLF must be certified by the Department. To become certified, an SLF shall:

1) Submit an application to proceed toward certification.

A) Except in the case of a rehabilitated nursing facility, the Department shall only accept applications for sites where all apartments are devoted to SLF residents.

B) The Department shall evaluate each application according to factors including, but not limited to, geographic distribution, waiver limits, market feasibility, the needs of the population being served, the compliance histories of other facilities owned or operated in the State of Illinois by the applicant or a related party, community support from local government, environmental issues, operational experience with assisted living and financial stability. Applications that are found to be incomplete or inaccurate shall be returned to the applicant for completion and/or correction and must be resubmitted before the Department will evaluate them. The Department shall notify the applicant in writing that the application has been approved.

C) The Department may withdraw approval of any application if the SLF fails to become operational (i.e., ready to admit residents) within 24 months after the Department's approval of the application. Prior to the operational deadline, the applicant may make a written request, including documentation justifying the need for an extension, that the Department grant an extension to the operational deadline. A request for an extension shall not exceed 12 months from the original operational deadline. The Department may grant an extension to the operational deadline. The Department shall not grant more than one extension to an approved SLF applicant where construction has not begun.

D) At any time prior to or subsequent to certification, the applicant shall report to the Department in writing any change to the application, as soon as such change becomes known to the

applicant.

2) Submit a certificate of compliance signed by an architect that certifies that the project complies with applicable codes.

3) Submit for approval prior to use a model of every type of resident contract to be used by the SLF.

4) Pass an on-site review, conducted by the Department, which includes review of:

A) Documentation that demonstrates physical plant, health and sanitation, and food preparation compliance with local and county ordinances and regulations, compliance with current Fire and Life Safety standards for health care occupancy or the 2000 National Fire Protection Association Life Safety Code (NFPA) 101, Chapter 32, Residential Board and Care Occupancies, compliance with State building codes for the respective building type and compliance with Section 146.210.

B) Grievance procedures.

C) Quality assurance policy and procedures established in accordance with Section 146.270.

D) Emergency Contingency Plan as defined in Section 146.295.

5) Enroll to participate in the Medical Assistance Program in accordance with 89 Ill. Adm. Code 140.11 and execute a Medicaid provider agreement with the Department.

d) The SLF shall accept the SSI rate (less the personal allowance) for room and board for Medicaid residents. If the private and Medicaid rates are different, the SLF shall reserve not less than 25 percent of its apartments for Medicaid residents. Those facilities that set a commensurate rate for both private pay and Medicaid residents are not required to reserve apartments for Medicaid residents but must accept Medicaid residents on a first come, first served basis.

e) SLF certification is not transferable or applicable to any location, provider, management agent or ownership other than that indicated on the Medicaid

provider agreement.

1) An SLF shall notify the Department no fewer than 60 days prior to a change of ownership or management. Change of ownership means a change of five percent or more.

2) The Department has the right to terminate the provider agreement with an SLF if a change of ownership involves a barred Medicaid provider.

3) The new owner shall comply with the applicable certification requirements found in subsection (c) of this Section.

4) The Department shall conduct an on-site certification review no later than at the date of the next annual certification review or within three months after the effective date of the change of ownership, whichever is earlier.

5) SLF certification shall be deemed to extend to a new owner until the Department separately certifies the SLF under the approved new owner.

f) The certificate issued by the Department shall include:

1) Name and address of the SLF;

2) Maximum number of residents to be served at any time; and

3) Number of apartments certified in the SLF.

g) Providers certified as an SLF shall not operate or maintain SLF housing and services in combination with a home health, home care, nursing home, hospital, residential care setting, congregate care setting or other type of residence or service agency unless those settings and services are licensed, maintained and operated as separate and distinct entities.

h) At least annually, the Department shall conduct an on-site review to ensure that the SLF is in compliance with the requirements of certification, which includes review of:

1) Items listed in subsection (c)(4) of this Section.

2) Comprehensive Resident Assessments, service plans and the provision of

services required under Section 146.230.

3) Staff sufficient in number to meet the needs of residents. Staff shall demonstrate capacity, within their job responsibilities, to provide covered services and perform tasks.

4) Compliance with resident contracts and the Department's provider agreement.

5) Protection of individual resident rights and involvement in directing their own care.

6) Resident satisfaction surveys as defined in Section 146.270.

i) The SLF shall comply with all applicable enrollment and participation requirements set forth in Department rules, including, but not limited to, 89 Ill. Adm. Code 140.11 and 140.12.

j) The SLF shall comply with the Americans with Disabilities Act of 1990.

k) The SLF shall submit to the Department all marketing materials prior to their use. If the Department does not notify the SLF of approval or disapproval of submitted materials within 30 days after submission, the SLF may begin to use those materials. The Department reserves the right to disapprove any materials or require changes at any time, provided that any such changes are consistent with, or required by, applicable law.

l) The SLF shall ensure that limited English speaking residents have meaningful and equal access to benefits and services. Steps to ensure access may include, but are not limited to:

1) hiring bi-lingual staff;

2) hiring staff interpreters;

3) contracting for interpreter services;

4) engaging community volunteers;

5) contracting with a telephone interpreter service; and

6) hiring staff proficient in American Sign Language.

m) The SLF shall encourage families of residents with impairments that limit the resident's decision-making ability to arrange to have a responsible party or guardian represent the resident's interests. The SLF shall provide all residents with information about advance directives, including the Durable Power of Attorney for Health Care, Statement of Illinois Law on Advance Directives, Living Will, Declaration for Mental Health Treatment and Do Not Resuscitate Order. The SLF shall maintain in a resident's file any of these documents authorized by the resident.

n) Upon admission of a resident whose name appears on the Illinois State Police Sex Offender Registration website or the Illinois Department of Corrections registered sex offender database pursuant to Section 146.220(a)(4), the SLF shall:

1) inform the Department and appropriate county and local law enforcement offices of the identity of the identified offenders being admitted to the SLF;

2) notify every SLF resident and resident's guardian or family in writing that such offenders are residents of the facility;

3) develop a service plan in accordance with Section 146.245; and

4) ensure that the SLF has qualified staff to meet the needs of the individual and required level of supervision at all times.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 146.220 Resident Participation Requirements

a) The SLF may admit or retain residents whose needs can be met through the services described in Section 146.230. These persons would typically have a score between~~of~~ 29 and ~~-~~47 on the Determination of Need (DON) and need assistance in one or more activities of daily living. These persons must meet the following criteria prior to admission to an SLF:

1) Be age 22 years or over with a disability (as determined by the Social Security Administration) or elderly (age 65 years or over); and

2) Be screened by the Department and found to be in need of nursing facility level of care and that SLF placement is appropriate to meet the needs of the individual. A new screen is not needed for a resident who is transferring between SLFs or comes from a nursing facility with no break in service. It is the admitting SLF's responsibility to ensure that a screening document is received from the transferring SLF or nursing facility. Private pay individuals may choose to be admitted into an SLF when the screening assessment does not justify nursing facility level of care; and

3) Be without a primary or secondary diagnosis of developmental disability or serious and persistent mental illness. (Developmental disability is defined as a disability which is attributable to mental retardation or a related condition.) The developmental disability or mental illness must be determined by a qualified Department of Human Services screening agent; and.

4) Have name checked against the Illinois Sex Offender Registration website at www.isp.state.il.us and/or the Illinois Department of Corrections registered sex offender database at www.idoc.state.il.us. Refer to Section 146.215 for facility requirements if a person whose name appears on either registry is admitted to an SLF.

b) Private pay residents seeking to convert to Medicaid while residing in an SLF shall be screened by the Department using the DON prior to the point of conversion and must be found to be in need of nursing facility level of care before Medicaid payment may be authorized.

c) Each prospective resident shall have a tuberculin skin test in accordance with the Control of Tuberculosis Code (77 Ill. Adm. Code 696). The test must be completed no more than 90 days prior to the date of admission to the SLF or the test must be commenced no more than seven days after admission to the SLF.

d) A Medicaid resident of an SLF shall not participate in the Department on Aging's Community Care Program or the Department of Human Services' Home Services Program.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 146.230 Services

a) An SLF must combine housing, personal and health related services in response to the individual needs of residents who need help in activities of daily living. Supportive services shall be available 24 hours per day to meet scheduled and unscheduled needs in a way that promotes resident self-direction and participation in decisions that emphasize independence, individuality, privacy, dignity and autonomy in a residential setting.

b) Nursing Services

1) The SLF shall provide for a comprehensive resident assessment and service plan for each SLF resident as required under Section 146.245.

2) When a resident is unable to administer his or her own medications, a licensed nurse shall administer the medications.

3) Nursing services shall include medication set-up (such as preparing weekly pill caddies with that week's medication) and follow-up care, and shall be conducted by a licensed nurse.

4) Other nursing services include episodic and intermittent health promotion or disease prevention counseling and teaching self-care in meeting routine and special health care needs that can be done by other staff under the supervision of a registered nurse.

5) All nursing services shall be provided in accordance with the Nursing and Advanced Practice Nursing Act [225 ILCS 65].

c) Personal Care

1) The SLF shall provide personal care services for residents, including but not limited to assistance with bathing, eating, dressing, personal hygiene, grooming, toileting, ambulation and transfer.

2) Personal care services shall be delivered by certified nursing assistants who meet the qualifications described in Section 146.235(f)(1).

d) Medication Oversight and Assistance in Self-Administration

1) The SLF shall provide the following:

A) Reminding the resident to take his or her medications;

B) Taking medication from where it is stored in the apartment and handing it to the resident when requested to do so by the resident;

C) Opening or uncapping medication containers for physically impaired residents; and

D) Assisting physically impaired residents in the removal of the medication from the container and assisting the resident in consuming or applying the medication when requested to do so by the resident (i.e., placing a dose in a container and placing the container to the mouth of the resident).

2) The services identified in subsection (d)(1)(D) shall only be delivered by a licensed nurse.

e) Meals

1) The SLF shall provide three meals per day, or two meals per day (noon and evening meals) and a breakfast bar. The menu~~meals~~ shall include food choices that allow a resident to choose foods that will meet the requirements of a therapeutic diet~~therapeutic diets~~ as ordered by a resident's physician. The daily food allowance for each resident shall meet the basic food pattern for a general diet for an adult following the recommendations of the Food and Nutrition Board, National Research Council.

2) The SLF shall make available beverages, including coffee, fruit juice and snack foods, at no cost to the residents.

3) The SLF shall offer the same menu options to all residents regardless of payment source except for therapeutic diets ordered by a physician.

4) The SLF shall keep all menus served on file for not less than four months.

5) The SLF shall maintain on the premises supplies of staple foods for a minimum of a one week period and of perishable foods for a minimum of

a two day period. Supplies shall be appropriate to meet the requirements of the menu.

6) The SLF shall keep records of all food purchased on file for not less than 18 months.

7) The SLF shall store, prepare, distribute and serve food in a manner to protect against contaminants and spoilage and to insure the preparation and serving of food at safe and palatable temperatures.

8) The SLF shall provide and maintain clean and sanitary central kitchen and dining areas. The SLF shall ensure a sanitary and adequate supply of eating and drinking utensils and pots and pans for preparing food in the central kitchen and dining areas.

9) The SLF shall provide residents with written information about menu plans. Menu cycles shall not be repeated within a one week time frame. There shall be an established mechanism for residents to provide input into the selection and preparation of food.

10) The SLF shall allow residents to obtain, prepare and store food in residential apartments if doing so does not represent a health or safety hazard to others.

11) The SLF shall provide residents with meal service in their apartments as a time limited service during periods of documented illness.

f) Laundry

1) If requested by a resident, the SLF shall provide laundry services at no charge to the resident.

2) The SLF shall provide for the appropriate handling, cleaning, and storage of routine personal laundry, laundry soiled with body secretions and all other laundry. This includes all detergent and fabric softeners required to perform normal routine laundry service at no cost to the resident.

3) The SLF shall provide on-site laundry equipment for resident use in accordance with Section 146.210.

4) Laundry service does not include dry cleaning services.

g) Housekeeping

1) The SLF shall provide for general housekeeping services at least weekly (house cleaning, laundry, bed making, changing of linens, dusting and vacuuming).

2) The SLF shall take into account individual habits and lifestyle preferences when providing all housekeeping services in residential apartments.

3) The SLF shall maintain all public areas in a clean and orderly condition.

4) The SLF shall maintain all common bathing rooms in a clean and orderly condition.

h) Maintenance

1) The SLF shall maintain all residential apartments in good repair.

2) The SLF shall keep the building and grounds clean and free of hazards, with all systems maintained in good working order.

i) Social and Recreational Programming

1) The SLF shall facilitate the involvement of individual and community volunteer activities with and for residents.

2) The SLF shall provide programs at least twice weekly, which include on-site programs as well as off-site trips, allowing for social and recreational programs for the residents. Transportation shall be provided by the SLF for scheduled activities off-site.

3) The SLF shall provide access to opportunities for scheduled and unscheduled individual and group socialization within the SLF and in the larger community.

4) The SLF shall make available to each resident information about community resources and make community integration part of the SLF's recreational, socialization and vocational activities.

j) Ancillary Services

1) The SLF shall provide transportation for scheduled group shopping and other community and social activities.

2) The SLF shall assist a resident in obtaining needed and preferred services offered outside the SLF at his or her request. Upon request by a resident, the SLF shall assist in making medical appointments and arranging for transportation to and from the source of medical treatment (payment for medical transportation shall be made in accordance with 89 Ill. Adm. Code 140.490 through 140.492).

3) The SLF shall provide shopping assistance when a resident is temporarily unable to shop.

k) 24 Hour Response/Security Staff

1) The SLF shall have response/security staff awake and available on the premises 24 hours a day to respond to scheduled or unpredictable needs and emergency calls from residents. Staff shall possess certification in emergency resuscitation. The SLF shall provide one staff person for facilities with ten to 75 apartments, and a second staff person for facilities with 76 to l50 apartments.

2) The SLF shall provide security 24 hours a day, including lockable entrances (accessibility controlled by SLF staff for security purposes during overnight hours) and on-site personnel. All residents shall have 24 hour access.

3) Rehabilitated nursing facilities shall have separate staff on-site in the SLF.

l) Health Promotion and Exercise Programming

1) The SLF shall offer and encourage the use of health promotion and exercise programs for its residents.

2) The SLF shall develop programs to be held not less frequently than three times per week geared toward promoting better health and fitness of the residents. These programs are in addition to the social and recreational

programming described in this Section.

m) Emergency Call System

1) The SLF shall ensure that at least two electronic devices are available in each apartment to enable the resident to secure help in an emergency. A device shall be located in each bathroom and each bedroom.

2) The SLF shall have electronic devices available in each common area, each public restroom, each common bathing room and each resident laundry room to enable residents to secure help in an emergency.

n) Daily Check
The SLF shall implement a system to check on the welfare of each resident daily.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 146.235 Staffing

a) The SLF shall have a manager or a qualified designee present at the SLF during normal business hours plus whenever necessary to ensure attention to the management and administration of the resident contracts. Staff shall have access to the manager or the manager's designee at all times. The manager shall designate a qualified individual capable of acting in an emergency during his or her absence from the SLF.

b) The manager shall have at least five years experience in providing health care services to adults with disabilities or the elderly population either in an assisted living program, inpatient hospital, long term care setting, adult day care or in a Department approved health related field. The manager shall also have at least two years of management experience.

c) The SLF shall have licensed and certified staff sufficient in number to meet the needs of the population being served.

d) Nursing facility staff may be utilized in a rehabilitated nursing facility but may not be on duty in both the nursing facility and SLF at the same time.

e) Staff Training. All staff training materials shall be available for review by the Department. If required by the Department, the SLF shall make changes in the training materials.

1) The SLF shall provide staff and subcontractors who provide direct care with:

A) training that takes place no later than 30 days after beginning employment and semi-annual training in areas related to their employment; and

B) training that covers infection control, crisis intervention, prevention and notification of abuse and neglect, behavior intervention, negotiated risk and encouraging independence (these subjects shall be trained as part of staff orientation and at least annually thereafter); and

C) documented training performed by qualified individuals in their area or areas of responsibility; and

D) training geared toward the manner in which services are to be performed; and

E) training that includes techniques for working with persons with disabilities and the elderly populations; and

F) in the case of an SLF serving persons with disabilities, disability specific sensitivity training conducted by an outside entity familiar with working with persons with disabilities. The training shall occur for all staff initially prior to certification, at staff orientation for new staff, and at least annually thereafter.

2) In the case of subcontractors, training by the SLF is not required if the SLF can document that similar training is being provided through the subcontractor's employer.

f) The SLF shall employ certified nursing assistants as follows:

1) Qualifications:

Must be 18 years of age or older and have successfully completed no later than 120 days after employment a nursing assistant training course or a Department of Public Health approved equivalent training and competency evaluation.

2) Job responsibilities shall include, but not be limited to:

A) Follow and help carry out a resident's written service plan;

B) Provide personal care services for residents, including but not limited to bathing, eating, dressing, personal hygiene, grooming, toileting, ambulation and assistance with transfer;

C) Observe the resident's functioning, maintain written records of the observations and report any changes to the licensed nurse; and

D) Attend initial training, in-service training sessions and staff conferences.

g) The SLF shall employ or contract with a dietitian. The dietitian shall comply with the following:

1) The dietitian shall be licensed under the Dietetic and Nutrition Services Practice Act [225 ILCS 30].

2) Job responsibilities shall include, but not be limited to, consultation and training in all food service procedures such as menu planning and review, food preparation, food storage, food service, safety, sanitation and management of therapeutic diets.

3) The dietician shall come on-site at least twice per quarter for a period of not less than a cumulative total of eight hours.

h) The SLF shall employ a minimum of one cook who shall have at least one year of experience in commercial food preparation.

i) Twenty-four hour response staff shall be at least 18 years of age and possess at least a high school diploma or a GED. Response staff shall be certified in emergency resuscitation. The staff shall respond to scheduled or unpredictable needs and emergency calls from residents.

j) Nurses on staff, or subcontracted, shall be licensed by the State of Illinois and shall be responsible for nursing services set forth in Section 146.230.

k) The SLF shall designate a trained staff person to be responsible for planning and directing social and recreational activities. This person shall be at least 18 years of age and possess at least a high school diploma or a GED.

l) The SLF shall ensure that all employees who have or may have contact with residents or have access to the living quarters or the financial, medical or personal records of residents~~certified nursing assistants~~ undergo a criminal history background check that conforms to the Health Care Worker Background Check Act [225 ILCS 46]. No SLF shall knowingly hire, employ or retain any individual in a position, with duties involving contact with~~direct care for~~ residents, access to resident living quarters or access to the financial, medical or personal records of residents, who has been convicted of committing or attempting to commit one or more of the offenses defined under the Health Care Worker Background Check Act unless that individual has obtained a waiver issued by the Department of Public Health. An SLF may conditionally employ an applicant ~~to provide direct care~~ for up to three months pending the results of the criminal history record check.

m) Each employee shall have a tuberculin skin test in accordance with the Control of Tuberculosis Code (77 Ill. Adm. Code 696). The test must be completed no more than 90 days prior to the date of initial employment in the SLF or the test must be commenced no more than seven days after the date of initial employment in the SLF.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 146.245 Assessment and Service Plan and Quarterly Evaluation

a) Interview: The SLF shall conduct a standardized interview geared toward the resident's service needs at or before the time of occupancy.

b) Initial Assessment: The SLF shall complete an initial assessment and service plan within 24 hours after admission that identifies needs and potential immediate problems. Each assessment shall be completed by, or co-signed by, a licensed practical nurse or a registered nurse.

c) Comprehensive Resident Assessment: The SLF shall complete a Comprehensive Resident Assessment Instrument (RAI) within 14 days after admission and annually thereafter. Each RAI shall be completed by, or co-signed by, a registered nurse.

d) Service Plan: Within seven days after completion of the RAI, a written service plan shall be developed by, or co-signed by, a registered nurse, with input from the resident and his or her designated representative. This includes coordination and inclusion of services being delivered to a resident by an outside entity. The service plan shall include a description of expected outcomes, approaches, frequency and duration of services provided and whether the services will be provided by licensed or unlicensed staff. The service plan must be individualized to address the health and behavior needs of each resident. The service plan shall document any services recommended by the SLF that are refused by the resident. The service plan shall be reviewed and updated in conjunction with the quarterly evaluation or as dictated by changes in resident needs or preferences.

e) Quarterly Evaluation: A quarterly evaluation of the health and behavior status of each resident using a Department designated form ~~or the MDS quarterly~~ shall be completed by, or co-signed by, a registered nurse.

f) Service Plan for Identified Sex Offenders: Within seven days after completion of the RAI, a written service plan shall be developed by, or co-signed by, a registered nurse that addresses the following:

1) the amount of supervision required by the individual to ensure the safety of all residents, staff and visitors; and

2) determination of approaches developed in the service plan are appropriate and effective in dealing with any behaviors specific to the identified offender.

g)~~f)~~ The SLF manager or licensed nursing staff shall alert the resident, his or her physician and his or her designated representative when a change in a resident's mental or physical status is observed by staff. Except in life-threatening situations, such reporting shall be within 24 hours after the observation. Serious or life-threatening situations should be reported to the physician and the resident's designated representative immediately. The SLF staff shall be responsible for reporting only those changes that should be apparent to observers familiar with the conditions of older persons or persons with disabilities.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 146.265 Records and Reporting Requirements

a) An SLF shall develop and maintain confidential written records regarding each resident, which shall include, but are not limited to:

1) The Comprehensive Resident Assessment;

2) The resident contract;

3) The service plan;

4) Progress notes that shall be used to document any significant involvement with the resident and results of and changes in the service plan; ~~and~~

5) The resident satisfaction survey; and~~.~~

6) Written documentation of the inquiry to the sex offender databases, including the result of the inquiry.

b) An SLF shall develop and maintain confidential written personnel records that shall include, but are not limited to:

1) Job description;

2) Educational preparation and work experience;

3) Current licensure or certification, if applicable;

4) Documentation of annual performance evaluation;

5) Documentation that employee has received personnel policies and procedures;

6) Documentation of on-going staff training;

7) Documentation of a tuberculosis test administered in accordance with Section 146.235(m); and

8) Results from the health care worker background check conducted in accordance with Section 146.235(l).

c) The SLF shall generate and submit to the Department the following reports in a format and medium designated by the Department and with the frequencies as specified:

1) Personnel Report, which shall be due upon certification and semi-annually thereafter. The report shall contain a list of all SLF staff listing the names, titles, salaries, and total hours worked during the semi-annual period. This listing shall include the services to be performed and services outside of the service package.

2) Resident Identification Report, which shall be due monthly. The report shall be in two parts, one for Medicaid residents and one for private pay residents. Each part shall contain an alphabetical list of residents residing in the SLF, including their names, case identification and recipient numbers for Medicaid residents or Department designated identifying numbers for private pay residents, dates of admission and dates of discharge.

~~3) Utilization Data Report, which shall be due quarterly. The report shall be in two parts, one for Medicaid residents and one for private pay residents. Each part shall be organized alphabetically by resident and include a listing of all services provided to residents. For each resident, data shall include case identification and recipient numbers for Medicaid residents or Department designated identifying numbers for private pay residents, dates of service, service codes and units of service. Services reported for each resident shall be grouped by those services which were delivered by the SLF and those delivered by subcontractors.~~

3)~~4)~~ Health Care Related Subcontractors and Manager Report, which shall be due upon certification and as changes occur thereafter.

4)~~5)~~ Cost Reports, which shall be submitted at any time upon request by the Department or when a significant change occurs in the SLF's financial status/solvency, and annually not later than 90 days after the end of the SLF's fiscal year. One extension up to 30 days shall be granted for circumstances that will not allow a cost report to be properly completed

before the due date of the report. The written extension must be submitted to the Department's Bureau of Long Term Care prior to the original due date. Each enrolled SLF shall file an annual report with the Department in accordance with the following requirements:

A) All schedules contained in the cost report must be completed with the exception of those schedules specified in the cost report instructions as optional.

B) The cost report is not complete until all required schedules are filed and all inquiries to the provider are satisfactorily resolved.

C) If the cost report is prepared by other than the facility's manager or officer, the certification must be signed by the preparer as well as the officer or manager. The preparer's declaration is based upon all information of which the preparer has any knowledge.

D) All financial data contained in the cost report must be accounted for on the accrual basis of accounting.

E) Copies of all independent audits and reviews performed on the SLF by certified public accounting firms shall be provided to the Department with the cost report.

5)~~6)~~ Cost Report for Change of Ownership. The new owner or lessee must file a cost report nine months after acquisition (covering the first six months of operation). A change of ownership is dated from the closing of the sale or from the date of the oldest lease agreement between the present incumbents of a lease. The facility must also file a cost report within 90 days after the close of its first complete fiscal year. A change of corporate stock ownership does not constitute a change of ownership.

6)~~7)~~ Cost Report for New Facility. A full cost report must be filed within nine months after opening the facility (covering at least the first six months of operation). The facility must also file a cost report within 90 days after the close of its first complete fiscal year.

d) No funds shall be expended by the Department for the maintenance of any resident in an SLF that has failed to file an annual cost report.

e) An SLF shall retain all records in accordance with provisions of 89 Ill. Adm. Code 140.28. The SLF shall provide the Department or its designee with access to financial and other records that pertain to covered services. The SLF shall keep fiscal records in accordance with acceptable accounting procedures.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 146.295 Emergency Contingency Plan

For the purpose of this Section, "emergency" means physical abuse involving physical injury, sexual abuse, a crime, or death of a resident that occurs as the result of actions by a staff member, visitor or another resident or an event, as a result of a mechanical failure or natural force such as water, wind, fire or loss of electrical power, that poses a threat to the safety and welfare of residents, personnel, and others present in the SLF.

a) Each SLF shall have a written plan, which shall be part of the SLF's Quality Assurance Plan, for protection of all persons in the event of an emergency, for keeping persons in place, for evacuating persons to areas of refuge, and for evacuating persons from the building when necessary. The plan shall:

1) address the physical and cognitive needs of residents and include special staff response, including the procedures needed to ensure the safety of any resident. The plan shall be amended or revised whenever any resident with unusual needs is admitted;

2) provide for the temporary relocation of residents for any emergency requiring relocation;

3) provide for the movement of residents to safe locations within the SLF in the event of a tornado warning or severe thunder storm warning issued by the National Weather Service;

4) provide for the health, safety, welfare and comfort of all residents when the heat index/apparent temperature, as established by the National Oceanic and Atmospheric Administration, inside the residents' living, dining, activities, or sleeping areas of the SLF exceeds a heat index/apparent temperature of 90°F;

5) address power outages; ~~and~~

6) include contingencies in the event of flooding, if located in a flood plain; and.

7) be reviewed by local emergency response entities, such as fire department, ambulance and EMT services.

b) All personnel employed on the premises shall be instructed in the emergency contingency plan and the use of fire extinguishers.

c) A diagram of emergency evacuation routes shall be posted in at least all corridors and common areas and all personnel employed on the premises shall be aware of the route.

d) There shall be a means of notification to the SLF when the National Weather Service issues a tornado warning covering the area in which the SLF is located. The notification mechanism must be other than commercial radio or television. Notification measures include being within range of local tornado warning sirens, an operable National Oceanic and Atmospheric Administration weather radio in the SLF, or arrangements with local public safety agencies (police, fire, ESDA) to be notified if a warning is issued.

e) Each resident shall be oriented to the emergency plans within ten days after the resident's admission. Orientation shall include assisting residents in identifying and using emergency exits. Documentation of the orientation shall be signed and dated by the resident or the resident's representative.

f) The SLF shall conduct at least two drills per year.

g) The SLF shall evaluate the effectiveness of emergency plans, procedures and training.

h) Drills shall include residents, SLF personnel, and other persons in the SLF.

i) Drills shall include making a general announcement throughout the SLF that a drill is being conducted or sounding an emergency alarm. Drills may be announced in advance to residents.

j) Drills shall involve the actual evacuation of residents to an assembly point as specified in the emergency plan and shall provide residents with experience using various means of escape.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

k) A written evaluation of each drill shall be submitted to the SLF manager and the Quality Assurance Committee and shall be maintained for one year from the date of the drill. The evaluation shall include the date and time of the drill, names of employees participating in the drill, and identification of any residents who received assistance for evacuation.

l) The SLF shall contact local law enforcement authorities when physical abuse involving physical injury, sexual abuse, a crime, or death other than by disease processes occurs to a resident as the result of actions by a staff member, visitor or another resident.

m) Upon the occurrence of any emergency requiring hospital service, police, fire department or coroner, the SLF manager or designee must provide a preliminary report to the Department by fax within 24 hours after the occurrence. This preliminary report shall include, at a minimum:

1) name and location of the SLF;

2) type of emergency;

3) number of injuries or deaths to residents;

4) number of units not usable due to the occurrence;

5) estimate of the extent of damages to the SLF;

6) type of assistance needed, if any;

7) location of displaced residents, if any; and

8) other State or local agencies notified about the problem.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Office of Inspector General Adults with Disabilities Abuse Project

2) Code Citation: 59 Ill. Adm. Code 51

3)

Section Numbers:	Proposed Action:
51.50	Amendment
51.70	Amendment

4) Statutory Authority: Implementing and authorized by the Abuse of Adults with Disabilities Intervention Act [20 ILCS 2435].

5) A Complete Description of the Subjects and Issues involved: Amendments to 59 Ill. Adm. Code 51 are necessary to reflect changes with regard to seeking temporary substitute guardianship when there is an allegation of abuse by a guardian. These amendments will also change the release of financial records to the OIG for suspected victims of financial exploitation.

6) Any published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking, in accordance with 1 Ill. Adm. Code 100.355: None

7) Will this proposed rulemaking replace an emergency rulemaking currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this proposed rulemaking contain incorporations by reference? No

10) Are there any other amendments pending on this Part? No

11) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these amendments within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield, Illinois 62762

(217) 785-9772

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Regulatory agenda on which this rulemaking was summarized: July 2005

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 59: MENTAL HEALTH
CHAPTER I: DEPARTMENT OF HUMAN SERVICES

PART 51
OFFICE OF INSPECTOR GENERAL
ADULTS WITH DISABILITIES ABUSE PROJECT

Section

51.10 Purpose of Project
51.20 Definitions
51.30 Reporting Abuse, Neglect or Exploitation of an Adult with Disabilities
51.40 Receipt of Reports
51.50 Assessment of Reports
51.60 Service Plan
51.65 Service Priority
51.70 Consent
51.80 Access of an Adult with Disabilities
51.90 Confidentiality

AUTHORITY: Implementing and authorized by the Abuse of Adults with Disabilities Intervention Act [20 ILCS 2435].

SOURCE: Adopted by emergency rule at 24 Ill. Reg. 10362, effective July 1, 2000, for a maximum of 150 days; adopted at 24 Ill. Reg. 17136, effective November 6, 2000; amended at 30 Ill. Reg. _____, effective _____.

Section 51.50 Assessment of Reports

a) The Project *shall, upon receiving a report of alleged or suspected abuse, neglect or exploitation, obtain the consent of the subject of the report to conduct an assessment of the report. The assessment shall include, but not be limited to, a face-to-face interview with the adult with disabilities who is the subject of the report. This meeting may include a visit to the residence of the adult with disabilities and interviews or consultations with service agencies or individuals who may have knowledge of the circumstances of the adult with disabilities. A determination shall be made whether a report is substantiated.*

b) *If it is determined that there is clear and substantial risk of death or great bodily harm, the Office of Inspector General shall immediately secure or provide emergency protection services for the purpose of preventing further abuse,*

neglect or exploitation and for safeguarding the welfare of the adult with disabilities. Such service shall be provided in the least restrictive environment commensurate with the adult with disabilities' needs.

c) The Project *shall initiate an assessment of all reports of alleged or suspected abuse or neglect within 7* calendar *days after the report. Reports of abuse or neglect that indicate that the life or safety of an adult with disabilities is in imminent danger shall be assessed within 24 hours after the receipt of the report. Reports of exploitation shall be assessed within 30* calendar *days after the report is received.* The Project shall have access to financial records during the course of exploitation assessments in accordance with the Illinois Banking Act [205 ILCS 5/48.1(16)], the Illinois Savings and Loan Act of 1985 [205 ILCS 105/3-8(c)(14)], the Savings Bank Act [205 ILCS 205/4013(c)(13)], the Illinois Credit Union Act [205 ILCS 305/10(3)(b)(13)], and the Illinois Power of Attorney Act [755 ILCS 45/2-7.5(b)(iii)].

d) When the Project *determines that a case is substantiated, it shall refer the case to the appropriate office within the Department of Human Services to develop, with the consent of and in consultation with the adult with disabilities, a service plan for the adult with disabilities.*

e) The Project staff *shall refer reports of alleged and suspected abuse, neglect and exploitation to another State agency when that agency has a statutory obligation to investigate such reports.*

f) If the Project *has reason to believe that a crime has been committed, the incident shall be reported to the appropriate law enforcement agency.* [20 ILCS 2435/35]

g) Project staff shall make reasonable accommodation of any disability of an adult, including but not limited to the regular use of sign language for any hearing impaired person for whom sign language is a primary mode of communication. If the adult with disabilities is unable to communicate effectively in English, Project staff shall make reasonable efforts to communicate in a language that the individual understands, which may involve the use of a translator or interpreter.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 51.70 Consent

a) If the Project receives *a report of alleged or suspected abuse, neglect, or*

exploitation of an adult with disabilities who lacks the capacity to consent to an assessment or to services, the Project may seek, directly or through another agency, the appointment of a temporary or permanent guardian for assessment, provision of services, or any other decision-making authority as is appropriate for the individual as provided in Article XIa of the Probate Act of 1975 [755 ILCS 5/111a-1] *or other relief as provided under the Illinois Domestic Violence Act of 1986* [750 ILCS 60/101]. *For purpose of this Section only "lacks the capacity to consent" shall mean that the adult with disabilities reasonably appears to be unable by reason of physical or mental condition to receive and evaluate information related to the assessment or services, or to communicate decisions related to assessments or services.*

b) *If the adult with disabilities consents to the assessment, such assessment shall be conducted. If the adult with disabilities consents to the services included in the service plan, such services shall be provided. If the adult with disabilities refuses or withdraws his or her consent to the completion of the assessment* or the service plan*, the assessment shall be terminated or the service shall not be provided.*

c) *A guardian of the adult with disabilities who is abused, neglected or exploited by another individual in a domestic living situation may consent to an assessment or to services being provided pursuant to a service plan.*

1) *If the guardian is the alleged perpetrator of the abuse, neglect or exploitation, the Project shall, when there is an immediate and urgent necessity, seek the appointment of a temporary substitute guardian pursuant to Section 213.3 of the Illinois Domestic Violence Act of 1986* [750 ILCS 60/213.3] *under the provisions of Article XIa of the Probate Act of 1975.*

2) *If a guardian withdraws his consent or refuses to allow an assessment or services to be provided to the adult with disabilities, the Project will seek directly or through another agency a court order seeking appropriate remedies, and may in addition request removal of the guardian and appointment of a successor guardian pursuant to the Probate Act.* [20 ILCS 2435/45]

(Source: Amended at 30 Ill. Reg. _____, effective _____)

ILLINOIS TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED RULES

1) Heading of the Part: Americans With Disabilities Act Grievance Procedure

2) Code Citation: 4 Ill. Adm. Code 1750

3)

Section Numbers:	Proposed Action:
1750.10	New
1750.20	New
1750.30	New
1750.40	New
1750.50	New
1750.60	New
1750.70	New
1750.80	New

4) Statutory Authority: Implementing the Americans with Disabilities Act of 1990 (42 USC 12101 et seq.) and authorized by Section 10 of the Toll Highway Act [605 ILCS 10/10].

5) A Complete Description of the Subjects and Issues Involved: This proposed rulemaking implements grievance procedures required under the federal Americans With Disabilities Act.

6) Will this rulemaking replace any emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This proposed rulemaking has no impact on local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments within 45 days of the publication of this Notice in the *Illinois Register* to:

Thomas Bamonte
General Counsel
Illinois Toll Highway Authority

ILLINOIS TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED RULES

2700 Ogden Avenue
Downers Grove, IL 60515

630/241-6800, ext. 1500

12) 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

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: The need for this rulemaking was not anticipated at the time the most recent agenda was published.

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

ILLINOIS TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED RULES

TITLE 4: DISCRIMINATION PROCEDURES
CHAPTER LV: ILLINOIS TOLL HIGHWAY AUTHORITY

PART 1750
AMERICANS WITH DISABILITIES ACT GRIEVANCE PROCEDURE

Section
1750.10 Definitions
1750.20 Purpose
1750.30 Grievance Procedure
1750.40 Grievance – ADA Coordinator Level
1750.50 Grievance – ADA Committee Level
1750.60 Accessibility
1750.70 Case-By-Case Resolution
1750.80 ADA Notice

AUTHORITY: Implementing the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.) and authorized by Section 10 of the Toll Highway Act [605 ILCS 10/10].

SOURCE: Adopted at 30 Ill. Reg. _____, effective _____.

Section 1750.10 Definitions

"ADA" is the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.).

"ADA Committee" is a consulting group consisting of the Chief of Operational Services, the Manager of Maintenance and Traffic, the Employee Services Manager, the Safety and Training Administrator, the IT operations and Customer Support Manager, the Administrative Support Manager and an Assistant Attorney General.

"ADA Coordinator" is the person appointed by the Tollway, or that person's designee, to coordinate the Tollway's efforts to comply with and carry out its responsibilities under Title II of the ADA. The ADA Coordinator for the Tollway is the EEO/AA Officer, 2700 West Ogden Avenue, Downers Grove, Illinois 60515. Phone: (630) 241-6800 ext. 1010. Telecommunications Device for Deaf Persons: (630) 241-6898.

"Complainant" is a qualified individual with a disability who files a request for reasonable accommodation in accordance with this Part.

ILLINOIS TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED RULES

"Disability" means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of that individual; a record of the impairment; or being regarded as having an impairment. (See 28 CFR 35.104.)

"Grievance" is a written appeal of the denial of an accommodation request under the ADA made by an individual who believes that he or she has been excluded from participation in, or denied the benefits of, any program, service or activity of the Tollway or has been subject to discrimination by the Tollway based on a disability.

"Major Life Activities" means functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. (See 28 CFR 35.104.)

"Physical or Mental Impairment" means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. (See 28 CFR 35.104.)

"Qualified Individual with a Disability" means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the Tollway. (See 28 CFR 35.104.)

"Reasonable Accommodation" means modifications or adjustments to services, programs or activities that enable a qualified individual with a disability to participate in, or enjoy the benefits of, those services, programs or activities.

"Tollway" means the Illinois State Toll Highway Authority.

"Undue Hardship" means, with respect to the provision of an accommodation, significant difficulty or expense incurred by the Tollway.

ILLINOIS TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED RULES

Section 1750.20 Purpose

a) This grievance procedure is established pursuant to the Americans With Disabilities Act of 1990 (ADA) (42 USC 12101 et seq.) and specifically 28 CFR 35.107 requiring that a grievance procedure be established to resolve grievances asserted by qualified individuals with disabilities. The rights and protections afforded by the ADA are intended to benefit both employees and non-employees.

b) It is the intention of the Tollway to foster open communication with all individuals requesting readily accessible programs, services and activities. Questions pertaining to the ADA or the rights, privileges and remedies afforded by the ADA should be directed to the ADA Coordinator. Tollway employees seeking a reasonable accommodation must submit a written request to the employee's supervisor or to the Tollway's EEO Officer/ADA Coordinator.

c) The grievance procedure set forth in this Part is designed to be an appeal process for a request for a reasonable accommodation that has been denied through the process set forth in the Tollway's Personnel Policies and Procedure Manual or Affirmative Action Plan.

d) The ADA grievance procedure is independent and exclusive of the complainant's rights and protections under other statutes and does not preclude the complainant's right to file a charge directly with the Illinois Department of Human Rights or the United State Equal Employment Opportunity Commission.

Section 1750.30 Grievance Procedure

a) Grievances shall be submitted in accordance with the procedures established in Sections 1750.40 and 1750.50 of this Part, in the form and manner described and within specified time limits. Time limits established in this procedure are in calendar days and, unless otherwise stated, may be extended by the ADA Committee with just cause.

b) A complainant's failure to appeal the denial of a request for a reasonable accommodation within the specified time limit shall mean that the complainant has accepted the Tollway's response to his/her request for a reasonable accommodation.

c) A complainant may use the assistance of an advocate in any stage of the grievance procedure.

ILLINOIS TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED RULES

Section 1750.40 Grievance − ADA Coordinator Level

a) A request for a reasonable accommodation shall be filed with the Tollway's ADA Coordinator.

b) In order to be considered by the ADA Coordinator, the request for a reasonable accommodation shall be in writing and contain the following information:

1) The complainant's name, address and daytime telephone number;

2) The exact nature of complainant's disability;

3) A statement detailing why the complainant believes he or she is a qualified individual with a disability;

4) The accommodation the complainant seeks;

5) The signature of the complainant; and

6) Date of request.

c) The ADA Coordinator shall investigate the request and shall make reasonable efforts to resolve the matter up to the level of a Department Chief.

d) If the reasonable accommodation request is outside of the Division Chief's scope of authority, the matter may be brought to the ADA Committee for consideration.

e) The ADA Coordinator shall notify the complainant of his/her decision.

Section 1750.50 Grievance − ADA Committee Level

a) If the request for reasonable accommodation is not resolved to the satisfaction of the complainant, the complainant may submit a grievance to the ADA Committee within 15 days after receipt by the complainant of the ADA Coordinator's determination.

b) The complainant shall submit a statement explaining the basis of the grievance and attach copies of any documents supporting the appeal.

c) Within 30 days after the Committee's receipt of the complainant's submission, the ADA Committee may request that the complainant either appear in person or by a designated representative, or respond to pertinent questions in writing. The Committee shall review and base its decision on the statements of the complainant, written materials submitted by the complainant, and the ADA Coordinator's response, and may conduct interviews and seek additional information, evidence and/or advice, as it deems appropriate.

d) The ADA Committee shall approve, disapprove, or modify the recommendation of the ADA Coordinator and shall render a written decision within 30 days after meeting to decide the matter. The Committee shall state the reasons for its decision and shall serve by certified mail a copy upon the complainant and the ADA Coordinator. The ADA Coordinator shall be responsible for notifying the complainant of the decision of the ADA Committee.

e) The grievance, the ADA Coordinator's response, the complainant's statement of reasons for dissatisfaction and the decision of the Committee shall be maintained in accordance with the State Records Act [5 ILCS 160] or as otherwise required by law.

Section 1750.60 Accessibility

The Tollway shall ensure that all stages of the grievance procedure are readily accessible to and usable by individuals with disabilities.

Section 1750.70 Case-By-Case Resolution

Each grievance involves a unique set of factors that includes but is not limited to: the specific nature of the disability; the essential eligibility requirements, the benefits to be derived, and the nature of the service, program or activity at issue; the health and safety of others; and whether an accommodation would constitute a fundamental alteration to the program, service, or activity or undue hardship on the Tollway. Accordingly, termination of a grievance at any level, whether through the granting of relief or otherwise, shall not constitute a precedent on which any other complainants should rely.

Section 1750.80 ADA Notice

A public notice shall be posted informing applicants, participants, beneficiaries and other interested persons of the Tollway's compliance with the ADA as applicable to the services, programs, or activities of the Tollway.

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED RULES

1) Heading of the Part: State Toll Highway Rules

2) Code Citation: 92 Ill. Adm. Code 2520

3)

Section Numbers:	Proposed Action:
2520.100	New
2520.101	New
2520.102	New
2520.103	New
2520.200	New
2520.201	New
2520.202	New
2520.203	New
2520.204	New
2520.205	New
2520.206	New
2520.207	New
2520.208	New
2520.209	New
2520.210	New
2520.211	New
2520.212	New
2520.213	New
2520.214	New
2520.215	New
2520.216	New
2520.217	New
2520.218	New
2520.219	New
2520.220	New
2520.221	New
2520.222	New
2520.223	New
2520.224	New
2520.225	New
2520.226	New
2520.227	New
2520.300	New
2520.301	New
2520.302	New

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED RULES

2520.303	New
2520.304	New
2520.305	New
2520.401	New
2520.402	New
2520.403	New
2520.404	New
2520.405	New
2520.406	New
2520.500	New
2520.501	New
2520.502	New
2520.503	New
2520.504	New
2520.505	New
2520.700	New
2520.701	New
2520.702	New
2520.703	New
2520.704	New
2520.705	New
2520.706	New
2520.707	New
2520.708	New
2520.709	New
2520.710	New
2520.711	New
2520.712	New
2520.713	New
2520.714	New
2520.800	New
2520.Appendix A	New

4) Statutory Authority: 605 ILCS 10/10

5) A Complete Description of the Subjects and Issues Involved: The Tollway is adopting this new Part and repealing its current rules in order to clarify existing policy and procedures and create additional rules necessary to enforce new toll violation collection remedies created by recent amendments to the Toll Highway Act. 605 ILCS 10.

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED RULES

6) Will this rulemaking replace any emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: These proposed rules do not create or enlarge a State mandate.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments within 45 days after the publication of this Notice in the *Illinois Register* to:

Thomas Bamonte
General Counsel
Illinois Toll Highway Authority
2700 Ogden Avenue
Downers Grove, IL 60515

630/241-6800, ext. 1500

12) 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

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The need for this rulemaking was not anticipated at the time the most recent agenda was published.

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

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED RULES

TITLE 92: TRANSPORTATION
CHAPTER IV: ILLINOIS STATE TOLL HIGHWAY AUTHORITY

PART 2520
STATE TOLL HIGHWAY RULES

SUBPART A: AUTHORITY AND DEFINITIONS

Section
2520.100 Authority
2520.101 Authority Rulemaking
2520.102 Related Statutes
2520.103 Definitions

SUBPART B: GENERAL TRAFFIC RULES AND REGULATIONS

Section
2520.200 Illinois Vehicle Code
2520.201 Use of Tollway Prohibited or Restricted
2520.202 Vehicles Excepted from Provisions of Section 2520.201
2520.203 Transportation of Hazardous Materials
2520.204 Special Usage Toll
2520.205 Loading or Unloading of Vehicles
2520.206 Full Stop at All Toll Plazas
2520.207 Entering and Leaving the Tollway
2520.208 "U" Turns, Etc.
2520.209 Backing Up of Vehicles
2520.210 Parking, Standing or Stopping
2520.211 Relocating of Vehicles
2520.212 Pushing or Towing of Vehicles
2520.213 Stopping or Halting Vehicles by the Authority
2520.214 Destruction of Authority Property
2520.215 Picnics
2520.216 Aircraft
2520.217 Sale of Goods and Services
2520.218 Solicitation of Rides
2520.219 Loitering or Interfering with Traffic
2520.220 Approaching/Departing a Toll Plaza
2520.221 Compliance with Orders or Directions of State Troopers, Etc.
2520.222 Duty Upon Striking Fixtures, Structures or Other Property on Tollway

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED RULES

2520.223 Payment of Tolls
2520.224 I-Pass Registration
2520.225 Prohibited and Restricted Lanes
2520.226 Traffic Control Devices
2520.227 Penalty for Violation

SUBPART C: TRESPASS

Section
2520.300 Authority
2520.301 Restriction of Vehicles Using the Tollway
2520.302 Restriction on Nature of Use of Tollway
2520.304 Persons and Vehicles Excepted from the Requirements of Subpart C
2520.305 Penalties

SUBPART D: SPEED RESTRICTIONS

Section
2520.401 Maximum Speed Limits for Passenger Cars
2520.402 Maximum Speed Limits for Trucks, Buses, Passenger Cars Towing Trailers, House Trailers and Campers
2520.403 Maximum Speed Limits for Designated I-Pass Lanes, Service Areas, Parking Areas, Access Roads and Ramps, and Barrier Toll Plaza Approaches
2520.404 Road Hazards and Construction Zones
2520.405 Special Road Conditions
2520.406 Minimum Speed Limits

SUBPART E: FINES AND PENALTIES

Section
2520.501 Violations
2520.502 Littering – Penalty
2520.503 Spurious or Counterfeit Tickets, Coupons or Tokens – Penalty
2520.504 Toll Collection Devices – Penalty for Breaking
2520.505 I-PASS Customer − Penalties

SUBPART F: TOLL VIOLATIONS – ADMINISTRATIVE ADJUDICATION SYSTEM

Section
2520.700 Authority

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED RULES

2520.701 Notice of Violation to Respondent
2520.702 Effective Date of Notices
2520.703 Establishment of the Toll-Free Telephone Number
2520.704 Timely Request for Hearing
2520.705 Hearing Officers – Appointment, Disqualification, Powers and Duties
2520.706 Discovery
2520.707 Continuance
2520.708 Hearings Format
2520.709 Failure to Respond to Notice of Violation − Default
2520.710 Penalties
2520.711 Liability of Lessor
2520.712 Liability of Registered Owner
2520.713 Enforcement of Final Order
2520.714 Judicial Review

SUBPART G: EMPLOYMENT

2520.800 Tollway Employees

2520.APPENDIX A Rules and Regulations for Overweight and Overdimension Vehicles and Loads

AUTHORITY: Implementing and authorized by the Toll Highway Act [605 ILCS 10].

SOURCE: Filed January 3, 1973; effective February 1, 1973; codified at 8 Ill. Reg. 19884; Part repealed, new Part adopted at 17 Ill. Reg. 8539, effective May 27, 1993; amended at 20 Ill. Reg. 10200, effective July 12, 1996; emergency amendment at 24 Ill. Reg. 2737, effective February 4, 2000, for a maximum of 150 days; emergency expired July 2, 2000; emergency amendment at 24 Ill. Reg. 4234, effective February 29, 2000, for a maximum of 150 days; emergency expired July 27, 2000; amended at 24 Ill. Reg. 16078, effective October 11, 2000; emergency amendment at 26 Ill. Reg. 16325, effective October 31, 2002, for a maximum of 150 days ; amended at 27 Ill. Reg. 6325, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 18238, effective November 6, 2003, for a maximum of 150 days; emergency expired April 5, 2004; emergency amendment at 28 Ill. Reg. 1780, effective January 14, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 6911, effective April 23, 2004; emergency amendment at 28 Ill. Reg. 7688, effective May 24, 2004, for a maximum of 150 days; emergency expired October 20, 2004; amended at 28 Ill. Reg. 14530, effective October 25, 2004; old Part repealed at 30 Ill. Reg. _____ and new Part adopted at 30 Ill. Reg. _____, effective _____.

SUBPART A: AUTHORITY AND DEFINITIONS

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED RULES

Section 2520.100 Authority

This Part is adopted and promulgated by the Authority, pursuant to the powers vested in the Authority by the Toll Highway Act, and supersedes all previous rules adopted and promulgated by the Illinois State Toll Highway Commission and the Illinois State Toll Highway Authority.

Section 2520. 101 Authority Rulemaking

This Part shall be liberally construed to accomplish the purposes of the Toll Highway Act and the laws of the State of Illinois. This Part shall be available to the general public at the main administrative office of the Authority during regular business hours and on the Authority's web site. This Part is subject to modification, under the Illinois Administrative Procedure Act, at any time by the Authority's Board of Directors.

Section 2520.102 Related Statutes

The following statutes are referenced in this Part:

a) The Toll Highway Act [605 ILCS 10].

b) The Illinois Vehicle Code [625 ILCS 5].

c) The Administrative Review Law [735 ILCS 5/Art. III].

d) The Illinois Procurement Code [30 ILCS 500] and 44 Ill. Adm. Code 1.

e) The Illinois Administrative Procedure Act [5 ILCS 100].

Section 2520.103 Definitions

The following words and phrases, when used in this Part, shall have the following meanings:

"Authority" means the Illinois State Toll Highway Authority, an instrumentality and administrative agency of the State of Illinois, formerly known as the Illinois State Toll Highway Commission.

"Authorized Emergency Vehicles" means vehicles of fire departments and police departments, ambulances, emergency vehicles of public service companies, and

other vehicles performing emergency services approved and authorized by the Authority.

"Barrier Toll Plaza" means all toll collection facilities located on the Tollway's traffic lanes, but does not include ramp or open road toll collection facilities.

"Certified Report" means the documents the Authority sends the Illinois Secretary of State pursuant to 625 ILCS 5/3-704.2 and 6-306.7.

"Department of Transportation" means the Illinois Department of Transportation.

"Hazardous Materials" means explosives, radioactive materials, etiologic agents, flammable liquids and other dangerous materials.

"Hearing" means a hearing conducted by the Authority or appointed hearing officer to determine whether a violation of the Toll Highway Act and/or any of this Part has occurred.

"Hearing Officer" means a hearing officer appointed pursuant to Section 2520.705.

"I-PASS" means the Authority's electronic toll collection system.

"I-PASS Express Lanes" means those lanes that are restricted to vehicles with I-PASS transponders traveling at highway speed.

"I-PASS Only Lanes" means those lanes restricted to vehicles, other than I-PASS Express Lanes, that have I-PASS transponders.

"I-PASS Transponder" means the Authority-issued electronic toll collection device, E-Z Pass or other Authority-authorized electronic toll collection device.

"Motor Driven Cycles" means a motorcycle or motor scooter with less than 150 cubic centimeter piston displacement, including motorized pedalcycles.

"Notice of Violation " means the information sent by the Authority to the respondent notifying the respondent of an alleged violation of Tollway rules.

"Oases" means property along the Tollway occupied by restaurants, buildings and service stations, and adjacent parking and landscaped areas.

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED RULES

"Person" means any individual, firm, corporation, cooperative, association, trust, partnership, joint venture or other legally recognized entity.

"Respondent" means any person charged with violating the Tollway Highway Act or this Part.

"Right-of-Way" means the entire area of the Tollway within the fence lines (or the barrier walls, where no fence exists), including, but not limited to, the roadways, shoulders, plazas, and landscaped areas. The right-of-way does not include the Tollway's oases, maintenance buildings, central administration building or other Tollway buildings and their parking lots.

"Shoulder" means the portion of the roadway contiguous with the traveled way that accommodates stopped vehicles, is intended for emergency use, and, with proper signage, may provide limited duration use as a traffic lane.

"State Police" means the Illinois State Police.

"Toll" means the compensation to be paid to the Authority for the privilege of using the Tollway.

"Toll Highway Act" means 605 ILCS 10.

"Toll Plaza" means any toll collection facility located on the Tollway.

"Tollway" means any and all toll highways operated and maintained by the Authority pursuant to State and federal laws.

"Traffic Control Devices" means all directional devices, controls and markings installed by the Authority, its agents, or governmental partners for the purpose of regulating, warning, or guiding traffic.

"Traffic Lanes" are the lanes designated for vehicular travel on the Tollway that are designated numerically, with the extreme left lane of each directional roadway being numbered "Lane No. 1" and each lane to the right of Lane No. 1 carrying traffic in the same direction being numbered consecutively higher.

"Vehicle Code" means the Illinois Vehicle Code [625 ILCS 5].

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED RULES

"Violation" means one or more acts prohibited by the Toll Highway Act and/or this Part.

"V-Tolled" means the Tollway service that debits an unpaid toll from an I-PASS customer's valid account when a transaction is not read by the I-PASS electronic toll collection equipment and license plate information is captured by the Authority's video or photo surveillance system.

Any and all terms that are not specifically defined in this Section shall have the meanings ascribed to them in the Vehicle Code and the Toll Highway Act.

SUBPART B: GENERAL TRAFFIC RULES AND REGULATIONS

Section 2520.200 Illinois Vehicle Code

This Subpart B is applicable to traffic on the Tollway and is adopted and prescribed by the Authority pursuant to the power vested in the Authority by the Toll Highway Act. Except when inconsistent with this Part, the Illinois Vehicle Code regulates traffic and the operation of motor vehicles on the Tollway.

Section 2520.201 Use of Tollway Prohibited or Restricted

The following are prohibited on the Tollway or any part of its right-of-way:

a) Pedestrians, except at authorized areas at oases, toll plazas and maintenance areas.

b) Animals led, ridden or driven on the hoof.

c) Bicycles or motor driven cycles.

d) Vehicles transporting animals or poultry not properly secured or confined.

e) Vehicles with deflated pneumatic tires, metal tires, caterpillar treads, studded tires or tires with chains.

f) Vehicles with loads improperly secured or vehicles transporting gravel, sand, limestone or like materials capable of being windblown or escaping from the vehicles in any manner, unless such load is securely covered.

g) Farm implements and machinery, whether self-propelled or towed, excluding

those properly and safely loaded onto a vehicle.

h) Vehicles exceeding the size, weight and load limitations set out in the Vehicle Code; however, subject to Tollway approval, oversized and overweight vehicles may be permitted on the Tollway pursuant to the terms and conditions contained in Appendix A.

i) Vehicles incapable of maintaining a minimum speed of 45 miles per hour on a level grade.

j) House trailers, during extreme wind, adverse weather or unusual traffic conditions.

k) Convoys, processions or assemblages of more than 10 vehicles without the prior approval of District 15 of the State Police.

l) Vehicles that are in such disrepair, are so poorly equipped or loaded, or are so lacking in equipment that they create a hazard to other vehicles.

m) Vehicles equipped with tinted plastic or tinted glass registration plate covers or any covers, coating, wrappings, materials, streaking, distorting, holographic, reflective, or other devices that obstruct the visibility or electronic image recording of the plate. This prohibition shall not apply to automatic vehicle identification transponder devices, cards or chips issued by a governmental body or authorized by a governmental body for the purpose of electronic payment of tolls or other authorized payments.

Section 2520.202 Vehicles Exempted from Provisions of Section 2520.201

Vehicles may be exempted from the provisions of Section 2520.201 of this Part while actively engaged in construction, maintenance and/or landscaping work for the Authority if the owner or operator of the vehicle secures prior written approval from an authorized representative of the Engineering Department of the Authority. Such approval shall not relieve the person from full and complete liability and responsibility for the condition of the vehicle and the actions or inactions of the owners and operators of the vehicle and for any damage or injury caused by the vehicle or its operation.

Section 2520.203 Transportation of Hazardous Materials

No person directly or through any agent or employee may use the Illinois Tollway for

transporting hazardous materials unless in compliance with all applicable laws, including 49 CFR 171-180 and 263.

Section 2520.204 Special Usage Toll

No person shall operate a vehicle on the Tollway that exceeds the size and load limitations set forth in Sections 15-100 through 15-107 of the Vehicle Code without paying the special usage toll as provided in Appendix A. Any person who uses or attempts to use the Tollway without proper payment of the Special Usage Toll or fee as required by this Section shall be deemed guilty of a petty offense under Section 27.1 of the Toll Highway Act. A Special Usage Toll Permit will be issued on the following terms and conditions:

a) A Special Usage Toll Permit may be obtained electronically from the Tollway or from the plaza supervisor or collector in charge of the first manned toll plaza reached upon entering the Tollway. The vehicle shall not proceed any farther on the Tollway until a Permit is issued and the proper Special Usage Toll is paid.

b) The Special Usage Toll Permit must be exhibited at all toll plazas during the course of the permitted trip on the Tollway.

Section 2520.205 Loading or Unloading of Vehicles

Loading or unloading vehicles on the right-of-way is prohibited without prior Tollway approval.

Section 2520.206 Full Stop at All Toll Plazas

Except at lanes marked "I-PASS Only" or "Open Road Toll", all vehicles must come to a full stop at all toll plazas at the time of payment of tolls. When red/green signal lights control a toll plaza lane, the driver of a vehicle shall not proceed until receiving the green light signal.

Section 2520.207 Entering and Leaving the Tollway

Entering or exiting the Tollway at any location other than designated entrance ramps or traffic lanes is prohibited. The use of service roads for entry and exit to the Tollway is prohibited. This Section shall not prohibit the use of the service roads by Authority vehicles, Authorized Emergency Vehicles or any other vehicle authorized by the Authority.

Section 2520.208 "U" Turns, Etc.

The making of "U" turns on the Tollway, driving around toll barriers or driving through

maintenance areas is prohibited, except by Authorized Emergency Vehicles, Authority vehicles, and any other vehicle authorized by the Authority.

Section 2520.209 Backing Up of Vehicles

The backing up of a vehicle on any ramp or traffic lane or improved shoulder adjacent to the ramp or lane is prohibited.

Section 2520.210 Parking, Standing or Stopping

Parking, standing or stopping on the right-of-way is prohibited. In emergencies, stopped vehicles shall be immediately driven or moved off the traveled portion of the traffic lane or ramp. Except where otherwise posted, no vehicle shall be left unattended or abandoned on the right-of-way by the owner or operator of the vehicle for more than 2 hours without a permit issued by the State Police.

Section 2520.211 Relocating of Vehicles

Any vehicle left unattended or abandoned in violation of Section 2520.210 or any vehicle constituting a traffic hazard shall be subject to immediate relocation at the expense of the owner or operator of the vehicle. State Police and Authority personnel are authorized to remove or cause to be removed any unattended or abandoned vehicle by an authorized towing service or by other means that may be available, at the sole expense of the owner or operator of the vehicle.

Section 2520.212 Pushing or Towing of Vehicles

a) Pushing. The pushing of any vehicle by another vehicle is prohibited except in emergencies. In such an emergency, a disabled vehicle may be pushed off the traffic lanes onto the adjacent shoulder for the purpose of parking, standing or stopping, as provided in Section 2520.210 of this Part.

b) Towing. Except in emergencies, no vehicle shall be towed by another vehicle without a rigid hitch designed and installed so as to give the operator of the towing vehicle full and complete control of the towed vehicle. In an emergency, a disabled vehicle may be towed off the traffic lanes onto the adjacent shoulder for the purposes of parking, standing or stopping, as provided in Section 2520.210 of this Part.

Section 2520.213 Stopping or Halting Vehicles by the Authority

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED RULES

The Authority, the Illinois State Police and persons authorized by the Authority may stop or halt vehicles as necessary to conduct traffic surveys, in emergencies, and for any other lawful purpose.

Section 2520.214 Destruction of Authority Property

No person shall cut, mutilate, deface, damage or remove any property or equipment of the Authority or of its vendors, operators, licencees, lessees, agents or contractors.

Section 2520.215 Picnics

Picnicking within the right-of-way is prohibited.

Section 2520.216 Aircraft

No aircraft, except those authorized by the Authority or the State Police, shall take off, land or otherwise be operated within the right-of-way.

Section 2520.217 Sale of Goods and Services

No person shall offer or display goods or services for sale or promotion, or post, display or distribute signs, circulars, or printed matter, or operate public address equipment on Authority property, including its right-of-way, except as authorized by the Authority.

Section 2520.218 Solicitation of Rides

No person shall solicit or attempt to solicit rides from the driver of any vehicle using the Tollway.

Section 2520.219 Loitering or Interfering with Traffic

No person shall loiter on Tollway property or in any manner interfere with traffic or the control of traffic.

Section 2520.220 Approaching/Departing a Toll Plaza

The driver of a vehicle approaching or departing a toll plaza shall approach or depart from a toll plaza in as direct a manner as possible and adjust vehicular speed and lateral position so as to avoid collision with other vehicles or property.

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED RULES

Section 2520.221 Compliance with Orders or Directions of State Police Troopers, Etc.

No person shall willfully fail or refuse to comply with any lawful order or direction of any State Police trooper or any Authority employee or agent.

Section 2520.222 Duty Upon Striking Fixtures, Structures or Other Property on Tollway

Any person involved in any damage to fixtures, structures, or other property of the Authority or of its vendors, operators, licensees, lessees, agents or contractors shall notify the Authority immediately of the damage and of the details surrounding the occurrence. For the purpose of this Section, notice to the State Police, District 15, shall also constitute notice to the Authority.

Section 2520.223 Payment of Tolls

a) All persons driving vehicles on the Tollway, except as provided in subsection (b), are required to pay the prescribed toll at each toll plaza. Tolls may be paid in the following manner:

1) By currency or change in legal tender of the United States of America presented to a toll collector, or by correct change deposited in the automatic coin machine;

2) By I-PASS; or

3) By an electronic toll collection account in good standing with a toll agency that has entered into a reciprocity agreement with the Tollway.

b) Tolls are not required of Authority officers and employees while on Authority business, or of public police, public fire or public ambulance vehicles when on emergency business or duty necessitating the use of the Tollway system, and when the vehicle is readily identifiable.

d) Coin and currency lying in and around toll collection facilities are the Authority's property. Any person other than an authorized Authority employee or agent who removes any coin from the pavement or from the ground surface within 25 feet of a toll collection facility shall be guilty of a petty offense.

e) No vehicle shall be driven through a toll plaza collection facility without payment of the proper toll. In the event of non-payment of the proper toll, as evidenced by video or photo surveillance system or toll collector's sworn statement, the

registered owner of that vehicle shall, upon notice to the registered owner, be liable to make prompt payment to the Authority of the proper toll charge as well as applicable fines and fees. This subsection shall not apply if the driver of the vehicle is fined or otherwise penalized for the same violation under the Vehicle Code or other rule or regulation regarding failure to pay the prescribed toll.

Section 2520.224 I-PASS Registration

a) A license plate may not be registered to or utilized with any I-PASS account if the person to whom the license plate was registered has been adjudicated liable for utilizing the Tollway without the payment of the proper toll and there remains a balance for unpaid tolls, fines, and/or other fees.

b) No person may open or utilize an I-PASS account or associated toll collection services if that person has been adjudicated liable for utilizing the Tollway without the payment of the proper toll and the person has unpaid tolls, fines and/or other fees.

c) Use of I-PASS by a person or license plate with an unpaid toll violation balance shall be deemed a toll violation subject to full enforcement measures and sanctions provided by law.

Section 2520.225 Prohibited and Restricted Lanes

a) No vehicle on the Tollway shall pass through any lane designated "DO NOT ENTER" except authorized State Police, Authority, Authority agent or authorized emergency vehicles.

b) Only vehicles equipped with a properly mounted I-PASS transponder may use lanes designated as I-PASS Only Lanes or I-PASS Express.

Section 2520.226 Traffic Control Devices

a) All persons driving vehicles upon the Tollway are required to obey all traffic control devices on the Tollway, unless otherwise directed by a member of the State Police, Authority employees or agents, or emergency service providers.

b) The Engineering Department of the Authority shall have the power to establish specifications for traffic control devices on the Tollway; provided, however, that unless the Authority or its Engineering Department has established contrary

specifications, the current Department of Transportation specifications for traffic control devices shall apply.

Section 2520.227 Penalty for Violation

Except when a different penalty is expressly provided, any person who violates any provision of this Subpart B shall be deemed guilty of a petty offense and, upon conviction, shall be subject to punishment as provided by law for petty offenses.

SUBPART C: TRESPASS

Section 2520.300 Authority

This Subpart C is applicable to persons and vehicles on Authority right-of-way and is adopted by the Authority pursuant to the power vested in the Authority by the Toll Highway Act.

Section 2520.301 Restriction of Vehicles Using the Tollway

Use of the Tollway, including the entering of the Tollway right-of-way at any point by any motor vehicle or by any other method for the purpose of proceeding on, across or along the Tollway, is restricted to vehicles not prohibited by Section 2520.201 of this Part, and use of the Tollway is further restricted to:

a) Vehicles that have paid tolls as required by Sections 2520.204 and 2520.223 and, where applicable, the overweight permit fee provided in Section 2520.201 and Appendix A; and

b) Vehicles that have entered the Tollway as part of travel to or from highways on ramps provided for that purpose.

Section 2520.302 Restriction on Nature of Use of Tollway

a) Any person may use the Tollway only as a transportation facility in accordance with the rules adopted by the Authority pursuant to its powers under Section 10 of the Toll Highway Act and shall not use the Tollway or the right-of-way for any other purposes.

b) Any person using any part of the Tollway or right-of-way except as provided in this Part is guilty of a trespass.

c) Any person who fails to immediately depart from Authority property after being directed to leave by the State Police or the Authority is subject to arrest and/or immediate removal from Authority property.

Section 2520.304 Persons and Vehicles Excepted from the Requirements of Subpart C

Nothing contained in this Subpart C shall be construed as applying to the Authority, its Directors, officers, employees, agents, or contractors in the conduct of the Authority's business or to persons having a written license or permit from the Authority authorizing uses otherwise prohibited by this Subpart C, or to the activities of police, public fire, public ambulance or tow truck vehicles properly called upon the Tollway for emergency purposes while carrying out such purposes.

Section 2520.305 Penalties

Any person who violates any provision of this Subpart C shall be guilty of a trespass and shall be subject to prosecution and, upon conviction, shall be subject to punishment in accordance with Section 21-3 of the Illinois Criminal Code [720 ILCS 5/21-3].

SUBPART D: SPEED RESTRICTIONS

Section 2520.401 Maximum Speed Limits for Passenger Cars

The following shall be the maximum speed limits for passenger cars on the Tollway, except as provided by Sections 2520.403 and 2520.404:

a) Tri-State Tollway (I-294/I-94):

55 miles per hour south of Waukegan Toll Plaza – Plaza 21 (M.P. 73.5).

65 miles per hour north of Waukegan Toll Plaza – Plaza 21 (M.P. 73.5).

b) Northwest Tollway (I-90):

55 miles per hour east of Randall Road (M.P. 26.6).

65 miles per hour west of Randall Road (M.P. 26.6).

c) Ronald Reagan Memorial Highway (I-88):

55 miles per hour between the Eisenhower Expressway I-290 and ½ mile west of Farnsworth Avenue (M.P. 140.5 to M.P. 118.6).

45 miles per hour between ½ mile west of Farnsworth Avenue and Illinois Route 31 (M.P. 118.6 to M.P. 117.1).

55 miles per hour between Illinois Route 31 and Orchard Road (M.P. 117.1 to M.P. 115.5).

65 miles per hour west of Orchard Road (M.P. 115.5).

d) North-South Tollway (I-355):

55 miles per hour for the entire length.

Section 2520.402 Maximum Speed Limits for Trucks, Buses, Passenger Cars Towing Trailers, House Trailers and Campers

The maximum speed for trucks, buses, and passenger cars towing trailers, house trailers and campers is 55 miles per hour on all Tollways except as provided by Sections 2520.403 and 2520.404.

Section 2520.403 Maximum Speed Limits for Designated I-PASS Lanes, Service Areas, Parking Areas, Access Roads and Ramps, and Barrier Toll Plaza Approaches

a) The maximum speed limit for I-PASS Only electronic toll collection lanes shall be 30 m.p.h. or as otherwise posted.

b) The maximum speed limit for I-PASS Express electronic toll collection lanes shall be 55 m.p.h., or as otherwise posted.

c) The maximum speed limit for all vehicles in approaches to barrier toll plazas shall be as follows:

45 miles per hour approximately ½ mile south of 83rd Street Toll Plaza – Plaza 39 (M.P. 19.0 NB).

45 miles per hour approximately ½ mile north of 82nd Street Toll Plaza – Plaza 36 (M.P. 20.5 SB).

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED RULES

45 miles per hour approximately ½ mile south of Cermak Toll Plaza – Plaza 35 (M.P. 25.5 NB).

45 miles per hour approximately ½ mile north of Cermak Toll Plaza – Plaza 35 (M.P. 30.5 SB).

45 miles per hour approximately ½ mile north of Irving Park Toll Plaza – Plaza 33 (M.P. 39.5 SB).

45 miles per hour approximately ½ mile south of Touhy Avenue Toll Plaza – Plaza 29 (M.P. 41.3 NB).

55 miles per hour approximately 2 miles north of Waukegan Toll Plaza – Plaza 21 (M.P. 75.5 SB).

45 miles per hour approximately ½ mile north of Waukegan Toll Plaza – Plaza 21 (M.P. 74.0 SB).

45 miles per hour approximately ½ mile south of Waukegan Toll Plaza – Plaza 21 (M.P. 73.0 NB).

45 miles per hour approximately ½ mile east of Elgin Toll Plaza – Plaza 9 (M.P. 24.5 WB).

45 miles per hour approximately ½ mile west of Elgin Toll Plaza – Plaza 9 (M.P. 25.5 EB).

45 miles per hour approximately ½ mile west of Marengo-Hampshire Toll Plaza – Plaza 7 (M.P. 41.5 EB).

45 miles per hour approximately ½ mile east of Marengo-Hampshire Toll Plaza – Plaza 7 (M.P. 40.5 WB).

55 miles per hour approximately 2 miles east of Marengo-Hampshire Toll Plaza – Plaza 7 (M.P. 39.0 WB).

55 miles per hour approximately 2 miles west of Marengo-Hampshire Toll Plaza – Plaza 7 (M.P. 43.0 EB).

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED RULES

45 miles per hour approximately ½ mile east of Belvidere Toll Plaza – Plaza 5 (M.P. 55.0 WB).

45 miles per hour approximately ½ mile west of Belvidere Toll Plaza – Plaza 5 (M.P. 56.0 EB).

55 miles per hour approximately 2 miles east of Belvidere Toll Plaza – Plaza 5 (M.P. 53.5 WB).

55 miles per hour approximately 2 miles west of Belvidere Toll Plaza – Plaza 5 (M.P. 57.5 EB).

45 miles per hour approximately ½ mile east of South Beloit Toll Plaza – Plaza 1 (M.P. 75.0 WB).

45 miles per hour approximately ½ mile west of South Beloit Toll Plaza – Plaza 1 (M.P. 76.0 EB).

55 miles per hour approximately 2 miles east of South Beloit Toll Plaza – Plaza 1 (M.P. 73.5 WB).

55 miles per hour approximately 2 miles west of South Beloit Toll Plaza – Plaza 1 (M.P. 77.5 EB).

45 miles per hour approximately ½ mile east of Devon Avenue Toll Plaza – Plaza 17 (M.P. 1.2 WB).

45 miles per hour approximately ½ mile west of River Road Toll Plaza – Plaza 19 (M.P. 1.1 EB).

45 miles per hour approximately ½ mile east of York Toll Plaza – Plaza 51 (M.P. 138.7 WB).

45 miles per hour approximately ½ mile west of York Toll Plaza – Plaza 51 (M.P. 137.5 EB).

45 miles per hour approximately ½ mile east of DeKalb Toll Plaza – Plaza 66 (M.P. 90.8 WB).

45 miles per hour approximately ½ mile west of DeKalb Toll Plaza – Plaza 66 (M.P. 91.8 EB).

55 miles per hour approximately 2 miles east of DeKalb Toll Plaza – Plaza 66 (M.P. 89.3 WB).

55 miles per hour approximately 2 miles west of DeKalb Toll Plaza – Plaza 66 (M.P. 93.3 EB).

45 miles per hour approximately ½ mile east of Dixon Toll Plaza – Plaza 69 (M.P. 53.9 WB).

45 miles per hour approximately ½ mile west of Dixon Toll Plaza – Plaza 69 (M.P. 54.8 EB).

55 miles per hour approximately 2 miles east of Dixon Toll Plaza – Plaza 69 (M.P. 52.3 WB).

55 miles per hour approximately 2 miles west of Dixon Toll Plaza – Plaza 69 (M.P. 56.3 EB).

Section 2520.404 Road Hazards and Construction Zones

The Authority may temporarily alter and post maximum and minimum speed limits for all vehicles due to road hazards or for construction work. All vehicles shall comply with the posted speed limits in those zones.

Section 2520.405 Special Road Conditions

Motorists on the Tollway are required, in accordance with Section 11-601 of the Vehicle Code, to reduce their speed because of special traffic, highway and weather conditions, road hazards, curves, ramps, merging traffic and other like conditions to a speed that is reasonable under the circumstances, so as not to endanger the safety of any person or property.

Section 2520.406 Minimum Speed Limits

Minimum speed limits for all vehicles operated on the Tollway shall be 45 miles per hour, except as otherwise indicated in this Part.

SUBPART E: FINES AND PENALTIES

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED RULES

Section 2520.501 Violations

Any person who violates any resolution, rule or regulation adopted or promulgated by the Authority pursuant to Section 10(b) of the Toll Highway Act shall be guilty of a petty offense.

Section 2520.502 Littering − Penalty

It is unlawful for any person to deposit within the right-of-way or other property of the Tollway any trash, glass, weeds, garbage or other offensive matter. Any person so offending shall be guilty of a petty offense and shall be fined not less than $5 nor more than $50.

Section 2520.503 Spurious or Counterfeit Tickets, Coupons, or Tokens − Penalty

It is unlawful for any person to use any spurious or counterfeit tickets, coupons, tokens, electronic toll collection devices or tags in payment of any toll required to be paid to the Authority under the provisions of this Part. Any person who attempts to use the Tollway without payment of the tolls required by the Authority through the use of any spurious or counterfeit method shall be deemed guilty of a petty offense and shall be fined not less than $5 nor more than $100 for each offense. Each day any Tollway is used by such person in violation of this Act shall constitute a separate offense.

Section 2520.504 Toll Collection Devices − Penalty for Breaking

Any Person who *willfully, maliciously and forcibly breaks any mechanical or electronic toll collection device of the Authority or any appurtenance thereto with intent to commit larceny shall be deemed guilty of a Class 4 felony* [605 ILCS 10/28].

Section 2520.505 I-PASS Customer – Penalties

a) I-PASS customers who fail to observe traffic rules or improperly mount the I-PASS transponder may be subject to the suspension or termination of their I-PASS accounts.

b) The author of any check that is returned to the Authority unpaid will be subject to the greater of $25 or the actual fee charged the Tollway for each returned unpaid check.

c) I-PASS customers who supply the Authority with invalid account information or fail to update their account information and are V-Tolled will be assessed an administrative fee up to $25.

d) The owner of an I-PASS account whose account balance falls below $0 will be assessed an administrative fee up to $25.

SUBPART F: TOLL VIOLATIONS − ADMINISTRATIVE ADJUDICATION SYSTEM

Section 2520.700 Authority

Pursuant to 605 ILCS 10/10(a-5), Subpart F provides for an administrative adjudication system with respect to the alleged operation of a vehicle on the Tollway without the required toll having been paid, as detected by the Authority's video or photo surveillance system, and post-adjudication enforcement.

Section 2520.701 Notice of Violation to Respondent

The Authority, or its duly authorized agent, shall give a Notice of Violation to the respondent of the alleged toll violation. The Notice of Violation shall be served on the respondent by First Class United States Mail or other means as provided by law, postage prepaid, to the address of the registered owner of the cited vehicle as recorded with the Secretary of State's vehicle registration records or to the lessee of the cited vehicle at the last address known to the lessor of the cited vehicle at the time of the lease. The Notice of Violation shall specify the date, approximate time and location of the violations cited, the regulation violated, the State registration number of the cited vehicle (if available), the amount of the unpaid tolls, and the applicable fines and fees. The Notice of Violation shall include a statement that failure to satisfy any fine or fee imposed by the Authority may result in the Secretary of State suspending the driving privileges, vehicle registration, or both, of the person failing to satisfy the fines or fees imposed by the Authority for non-payment of tolls. The Notice of Violation shall inform the respondent of the availability of a hearing in which the violation may be contested on its merits and the manner in which the hearing may be conducted. The Notice of Violation shall inform the respondent that failure to contest the alleged violations in the manner and time provided shall be deemed an admission of liability and that a final order of liability may be entered on that admission. The Notice of Violation shall further state that failure to either pay the indicated toll, fine or fee or to request a hearing on the merits will result in a final order of liability in the amount of the toll, fine or fee indicated. A duly authorized agent of the Authority may perform or execute the preparation, certification, affirmation, or mailing of the Notice of Violation.

Section 2520.702 Effective Date of Notices

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED RULES

Unless otherwise specified in this Part, service of any notice contained in this Subpart F shall be deemed complete three calendar days after the date indicated on the notice.

Section 2520.703 Establishment of the Toll-Free Telephone Number

The Authority shall establish a toll-free telephone number to receive, during its regular business hours, inquiries concerning alleged violations.

Section 2520.704 Timely Request for Hearing

Upon receipt of a timely request for a hearing from the registered vehicle owner, the Authority or its duly authorized agent shall provide notice of the date, time and location of the hearing to the respondent. The hearing shall be scheduled during regular business hours and shall be held at the main office of the Authority or at any other location designated by the Authority for the hearings.

Section 2520.705 Hearing Officers – Appointment, Disqualification, Powers and Duties

a) The Authority shall appoint independent attorneys to serve as hearing officers in administrative hearings under this Subpart F. Hearing officers shall be attorneys admitted to the practice of law in the State of Illinois for at least 5 years and shall participate in a formal training program on the relevant substantive and procedural law and judicial conduct before assuming their duties as hearing officers.

b) A motion to disqualify a hearing officer may be made for bias, conflict of interest or other good cause and must be made prior to the commencement of the hearing.

c) The powers and duties of the hearing officer at the hearing include, but are not limited to:

1) presiding over the hearing;

2) explaining the procedures of the hearing to the parties;

3) administering oaths and listening to testimony;

4) ruling on the admissibility of evidence and permitting parties to present evidence;

5) permitting parties to examine and cross-examine witnesses; and

6) issuing a final order indicating his/her findings.

Section 2520.706 Discovery

a) The respondent will be permitted to schedule an appointment to review video or photo surveillance evidence pertaining to the Notice of Violation. These appointments shall be made during regular business hours of the Authority and shall take place at the Violation Administration Center in the Authority's central office located at 2700 Ogden Avenue, Downers Grove, Illinois 60515, or any other location designated by the Authority.

b) Written discovery shall be limited to the production of documents and identification of witnesses that each party intends to introduce or call at the hearing. Nothing in this subsection (b) shall impose a duty upon the Authority to serve respondent with documents that the Tollway had previously sent to the respondent.

Section 2520.707 Continuance

The hearing officer may grant a continuance only upon a finding of good cause. A respondent may be granted one continuance to seek retention of legal counsel, but that motion must be made before the introduction of any testimony or other evidence on the merits. A disruption in the automated adjudicatory file system shall also be grounds for an additional continuance.

Section 2520.708 Hearings Format

a) Each toll violation shall be considered an individual violation.

b) The Authority may be represented by an employee or duly authorized agent at the hearing or may proceed on the Notice of Violation. The hearing officer shall not present any evidence on behalf of the Authority; provided, however, that the Notice of Violation may be placed into the record by the hearing officer. A respondent may represent himself or herself or be represented by a duly authorized agent.

c) The Authority and the respondent may introduce into evidence, and the hearing officer may consider, all video or photo surveillance evidence relating to the

alleged violations, the evidentiary foundation for which shall be presumed valid subject to rebuttal. A Notice of Violation or facsimile of the notice, sworn or affirmed to or certified by a duly authorized agent of the Authority based upon an inspection of photographs, microphotographs, videotape, or other recorded images produced by a video or photo surveillance system, shall be admitted as prima facie evidence of the correctness of the facts contained in the Notice of Violation.

d) Each party to the hearing may make an opening statement, call, examine and cross-examine witnesses, and offer evidence for the record. Evidence may be written or oral.

e) Each party may make a closing argument at the conclusion of the hearing.

f) No testimony shall be given or received at the hearing relating to discussions, offers, counter offers, rejections or admissions at any settlement conferences that may have occurred.

g) Any written stipulations of the parties may be introduced as evidence at the hearing. These stipulations shall be introduced at the beginning of the hearing and shall become part of the record of the hearing.

h) The Authority may, at its sole discretion, establish a process in which respondents may contest alleged violations by a telephonic hearing or mail-in hearing as opposed to an in-person hearing.

i) The hearing officer shall have full authority to conduct and control the procedure at the hearing. The hearing officer shall not be bound by the strict rules of evidence applicable to the courts; irrelevant, immaterial, or unduly repetitious evidence shall be excluded. Evidence not admissible under the rules of evidence may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Objections to evidentiary offers may be made, shall be ruled upon by the hearing officer, and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, any part of the evidence may be received in written form. Oral testimony in in-person or telephonic hearings may be recorded by audio or electronic means, provided that, in the event of a recording loss or malfunction, the hearing officer may prepare a written summary of the oral testimony for purposes of administrative review.

j) The hearing officer shall apply a preponderance of the evidence standard to determine respondent's liability for the alleged violations.

k) Upon completion of a hearing on the merits, the hearing officer shall issue a final order setting forth his or her findings as to liability or non-liability of the respondent. If the hearing officer finds for the Authority, the final order of liability shall assess the tolls, fines and fees that the respondent owes to the Authority. The final order of liability shall state that an additional fine of $50 per violation will be assessed, by operation of law and without further notice or order, if respondent fails to pay the proper toll, fine and/or fee to the Authority within 14 calendar days after the issuance of a final order of liability. A final order of liability shall inform the parties of their right to seek judicial review under the Administrative Review Law and include a statement that failure to satisfy any toll, fine or fee imposed by the final order of liability may result in the Secretary of State suspending the driving privileges, vehicle registration, or both of the registered vehicle owner.

Section 2520.709 Failure to Respond to Notice of Violation – Default

A registered vehicle owner who fails to either pay in full all outstanding tolls, fines and fees set forth in the Notice of Violation or to file a request for a hearing within the time permitted shall be deemed to have admitted liability and to have waived his or her right to a hearing and the Authority may enter a final order of liability against the registered vehicle owner.

Section 2520.710 Penalties

The Authority shall assess the registered owner of any vehicle driven through a toll plaza without the payment of the proper toll the following penalties:

a) Upon a finding of liability, the registered owner of the vehicle shall be liable for the outstanding toll, a $20 fine per violation and applicable fees.

b) Upon the failure of the registered owner to pay the toll, fine and/or fee to the Authority within 14 days after notice of a final order of liability, the Authority shall assess the registered owner an additional fine of $50 for each violation without further notice or order.

c) Upon failure of a registered owner of a vehicle to satisfy any toll, fine or fee resulting from a final order or orders of liability relating to 5 or more toll

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED RULES

violations, the Authority shall notify the Secretary of State to suspend the registered owner's vehicle registration and/or driver's license.

1) A prerequisite to the suspension of vehicle registration and/or driver's license by the Secretary of State, under 625 ILCS 5/3-704.2 or 6-306.7, shall be the submission to the Secretary of State, by the Authority, of a Certified Report containing the following information:

   A) The name, last known address as recorded with the Secretary of State or, for a lessee of a cited vehicle, at the last address known to the lessor of the cited vehicle at the time of the lease, and the driver's license number of the person who failed to satisfy the final order of liability and the registration number of any vehicle known to be registered in this State to the person.

   B) A statement that the Authority sent a notice of impending suspension of the person's driver's license, vehicle registration, or both, to the person named in the report at the address recorded with the Secretary of State, the date on which the notice was sent, and the address to which the notice was sent.

2) The person to whom the notice of impending suspension was sent may challenge the accuracy of the information contained in the Certified Report by submitting his/her challenges, within 21 days after the date of the notice, in writing, to:

   The Illinois State Toll Highway Authority
   ATTN: Violation Administration Center
   2700 Ogden Avenue
   Downers Grove, Illinois 60515

   Challenges to the accuracy of the information contained in the Certified Report shall be limited to the following:

   A) The person who received the notice was not the registered owner of the vehicle in question at the time of the alleged violations.

   B) The person who received the notice has already paid the fine and any fees.

3) The Authority shall notify the Secretary of State whenever a person named in the Certified Report has satisfied the previously reported fines or penalties or whenever the Authority determines that the original report was in error. Upon receipt of the Authority's notification, the Secretary of State shall terminate the suspension. (See 625 ILCS 5/6-306.7.)

4) In addition to any tolls, fines or fees assessed by the Authority for toll violations, the registered owner of the vehicle involved in the toll violations at issue shall be required to reimburse the Authority for all fees paid to the Illinois Secretary of State for the enforcement of this Section.

d) Upon failure of a registered owner of a vehicle to satisfy any toll, fine or fee resulting from a final order issued by the Authority relating directly or indirectly to 5 or more toll violations, any and all vehicles registered to the registered owner shall be subject to immobilization, towing and/or impoundment.

1) If the vehicle was immobilized, a sticker shall be affixed to the vehicle in a conspicuous space. The sticker shall state:

A) that the vehicle has been immobilized pursuant to Section 10(a-5) of the Toll Highway Act for non-payment of 5 or more toll violations;

B) that all immobilized vehicles are subject to immediate tow and impoundment;

C) the procedures for making payment to obtain release of the immobilization;

D) the procedures for contesting the immobilization; and

E) that any unauthorized attempt to remove the immobilizing device shall constitute a petty offense.

2) If the vehicle was towed and/or impounded, the Tollway shall notify the registered owner of the vehicle by First Class Mail or other means provided by law at the registered owner's address of record as recorded with the Secretary of State's vehicle registration records. The notification shall state:

A) that the vehicle has been towed and/or impounded pursuant to Section 10(a-5) of the Toll Highway Act for non-payment of 5 or more toll violations;

B) the entity that is currently storing the vehicle;

C) the procedures for making payment to obtain release of the towed and/or impounded vehicle;

D) the procedures for contesting the tow and/or impoundment; and

E) that the vehicle may be sold or otherwise disposed of in accordance with Section 4-208 of the Vehicle Code if the vehicle is not retrieved within 30 days after the date of the notification.

3) The registered owner may challenge the immobilization, tow and/or impoundment within 21 days after the date of the notification specified in subsection (d)(1) or (d)(2), in writing, to:

The Illinois State Toll Highway Authority
ATTN: Violation Administration Center
2700 Ogden Avenue
Downers Grove, Illinois 60515

4) Challenges to the immobilization, tow and/or impoundment of a vehicle shall follow the procedures set forth in this Subpart F.

5) If a hearing officer determines that the registered owner was not the registered owner of the vehicle in question at the time of the alleged violations or the registered owner has already paid the outstanding fines and fees, the hearing officer shall order the Authority to release the vehicle without any costs to the registered owner.

6) If a hearing officer determines that the registered owner was not the registered owner of the vehicle in question at the time of the alleged violations or the registered owner has not already paid the fines and any fees, the hearing officer may order the Authority to release the vehicle only upon payment in full to the Authority of any and all outstanding final order judgment totals plus all fees paid by the Authority relating to the

immobilization, tow, impoundment and/or storage of the registered owner's vehicle.

7) The Authority may contract with other public or private entities to carry out the provisions of this subsection (d). If the immobilization is performed by the State Police utilizing an Authority-owned immobilization device, an additional immobilization administrative release fee of $50 shall be applied. If the immobilization, tow and/or impoundment is performed by another public or private entity, the additional administrative release, tow and/or storage fees shall be set by contract between the Authority and the public or private entity.

8) Judicial review of all final orders of the Authority with respect to immobilized, towed or impounded vehicles shall be conducted in accordance with the Administrative Review Law.

Section 2520.711 Liability of Lessor

No commercial entity that is the lessor of a vehicle pursuant to a written lease agreement shall be liable for the violation involving that vehicle during the period of the lease if the lessor provides a copy of the leasing agreement to the Authority within 21 days after the issue date of the Notice of Violation. The lease agreement must inform the lessee that the lessee is liable for payment of all tolls, as well as all fines and fees incurred in connection with non-payment of tolls. The copy of the leasing agreement must contain the name, address and driver's license number of the lessee; vehicle check-out and return dates and times; license plate number; and the vehicle make and model. "Lessor", for purposes of this Section, includes commercial leasing and rental entities, but does not include public passenger vehicle operators.

Section 2520.712 Liability of Registered Owner

In cases in which the operator of the vehicle is not the registered vehicle owner, the establishment of ownership of the vehicle creates a rebuttable presumption that the vehicle was being operated by an agent of the registered vehicle owner. If the registered vehicle owner liable for a violation under this Section was not the operator of the vehicle at the time of the violation, the owner may maintain an action for indemnification against the operator in the circuit court. [605 ILCS 10(a-5)]

Section 2520.713 Enforcement of Final Order

The Authority may exercise any of its remedies listed under Section 2520.710, Section 10(a-5) of

the Toll Highway Act and other remedies provided by law. Those remedies will be cumulative and the exercise of any remedy does not preclude the use of any other remedy by the Authority. *Any outstanding toll, fine, additional late payment fine, other sanction, or costs imposed, or part of any fine, other sanction, or costs imposed, remaining unpaid after the exhaustion of, or the failure to exhaust, judicial review procedures under the Administrative Review Law are a debt due and owing the Authority and may be collected in accordance with applicable law. After expiration of the period in which judicial review under the Administrative Review Law may be sought, unless stayed by a court of competent jurisdiction, a final order of the Authority may be enforced in the same manner as a judgment entered by a court of competent jurisdiction. The Authority may, with the approval of the Attorney General, retain a law firm or law firms with expertise in the collection of government fines and debts for the purpose of collecting fines, costs, and other monies due.* [605 ILCS 10/10(a-5)]

Section 2520.714 Judicial Review

Judicial review of all final orders of the Authority shall be conducted in the Circuit Court of the county in which the administrative decision was rendered in accordance with the Administrative Review Law.

SUBPART G: EMPLOYMENT

Section 2520.800 Tollway Employees

Employees of the Authority are not subject to the Illinois Civil Service Rules (80 Ill. Adm. Code 1). Except for those employees covered by a collective bargaining agreement that provides otherwise, Authority employees are "at will" employees.

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED RULES

Section 2520.APPENDIX A Rules and Regulations for Overweight and Overdimension Vehicles and Loads

Overweight and overdimension permits should be ordered a day ahead of the date the vehicle is to travel. Call (630)241-6800 ext. 3822.

a) Overweight Vehicles

1) The following are the overweight limitations on the Illinois Tollway. Vehicles exceeding these absolute limitations are not permitted on the Tollway. The gross weight of any vehicle may not exceed 120,000 pounds.

Vehicle Weight	Permit Fee
80,000 to 104,000 lbs.	$35
104,001 to 120,000 lbs.	$150
double tandem 34,001 to 44,2000 lbs.	$35
double tandem 44,201 to 52,000 lbs	$150

2) Vehicles under Own Power. Any vehicles under their own power, such as cranes, drill rigs, concrete pumps, etc., require overweight permits under different guidelines. If the vehicle is required to have a State permit for overweight, a Tollway overweight permit is also required.

3) Vehicles must have a State overweight permit number prior to requesting a Tollway overweight permit.

4) Overweight vehicles with legal dimensions may travel 24 hours a day, 7 days a week, including holidays, in accordance with Illinois Department of Transportation policy.

5) The Tollway will obtain prior approval from its traffic engineering consultants for any overweight permit for a vehicle that exceeds 104,000 lbs.

b) Overdimension Vehicles. The following are the overdimension limitations on the Illinois Tollway. Vehicles exceeding these absolute limitations are not permitted on the Tollway.

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED RULES

1) Overlength

A) Any vehicle whose overall length exceeds 100', or whose load length exceeds 80', must have prior approval from the Authority before entering the Tollway and will require a permit based on the following information:

i) Overall length of the vehicle, including over-hang, if any.

ii) The points at which the vehicle is to enter and exit the Tollway.

B) Overlength vehicle permits are subject to routing. These permits can be obtained at toll plazas. The following is the required permit fee:

Vehicle Length	Permit Fee
100'1"-145'	$15

C) Maximum vehicle length may determine the route the vehicle is to travel and a vehicle may be required to have rear steering.

D) Vehicles must have a State overdimension permit prior to requesting a Tollway overlength permit.

E) Escorts are required if the overall length exceeds 110'.

F) The Tollway will obtain prior approval from its traffic engineering consultants before issuance of any overlength permit.

2) Overwidth

A) Vehicles exceeding 8'6" in width, but not exceeding the limitations specified in subsection (b)(2)(C), are required to have an overwidth permit.

B) Overwidth vehicle permits can be obtained at toll plazas. The following is the required permit fee:

Vehicle Width	Permit Fee
8'7"-10'0"	$15

C) Absolute Width

i) The absolute width for all vehicles is 10', except for buses and travel described in subsection (b)(2)(C)(ii).

ii) Vehicles traveling east or west on I-80/294 between M.P. 0.0 and 5.2, toll plazas 43/45 on the Tri-State Tollway, or traveling north or south on I-90 between M.P. 61.4 and 76.1, toll plazas 3 and 1 (Rockford/Cherry Valley and Wisconsin) on the Northwest Tollway, may be 12' wide.

iii) The absolute width for buses is 8'8".

3) Overheight

A) Vehicles exceeding 13'6" in height, but not exceeding 14'6", are required to have an overheight permit.

B) Overheight vehicle permits can be obtained at toll plazas. The following is the required permit fee:

Vehicle Height	Permit Fee
13'7"-14'6"	$15

C) The absolute height for all vehicles is 14' 6".

c) Hours for Permit Usage for Overdimension Vehicles. Vehicles with overdimension permits are restricted to the following hours of operation, except as provided in subsection (e).

Day	Permitted Hours
Monday through Friday	½ hour before sunrise to ½ hour after sunset
Saturday	½ hour before sunrise to 12:00 noon

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED RULES

Sunday may not travel on the Tollway

d) Restrictions for Overdimension Vehicles. In conformance with Illinois Department of Transportation Policy, overdimension vehicles shall not be operated on the Tollway on the following holidays, except as provided in subsection (e):

1) New Year's Day

2) Memorial Day

3) Independence Day

4) Labor Day

5) Thanksgiving Day

6) Christmas Day

e) Overwidth Farm Equipment. Vehicles that are of legal weight, length and height hauling overwidth farm equipment and that are exempt from the State permit requirement are also exempt from the Tollway's overwidth permit requirement. In accordance with Illinois Department of Transportation policy, these vehicles may travel on the Tollway ½ hour before sunrise to ½ after sunset 7 days a week, including holidays.

f) Military Vehicles. Military vehicles are not exempt from the requirements and restrictions of this Part.

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: State Toll Highway Rules

2) Code Citation: 92 Ill. Adm. Code 2520

3)

Section Numbers:	Proposed Action:
2520.105	Repealed
2520.110	Repealed
2520.200	Repealed
2520.201	Repealed
2520.202	Repealed
2520.203	Repealed
2520.204	Repealed
2520.205	Repealed
2520.206	Repealed
2520.207	Repealed
2520.208	Repealed
2520.209	Repealed
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2520.219	Repealed
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2520.221	Repealed
2520.222	Repealed
2520.223	Repealed
2520.224	Repealed
2520.225	Repealed
2520.226	Repealed
2520.300	Repealed
2520.301	Repealed
2520.302	Repealed
2520.303	Repealed
2520.304	Repealed
2520.305	Repealed

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED REPEALER

2520.400	Repealed
2520.401	Repealed
2520.402	Repealed
2520.403	Repealed
2520.404	Repealed
2520.405	Repealed
2520.406	Repealed
2520.500	Repealed
2520.501	Repealed
2520.502	Repealed
2520.503	Repealed
2520.504	Repealed
2520.600	Repealed
2520.700	Repealed
2520.701	Repealed
2520.702	Repealed
2520.702	Repealed
2520.704	Repealed
2520.705	Repealed
2520.706	Repealed
2520.707	Repealed
2520.708	Repealed
2520.709	Repealed
2520.710	Repealed
2520.711	Repealed
2520.712	Repealed
2520.713	Repealed
2520.714	Repealed
2520.715	Repealed
2520.716	Repealed
2520.717	Repealed

4) Statutory Authority: 605 ILCS 10/10

5) A Complete Description of the Subjects and Issues Involved: The Tollway is repealing this Part and adopting a new Part to clarify existing policy and procedures and create additional rules necessary to enforce new toll violation collection remedies created by recent amendments to the Toll Highway Act. 605 ILCS 10.

6) Will this rulemaking replace any emergency rulemaking currently in effect? No

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED REPEALER

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: These proposed amendments do not create or enlarge a State mandate.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments within 45 days after the publication of this Notice in the *Illinois Register* to:

Thomas Bamonte
General Counsel
Illinois Toll Highway Authority
2700 Ogden Avenue
Downers Grove, IL 60515

630/241-6800, ext. 1500

12) 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

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The need for this rulemaking was not anticipated at the time the most recent agenda was published.

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

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED REPEALER

TITLE 92: TRANSPORTATION
CHAPTER IV: ILLINOIS STATE TOLL HIGHWAY AUTHORITY

PART 2520
STATE TOLL HIGHWAY RULES (REPEALED)

SUBPART A: AUTHORITY AND DEFINITIONS

Section
2520.105 Authority
2520.110 Definitions

SUBPART B: GENERAL TRAFFIC RULES AND REGULATIONS

Section
2520.200 Illinois Vehicle Code
2520.201 Use of Tollway Prohibited or Restricted
2520.202 Vehicles and Equipment Which May Be Excepted from Provisions of Section
2520.203 Transportation of Hazardous Materials
2520.204 Special Usage Toll
2520.205 Loading or Unloading of Vehicles
2520.206 Full Stop at All Toll Plazas
2520.207 Entering and Leaving the Tollway
2520.208 "U" Turns, Etc.
2520.209 Backing Up of Vehicles
2520.210 Parking, Standing or Stopping
2520.211 Relocating of Vehicles
2520.212 Pushing or Towing of Vehicles
2520.213 Stopping or Halting Vehicles by the Authority
2520.214 Destruction of Authority Property
2520.215 Picnics
2520.216 Aircraft
2520.217 Sale of Goods and Services
2520.218 Solicitation of Rides
2520.219 Loitering or Interfering with Traffic
2520.220 Approaching/Departing a Toll Plaza
2520.221 Compliance with Orders or Directions of State Troopers, Etc.
2520.222 Duty Upon Striking Fixtures, Structures or Other Property on Tollway
2520.223 Payment of Tolls
2520.224 Prohibited and Restricted Lanes

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED REPEALER

2520.225 Traffic Control Devices
2520.226 Penalty for Violation

SUBPART C: TRESPASS

Section
2520.300 Authority
2520.301 Restriction of Vehicles Using the Tollway
2520.302 Restriction on Nature of Use of Tollway
2520.303 Enforcement
2520.304 Persons and Vehicles Excepted from the Requirements of Subpart C
2520.305 Penalties

SUBPART D: SPEED RESTRICTIONS

Section
2520.400 Authority
2520.401 Maximum Speed Limits for Passenger Cars
2520.402 Maximum Speed Limits for Trucks, Buses, Passenger Cars Towing Trailers, House Trailers and Campers
2520.403 Maximum Speed Limits for Designated I-Pass Lanes, Service Areas, Parking Areas, Access Roads and Ramps, and Barrier Toll Plaza Approaches
2520.404 Road Hazards and Construction Zones
2520.405 Minimum Speed Limits
2520.406 Special Road Conditions

SUBPART E: CONDUCT PROVISIONS

Section
2520.500 Provisions
2520.501 Violations
2520.502 Littering – Penalty
2520.503 Spurious or Counterfeit Tickets, Coupons or Tokens – Penalty
2520.504 Toll Collection Devices – Penalty for Breaking

SUBPART F: SEVERABILITY CLAUSE

Section
2520.600 Partial Invalidity

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED REPEALER

SUBPART G: General Provisions

Section
2520.700 Authority
2520.701 Related Statutes
2520.702 Notice to Respondent
2520.703 Establishment of the Toll Free Telephone Number
2520.704 Judicial Review
2520.705 Penalties
2520.706 Discovery
2520.707 Administrative Adjudication (Repealed)
2520.708 Hearing Officers – Appointment, Disqualification, and Powers and Duties
2520.709 Hearings Format
2520.710 Default – Failure to Appear (Repealed)
2520.711 Enforcement of Final Order
2520.712 Continuance
2520.713 Authority Rulemaking
2520.714 Severability Clause (Repealed)
2520.715 Timely Request for Hearing – Notice of Hearing
2520.716 Failure to Respond to Notice of Violation – Default
2520.717 Liability of Lessor

AUTHORITY: Implementing and authorized by the Toll Highway Act [605 ILCS 10].

SOURCE: Filed January 3, 1973; effective February 1, 1973; codified at 8 Ill. Reg. 19884; Part repealed, new Part adopted at 17 Ill. Reg. 8539, effective May 27, 1993; amended at 20 Ill. Reg. 10200, effective July 12, 1996; emergency amendment at 24 Ill. Reg. 2737, effective February 4, 2000, for a maximum of 150 days; emergency expired July 2, 2000; emergency amendment at 24 Ill. Reg. 4234, effective February 29, 2000, for a maximum of 150 days; emergency expired July 27, 2000; amended at 24 Ill. Reg. 16078, effective October 11, 2000; emergency amendment at 26 Ill. Reg. 16325, effective October 31, 2002, for a maximum of 150 days ; amended at 27 Ill. Reg. 6325, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 18238, effective November 6, 2003, for a maximum of 150 days; emergency expired April 5, 2004; emergency amendment at 28 Ill. Reg. 1780, effective January 14, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 6911, effective April 23, 2004; emergency amendment at 28 Ill. Reg. 7688, effective May 24, 2004, for a maximum of 150 days; emergency expired October 20, 2004; amended at 28 Ill. Reg. 14530, effective October 25, 2004; repealed at 30 Ill. Reg. _____, effective _____.

SUBPART A: AUTHORITY AND DEFINITIONS

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED REPEALER

Section 2520.105 Authority

This Part is adopted and promulgated by the Authority pursuant to the powers vested in the Authority by the Toll Highway Act [605 ILCS 10] and supersedes all previous Rules adopted and promulgated by the Illinois State Toll Highway Commission and the Illinois State Toll Highway Authority.

Section 2520.110 Definitions

The following words and phrases when used in this Part shall have the meanings respectively ascribed to them in this Section:

"Authority" means the Illinois State Toll Highway Authority, an instrumentality and administrative agency of the State of Illinois, formerly known as the Illinois State Toll Highway Commission.

"Authorized Emergency Vehicles" means vehicles of fire departments and police departments, ambulances, emergency vehicles of public service companies, and other vehicles approved and authorized by the Authority when performing emergency business.

"Barrier Toll Plaza" means all toll collection facilities located on the Tollway's main line and does not include ramp toll collection facilities.

"Complaint" and "Notice" mean the documents or information sent by the Authority to the respondent notifying the respondent of the alleged violations.

"Department of Transportation" means the Department of Transportation of the State of Illinois.

"Final Notice" means the notice sent by the Authority to the respondent that informs the respondent of a finding of liability of the listed charges that has been entered against the respondent.

"Hazardous Materials" means and includes explosives, radioactive materials, etiologic agents, and other dangerous materials, as defined in 18 USC 831, including flammable liquids.

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED REPEALER

"Hearing" means a formal hearing conducted by the Authority or appointed Hearing Officer, to determine whether a violation of the Toll Highway Act and/or any of its rules and regulations exists.

"Illinois Vehicle Code" means the Illinois Vehicle Code as set forth in 625 ILCS 5.

"I-PASS" means electronic toll collection.

"I-PASS All Lanes" means that, in addition to regular toll collection equipment and toll booths, all lanes are also "I-PASS" equipped.

"I-PASS Only Lanes" means that those lanes are restricted to cars and smaller vehicles and to dual wheeled vehicles that have "I-PASS" transponders.

"I-PASS Express Lanes" means that those lanes are restricted to vehicles with "I-PASS" transponders.

"Motor Driven Cycles" means every motorcycle or motor scooter with less than 150 cubic centimeter piston displacement, including motorized pedalcycles.

"Oases" means the portions of the Tollway Right-of-Way occupied by restaurants, buildings and service stations, and adjacent parking and landscaped areas.

"Person" means any individual, firm, corporation, cooperative, association, trust, partnership, joint venture or other legally recognized entity.

"Respondent" means any person charged with violating the Tollway Highway Act.

"Right-of-Way" means the entire area of the Tollway within the fence lines (or the barrier walls, where no fence exists), including but not limited to the roadways, shoulders, plazas, and landscaped areas. The right-of-way does not include property declared "excess property" or leased as declared by the Board and it does not include the maintenance buildings, Central Administration building or other buildings and their parking lots.

"Toll" means the fixed compensation to be paid to the Authority for the privilege of using the Tollway or any part thereof.

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED REPEALER

"Toll Highway Act" means 605 ILCS 10.

"Toll Plaza" means any toll collection facility located upon the Tollway, including manned toll booths and/or automatic toll collection machines.

"Tollway" means any and all toll highways operated and maintained by the Authority pursuant to State and federal laws as well as any and all intergovernmental agreements by and between the Authority and other governmental entities.

"Traffic Control Devices" means all signs, signals, markings and devices, including but not limited to barricades and traffic cones, placed or erected by the Authority or its agents for the purpose of regulating, warning, or guiding traffic.

"Traffic Lanes" are the lanes designated for vehicular travel on the Tollway which shall be designated numerically, within the extreme left lane of each directional roadway being numbered "Lane No. 1" and each lane to the right of Lane No. 1 carrying traffic in the same direction being numbered consecutively."

"Truck I-PASS/Mixed Use Lanes" means lanes primarily intended for trucks only, which may be converted for us by all vehicles with I-PASS Transponders.

"Truck I-PASS Only Lanes" means lanes restricted to use by commercial vehicles as defined in the Illinois Motor Vehicle Code at 625 ILCS 5/1-111.8.

"Violation" or "Toll Evasion" means one or more acts prohibited by the Toll Highway Act and/or any rules or regulations relating to the payment or failure to pay tolls.

Any and all terms that are not specifically defined in this Section shall have the meanings ascribed to them in the Illinois Vehicle Code and the Toll Highway Act.

SUBPART B: GENERAL TRAFFIC RULES AND REGULATIONS

Section 2520.200 Illinois Vehicle Code

The Rules in this Subpart B are applicable to traffic on the Tollway and are adopted and prescribed by The Authority pursuant to the power vested in the Authority by the Toll Highway Act.

a) Except when inconsistent with this Part, the Illinois Vehicle Code is adopted as a

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED REPEALER

Rule and Regulation regulating traffic and the operation of motor vehicles on the Tollway.

b) Users of the Tollway are subject to state and federal laws applicable to conduct on the public highways of Illinois, when not inconsistent with this Part.

Section 2520.201 Use of Tollway Prohibited or Restricted

The following uses of the Tollway, and entry thereon, or on any part of its Right-of-Way are prohibited:

a) Pedestrians, except at authorized areas at Oases, Toll Plazas and maintenance areas.

b) Animals led, ridden or driven on the hoof.

c) Bicycles with or without motors, or motor driven cycles.

d) Vehicles transporting animals or poultry not properly secured or confined.

e) Vehicles with deflated pneumatic tires, metal tires, caterpillar treads, studded tires or tires with chains.

f) Vehicles with loads improperly secured or vehicles transporting gravel, sand, limestone or like materials apt or capable of being windblown or escaping from the vehicles in any manner unless such load is securely covered.

g) Farm implements and machinery, whether self-propelled or towed.

h) Vehicles exceeding the size, weight and load limitations as set out in the Illinois Vehicle Code; provided, however, that, notwithstanding the provisions of the Code, the following vehicles are prohibited, whether or not a special permit has been issued with respect to such vehicles by the Illinois Department of Transportation:

1) Overdimension vehicles.

A) Vehicles exceeding 10 feet in overall width.

B) Vehicles exceeding 14 feet 6 inches in height.

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED REPEALER

C) Vehicles designed for the carrying of more than 10 persons and exceeding 8 feet 6 inches in width.

D) Vehicles whose overall length exceeds 100 feet, unless prior written approval for overdimension vehicles has been obtained from the Authority. Application for such approval shall be in writing and contain the following information:

i) An accurate and complete description of the vehicle, including tractor license plate number, total number of axles, overall length of the vehicle, and a description of the load; and

ii) The proposed routes to be used, including the points at which the vehicle is to enter and exit the Tollway; and

iii) Other information as the Authority may require to determine whether the vehicle is capable of safely traveling on the Tollway and negotiating the entrance and exit ramps which will be used for the specified routes.

E) Nothing in this subsection (h)(1) shall be deemed to require the Authority to issue an overdimension permit for use of the Tollway when the Authority determines, at its discretion, that the vehicle cannot safely or properly travel on the Tollway. Further, the Authority shall not be required to issue an overdimension permit in the event the vehicle load is divisible to an overall length of 100 feet or less; 14 feet 6 inches in height; and/or 10 feet in width.

2) Overweight Vehicles

A) Vehicles whose weight exceeds the limitations of Section 15-111 of the Illinois Vehicle Code, unless written approval has been obtained from the Authority. An application for such approval shall contain the following information:

i) An accurate and complete description of the vehicle, including tractor license plate number, total number of axles, distance between axles, axle weights, gross weight, and a description of the load; and

ii) The proposed routes to be used, including the points at which the vehicle will enter and exit the Tollway; and

iii) Other information as the Authority may require to determine whether the vehicle is capable of safely traveling on the Tollway and the entrance and exit ramps which will be used for the specified routes.

B) Vehicles whose weight exceeds the limitations as set out in Section 15-111 of the Illinois Vehicle Code by not more than 30%, and that have been approved for travel on the Tollway, shall pay a permit fee of $35 to the Authority.

C) Vehicles whose weight exceeds the limitations of Section 15-111 of the Illinois Vehicle Code by more than 30%, and that have been approved for travel on the Tollway, shall pay a permit fee of $150 to the Authority.

D) Overweight vehicles paying the permit fees required under this Section shall not be required to pay a Special Usage Toll as set out in Section 2520.204 of this Part.

E) Nothing in this subsection (h)(2) shall be deemed to require the Authority to issue an overweight permit for use of the Tollway when the Authority determines, in its discretion, that the vehicle cannot safely or properly travel on the Tollway.

i) Overdimension vehicles, as defined by Chapter 15 of the Illinois Vehicle Code and subsection (h) of this Section, and vehicles transporting poles, pipes, machinery or other objects of a structural nature which cannot be readily disassembled, shall be allowed on the Tollway only during the period from one-half hour before sunrise to one-half hour after sunset, Monday through Friday, and from one-half hour before sunrise until noon on Saturday, except no such vehicles shall be permitted on the Tollway on the following days:

New Year's Day

Memorial Day

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED REPEALER

Independence Day

Labor Day

Thanksgiving Day

Christmas Day

In addition, the above specified vehicles are prohibited from using the Tollway beginning at noon the day preceding the above holidays, or beginning at noon the day preceding such holiday weekend.

1) Overweight vehicles that have obtained a permit and are operating within the defined legal dimensions are allowed to travel 24 hours a day, 7 days a week.

2) This restriction does not apply to vehicles transporting overwidth farm equipment, with all other dimensions legal, and not overweight. Further, these vehicles will not be required to purchase a Special Usage Permit, and will be allowed to travel 7 days a week during daylight hours only.

j) Vehicles incapable of maintaining a minimum speed of 45 miles per hour on a level grade.

k) House trailers, during extreme wind, adverse weather or unusual traffic conditions.

l) Convoys, processions or assemblages of more than 10 vehicles without the prior approval of District 15 of the Illinois State Police.

m) Vehicles which, in the opinion of State Police sworn personnel or Authority representatives, are in such disrepair, or so poorly equipped or loaded, or are so lacking in equipment as to create a possible hazard to vehicles or persons using the Tollway.

n) The issuance of overdimension or overweight approvals, or the approval of convoys by the Authority and/or the State Police, District 15, is not a guarantee of safe travel and shall not relieve any person, corporation, or entity requesting such approval or owning or operating a motor vehicle upon the Tollway, from full and complete liability and responsibility for the condition of the vehicle, and its load

and for the actions and inactions of the owners and operators of the vehicles, and for any damage or injury caused by the vehicle or its operation.

Section 2520.202 Vehicles and Equipment Which May Be Excepted from Provisions of Section 2520.201

Vehicles may be excepted from the provisions of Section 2520.201 of this Part while actively engaged in construction, maintenance and/or landscaping work for the Authority if the owner or operator of the vehicle secures prior written approval from an authorized representative of the Engineering Department of the Authority. Such approval shall not relieve any contractor, person, entity or corporation from full and complete liability and responsibility for the condition of the vehicle and the actions or inactions of the owners and operators of the vehicle and for any damage or injury caused by the vehicle or its operation.

Section 2520.203 Transportation of Hazardous Materials

No person directly or through any agent, servant, or employee may use the Illinois Tollway for transporting Hazardous Materials unless in compliance with the appropriate sections of Title 10 and Title 49 of the Code of Federal Regulations.

Section 2520.204 Special Usage Toll

No person shall operate a motor vehicle on the Tollway which exceeds the size and load limitations set forth in Sections 15-100 through 15-107 of the Illinois Vehicle Code without paying the special usage toll as provided in this Section, or the overweight permit fees set forth in Section 2520.201. All vehicles approved to travel on the Tollway exceeding 8 feet 6 inches in width or 13 feet 6 inches in height, or 100 feet in length, shall be required to pay a Special Usage Toll. A Special Usage Toll Permit ("SUP") will be issued on the following terms and conditions:

a) The SUP form shall be obtained from the Plaza Supervisor or Collector in Charge of the first manned Toll Plaza reached upon entering the Tollway, and all information required by the permit form shall be provided prior to the issuance of the SUP. The vehicle shall not proceed any further on the Tollway unless a permit is issued at the first Toll Plaza reached and the proper Special Usage Toll is paid. The SUP may be issued to permit use only for the specified trip and at the stated time set forth in the SUP form.

b) A Special Usage Toll charge of $15 shall be paid for the SUP, except that the fee for overweight vehicles shall be as set forth in Section 2520.201(h)(2) and such charge or fee shall be in addition to the regular toll charges for the use of the

Tollway, as provided in Section 2520.223.

c) The SUP must be exhibited at all Toll Plazas during the course of the permitted trip on the Tollway.

d) Whenever any vehicle is required to have a State permit from the Illinois Department of Transportation for travel on State roadways, such permit must be presented to the Supervisor or Collector in Charge before a SUP can be obtained.

e) No SUP will be issued for vehicles exceeding the size, weight and load limitations set forth in Section 2520.201.

f) Any person who shall use or attempt to use the Tollway without proper payment of the Special Usage Toll or fee as required by this Section shall be deemed guilty of a petty offense as prescribed by Section 27.1 of the Toll Highway Act.

Section 2520.205 Loading or Unloading of Vehicles

Loading or unloading vehicles on the Right-of-Way is prohibited, except for vehicles making deliveries to the service areas and in the locations provided for that purpose in the service area.

Section 2520.206 Full Stop at All Toll Plazas

Except at designated I-PASS Only, I-PASS Express Lanes, Truck I-PASS/Mixed Use Lanes, and Truck I-PASS Only Lanes, all vehicles must come to a full stop at all Toll Plazas at the time of payment of tolls. When red/green signal lights exist at a Toll Plaza lane, the driver of a vehicle shall not proceed until receiving the green light signal.

Section 2520.207 Entering and Leaving the Tollway

Entering the Tollway at any location other than regular entrance ramps or traffic lanes, or leaving the Tollway at any location other than regular exit ramps or traffic lanes, is prohibited. The use of service roads for entry and exit to the Tollway is prohibited. However, this Section shall not prohibit the use of the service roads by Authority vehicles and authorized emergency vehicles when on emergency business.

Section 2520.208 "U" Turns, Etc.

The making of "U" turns on the Tollway, driving around toll barriers or driving through maintenance areas is prohibited, except by authorized police and emergency vehicles and

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED REPEALER

Authority vehicles.

Section 2520.209 Backing Up of Vehicles

The backing up of a vehicle on any ramp or traffic lane, or improved shoulder adjacent thereto, is prohibited.

Section 2520.210 Parking, Standing or Stopping

a) Parking, standing or stopping on the Tollway is prohibited except in parking areas provided for that purpose at service areas, Toll Plaza areas, and maintenance areas. In emergencies, when stopping the vehicle, it shall be immediately driven or moved off the traveled portion of the traffic lane or ramp, and shall be removed from the Tollway Right-of-Way within 2 hours, unless a special written permit, issued by a member of District 15 of the Illinois State Police, has been obtained by the owner or operator of the vehicle and except as further provided in Section 2520.213 of this Part.

b) Except where otherwise posted, no vehicle shall be left unattended or abandoned in a parking area on the Right-of-Way by the owner or operator of the vehicle for more than 2 hours without a special written permit issued by a member of the Illinois State Police, District 15.

Section 2520.211 Relocating of Vehicles

Any vehicle left unattended or abandoned in violation of Section 2520.210 or any vehicle constituting a traffic hazard shall be subject to relocation at the expense of the owner or operator of the vehicle. Members of the Illinois State Police, District 15, or Authority personnel are hereby authorized to remove or cause to be removed any such vehicle by an authorized towing service or by such other means that may be available, at the sole expense of the owner or operator of the vehicle.

Section 2520.212 Pushing or Towing of Vehicles

a) Pushing. The pushing of any vehicle by another vehicle is prohibited except in emergencies. In such an emergency, a disabled vehicle may be pushed off the traffic lanes onto the adjacent shoulder for the purpose of parking, standing or stopping, as provided in Section 2520.210 of this Part.

b) Towing. No vehicle shall be towed by another vehicle without a rigid hitch

designed and installed so as to give the operator of the towing vehicle full and complete control of the towed vehicle, except in emergencies. In an emergency, a disabled vehicle may be towed off the traffic lanes onto the adjacent shoulder for the purposes of parking, standing or stopping, as provided in Section 2520.210 of this Part.

Section 2520.213 Stopping or Halting Vehicles by the Authority

District 15 of the Illinois State Police, and persons duly authorized by the Authority, may stop or halt such vehicles as necessary for the conduct of traffic surveys on the Tollway, in emergencies, and for any other lawful purposes. No person shall wilfully fail or refuse to comply with any lawful order or direction of the Illinois State Police, District 15, or duly authorized personnel of the Authority.

Section 2520.214 Destruction of Authority Property

No Person shall cut, mutilate, deface, damage or remove any property or equipment of the Authority or that of its operators, licencees, lessees, agents or contractors.

Section 2520.215 Picnics

Picnicking within the Right-of-Way, except in areas, if provided, at the Oases, is prohibited.

Section 2520.216 Aircraft

No aircraft, except those owned or operated by the Authority or those authorized by the Illinois State Police, District 15, shall take off, land, or otherwise be operated within the Right-of-Way, unless prior approval is obtained from the Authority.

Section 2520.217 Sale of Goods and Services

No person shall offer or display goods or services for sale or promotion, or post, display or distribute signs, circulars, or printed matter, or operate public address equipment within the Right-of-Way of the Tollway, except as authorized by the Authority.

Section 2520.218 Solicitation of Rides

No person shall solicit or attempt to solicit rides from the driver of any vehicle using the Tollway.

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED REPEALER

Section 2520.219 Loitering or Interfering with Traffic

No person shall loiter on or about any portion of the Right-of-Way for any purpose, or in any manner interfere with traffic or in control of traffic.

Section 2520.220 Approaching/Departing a Toll Plaza

The driver of a vehicle approaching or departing a Toll Plaza shall approach or depart from a Toll Plaza in as direct a manner as possible, shall not make any traverse movement across any marked lanes of the approach to or departure from the Toll Plaza, and is required to adjust his vehicular speed and lateral position so as to avoid collision with another vehicle or damaging any personal property or structure.

Section 2520.221 Compliance with Orders or Directions of State Police Troopers, Etc.

No person shall wilfully fail or refuse to comply with any lawful order or direction of any Illinois State Police trooper, Toll Collector, or other Authority employee or agent at the scene of an emergency, or wilfully fail or refuse to comply with an order or direction from such person to comply with these Rules at any other time or place while using the Tollway, or while on Authority Right-of-Way, whether or not traffic related.

Section 2520.222 Duty Upon Striking Fixtures, Structures or Other Property on Tollway

The driver of any vehicle involved in any damage to fixtures, structures, or other property of the Authority or that of its operators, licensees, lessees, agents or contractors (or any other person damaging such property) shall notify the Authority immediately of such damage and of the details surrounding such occurrence. For the purpose of this Section 2520.222, notice to the Illinois State Police, District 15, shall also constitute notice to the Authority.

Section 2520.223 Payment of Tolls

a) All persons driving vehicles upon the Tollway, except as provided in subsection (b), are required to pay the prescribed toll at each Toll Plaza encountered while using the Tollway. Tolls may be paid for in the following manner:

1) By currency or change presented to a Toll Collector, or by correct change deposited in the automatic coin machine.

2) By I-PASS.

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED REPEALER

b) Tolls shall not be required of Authority officers and employees while on Authority business, or of public police, public fire or public ambulance vehicles when on emergency business or duty necessitating the use of the Tollway system, and when the vehicle is readily identifiable as such.

c) In addition to the remedies available pursuant to the Illinois Vehicle Code at 625 ILCS 5/3-704.2 and /6-306.7, failure to pay the prescribed toll is subject to punishment as provided in Section 27.1 of the Toll Highway Act.

d) Any person who shall use or attempt to use any currency or coins other than legal tender of the United States of America, counterfeit, expired, or unauthorized credit cards of any type, or any electronic device or equipment not authorized by the Authority in lieu of or to avoid payment of a toll shall be deemed guilty of a petty offense and shall be subject to a fine for each such offense, as provided in Section 27.1 of the Toll Highway Act.

e) Any person, except an authorized Authority employee or agent, who removes any coin from the pavement or from the ground surface within 10 feet of a toll collection booth or machine shall be guilty of a petty offense. This subsection shall not apply to any person who retrieves coins he or she dropped while attempting payment of a toll.

f) Whoever wilfully, maliciously and forcibly breaks any mechanical or electronic toll collection device of the Authority or any appurtenance with intent to commit larceny shall be deemed guilty of a Class 4 felony and subject to fine and/or punishment as provided by the law for such class of crime.

g) No vehicle shall be driven through a Toll Plaza collection facility without payment of the proper toll. In the event of non-payment of the proper toll, as evidenced by video recording, the registered owner of such vehicle shall, upon notice to the registered owner by first class mail or personal service, be liable to make prompt payment to the Authority of the proper toll charge as well as an administrative fine of $20. Upon the failure of the registered vehicle owner to either pay in-full all outstanding tolls and fines set forth in the notice or the failure to file a timely request for a hearing, the registered vehicle owner shall be deemed to have admitted liability and to have waived his or her right to a hearing and the Authority may enter a final order of liability in default against the registered vehicle owner. Upon failure to pay the proper toll and administrative fine to the Authority after notice and within the time designated in the notice, the registered owner shall also be subject to payment of an additional fine of $50 for each and

every violation of this subsection and any other fine or penalty that may be prescribed by law for such violations. *Upon receipt of a certified report from the Authority stating that the registered owner of a vehicle has failed to satisfy any fine or penalty resulting from a final order of liability issued by the Authority relating directly or indirectly to 5 or more toll violations, toll evasions, or both, the Secretary of State shall suspend the vehicle registration and/or driver's license of the person* [625 ILCS 5/3-704.2 and 6-306.7]. This subsection shall not apply if the driver of the vehicle is fined or otherwise penalized for the same violation under the Illinois Vehicle Code or other Rule or Regulation regarding failure to pay the prescribed toll.

Section 2520.224 Prohibited and Restricted Lanes

a) No person driving a vehicle on the Tollway shall pass through any lane designated "DO NOT ENTER", except operators of Authority vehicles, Authority officers or employees, or members of the Illinois State Police, District 15, while driving Authority or State Police vehicles.

b) Only vehicles equipped with a properly mounted I-PASS transponder may use lanes designated as I-PASS Only, Truck I-PASS Only, Truck I-PASS or I-PASS/Mixed Use Lanes, or I-PASS Express.

Section 2520.225 Traffic Control Devices

a) All persons driving vehicles upon the Tollway are required to obey all traffic control devices on the Tollway unless otherwise directed by a member of the Illinois State Police, District 15, or an authorized Authority employee.

b) The Engineering Department of the Authority shall have the power to establish specifications for traffic control devices on the Tollway; provided, however, that unless the Authority or its Engineering Department has established contrary specifications, the Illinois Department of Transportation manual and specifications for traffic control devices, as adopted, shall apply.

Section 2520.226 Penalty for Violation

Except when a different penalty is expressly provided, any person who violates any provision of Subpart B of these Rules shall be deemed guilty of a petty offense, and upon conviction shall be subject to punishment as provided by law for petty offenses.

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED REPEALER

SUBPART C: TRESPASS

Section 2520.300 Authority

The following Rules in this Subpart C are applicable to persons and vehicles on Authority Right-of-Way, and are adopted and promulgated by the Authority pursuant to the power vested in the Authority by the Toll Highway Act.

Section 2520.301 Restriction of Vehicles Using the Tollway

a) Use of the Tollway or any part thereof, including the entering of the Tollway Right-of-Way at any point by any motor vehicle or by any other method for the purpose of proceeding on, across or along the Tollway or any part thereof, is restricted to vehicles not prohibited by Section 2520.201 of this Part, and use of the Tollway is further restricted to:

1) Vehicles which have paid tolls as required by Sections 2520.204 and 2520.223 and, where applicable, the overweight permit fee provided in Section 2520.201; and

2) Vehicles which have entered the Tollway as part of travel to or from highways on ramps provided for that purpose.

b) Any person driving a vehicle in violation of the requirements of subsection (a) above is guilty of a trespass.

Section 2520.302 Restriction on Nature of Use of Tollway

a) Any person or persons may use the Tollway or any part thereof only as a transportation facility in accordance with the Rules adopted by the Authority pursuant to its powers under Section 16(b) of the Toll Highway Act, and shall not use the Tollway or the Right-of-Way for any other purposes. During such use, said persons may, as necessary, and directly related to the use of the Tollway as a transportation facility, use the service areas, restaurants, telephone and toilet facilities at Toll Plazas and maintenance buildings.

b) Any person using any part of the Tollway or Right-of-Way except as herein provided is guilty of a trespass.

Section 2520.303 Enforcement

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED REPEALER

a) For the purpose of giving notice of acts declared unlawful by this Subpart C, the Authority hereby authorizes each and every Director, officer and employee of the Authority and each and every member of the Illinois State Police, District 15, having knowledge of such an unlawful entry upon the Right-of-Way of the Tollway to promptly notify such persons to depart from such Authority property.

b) After being notified by any Director, officer or employee of the Authority or by a member of the Illinois State Police, District 15, as provided in subsection (a) above, any person who fails or refuses to immediately depart from such land is subject to arrest and/or immediate removal from Authority Right-of-Way, and shall be subject to prosecution for trespass.

c) The Illinois State Police, District 15, are authorized to enforce the provisions of Subpart C, after verbal notice as provided above, or without verbal notice in cases where written notice forbidding entry in the area is posted.

Section 2520.304 Persons and Vehicles Excepted from the Requirements of Subpart C

Nothing contained in this Article shall be construed as applying to the activities of the Authority, its Directors, officers, employees, agents, or contractors in the conduct of the Authority's official business while carrying out such business, or applying to persons having a written license or permit from the Authority authorizing uses hereinbefore prohibited; nor the activities of public police, public fire, public ambulance or tow truck vehicles properly called upon the Right-of-Way or Tollway for emergency purposes while carrying out such purposes.

Section 2520.305 Penalties

Any person who violates any provision of Subpart C of this Part shall be guilty of a trespass and shall be subject to prosecution, and upon conviction, shall be subject to punishment in accordance with Section 21-3 of the Illinois Criminal Code [720 ILCS 5/21-3].

SUBPART D: SPEED RESTRICTIONS

Section 2520.400 Authority

The Authority has established (with approval of the Department of Transportation) the following speed limits as set out in this Subpart for the Tollway, and those speed limits are applicable to traffic on the Tollway:

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED REPEALER

Section 2520.401 Maximum Speed Limits for Passenger Cars

The following shall be the maximum speed limits for all passenger cars on the Tollway except as provided by Sections 2520.403 and 2520.404:

a) Tri-State Tollway (I-294/I-94):

55 miles per hour south of Waukegan Toll Plaza – Plaza 21 (M.P. 73.5).

65 miles per hour north of Waukegan Toll Plaza – Plaza 21 (M.P. 73.5).

b) Northwest Tollway (I-90):

55 miles per hour east of Randall Road (M.P. 26.6).

65 miles per hour west of Randall Road (M.P. 26.6).

c) East-West Tollway (I-88):

55 miles per hour between the Eisenhower Expressway I-290 and ½ mile west of Farnsworth (M.P. 140.5 to M.P. 118.6).
45 miles per hour between ½ mile west of Farnsworth Ave. and Ill. Rte. 31 (M.P. 118.6 to M.P. 117.1).
55 miles per hour between Ill. Rte. 31 and Orchard Rd. (M.P. 117.1 to M.P. 115.5).
65 miles per hour west of Orchard Rd. (M.P. 115.5).

d) North-South Tollway (I-355):

55 miles per hour for the entire length.

Section 2520.402 Maximum Speed Limits for Trucks, Buses, Passenger Cars Towing Trailers, House Trailers and Campers

The maximum speed for trucks, buses, and passenger cars towing trailers, house trailers and campers is 55 miles per hour on all Tollways except as provided by Sections 2520.403 and 2520.404.

Section 2520.403 Maximum Speed Limits for Designated I-PASS Lanes, Service Areas, Parking Areas, Access Roads and Ramps, and Barrier Toll Plaza Approaches

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED REPEALER

a) The maximum speed limit for I-PASS Only electronic toll collection lanes shall be 30 m.p.h. or as otherwise posted.

b) The maximum speed limit for I-PASS Express electronic toll collection lanes shall be 55 m.p.h., or as otherwise posted.

c) The maximum speed limit for Truck I-PASS Only or Mixed Use (Car & Truck) electronic toll collection lanes shall be 5 m.p.h. or as otherwise posted.

d) The maximum speed limit for all vehicles in service areas, parking areas and access roads shall be 20 m.p.h.

e) The maximum speed limit for all vehicles in approaches to Barrier Toll Plazas shall be as follows:

45 miles per hour approximately ½ mile south of 83rd Street Toll Plaza – Plaza 39 (M.P. 19.0 NB)

45 miles per hour approximately ½ mile north of 82nd Street Toll Plaza – Plaza 36 (M.P. 20.5 SB)

45 miles per hour approximately ½ mile south of Cermak Toll Plaza – Plaza 35 (M.P. 25.5 NB)

45 miles per hour approximately ½ mile north of Cermak Toll Plaza – Plaza 35 (M.P. 30.5 SB)

45 miles per hour approximately ½ mile north of Irving Park Toll Plaza – Plaza 33 (M.P. 39.5 SB)

45 miles per hour approximately ½ mile south of Touhy Avenue Toll Plaza – Plaza 29 (M.P. 41.3 NB)

55 miles per hour approximately 2 miles north of Waukegan Toll Plaza – Plaza 21 (M.P. 75.5 SB)

45 miles per hour approximately ½ mile north of Waukegan Toll Plaza – Plaza 21 (M.P. 74.0 SB)

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED REPEALER

45 miles per hour approximately ½ mile south of Waukegan Toll Plaza – Plaza 21 (M.P. 73.0 NB)

45 miles per hour approximately ½ mile east of Elgin Toll Plaza – Plaza 9 (M.P. 24.5 WB)

45 miles per hour approximately ½ mile west of Elgin Toll Plaza – Plaza 9 (M.P. 25.5 EB)

45 miles per hour approximately ½ mile west of Marengo-Hampshire Toll Plaza – Plaza 7 (M.P. 41.5 EB)

45 miles per hour approximately ½ mile east of Marengo-Hampshire Toll Plaza – Plaza 7 (M.P. 40.5 WB)

55 miles per hour approximately 2 miles east of Marengo-Hampshire Toll Plaza – Plaza 7 (M.P. 39.0 WB)

55 miles per hour approximately 2 miles west of Marengo-Hampshire Toll Plaza – Plaza 7 (M.P. 43.0 EB)

45 miles per hour approximately ½ mile east of Belvidere Toll Plaza – Plaza 5 (M.P. 55.0 WB)

45 miles per hour approximately ½ mile west of Belvidere Toll Plaza – Plaza 5 (M.P. 56.0 EB)

55 miles per hour approximately 2 miles east of Belvidere Toll Plaza – Plaza 5 (M.P. 53.5 WB)

55 miles per hour approximately 2 miles west of Belvidere Toll Plaza – Plaza 5 (M.P. 57.5 EB)

45 miles per hour approximately ½ mile east of South Beloit Toll Plaza – Plaza 1 (M.P. 75.0 WB)

45 miles per hour approximately ½ mile west of South Beloit Toll Plaza – Plaza 1 (M.P. 76.0 EB)

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED REPEALER

55 miles per hour approximately 2 miles east of South Beloit Toll Plaza – Plaza 1 (M.P. 73.5 WB)

55 miles per hour approximately 2 miles west of South Beloit Toll Plaza – Plaza 1 (M.P. 77.5 EB)

45 miles per hour approximately ½ mile east of Devon Avenue Toll Plaza – Plaza 17 (M.P. 1.2 WB)

45 miles per hour approximately ½ mile west of River Road Toll Plaza – Plaza 19 (M.P. 1.1 EB)

45 miles per hour approximately ½ mile east of York Toll Plaza – Plaza 51 (M.P. 138.7 WB)

45 miles per hour approximately ½ mile west of York Toll Plaza – Plaza 51 (M.P. 137.5 EB)

45 miles per hour approximately ½ mile east of DeKalb Toll Plaza – Plaza 66 (M.P. 90.8 WB)

45 miles per hour approximately ½ mile west of DeKalb Toll Plaza – Plaza 66 (M.P. 91.8 EB)

55 miles per hour approximately 2 miles east of DeKalb Toll Plaza – Plaza 66 (M.P. 89.3 WB)

55 miles per hour approximately 2 miles west of DeKalb Toll Plaza – Plaza 66 (M.P. 93.3 EB)

45 miles per hour approximately ½ mile east of Dixon Toll Plaza – Plaza 69 (M.P. 53.9 WB)

45 miles per hour approximately ½ mile west of Dixon Toll Plaza – Plaza 69 (M.P. 54.8 EB)

55 miles per hour approximately 2 miles east of Dixon Toll Plaza – Plaza 69 (M.P. 52.3 WB)

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED REPEALER

55 miles per hour approximately 2 miles west of Dixon Toll Plaza – Plaza 69 (M.P. 56.3 EB)

Section 2520.404 Road Hazards and Construction Zones

The Authority may temporarily alter and post maximum and minimum speed limits for all vehicles due to road hazards or for construction work. All vehicles shall comply with such posted speed limits in such zones.

Section 2520.405 Minimum Speed Limits

Minimum speed limits for all vehicles operated on the Tollway shall be 45 m.p.h. except as provided for in Sections 2520.403 and 2520.404, or Section 2520.406 when warranted, of this Part.

Section 2520.406 Special Road Conditions

Motorists on the Tollway are required, in accordance with Section 11-601 of the Illinois Vehicle Code, to reduce their speed because of special traffic, highway and weather conditions, road hazards, curves, ramps, merging traffic, and other like conditions, to a speed which is reasonable under the circumstances, so as not to endanger the safety of any person or property.

SUBPART E: SEVERABILITY CLAUSE

Section 2520.500 Provisions

For the convenience and safety of Tollway users, notice is hereby given of the following provisions regulating conduct on the Tollway as set forth in Sections 26-28 of the Toll Highway Act.

Section 2520.501 Violations

Any person who violates any resolution, rule or regulation adopted or promulgated by the Authority, pursuant to Section 10(b) of the Toll Highway Act, shall be guilty of a petty offense.

Section 2520.502 Littering − Penalty

It is unlawful for any person to deposit within the Right-of-Way limits of the Tollway, any trash, glass, weeds, garbage or other offensive matter. Any person so offending shall be guilty of a petty offence and shall be fined not less that $5 nor more than $50. However, this Section shall

not apply to proper deposits of harmless materials made in good faith and in a proper manner to repair the Tollway.

Section 2520.503 Spurious or Counterfeit Tickets, Coupons, or Tokens − Penalty

It is unlawful for any person to use any spurious or counterfeit tickets, coupons or tokens in payment of any toll required to be paid by the Authority under the provisions of this Part. Any person who attempts to use the Tollway without payment of the tolls required by the Authority shall be deemed guilty of a petty offense and shall be fined not less than $5 nor more than $100 for each such offense. Each day any Tollway is used by such person in violation of this Act shall constitute a separate offense.

Section 2520.504 Toll Collection Devices − Penalty for Breaking

Any person who *wilfully, maliciously and forcibly breaks any mechanical or electronic toll collection device of the Authority or any appurtenance thereto with intent to commit larceny shall be deemed guilty of a Class 4 felony* [605 ILCS 10/28].

SUBPART F: SEVERABILITY CLAUSE

Section 2520.600 Partial Invalidity

The provisions of this Part are severable, and if any provision shall be held unconstitutional by a court of competent jurisdiction, the decision of such court as to the unconstitutionality of such provisions shall not affect or impair any of the remaining provisions.

SUBPART G: GENERAL PROVISIONS

Section 2520.700 Authority

The following Rules in this Subpart G provide for an administrative adjudication hearing to investigate, mediate, and/or adjudicate alleged violations of a vehicle's operation on a toll highway without the required toll having been paid, as detected by the Authority's video surveillance system, pursuant to 605 ILCS 10/10(a)(5) of the Toll Highway Act.

Section 2520.701 Related Statutes

The following statutes are referenced in this Part:

a) The Toll Highway Act as set forth in 605 ILCS 10.

b) The Illinois Vehicle Code as set forth in 625 ILCS 5.

c) The Illinois Administrative Review Law as set forth in 735 ILCS 5/Art. III.

d) The Illinois Procurement Code as set forth in 30 ILCS 500 and its corresponding rules.

Section 2520.702 Notice to Respondent

The Authority, or its duly authorized agent, shall give Notice to the respondent of the alleged violation. Once valid Notice has been given, nothing in this Part shall be construed to limit the Authority's rights or remedies. The notice shall be served on respondent by First Class United States Mail, postage prepaid, to the address of the registered owner of the cited vehicle as recorded with the Secretary of State or to the lessee of the cited vehicle at the last address known to the lessor of the cited vehicle at the time of the lease. The service shall be deemed complete three calendar days after the date of the Notice. The Notice shall be in the following sequence and shall include, but not be limited to, the following information: A "Notice of Violation" specifying the date, approximate time and location of the violation cited, the particular regulation violated, the State registration number of cited vehicle (if available), the outstanding toll, the fine, and the amount of any additional fine that may be assessed for late payment, the availability of a hearing in which the violation may be contested on its merits and the manner in which the hearing may be had. Upon request, the Authority shall make available the video surveillance evidence related to the cited violation. The notice shall also state that failure to either pay the indicated toll, fine and any applicable penalty or to request a hearing on the merits may result in a final order of toll evasion liability in the amount of the toll, fine and/or penalty indicated.

Section 2520.703 Establishment of the Toll Free Telephone Number

The Authority shall establish a toll-free telephone number to receive, during its regular business hours, inquiries concerning alleged violations.

Section 2520.704 Judicial Review

Judicial review of all final orders of the Authority shall be conducted in accordance with the Illinois Administrative Review Law, 735 ILCS 5/Art. III. All such actions for administrative review must be filed and heard in the Circuit Court of any county in which the administrative hearing was held or in which the underlying violation occurred.

Section 2520.705 Penalties

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED REPEALER

Section 2520.223(g) of this Part authorizes the Illinois State Toll Highway Authority to:

a) Assess the outstanding toll per found violation and a $20 fine per found violation against the registered owner of a vehicle against whom a final order of liability has been entered; and

b) Upon failure to pay the proper toll and fine to the Authority after notice of a final determination and within 14 days after the notice, the registered owner shall also be subject to payment of an additional fine of $50 for each and every violation pursuant to Section 2520.223(g) of this Part; and

c) Upon failure of a registered owner of a vehicle to satisfy any toll, fine or penalty resulting from a final order issued by the Authority relating directly or indirectly to 5 or more toll violations, notify the Secretary of State to suspend the vehicle registration and/or driver's license of the person.

1) A prerequisite to the suspension of vehicle registration and/or driver's license by the Secretary of State, under 625 ILCS 5/3-704.2 or 6-306.7, shall be the submission to the Secretary of State, by the Authority, of a certified report containing the following information:

A) *The name, last known address and driver's license number of the person who failed to satisfy the fines or penalties and the registration number of any vehicle known to be registered in this State to the person.*

B) *A statement that the Authority sent a notice of impending suspension of the person's driver's license, vehicle registration, or both, to the person named in the report at the address recorded with the Secretary of State, the date on which the notice was sent, and the address to which the notice was sent.* [625 ILCS 5/3-704.2]

2) The person to whom the notice of impending suspension was sent may challenge the accuracy of the information contained in the Certified Report by submitting his/her challenges, within 21 days after the date of the notice, in writing, to:

The Illinois State Toll Highway Authority

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED REPEALER

ATTN: Violation Administration Center
2700 Ogden Avenue
Downers Grove, Illinois 60515

Challenges to the accuracy of the information contained in the Certified Report shall be limited to the following:

A) The person having received the notice was not the registered owner of the vehicle in question at the time of the alleged violations.

B) The person having received the notice has already paid the fine/penalty.

3) *The Authority shall notify the Secretary of State whenever a person named in the certified report has satisfied the previously reported fines or penalties or whenever the Authority determines that the original report was in error. Upon receipt of the Authority's notification, the Secretary of State shall terminate the suspension.* [625 ILCS 5/6-306.7]

4) In addition to any tolls, fines, and other penalties assessed for toll violations, the registered owner of the vehicle involved in the toll violations at issue shall be required to reimburse the Authority for all fees paid to the Illinois Secretary of State for the enforcement of this Section.

Section 2520.706 Discovery

a) The respondent will be allowed to schedule an appointment to review any video surveillance evidence prior to the hearing. Such appointments shall be made during regular business hours of the Authority and shall take place at the Authority's corporate office located at 2700 Ogden Avenue, Downers Grove, Illinois 60515, the Violation Administration Center, or any other location designated by the Authority.

b) Written discovery shall be limited to the production of documents and identification of witnesses that each party intends to introduce or call at the hearing. Nothing in this subsection (b) shall impose a duty upon the Authority to serve respondent with any documents that were previously sent to the registered owner of the cited vehicle as recorded with the Illinois Secretary of State by U.S. mail.

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED REPEALER

Section 2520.707 Administrative Adjudication (Repealed)

Section 2520.708 Hearing Officers – Appointment, Disqualification, and Powers and Duties

a) The Authority shall appoint independent attorneys to serve as hearing officers in administrative hearings under this Subpart. In addition, each hearing officer shall be an attorney admitted to the practice of law in the State of Illinois for at least 5 years and shall participate in a formal training program on the relevant substantive and procedural law and judicial conduct.

b) A motion to disqualify a hearing officer may be made for bias or conflict of interest and must be made prior to the commencement of the hearing.

c) The powers and duties of the hearing officer at the hearing include, but are not limited to:

1) presiding over the hearing;

2) explaining the procedures of the hearing to the parties;

3) administering all oaths and listening to testimony;

4) ruling on the admissibility of evidence and permitting parties to present evidence;

5) permitting parties to examine and cross examine witnesses; and

6) issuing a decision indicating his/her finding.

Section 2520.709 Hearings Format

a) The Authority may be represented by an employee or duly authorized agent at the hearing or may proceed on the notice of violation. However, in no event shall the hearing officer be allowed to present any evidence on behalf of the Authority; provided, however, that the notice of violation may be placed into the record by the hearing officer. A respondent may represent himself or herself or be represented by a duly authorized agent.

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED REPEALER

b) The Authority or the respondent may introduce into evidence, and the hearing officer may consider, all video surveillance evidence relating to the charged violations, the foundation for which shall be presumed subject to rebuttal.

c) Each party to the hearing may make an opening statement, call, examine and cross examine witnesses, and seek to offer evidence. Evidence may be written or oral.

d) Each party may make a closing statement at the conclusion of the hearing.

e) No testimony shall be given or received at the hearing relating to discussions, offers, counter offers, rejections or admissions at any settlement conferences that may have occurred.

f) Stipulations − Any written stipulations of the parties may be introduced as evidence at the hearing. Such stipulations shall be introduced at the beginning of the hearing and shall become part of the record of the hearing.

g) The Authority may, at its sole discretion, establish a process whereby respondents may contest the charges by a telephonic hearing or mail-in hearing as opposed to an in-person hearing.

h) The hearing officer shall have full authority to conduct and control the procedure at the hearing. The hearing officer shall apply a preponderance of the evidence standard to all hearings conducted to determine respondent's liability for the violations alleged in the notice. The hearing officer shall not be bound by the strict rules of evidence of courts of law and equity. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. Evidence not admissible under the rules of evidence may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, any part of the evidence may be received in written form. Oral testimony in in-person or telephonic hearings may be recorded by audio or electronic means, provided, however, that, in the event of a recording loss or malfunction, the hearing officer may prepare a written summary of the oral testimony for purposes of administrative review. In addition, the Authority may exercise any other right or remedy allowable under the laws of the State of Illinois. Each and every instance of toll evasion shall be considered an individual violation.

i) Final Order – Upon completion of a hearing on the merits, the hearing officer shall issue a final order setting forth his or her finding or findings as to liability or non-liability of the owner. If the hearing officer finds for the Authority, he or she, in the order, shall assess the tolls, fines and other penalties as mandated or provided by law, and shall also in the order state that an automatic additional fine of $50 per found violation will be assessed, by operation of law and without further notice or order, upon failure of the registered owner to pay the proper toll and fine to the Authority within 14 calendar days after the issuance of a final order of liability. A final order shall also inform the parties of the right to seek judicial review under the Illinois Administrative Review Law [735 ILCS 5/Art. III].

Section 2520.710 Default − Failure to Appear (Repealed)

Section 2520.711 Enforcement of Final Order

The Authority may exercise any of its remedies listed under Section 2520.710, penalties. Those remedies will be cumulative and the exercise of any remedy does not preclude the use of any other remedy by the Authority.

Section 2520.712 Continuance

The hearing officer may grant a continuance only upon a finding of good cause. A respondent may be granted one continuance to seek retention of legal counsel but that motion must be made in a timely manner prior to the introduction of any testimony or other evidence on the merits. A disruption in the automated adjudicatory file system shall also be grounds for an additional continuance.

Section 2520.713 Authority Rulemaking

This Part shall be liberally construed to accomplish the purposes of the Toll Highway Act and the laws of the State of Illinois. This Part shall be available to the general public at the main administrative office of the Authority during regular business hours and on the Authority's web site. These rules are subject to modification, under the Illinois Administrative Procedure Act [5 ILCS 100], at any time by the Authority's Board of Directors.

Section 2520.714 Severability Clause (Repealed)

Section 2520.715 Timely Request for Hearing – Notice of Hearing

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED REPEALER

Upon receipt of a timely request for a hearing from the registered vehicle owner, the Authority or its duly authorized agent shall provide notice of the date, time and location of the hearing to the respondent. The hearing shall be scheduled during regular business hours and shall be held at the main office of the Authority or at any other location designated by the Authority for such hearings.

Section 2520.716 Failure to Respond to Notice of Violation – Default

Upon the failure of the registered vehicle owner to either pay in-full all outstanding tolls and fines set forth in the notice or the failure to file a request for a hearing within the time permitted, the registered vehicle owner shall be deemed to have admitted liability and to have waived his or her right to a hearing and the Authority may enter a final order of liability in default against the registered vehicle owner.

Section 2520.717 Liability of Lessor

No commercial entity that is the lessor of a vehicle pursuant to a written lease agreement shall be liable for the violation involving that vehicle during the period of the lease if the lessor provides a copy of the leasing agreement to the Authority within 21 days after the issue date of the notice of violation. In addition, the leasing agreement must contain a provision or addendum informing the lessee that the lessee is liable for payment of all tolls, as well as all fines for both evasion, and each lessor must also post a sign to that effect at the leasing counter. The copy of the leasing agreement must contain the name, address and driver's license number of the lessee. "Lessor", for purposes of this Section, includes commercial leasing and rental entities, but does not include public passenger vehicle operators.

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Public Schools Evaluation, Recognition and Supervision

2) Code Citation: 23 Ill. Adm. Code 1

3)

Section Numbers:	Adopted Action:
1.10	Amendment
1.20	Amendment
1.30	Amendment
1.40	New Section
1.50	Amendment
1.60	New Section
1.70	New Section
1.75	New Section
1.80	Amendment
1.85	Amendment
1.90	Amendment
1.95	New Section
1.100	Amendment

4) Statutory Authority: 105 ILCS 5/2-3.6

5) Effective Date of Amendments: November 23, 2005

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? The rules do contain several instances of incorporation by reference pursuant to Section 5-75 of the Illinois Administrative Procedure Act. Please see Section 1.30.

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 8, 2005; 29 Ill. Reg. 9574

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version: The table of contents and main source note for the Part were corrected.

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

Explanatory information proposed for deletion from Section 1.20 was reinstated and the submission process in question was clarified as being electronic.

The order in which recognition status designations are discussed in Section 1.20(b) was revised.

Information was inserted in Section 1.30(d) to identify the categories of students who are not required to participate in the State assessment.

Section 1.30(c) was revised to permit students not enrolled in programs of bilingual education to take the accommodated State assessment.

The phrase "for all subjects tested" was added to Section 1.30(d).

Section 1.30(f) was amplified with information about the reporting of the scores earned by additional categories of students.

Section 1.30(i) was expanded to address the effects of P.A. 94-666 on the treatment of scores of students with IEPs and to identify the publisher of the Terra Nova examination.

Section 1.60(a) was revised to reflect the U.S. Department of Education's determination as to subgroup size.

Section 1.60(c) was revised to address the effects of P.A. 94-666 with respect to inclusion of scores earned by students who have disabilities.

Section 1.80 was expanded to cover the effects of P.A. 94-666 on the calculation of adequate yearly progress and the removal of schools and districts from any "status designation".

In Section 1.85, references to changes in curriculum as a form of restructuring were deleted and the availability of time for the steps in the development of a plan was corrected.

In Section 1.95, language was added to provide for the consolidation of similar appeals.

Section 1.100 was added to this rulemaking to add a necessary cross-reference to Section 1.95 and to update the discussion of matters ineligible for waivers.

Section 1.100(i), changed the mail code from "W-475" to "S-493".

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

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 emergency rulemaking currently in effect? No

14) Are there any other amendments pending on this Part? No

15) Summary and purpose of amendments: This set of amendments conveys the changes in the accountability system for public schools that are needed for compliance with the No Child Left Behind Act and related Illinois law. These changes cover a variety of topics, including:

- the requirement for adequate yearly progress and the indicators that will be considered;
- the targets for each aspect of performance;
- the subgroups of students, their participation in state-level assessments, and the treatment of their scores;
- academic early warning and academic watch status and the requirements for school and district improvement plans and restructuring plans;
- rewards and recognition; and
- the appeals process related to schools' and districts' status.

A new feature in this set of amendments is Section 1.75, which will require participation in the Student Information System so that the system can be implemented statewide. Also included are updates to the Sections outlining recognition status and compliance requirements. The changes in Section 1.20 in particular will help distinguish procedures applicable to probationary status from those applicable in cases where districts or schools are "recognized pending further review".

P.A. 94-666 may affect several aspects of the accountability system, depending upon the reaction from the U.S. Department of Education.

Finally, P.A. 94-432 has prohibited waivers and modifications of Section 5-2.1 of the School Code, so Section 1.100(b) of the rules has been updated to reflect the statute.

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

Donna Luallen
Accountability Division
Illinois State Board of Education

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

100 North First Street
Springfield, Illinois 62777-0001

217/782-2948

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 a: PUBLIC SCHOOL RECOGNITION

PART 1
PUBLIC SCHOOLS EVALUATION, RECOGNITION AND SUPERVISION

SUBPART A: ~~SCHOOL~~ RECOGNITION REQUIREMENTS

Section
1.10 Public School Accountability Framework
1.20 Operational Requirements
1.30 State Assessment~~Quality Assurance Reviews~~
1.40 Adequate Yearly Progress~~Student Performance and School Improvement Requirements (Repealed)~~
1.50 Calculation of Participation Rate~~State Assessment~~
1.60 Subgroups of Students; Inclusion of Relevant Scores~~Operational Compliance (Repealed)~~
1.70 Additional Indicators for Adequate Yearly Progress~~Effective Dates of Accreditation (Repealed)~~
1.75 Student Information System
1.80 Academic Early Warning and Watch Status~~Lists~~
1.85 ~~Revisions to~~ School and District Improvement Plans; Restructuring Plans
1.90 System of Rewards and Recognition – The Illinois Honor Roll
1.95 Appeals Procedure
1.100 Waiver and Modification of State Board Rules and School Code Mandates

SUBPART B: SCHOOL GOVERNANCE

Section
1.210 Powers and Duties (Repealed)
1.220 Duties of Superintendent (Repealed)
1.230 Board of Education and the School Code (Repealed)
1.240 Equal Opportunities for all Students
1.245 Waiver of School Fees
1.250 District to Comply with 23 Ill. Adm. Code 180 (Repealed)
1.260 Commemorative Holidays to be Observed by Public Schools (Repealed)
1.270 Book and Material Selection (Repealed)
1.280 Discipline

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

1.285 Requirements for the Use of Isolated Time Out and Physical Restraint
1.290 Absenteeism and Truancy Policies

SUBPART C: SCHOOL DISTRICT ADMINISTRATION

Section
1.310 Administrative Responsibilities
1.320 Evaluation of Certified Staff in Contractual Continued Service
1.330 Hazardous Materials Training

SUBPART D: THE INSTRUCTIONAL PROGRAM

Section
1.410 Determination of the Instructional Program
1.420 Basic Standards
1.430 Additional Criteria for Elementary Schools
1.440 Additional Criteria for High Schools
1.445 Required Course Substitute
1.450 Special Programs
1.460 Credit Earned Through Proficiency Examinations
1.462 Uniform Annual Consumer Education Proficiency Test
1.465 Ethnic School Foreign Language Credit and Program Approval
1.470 Adult and Continuing Education
1.480 Correctional Institution Educational Programs

SUBPART E: SUPPORT SERVICES

Section
1.510 Transportation
1.515 Training of School Bus Driver Instructors
1.520 School Food Services (Repealed)
1.530 Health Services
1.540 Pupil Personnel Services (Repealed)

SUBPART F: STAFF CERTIFICATION REQUIREMENTS

Section
1.610 Personnel Required to be Qualified
1.620 Accreditation of Staff (Repealed)
1.630 Noncertificated Personnel

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

1.640 Requirements for Different Certificates (Repealed)
1.650 Transcripts of Credits
1.660 Records of Professional Personnel

SUBPART G: STAFF QUALIFICATIONS

Section
1.705 Minimum Requirements for Teachers (Repealed)
1.710 Requirements for Elementary Teachers
1.720 Requirements for Teachers of Middle Grades
1.730 Minimum Requirements for Secondary Teachers and Specified Subject Area Teachers in Grades Six (6) and Above through June 30, 2004
1.735 Requirements to Take Effect from July 1, 1991, through June 30, 2004
1.736 Requirements to Take Effect from July 1, 1994, through June 30, 2004
1.737 Minimum Requirements for the Assignment of Teachers in Grades 9 through 12 Beginning July 1, 2004
1.740 Standards for Reading through June 30, 2004
1.745 Requirements for Reading Teachers and Reading Specialists at all Levels as of July 1, 2004
1.750 Standards for Media Services through June 30, 2004
1.755 Requirements for Library Information Specialists Beginning July 1, 2004
1.760 Standards for Pupil Personnel Services
1.762 Supervision of Speech-Language Pathology Assistants
1.770 Standards for Special Education Personnel
1.780 Standards for Teachers in Bilingual Education Programs
1.781 Requirements for Bilingual Education Teachers in Grades K-12
1.782 Requirements for Teachers of English as a Second Language in Grades K-12
1.790 Substitute Teacher

1.APPENDIX A Professional Staff Certification
1.APPENDIX B Certification Quick Reference Chart
1.APPENDIX C Glossary of Terms (Repealed)
1.APPENDIX D State Goals for Learning
1.APPENDIX E Evaluation Criteria – Student Performance and School Improvement Determination (Repealed)
1.APPENDIX F Criteria for Determination – Student Performance and School Improvement (Repealed)
1.APPENDIX G Criteria for Determination – State Assessment (Repealed)

AUTHORITY: Implementing Sections 2-3.25, 2-3.25g, 2-3.43, 2-3.44, 2-3.96, 10-17a, 10-

20.14, 10-22.43a, 14C-8, 21-0.01, 26-13, 27-12.1, 27-13.1, 27-20.3, 27-20.4, 27-20.5, 27-22, and 27-23.3 and authorized by Section 2-3.6 of the School Code [105 ILCS 5/2-3.25, 2-3.25g, 2-3.43, 2-3.44, 2-3.96, 10-17a, 10-20.14, 10-22.43a, 14C-8, 21-0.01, 26-13, 27-12.1, 27-13.1, 27-20.3, 27-20.4, 27-20.5, 27-22, 27-23.3, and 2-3.6].

SOURCE: Adopted September 21, 1977; codified at 7 Ill. Reg. 16022; amended at 9 Ill. Reg. 8608, effective May 28, 1985; amended at 9 Ill. Reg. 17766, effective November 5, 1985; emergency amendment at 10 Ill. Reg. 14314, effective August 18, 1986, for a maximum of 150 days; amended at 11 Ill. Reg. 3073, effective February 2, 1987; amended at 12 Ill. Reg. 4800, effective February 26, 1988; amended at 14 Ill. Reg. 12457, effective July 24, 1990; amended at 15 Ill. Reg. 2692, effective February 1, 1991; amended at 16 Ill. Reg. 18010, effective November 17, 1992; expedited correction at 17 Ill. Reg. 3553, effective November 17, 1992; amended at 18 Ill. Reg. 1171, effective January 10, 1994; emergency amendment at 19 Ill. Reg. 5137, effective March 17, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 6530, effective May 1, 1995; amended at 19 Ill. Reg. 11813, effective August 4, 1995; amended at 20 Ill. Reg. 6255, effective April 17, 1996; amended at 20 Ill. Reg. 15290, effective November 18, 1996; amended at 22 Ill. Reg. 22233, effective December 8, 1998; emergency amendment at 24 Ill. Reg. 6111, effective March 21, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 12985, effective August 14, 2000; amended at 25 Ill. Reg. 8159, effective June 21, 2001; amended at 25 Ill. Reg. 16073, effective November 28, 2001; amended at 26 Ill. Reg. 1157, effective January 16, 2002; amended at 26 Ill. Reg. 16160, effective October 21, 2002; amended at 28 Ill. Reg. 8486, effective June 1, 2004; emergency amendment at 28 Ill. Reg. 13637, effective September 27, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 1891, effective January 24, 2005; amended at 29 Ill. Reg. 11811, effective July 13, 2005; amended at 29 Ill. Reg. 12351, effective July 28, 2005; amended at 29 Ill. Reg. 15789, effective October 3, 2005; amended at 29 Ill. Reg. 19891, effective November 23, 2005.

SUBPART A: ~~SCHOOL~~ RECOGNITION REQUIREMENTS

Section 1.10 Public School Accountability Framework

Section 27-1 of the School Code [105 ILCS 5/27-1] establishes the primary purpose of schooling as the transmission of knowledge and culture in certain fundamental learning areas and requires the State Board of Education to define the knowledge and skills which the State expects students to master. These "State Goals for Learning" are set forth in Appendix D to this Part and amplified by the "Illinois Learning Standards~~,~~", also set forth in that Appendix D. Further, Section 2-3.25 of the School Code [105 ILCS 5/2-3.25] requires that the State Board of Education establish general operational recognition standards for public schools, and Section 2-3.25a of the School Code [105 ILCS 5/2-3.25a] requires that the Board develop recognition standards for student performance and school improvement.

a) Each school district shall ensure that each school makes available to all students instruction in the six fundamental learning areas, i.e., the language arts, mathematics, the biological and~~,~~ physical sciences, the~~and~~ social sciences, the fine arts, and physical development and health. ~~Each school district shall also ensure that a continuous school improvement process that includes all State Goals for Learning is carried out by each school in the district.~~

b) Each school district is required to establish local learning objectives that are consistent with the primary purpose of schooling, assessment systems for measuring students' progress in the fundamental learning areas, and reporting systems for informing the community and the State of assessment results, ~~and plans for improvement,~~ all of which are subject to approval by the State Board of Education (Sections 2-3.63 and 27-1 of the School Code [105 ILCS 5/2-3.63 and 27-1]).

1) Local learning objectives will be approved if they:

A) are consistent with the primary purpose of schooling as defined in Section 27-1 of the School Code; and

B) when taken together, are at least as comprehensive as the State Goals for Learning and the Illinois Learning Standards.

2) Assessment systems will be approved if they:

A) are designed to yield information about the extent to which all students in at least the grade levels chosen by the district pursuant to Section 2-3.63 of the School Code are achieving in the fundamental learning areas; and

B) include reasonable accommodations or alternative tests or procedures for students with disabilities or limited English proficiency.

3) Reporting systems will be approved if they include presentation and interpretation of student achievement information:

A) at regular school board meetings;

B) in newspapers of general circulation and other news media serving the area in which the school district is located, or through other means of mass communication such as posting on the district's website; and

C) in communications with parents of the district's pupils, which shall take into account the needs of parents with limited English proficiency.

~~4) School improvement plans will be approved if they contain:~~

~~A) demographic information about students and information about attendance, truancy, mobility, retention, and expulsion rates and, for high schools, graduation and dropout rates;~~

~~B) information about the extent to which all students in the grade levels chosen by the district pursuant to Section 2-3.63 of the School Code are achieving in the fundamental learning area;~~

~~C) information on the school's State assessment results;~~

~~D) an analysis, based on State and local assessment data and other available information, of factors which may be contributing to any areas of underachievement by students;~~

~~E) identification of measurable goals for improving the schools' programs and student performance in at least the areas of deficiency noted, including:~~

~~i) specific, measurable steps to be taken;~~

~~ii) a timeline for these activities; and~~

~~iii) a budget for these activities;~~

~~F) professional development activities for at least the staff providing services in the academic areas in which the school's performance has been deficient, which activities must also be reflected in the district's staff development plan required pursuant to Section 2-3.59 of the School Code [105 ILCS 5/2-3.59]; and~~

~~G) a process for monitoring progress and revising the plan as needed.~~

(Source: Amended at 29 Ill. Reg. 19891, effective November 23, 2005)

Section 1.20 Operational Requirements

a) Districts' and schools' recognition status is based upon compliance with the requirements imposed by law, including but not limited to the recognition standards established by the State Board of Education pursuant to Section 2-3.25 of the School Code and this Part, as modified or waived, if applicable, pursuant to Section 2-3.25g of the School Code and Section 1.100 of this Part.

1) No later than September 30 of each year, each school district shall apply for recognition of each school operated by the district. This application shall be submitted to the respective regional superintendent of schools through an electronic submission process established~~on a form supplied~~ by the State Board of Education, except that a district operated pursuant to Article 34 of the School Code [105 ILCS 5/Art. 34~~5/34~~] shall submit its application directly to the State Board.

2) No later than October 15 of each year, each regional superintendent of schools shall summarize, through an electronic process established~~on a form supplied~~ by the State Board of Education, the degree to which the schools in the districts for which he or she is responsible adhere to operational compliance requirements. The regional superintendent shall recommend the assignment of recognition status as applicable considering the compliance-related information supplied.

3) As part of this process, the regional superintendent of schools shall periodically visit the region's school districts as he or she may deem necessary to ascertain the degree to which the districts' schools comply with operational requirements.

b) Based upon the information provided by the district and the regional superintendent, the State Board shall prepare a certificate of recognition status for each school and for each district as a whole and shall transmit~~provide~~ these certificates to all districts. In each case, the recognition status assigned shall be either "Fully Recognized~~,~~", "On Probation", "Recognized Pending Further Review~~,~~", ~~"On Probation,"~~or "Nonrecognized".

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

1) Each school or district that~~or attendance center which~~ meets the requirements imposed by law, including the requirements established by the State Board pursuant to Section 2-3.25 of the School Code and this Part, shall be fully recognized.

2) ~~A school or district shall be recognized pending further review if it exhibits areas of noncompliance which:~~

~~A) are not serious enough to warrant probation as delineated in subsection (b)(3) of this Section; and~~

~~B) will be corrected during the school year immediately following their identification.~~

~~3)~~ A school or district ~~or attendance center~~ 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 and who are not in the process of attaining such qualifications;

D) fails or refuses to serve students according to relevant legal and/or regulatory requirements; and/or

E) prolongs or repeats instances of noncompliance to a degree that indicates an intention not to comply with relevant requirements.

3) A school or district 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 (b)(2) of this Section; and

B) may be corrected prior to the end of the school year following the school year in which they were identified.

4) A district shall be recognized pending further review whenever one or more of the district's schools are first removed from full recognition, whether recognized pending further review or placed on probation. The district shall subsequently be placed on probation if the instances of noncompliance cited for one or more schools have not been corrected within the time allowed under subsection (b)(3)(B) of this Section.

c) The recognition status of a district or a school may be changed by the State Board of Education at any time to reflect information confirmed during compliance monitoring or by any other means.~~A school district with one or more schools on probation shall be required to submit a time-specific plan for the correction of the cited deficiencies to the regional superintendent of schools and to the State Superintendent of Education.~~

d) ~~A school or district which fails to correct cited deficiencies within the time set forth in its plan shall be nonrecognized and shall be ineligible to file any claim upon the common school fund or collect tuition from another school district.~~

~~e)~~ The superintendent of a district that is recognized pending further review or in which one or more schools are ~~not fully~~ recognized pending further review may, within 30 days after receipt of notification to this effect, request a conference at which representatives of the district will have an opportunity to discuss compliance issues with representatives of the State Board of Education. ~~If within the 30-day period the superintendent does not request a conference, the determination shall stand.~~

~~1)~~ ~~If a conference is requested by a superintendent on behalf of a nonrecognized school and the areas of concern are not resolved, the school board may submit an appeal by adopted board resolution. The appeal must identify the specific findings with which the district disagrees.~~

~~2)~~ ~~The district will be given a hearing in accordance with the State Board's rules for Contested Cases and Other Formal Hearings (23 Ill. Adm. Code 475), and a final decision will be made by the State Board of Education.~~

e) The State Superintendent shall schedule a conference with the superintendent of a district that is placed on probation at which representatives of the district will discuss compliance issues with representatives of the State Board of Education. Within 60 days following this conference, the school district shall submit to the regional superintendent of schools and the State Superintendent of Education a

corrective plan that conforms to the requirements of subsection (f) of this Section and is signed by the secretary of the local board of education as evidence that the board adopted a resolution authorizing its submission.

f) The State Superintendent of Education shall respond to the submission of a plan within 15 days after receiving it and may consult with the regional superintendent of schools to determine the appropriateness of the actions proposed by the district to correct the cited deficiencies. The State Superintendent shall approve a plan if it:

1) specifies steps to be taken by the district that are directly related to the area or areas of noncompliance cited;

2) provides evidence that the district 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 district's plan is not approvable under subsection (f) of this Section, the State Superintendent shall notify the district to this effect. If no plan is submitted, or if no approvable plan is received within 60 days after the district's conference with the State Board, the status of the district, or of the affected school or schools, as applicable, shall be changed to "nonrecognized".

h) The superintendent of a district that is nonrecognized pursuant to this Section, or in which one or more schools are nonrecognized pursuant to this Section, may request a conference with representatives of the State Board of Education within 15 days after receipt of notification to this effect. (See Section 1.95 of this Part for procedures related to nonrecognition pursuant to Section 2-3.25f of the School Code [105 ILCS 5/2-3.25f].)

1) If a conference is requested by a superintendent on behalf of a nonrecognized school or district and the areas of concern are not resolved, the State Superintendent shall furnish the school board with a Notice of Opportunity for Hearing. The school board may submit an appeal by adopted board resolution within 15 days after receipt of the notice. The appeal must identify the specific findings with which the district disagrees.

The district will be given a hearing in accordance with the State Board's rules for Contested Cases and Other Formal Hearings (23 Ill. Adm. Code 475). A final decision shall be rendered by the State Board of Education.

2) If no conference is requested, the district shall be deemed not to intend to appeal the nonrecognition.

i) Neither a district nor a school shall be nonrecognized under this Section without first having been placed on probation. A district that is nonrecognized, or in which one or more schools are nonrecognized, shall be subject to the provisions of Section 18-8.05(A)(3)(a) of the School Code [105 ILCS 5/18-8.05(A)(3)(a)].

~~f) A district may at any time request that the regional superintendent of schools reevaluate a school that is recognized pending further review or on probation in order to verify improvements in the cited area(s) of noncompliance, so that the district's or school's status may be changed accordingly.~~

(Source: Amended at 29 Ill. Reg. 19891, effective November 23, 2005)

Section 1.30 State Assessment~~Quality Assurance Reviews~~

The State Board of Education shall develop and administer assessment instruments and other procedures in accordance with Section 2-3.64 of the School Code [105 ILCS 5/2-3.64]. In addition, school districts shall collaborate with the State Board in the design and implementation of special studies.

a) Development and Participation

1) Assessment instruments and procedures shall meet generally accepted standards of validity and reliability as stated in "Standards for Educational and Psychological Testing" (1999), published by the American Educational Research Association, 1230 17th St., N.W., Washington, D.C. 20036. (No later amendments to or editions of these standards are incorporated.)

2) Districts shall participate in special studies, tryouts, pilot testing, field testing, and/or norm testing of these assessment procedures and instruments when one or more schools in the district are selected to do so by the State Board.

3) A school shall be selected for participation in these special studies, tryouts, pilot testing, and/or field testing no more than once every four years.

4) *All pupils enrolled in a public or State-operated elementary school, secondary school, or cooperative or joint agreement with a governing body or board of control, a charter school operating in compliance with the Charter Schools Law [105 ILCS 5/Art. 27A], a school operated by a regional office of education under Section 13A-3 of the School Code [105 ILCS 5/13A-3], or a public school administered by a local public agency or the Department of Human Services* shall be required to participate in the State assessment, whether by taking the regular assessment or by participating in an accommodated or alternate form of the assessment (Sections 2-3.25a and 2-3.64 of the School Code).

A) Students who are served in any locked facility that has a State-assigned RCDTS (region/county/district/type/school) code, students who attend public university laboratory schools under Section 18-8.05(K) of the School Code, and students beyond the age of compulsory attendance (other than students with IEPs) whose programs do not culminate in the issuance of regular high school diplomas are not required a participate in the State assessment.

B) It is the responsibility of each district or other affected entity to ensure that all students required to participate in the State assessment do so. See also Section 1.50 of this Part.

5) Each district or other affected entity shall ensure the availability of reasonable accommodations for participation in the State assessment by students with disabilities or limited English proficiency.

b) Assessment Procedures

1) All assessment procedures and practices shall be based on fair testing practice, as described in "Code of Fair Testing Practices in Education" (2004), published by the Joint Committee on Testing Practices of the American Educational Research Association, American Psychological Association, and National Council on Measurement in Education, 750

First Avenue, N.E., Washington, D.C. 20002-4242. (No later amendments to or editions of this code are incorporated.)

2) Districts and other affected entities shall protect the security and confidentiality of all assessment questions and other materials that are considered part of the approved State assessment, including but not necessarily limited to test items, reading passages, charts, graphs, and tables.

3) Districts shall promptly report to the State Board all complaints received by the district of testing irregularities. A district shall fully investigate the validity of any such complaint and shall report to the State Board the results of its investigation.

c) Accommodated Assessment
Students who have been identified at the local level as having limited proficiency in English as provided in 23 Ill. Adm. Code 228.15, including students not enrolled in programs of bilingual education, may participate in an accommodated form of the State assessment, subject to the limitations set forth in Section 2-3.64 of the School Code. A student of limited proficiency in English may, however, participate in the regular assessment for his or her grade if, in the judgment of the district or the student's parent, the regular State assessment is more appropriate for that student. See also Section 1.60(b) of this Part.

d) Alternate Assessment
Students whose Individualized Education Programs identify the regular State assessment as inappropriate for them even with accommodations shall participate in the Illinois Alternate Assessment (IAA) for all subjects tested. See also Section 1.60(c) of this Part.

e) Review and Verification of Information
Each school district and each charter school shall have an opportunity to review and, if necessary, correct the preliminary data generated from the administration of the State assessment, including information about the participating students as well as the scores achieved.

1) Within 30 days after the preliminary data are made available, each district or charter school shall use a means prescribed by the State Board to indicate either:

A) that its preliminary data are correct; or

B) that unresolved problems still exist within its data.

2) In cases where unresolved problems still exist, staff of the State Board and/or its contractor shall have an additional period of 15 days within which to work with the affected district or charter school to make the necessary corrections.

3) At the end of the 15-day period discussed in subsection (e)(2) of this Section, all districts' and charter schools' data shall stand as the basis for the applicable school report cards and determination of status. Any inaccuracies that are believed to persist at that time shall be subject to the appeal procedure set forth in Section 1.95 of this Part.

f) Reports of State Assessment Results

1) Following verification of the data under subsection (e) of this Section, the State Board shall send each school and district a report containing final information from the results of each administration of the State assessment.

A) The scores of students who are served by cooperatives or joint agreements in Alternative Learning Opportunities Programs established under Article 13B of the School Code, by regional offices of education under Section 13A-3 of the School Code, by local agencies, or in schools operated by the Department of Human Services, scores of students who are served in any other program or school not operated by a school district and who are scheduled to receive regular high school diplomas, all scores of students who are wards of the State, and all scores of students who have IEPs, shall be reported to the students' respective districts of residence and to the schools within those districts that they would otherwise attend.

B) The scores of students enrolled in charter schools shall be reported to the chief administrator of the charter school and to any school district serving as a chartering entity for the charter school.

2) Each report shall include, as applicable to the receiving entity:

A) results for each student to whom the State assessment was administered (excluding any scores deemed by the State Board to be invalid due to testing irregularities); and

B) summary data for the school and/or district and the State, including but not limited to raw scores, scale scores, comparison scores, including national comparisons, and distributions of students' scores among the applicable proficiency classifications (see subsection (h) of this Section).

g) Each school district and each charter school shall receive notification from the State Board of Education as to the status of each affected school and the district based on the attainment or non-attainment of adequate yearly progress as reflected in the final data. These determinations shall be subject to the appeal process set forth in Section 1.95 of this Part.

h) Classification of Scores
Each score achieved by a student on a regular, accommodated, or alternate State assessment shall be classified among a set of performance levels, as reflected in score ranges that the State Board shall disseminate at the time of testing, for the purpose of identifying scores that "demonstrate proficiency".

1) Each score achieved by a student on a regular State assessment (i.e., the Illinois Standards Achievement Test (ISAT) or the Prairie State Achievement Exam (PSAE)), as well as each score in mathematics achieved on the accommodated State assessment, shall be classified as "academic warning", "below standards", "meets standards", or "exceeds standards". Among these scores, those identified as either meeting or exceeding standards shall be considered as demonstrating proficiency.

2) Each score in reading achieved by a student on the accommodated State assessment shall be classified as "beginning", "strengthening", "expanding", or "transitioning". Among these scores, those identified as either "expanding" or "transitioning" shall be considered as demonstrating proficiency.

3) Each score achieved by a student on the Illinois Alternate Assessment shall be classified as "attempting", "emerging", "progressing", or

"attaining". Among these scores, those identified as "progressing" or "attaining" shall be considered as demonstrating proficiency.

i) Scores Relevant to Adequate Yearly Progress
For purposes of determining whether a district or a school has made adequate yearly progress, scores achieved on a State assessment in reading or mathematics shall be "relevant scores", provided, however, that scores in reading or mathematics that are earned by students who have individualized education programs (IEPs) shall be "relevant scores" only to the extent identified in their IEPs, unless the policy expressed in Section 2-3.25a of the School Code [105 ILCS 5/2-3.25a] via P.A. 94-666 is formally disapproved by the U.S. Department of Education. For schools without grades higher than 2 (that is, for schools where no State assessment is administered), scores achieved by students in Grade 2 on the Terra Nova examination (CTB McGraw-Hill, 20 Ryan Ranch Road, Monterey CA 93940 (2001)) shall also be considered "relevant scores" for school years from 2002-03 through 2005-06. Beginning with the 2006-07 school year, the determination as to whether a school in this group has made adequate yearly progress shall be the determination applicable to the school where the largest number of students go on into the third grade.

~~a) Internal Quality Assurance Review~~
~~School districts shall ensure that an internal quality assurance review is conducted annually at each school not subject to external review in that year pursuant to subsection (b) of this Section and, no later than September 30 of each year, shall notify the regional superintendent of schools in writing that internal review has occurred for the preceding school year. The regional superintendent shall notify the State Superintendent of any districts failing to comply with this requirement. This review shall be designed to:~~

~~1) ascertain the success of the school's programs in terms of student performance and progress with respect to the State Goals for Learning, the Illinois Learning Standards, and local learning objectives;~~

~~2) identify areas in which improvement is needed;~~

~~3) plan for the implementation of the changes identified as appropriate; and~~

~~4) yield a written school improvement plan or revisions thereto.~~

~~b) External Quality Assurance Review~~

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

~~1) External quality assurance review shall be conducted in accordance with the following schedule:~~

~~A) Each school that has been placed on either the Academic Early Warning List or the Academic Watch List shall undergo external quality review every second year.~~

~~B) Each school in which at least 50% but fewer than 67% of State assessment scores meet State standards shall undergo external quality review every third year.~~

~~C) Among the schools that are not exempt pursuant to subsection (b)(1)(D) of this Section but in which at least 67% of State assessment scores meet State standards, 75 schools shall be chosen by lottery each year to undergo external quality review. Once a review of such a school has been completed, the school shall be placed back into the pool after four years.~~

~~D) Schools that exceed State standards or are in the top 15 percent of those meeting State standards are exempt from external quality review under the circumstances set forth in Section 2-3.25k of the School Code [105 ILCS 5/2-3.25k].~~

~~2) The external quality assurance review shall be conducted by a team designated by the State Superintendent of Education.~~

~~3) The external review shall consist of all the following components, which shall be designed to gather information to be reviewed in the context of the school's school improvement plan:~~

~~A) classroom observation;~~

~~B) A review of samples of students' work (e.g., written products, exhibits, portfolios);~~

~~C) a review of assessment systems;~~

~~D) a review of curriculum design and alignment with the school's mission and instructional strategies and the Illinois Learning Standards;~~

~~E) interviews with staff, students, and community members;~~

~~F) a review of school records and descriptive data about administration and students' performance; and~~

~~G) an exit conference with school staff, at which impressions and information gathered during the review are discussed.~~

~~c) Report of External Review Team~~
~~Within 45 days after the conclusion of each review visit, the review team shall submit a written report to the superintendent or chief executive officer of the school district, the principal of the school, and, where applicable, the president of the school's Local School Council. This report shall set forth the review team's assessment of the school's instructional strategies and learning processes, the students' learning and progress, and factors that contribute to how the school functions. The report shall offer observations and questions for school staff to consider in order to promote improved student learning.~~

~~d) Response to Report~~
~~Within 60 days after receipt of the review team's report, the principal and school district superintendent shall respond to the State Board of Education, on a form supplied by the State Board, regarding the steps to be taken at the school in response to the team's recommendations.~~

~~1) Each school's response shall address each significant point raised in the review team's report. If a school disagrees with a conclusion of the review team, the school shall provide its own analysis of the situation or problem.~~

~~2) Each school shall describe any actions its staff and/or staff of the school district will take to promote improvement in the areas addressed by the review team and shall provide a budget for the implementation of those activities.~~

~~3) Receipt of a school's response in conformance with subsections (d)(1) and (d)(2) of this Section shall, contingent upon appropriation, entitle the school to grant funds for use in implementing one or more of the specific school improvement initiatives discussed in the school's response.~~

~~4) Recipients of the grant funds referred to in subsection (d)(3) of this~~

~~Section shall submit expenditure reports on forms supplied by the State Board of Education.~~

(Source: Amended at 29 Ill. Reg. 19891, effective November 23, 2005)

Section 1.40 Adequate Yearly Progress~~Student Performance and School Improvement Requirements (Repealed)~~

School districts and individual schools shall be required to make "adequate yearly progress" in order to maintain academic standing that will avoid their placement into academic early warning or academic watch status as set forth in Section 1.80 of this Part. In order to make adequate yearly progress for a particular school year, an affected entity shall be required to attain at least the required percentage of scores demonstrating proficiency in both reading and mathematics, for each of the subgroups of students served by that entity and for the entity as a whole, based on a participation rate in the required assessments of at least 95 percent for each subgroup and for the entity as a whole, as well as attaining the targeted rate for the additional indicator that is applicable to that entity, for each subgroup served and for the entity as a whole. See Sections 1.50, 1.60, and 1.70 of this Part. However, special provisions shall apply to the calculation of adequate yearly progress for school districts that serve students at more than one grade span (i.e., elementary school (Grades 3-5), middle school (Grades 6-8), and high school (Grades 9-12)). Such a district shall fail to make adequate yearly progress only if data for each of the grade spans served indicate that one or more applicable targets were not met by the students at that grade span.

(Source: Section repealed at 22 Ill. Reg. 22233, effective December 8, 1998; new Section adopted at 29 Ill. Reg. 19891, effective November 23, 2005)

Section 1.50 Calculation of Participation Rate~~State Assessment~~

a) A district's or a school's adequate yearly progress for a particular year is generally contingent upon participation in the State assessment by at least 95 percent of the district's or the school's students, both in the aggregate and within each subgroup represented. However, a district or a school that has not achieved 95 percent participation in a given year shall be considered to have had a participation rate sufficient for adequate yearly progress if, for each affected subgroup or the entity as a whole, as applicable:

1) the average of the participation rate for the year in question and the participation rate for the immediately preceding year is at least 95%; or

2) the average of the participation rate for the year in question and the participation rates for the two immediately preceding years is at least 95%.

b) Students who, at the time of administration of the State assessment, are participating in residential programs that provide psychological treatment or treatment for drug or alcohol abuse, are jailed or in a locked-down facility, are residing in or attending facilities out of state or out of country, or are hospitalized because of medical emergencies or procedures shall not be required to participate in the State assessment. For students who are homebound, districts shall examine the circumstances of each case individually to determine whether administration of the State assessment is feasible and appropriate. A student not tested pursuant to this subsection (b) may be excluded from the enrollment counts of the affected schools and districts for purposes of calculating the participation rate.

~~The State Board of Education shall develop and administer assessment instruments and other procedures in accordance with Section 2-3.64 of the School Code [105 ILCS 5/2-3.64]. All students shall participate in State assessment, with the exception of students who do not participate pursuant to Section 2-3.64 of the School Code. In addition, school districts shall collaborate with the State Board in the design and implementation of special studies.~~

~~a) Development and Participation~~

~~1) Assessment instruments and procedures shall meet the generally accepted standards of validity and reliability as stated in "Standards for Educational and Psychological Testing" (1985) published by the American Psychological Association, 1200 7th St., N.W., Washington, D.C. 20036. (No later amendments to or editions of these standards are incorporated by this rule.)~~

~~2) Schools shall participate in special studies, tryouts, pilot testing, field testing, and/or norm testing of these assessment procedures and instruments when selected to do so by the State Board.~~

~~3) A school shall be selected for participation in these special studies, tryouts, pilot testing, and/or field testing no more than once every four years.~~

~~4) All students who are required to participate under Section 2-3.64 of the School Code shall be administered the State assessment. It is the responsibility of each district to ensure that all students required to~~

~~participate in the State assessment do so.~~

~~5)~~ ~~District personnel must be able to document that the performance of students who are exempt from the State assessment is being evaluated and that information about the procedures, instruments, results, and analysis is available for review.~~

~~6)~~ ~~Each district shall ensure the availability of reasonable accommodations for participation in the State assessment by students with disabilities and limited English proficiency.~~

~~b)~~ ~~Assessment Procedures~~

~~1)~~ ~~All assessment procedures and practices shall be based on fair testing practice, as described in "Code of Fair Testing Practices in Education" (1988) published by the Joint Committee on Testing Practices of the American Educational Research Association, American Psychological Association and National Council on Measurement in Education, 750 First Avenue, N.E., Washington, D.C. 20002-4242. (No later amendments to or editions of this code are incorporated by this rule.)~~

~~2)~~ ~~Districts shall protect the security and confidentiality of all assessment questions and other materials which are considered part of the approved State assessment, including but not necessarily limited to test items, reading passages, charts, graphs, and tables.~~

~~c)~~ ~~Reports of State Assessment Results~~
~~The State Board shall send each school and district a report for the school containing the following information from the results of each administration of the State assessment:~~

~~1)~~ ~~results for each student to whom the State assessment was administered;~~

~~2)~~ ~~summary data for the school and/or district, the State, and the nation, including but not limited to the appropriate raw and/or scale score average(s), comparison score bands, and distributions of students whose State assessment scores exceed, meet, and fail to meet the State standards in each fundamental learning area.~~

~~d)~~ ~~Each school district shall verify the accuracy of the score information received~~

~~and shall notify the State Board of Education of any discrepancies identified. If no conflicting information is received from a district within 45 days after receipt of data from the Board, those data shall be considered correct.~~

~~1) Within 45 days after receipt of data from the Board, the superintendent of the district may request a conference at which representatives of the district will have an opportunity to discuss the accuracy of the district's State assessment data with representatives of the State Board of Education.~~

~~2) If a conference is held pursuant to this subsection (d) and the areas of concern are not resolved, the school board may submit an appeal by adopted board resolution. The appeal must identify the specific alleged inaccuracies upon which it is based.~~

~~3) The district will be given an opportunity to present information relevant to the issues appealed. The State Superintendent will consider the appeal and issue a final written determination in each case.~~

~~e) The State Board of Education shall annually notify each school that includes grades in which the State assessment is administered whether the school meets, exceeds, or fails to meet State standards. This determination will be based upon all State assessment scores achieved by students in the school. Each such score will be classified as exceeding, meeting, or not meeting State standards, as reflected in score ranges that the State Board shall disseminate at the time of testing. All of the school's test score classifications will form one distribution and, based on that distribution, the school will be notified that it:~~

~~1) exceeds State standards (at least 90% of all test scores meet State standards, and at least 50% of all test scores exceed State standards); or~~

~~2) meets State standards (at least 50% of all test scores meet State standards); or~~

~~3) does not meet State standards (more than 50% of all test scores do not meet State standards).~~

(Source: Amended at 29 Ill. Reg. 19891, effective November 23, 2005)

Section 1.60 Subgroups of Students; Inclusion of Relevant Scores~~Operational Compliance~~

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

~~(Repealed)~~

A student's scores shall count among those for his or her school or district, as applicable, for a given year only if he or she was enrolled continuously in the district on or before May 1 of the previous academic year through State testing the following spring. Students who feed into another school within the same district during the summer based upon the district's progression of students among attendance centers based on grade level shall have their scores counted for the school and district. Any student who is continuously enrolled within the district but, for reasons not mandated by the district, changes to a new school within the district after May 1 will be counted at the district level but not at the school level. Nothing in this Section is intended to exempt a student from the requirement for participation in the State assessment, except as provided in subsection (b)(1) of this Section.

a) Relevant scores shall be disaggregated by content area for any subgroup identified in this subsection (a) whose membership meets the minimum subgroup size. For purposes of this Section 1.60, "minimum subgroup size" shall mean 45 students across all the grades tested in the school or district, as applicable. Except as provided in subsection (b) of this Section, each student's scores shall be counted in each of the subgroups to which he or she belongs.

1) Students with disabilities, i.e., students who have Individualized Education Programs (IEPs);

2) Racial/ethnic groups:

A) White,

B) Black,

C) Hispanic,

D) American Indian or Alaskan Native,

E) Asian/Pacific Islander,

F) Multiracial/ethnic;

3) Students who have been identified at the local level as having limited proficiency in English as provided in 23 Ill. Adm. Code 228.15; and/or

4) Students who are eligible for free or reduced-price meals under the Child Nutrition Act of 1966 (42 USC 1771 et seq.) or the National School Lunch Act (42 USC 1751 et seq.).

b) Special provisions shall apply to the treatment of scores achieved by students of limited English proficiency in certain circumstances.

1) An Illinois student who is in his or her first year of enrollment in school in the United States and who is identified as having limited proficiency in English may elect to participate in the State assessment in reading. Any such student who elects not to participate shall nevertheless be treated as having participated for purposes of calculating the participation rate.

2) The score achieved by a student who elects to participate in the regular State assessment in reading under subsection (b)(1) of this Section shall be counted for purposes of calculating the participation rate but not for purposes of calculating performance.

3) An Illinois student who is in his or her first year of enrollment in school in the United States and who is identified as having limited proficiency in English shall be required to participate in the State assessment in mathematics. The score achieved by such a student shall be counted for purposes of calculating the participation rate but not for purposes of calculating performance.

4) A student who has previously been identified as having limited proficiency in English and whose scores have been attributed to that subgroup shall continue to have his or her scores attributed to that subgroup for the first two years after the last year when he or she was considered to have limited English proficiency. However, districts and schools shall not be required to count students to whom this subsection (b)(4) applies as part of the subgroup with limited English proficiency for purposes of determining whether the minimum subgroup size exists.

c) If the U.S. Department of Education formally disapproves the use of indicators for students with disabilities based on their IEPs as provided in Section 2-3.25a of the School Code, all relevant scores of a district's students with disabilities who participate in the alternate form of the State assessment shall be included in the district's calculations for purposes of determining whether adequate yearly progress has been made, and subsections (c)(1) through (c)(5) of this Section shall

apply. If the U.S. Department of Education does not formally disapprove the use of indicators based on students' IEPs, subsection (c)(6) of this Section shall apply instead.

1) The number of scores earned by students who participate in the alternate form of the State assessment that may be counted as demonstrating proficiency in a content area shall be no more than 1 percent of all scores achieved by the district's students in that subject. (See the regulations of the U.S. Department of Education at 34 CFR 200.6.)

2) Except as provided in subsection (c)(3) of this Section, for purposes of calculating adequate yearly progress at the district level, each score that demonstrates proficiency but is in excess of the 1 percent maximum set forth in subsection (c)(1) of this Section shall be counted as not demonstrating proficiency and shall be included as such in the calculations for each subgroup of which the student is a member.

3) A district may apply to the State Board of Education for a one-year exception to the 1 percent maximum set forth in subsection (c)(1) of this Section, which may be renewed for one or more subsequent years if warranted. Using a format established by the State Board, the district shall display information demonstrating that the prevalence of students for whom the alternate assessment is appropriate exceeds 1 percent of the total population. The district shall also supply a narrative explaining the disproportionate representation of such students in its population. The State Board of Education shall approve a district's request for an exception if the district superintendent provides assurances that the district meets all the requirements of 34 CFR 200.6 and if the information supplied by the district demonstrates that:

A) families of students with significant cognitive disabilities have been attracted to live in the district by the availability of educational, health, or community services that respond to their needs; or

B) the district's student population is so small that the presence of even a small number of students with significant cognitive disabilities causes the district to exceed the 1 percent threshold (e.g., in a population of 50 students, one student represents 2 percent); or

C) other circumstances exist such that the overrepresentation of students with significant cognitive disabilities is outside the control of the district, i.e., the overrepresentation is not a result of inappropriate decision-making as to the form of the State assessment that should be used for particular students.

4) When scores that demonstrate proficiency and were achieved by students on the IAA make up more than 1 percent of a district's scores in either reading or mathematics, and the district has not received approval for an exception to the 1 percent maximum pursuant to subsection (c)(3) of this Section, the district shall be required to identify the "proficient" scores on the IAA that will be counted as not demonstrating proficiency for purposes of calculating adequate yearly progress (AYP). In making this determination, a district may choose to identify:

A) scores of students who belong to the fewest subgroups;

B) scores of students who belong to the largest subgroups;

C) scores of students who belong to the smallest subgroups;

D) scores of students who belong to the subgroups whose performance is farthest above the target applicable to the year in question; or

E) scores of students who belong to the subgroups whose performance is farthest below the target applicable to the year in question.

5) The State Superintendent of Education shall notify each district that is affected by the requirement to identify excess "proficient" scores on the IAA. The deadline set by the State Superintendent shall allow at least five business days for districts' responses. For any district that does not submit the requested information on this selection within the time allowed, the State Superintendent shall identify the scores that will be considered as not demonstrating proficiency for this purpose.

6) Regardless of whether a student with an IEP participates in the regular State assessment or in the alternate form of the State assessment, his or her

scores shall be used to determine AYP only if the IEP provides for reliance on those scores for that purpose. If the IEP establishes other indicators as the basis for determining that the student has made sufficient progress in a given school year, that student shall be counted, in each of the subgroups of which he or she is a member, according to the determination made on that basis.

d) Targets for scores demonstrating proficiency

1) In each subject and for each subgroup of students, the percentage of scores demonstrating proficiency that is required for AYP shall increase from the original baseline of 40 percent for the 2002-03 school year according to the following schedule:

A) For 2003-04, 40 percent;

B) For 2004-05 and for 2005-06, 47.5 percent;

C) For 2006-07, 55 percent;

D) For 2007-08, 62.5 percent;

E) For 2008-09, 70 percent;

F) For 2009-10, 77.5 percent;

G) For 2010-11, 85 percent;

H) For 2011-12 and for 2012-13, 92.5 percent;

I) For 2013-14, 100 percent.

2) In order to avoid penalizing schools and districts for the decision bias that is associated with a minimum subgroup size, a 95 percent "confidence interval" shall be applied to subgroups' data. (A confidence interval is a mathematical approach designed to compensate for the unreliability of data derived from consideration of small groups.)

e) "Safe Harbor"

A school or a district in which one or more subgroups fail to achieve the required academic target for a particular year may nevertheless be considered as having made AYP for that year. Each subgroup in question must have attained the minimum subgroup size in the preceding year and, for each such subgroup, there must have been a decrease of at least ten percent in the proportion of scores that do not demonstrate proficiency in comparison to that subgroup's scores for the preceding year. In addition, if the school is a high school, the relevant subgroup's graduation rate must at least equal the target rate for that year, and, if the school is an elementary or a middle school, the relevant subgroup's attendance rate must at least equal the target rate for that year (see Section 1.70 of this Part). This "safe harbor" method for calculating AYP shall apply only to subgroups within schools or districts; it shall not be used for the aggregate scores of a school or a district as a whole.

(Source: Section repealed at 22 Ill. Reg. 22233, effective December 8, 1998; new Section adopted at 29 Ill. Reg. 19891, effective November 23, 2005)

Section 1.70 Additional Indicators for Adequate Yearly Progress~~Effective Dates of Accreditation (Repealed)~~

The indicators discussed in this Section shall apply to all subgroups represented in a school or district as well as to each school or district in the aggregate.

a) The graduation rate that is required for adequate yearly progress (AYP) in high schools shall increase from the original baseline of 65 percent for the 2002-03 school year according to the following schedule:

1) For 2003-04, 66 percent;

2) For 2004-05, 67 percent;

3) For 2005-06, 69 percent;

4) For 2006-07, 72 percent;

5) For 2007-08, 75 percent;

6) For 2008-09, 78 percent;

7) For 2009-10, 80 percent;

8) For 2010-11, 82 percent;

9) For 2011-12, 84 percent;

10) For 2012-13 and for 2013-14, 85 percent.

b) The attendance rate that is required for AYP in elementary or middle schools shall increase from the original baseline of 88 percent for the 2002-03 school year according to the following schedule:

1) For 2003-04, for 2004-05, and for 2005-06, 89 percent;

2) For 2006-07, for 2007-08, and for 2008-09, 90 percent;

3) For 2009-10, for 2010-11, and for 2011-12, 91 percent;

4) For 2012-13 and for 2013-14, 92 percent.

c) A district that includes both high schools and elementary or middle schools shall be required to reach both the targeted graduation rate among its high school students and the targeted attendance rate among its elementary or middle school students in order to achieve AYP for any given year.

(Source: Section repealed at 22 Ill. Reg. 22233, effective December 8, 1998; new Section adopted at 29 Ill. Reg. 19891, effective November 23, 2005)

Section 1.75 Student Information System

Each school district shall participate in the Student Information System established by the State Board of Education by transmitting data on the students served, their characteristics, and the programs in which they participate to the Board in a format specified by the State Superintendent and according to the timelines applicable to the system. A district that lacks the technological capacity to participate in this electronic system shall be given an opportunity to demonstrate to the State Superintendent that this is the case, and the State Superintendent shall make available an alternative means that the district shall use in transmitting the required information.

(Source: Added at 29 Ill. Reg. 19891, effective November 23, 2005)

Section 1.80 Academic Early Warning and Watch Status~~Lists~~

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

The movement of schools and districts that do not make adequate yearly progress (AYP) into academic early warning status and then into academic watch status shall be as specified in Section 2-3.25d of the School Code, provided that the U.S. Department of Education does not formally disapprove the provisions of that Section added by P.A. 94-666. If Section 2-3.25d applies as amended by P.A. 94-666, a school or district shall not make AYP for two consecutive annual calculations as contemplated in that Section only if scores in the same content area (i.e., in reading or in mathematics) and within the same grouping (i.e., subgroup or the entity as a whole) fall short of the applicable targets set forth in Section 1.60 of this Part in two consecutive annual calculations, or if students in the same subgroup fail to attain the targeted participation rate, attendance rate, or graduation rate, as applicable, in two consecutive annual calculations. If the U.S. Department of Education formally disapproves of this policy, then a school or district shall fail to make AYP for two consecutive annual calculations if those calculations identify failure to attain the same applicable target, regardless of whether the same subgroup is involved in both calculations. Further, unless the U.S. Department of Education formally disapproves of this policy, a school or district shall be removed from any "status designation" after one year's calculations show that it has met the applicable criteria for AYP.

~~This Section identifies the two groups of schools that are subject to placement on the Academic Early Warning List (see subsections (a) and (b) of this Section) and describes the circumstances under which they will be removed from that list, kept on that list, or placed on the Academic Watch List.~~

~~a) Schools in which the State assessment is administered that are determined as set forth in this Subpart not to have met State standards for two consecutive years shall be placed on an Academic Early Warning List and may subsequently be placed on an Academic Watch List pursuant to Sections 2-3.25d through 2-3.25f of the School Code.~~

~~1) A school placed on the Academic Early Warning List pursuant to subsection (a) of this Section shall be removed from the list when the school is determined to meet State standards.~~

~~2) A school placed on the Academic Early Warning List pursuant to subsection (a) of this Section shall remain on the list but avoid placement on the Academic Watch List as long as it does not meet State standards but makes adequate progress. "Adequate progress" means a rate of increase in the proportion of scores meeting State standards that would be sufficient in order for the school to meet State standards after five years.~~

~~3) A school which has been on the Academic Early Warning List for two consecutive years ("Years 1 and 2") and whose cumulative progress for that time does not qualify as adequate shall be placed on the Academic Watch List and shall be subject to the requirements of Sections 2-3.25d through 2-3.25f of the School Code [105 ILCS 5/2-3.25d through 2-3.25f], as applicable. Similarly, a school which has been on the Academic Early Warning List for four consecutive years and whose cumulative progress for Years 3 and 4 does not qualify as adequate shall be placed on the Academic Watch List and shall be subject to the requirements of Sections 2-3.25d through 2-3.25f of the School Code, as applicable. That is, a school shall be required to eliminate at least 40% of its "performance gap" (the degree to which its scores fail to meet State standards) in Years 1 and 2 and at least 40% in Years 3 and 4.~~

~~b) Schools that do meet State standards, other than schools which are exempt from external quality review pursuant to Section 2-3.25k of the School Code, shall also be subject to placement on the Academic Early Warning List, if the proportion of their scores that do not meet State standards has increased by at least 20 percentage points during the immediately preceding three-year period, as evidenced by four consecutive years' State assessment scores.~~

~~1) A school placed on the Academic Early Warning List pursuant to subsection (b) of this Section shall be removed from the list when the proportion of its State assessment scores that do not meet State standards is reduced to a level at or below the average for the four test cycles preceding its placement on the list. (For example, a school in which, over four test cycles, 3%, 4%, 15%, and 26% of scores did not meet standards would be removed from the Academic Early Warning List after the first subsequent administration of the State assessment in which 12% or fewer of its scores did not meet State standards.~~

~~2) A school placed on the Academic Early Warning List pursuant to subsection (b) of this Section shall remain on the list until its State assessment scores reach the level identified pursuant to the calculation set forth in subsection (b)(1) of this Section.~~

~~3) A school placed on the Academic Early Warning List pursuant to subsection (b) of this Section shall be placed on the Academic Watch List if its State assessment scores decline so that the school fails to meet State standards for two consecutive years.~~

~~c) A school which has been placed on the Academic Watch List shall be subject to the provisions of Sections 2-3.25d through 2-3.25f of the School Code.~~

~~d) No schools shall be placed on the Academic Early Warning List based on the results of the 2000 administration of the State assessment.~~

(Source: Amended at 29 Ill. Reg. 19891, effective November 23, 2005)

Section 1.85 ~~Revisions to~~ School and District Improvement Plans; Restructuring Plans

Section 2-3.25d of the School Code requires each district to revise the school improvement plans of any of its schools that are placed on academic early warning or academic watch status and to revise the district's improvement plan if it is placed on academic early warning or academic watch status. Similarly, restructuring plans are required for schools and districts that remain on academic watch status after a fifth annual calculation. As used in this Section, "NCLB" refers to Public Law 107-110, the No Child Left Behind Act of 2001 (20 USC 6301 et seq.).

a) A revised school improvement plan shall be submitted to the local school board (and to the local school council in a district operating under Article 34 of the School Code), and to the State Superintendent of Education with the approval of the local board if required under Section 2-3.25d of the School Code, no later than three months after the district's receipt of notification regarding the school's status. During the 45-day period following its submission to the local board and prior to the board's final approval, each plan shall undergo a peer review process designed by the district.

1) In school districts with a population of 500,000 or fewer, revised school improvement plans shall be required to cover the two school years following the assessment necessitating the plan and to:

A) incorporate strategies based on scientifically based research and an analysis of State and local assessment data and other information that will strengthen the core academic subjects in the school and address the specific academic areas in which the school's performance has been deficient (NCLB, Section 1116(b)(3)(A)(i));

B) include information about the extent to which all students in the grade levels chosen by the district pursuant to Section 2-3.63 of the School Code are achieving in the fundamental learning areas;

C) adopt policies and practices concerning the school's core academic subjects that have the greatest likelihood of ensuring that all subgroups enrolled in the school will meet the State's proficient level of achievement not later than the end of the 2013-14 school year, including:

i) specific, measurable steps to be taken,

ii) a timeline for these activities, and

iii) a budget for these activities (NCLB, Section 1116(b)(3)(A)(ii));

D) include professional development activities for at least the staff providing services in the academic areas in which the school's performance has been deficient (NCLB, Section 1116(b)(3)(A)(iii));

E) incorporate a teacher mentoring program (NCLB, Section 1116(b)(3)(A)(x));

F) establish specific annual, measurable objectives for continuous and substantial progress by each subgroup of students enrolled in the school that will ensure that all such subgroups will make adequate yearly progress and meet the State's proficient level of achievement not later than the 2013-14 school year (NCLB, Section 1116(b)(3)(v));

G) describe how the school will provide written notice about the identification to parents of each student enrolled in each school, in a format and, to the extent practicable, in a language that the parents can understand (NCLB 1116(b)(3)(A)(vi));

H) specify the responsibilities of the school and the school board under the plan, including the internal and external technical assistance to be provided by the district, technical assistance requested of ISBE, and, if applicable, the district's fiscal responsibilities under Section 1120A of NCLB (NCLB, Section 1116(b)(3)(A)(vii));

I) include strategies for promoting effective parental involvement in the school (NCLB, Section 1116(b)(3)(A)(viii));

J) incorporate, as appropriate, activities before school, after school, during the summer, and during any extension of the school year (NCLB, Section 1116(b)(3)(A)(ix)); and

K) include a process for monitoring progress and revising the plan as needed.

2) In school districts operating under Article 34 of the School Code, school improvement plans shall comply with the requirements set forth in Section 34-2.4 of the School Code and, if applicable, the requirements set forth in Section 1116 of NCLB.

3) Each newly established school shall be required to have a school improvement plan in place by the beginning of its second year of operation. School improvement plans for new schools shall conform to the requirements of subsection (a)(1) or (a)(2) of this Section, as applicable.

b) A new or revised district improvement plan shall be submitted to the local school board, and to the State Superintendent of Education with the approval of the local school board if required under Section 2-3.25d of the School Code, no later than three months after the district's receipt of notification regarding its status. The district improvement plan shall be required to cover the two school years following the assessment necessitating the plan and to:

1) incorporate scientifically based research strategies that strengthen the core academic program in schools served by the district (NCLB, Section 1116(c)(7)(A)(i));

2) identify actions that have the greatest likelihood of improving the achievement of participating children in meeting the State's student academic achievement standards (NCLB, Section 1116(c)(7)(A)(ii));

3) address the professional development needs of the instructional staff serving the district (NCLB, Section (c)(7)(A)(iii));

4) include specific measurable achievement goals and targets for each subgroup of students, consistent with adequate yearly progress (NCLB, Section 1116(c)(7)(A)(iv));

5) address the fundamental teaching and learning needs in the schools of the district and the specific academic problems of low-achieving students, including a determination of why the district's prior plan failed to bring about increased student academic achievement (NCLB, Section 1116(c)(7)(A)(v));

6) incorporate, as appropriate, activities before school, after school, during the summer, and during any extension of the school year (NCLB, Section 1116(c)(7)(A)(vi));

7) specify any requests to ISBE for technical assistance related to the plan and the district's fiscal responsibilities, if applicable, under Section 1120A of NCLB (NCLB, Section 1116(c)(7)(A)(vii));

8) include strategies for promoting effective parental involvement in the district's schools (NCLB, Section 1116(c)(7)(A)(viii)); and

9) include a process for monitoring progress and revising the plan as needed.

c) When Section 2-3.25d of the School Code requires that either a school or district improvement plan be approved by the State Superintendent of Education, the State Superintendent shall approve all plans containing each of the elements set forth in subsection (a) or subsection (b) of this Section, as applicable. A plan that is not approved must be revised and resubmitted as soon as reasonably possible, but in no event later than 45 days after its disapproval.

d) Section 2-3.25d of the School Code requires the development of a restructuring plan for a school or a district that remains on academic watch status after a fifth annual calculation and approval of that plan by the State Superintendent of Education. Each required restructuring plan shall be submitted to the State Superintendent of Education with the approval of the local school board no later than six months after the district's receipt of notification regarding its status.

1) Each school restructuring plan shall indicate that the district is undertaking one or more of the following actions in the affected school:

A) reopening the school as a public charter school, consistent with Article 27A of the School Code [105 ILCS 5/Art. 27A];

B) replacing all or most of the school staff, which may include the principal, who are relevant to the school's inability to make adequate yearly progress;

C) entering into a contract with an entity, such as a private management company, with a demonstrated record of effectiveness, to operate the school as a public school;

D) implementing any other major restructuring of the school's governance that makes fundamental reform in:

i) governance and management, and/or

ii) financing and material resources, and/or

iii) staffing.

2) Each district restructuring plan shall indicate that the district is undertaking one or more of the following actions:

A) implementing professional development for all relevant staff;

B) replacing district personnel who are relevant to its inability to make adequate yearly progress;

C) seeking to reorganize the district;

D) requesting ISBE to appoint an Independent Authority pursuant to Section 2-3.25f of the School Code;

E) implementing any other major restructuring of the district's governance that makes fundamental reform in at least one of the areas listed in subsection (d)(1)(D) of this Section.

3) Each school or district restructuring plan shall be reviewed by staff of the State Board of Education to determine whether the plan demonstrates that:

A) the proposed changes are based on data, documented needs and characteristics of the students served, and/or scientifically based practices that are appropriate in light of the school's or district's inability to make adequate yearly progress; and

B) the proposed changes are sufficient in extent or scope to promote increased achievement for all the students in the school or district and have substantial promise of enabling the school or district to make adequate yearly progress.

4) A plan that is not approved must be revised and resubmitted as soon as reasonably possible, but in no event later than 45 days after its disapproval.

~~A district with one or more schools included on the Academic Early Warning List shall prepare a revised school improvement plan and submit it to the State Superintendent of Education for approval.~~

~~a) Each school improvement plan shall conform to the requirements of Section 2-3.25d of the School Code and shall be submitted by the end of the month of January next following notification of the school's placement on the list.~~

~~b) The State Superintendent shall approve each school improvement plan that conforms to the requirements of Section 1.10(b)(4) of this Part.~~

e)~~c)~~ Failure by a school district to submit, revise, implement, or maintain approval of its school and district improvement plans or restructuring plans as required by Section 2-3.25d of the School Code~~plan~~ shall affect the district's recognition status (see Section 1.20 of this Part).

(Source: Amended at 29 Ill. Reg. 19891, effective November 23, 2005)

Section 1.90 System of Rewards and Recognition – The Illinois Honor Roll

The State Board of Education shall recognize schools for academic performance in three separate categories as provided in this Section.

a) Criteria for Spotlight Schools

1) The school made adequate yearly progress in the two most recent school years;

2) At least 50 percent of the students enrolled in the school in the most recent school year were classified as low-income students;

3) At least 60 percent of the scores relevant to adequate yearly progress that were attained by the school's students in the most recent school year were classified as demonstrating proficiency (see Section 1.30(h) of this Part); and

4) At least 50 percent of the scores relevant to adequate yearly progress that were attained by the school's students in the two school years immediately prior to the most recent school year were classified as demonstrating proficiency.

b) Criteria for the Academic Improvement Award
The school made significant academic improvement by showing, with respect to its students' scores that are relevant to adequate yearly progress and were classified as demonstrating proficiency, either:

1) at least a 7.5 percent increase for the most recent school year when compared to the immediately preceding school year; or

2) at least a 15 percent cumulative increase for the most recent school year when compared to the school year two years before that year, provided that during that time there has been no decrease in the percentage from any one year to the next.

c) Criteria for the Academic Excellence Award
The school made adequate yearly progress in the two most recent school years and:

1) The school served any of Grades 8 and below only and at least 90 percent of its students' scores that are relevant to adequate yearly progress were classified as demonstrating proficiency for the three most recent school years;

2) The school served any of Grades 9 through 12 only and at least 80 percent of its students' scores that are relevant to adequate yearly progress were

classified as demonstrating proficiency for the three most recent school years; or

3) The school served one or more grades below Grade 9 as well as one or more grades above Grade 8 and met the criteria stated in both subsection (c)(1) and subsection (c)(2) of this Section.

~~A school which includes grades at which the State assessment is administered that exceeds State standards will be eligible to receive rewards and special recognition during the period for which such status is maintained. Rewards will be as determined by the State Board of Education and may be:~~

~~a) statewide recognition from the State Board; and/or~~

~~b) participation in programs and activities of the State Board.~~

(Source: Amended at 29 Ill. Reg. 19891, effective November 23, 2005)

Section 1.95 Appeals Procedure

Pursuant to Section 2-3.25m of the School Code [105 ILCS 5/2-3.25m], a school district may request an appeal of a school's or the district's status level, recognition level determined pursuant to Section 2-3.25f of the School Code, or corrective actions undertaken by ISBE pursuant to Section 2-3.25f of the School Code or the No Child Left Behind Act of 2001. An appeal may not be brought pursuant to Section 2-3.25m challenging the validity of any State or federal law or requesting relief that ISBE is without authority to provide.

a) A district shall request such an appeal by sending a written request to the State Board of Education for consideration by the Appeals Advisory Committee. The district must submit its appeal within 30 days after receipt of notification from the State Board of the school's or district's status level, recognition level, or corrective action. The appeal may not be based upon alleged inaccuracies in data in any State assessment other than the most recent State assessment, or any other cause known to the district during the prior year's period for appeals. Upon receipt of a request, State Board staff shall provide an opportunity for the district to meet with State Board staff (either in person or over the telephone) in an effort to resolve the issues raised in the request through informal means.

b) If a district elects not to meet with State Board staff, or if the district wishes to proceed with the appeal upon conclusion of the informal resolution process, the

State Board shall commence the appeals process set forth in this Section. The timeframes set forth for appeals shall be tolled during the pendency of the informal resolution process. Nothing contained in this Section shall preclude the State Board and the district from reaching agreement as to the resolution of an appeal at any time during the appeals process.

c) After a determination of a review schedule by the Committee, the State Board will give written notice of the date, time, and place of the hearing to the school district not less than 21 days before the hearing date. The notice shall be sent by certified mail, return receipt requested.

d) The school district may be represented by an attorney throughout the proceedings. The office of the General Counsel to the State Board will represent the State Board. Both the school district and the State Board will be afforded the opportunity to file written briefs before the hearing. The school district shall submit its brief to the following address: Illinois State Board of Education, Office of the General Counsel, 100 North First Street, Springfield, Illinois 62777-0001. The State Board shall submit its brief to the district and shall provide both the district's and the State Board's briefs to each member of the Committee.

1) The school district's brief shall be due 7 days after the district's receipt of the notice of opportunity for hearing.

2) The State Board's brief shall be due 14 days after the State Board's receipt of the district's brief or, if no brief is filed by the district, 14 days after the notice of opportunity for hearing is sent.

e) After briefs have been submitted pursuant to subsection (d) of this Section, no party shall submit additional information to the Committee unless so requested by the Committee's chairperson. The State Board will provide a signed assurance to the Committee that any calculations at issue were double-checked.

f) At the time its brief is filed, either the school district or the State Board may request an opportunity for oral argument before the Committee.

1) Each party will be given 30 minutes for argument, and the school district may reserve 10 of its 30 minutes for rebuttal. The Committee may ask questions during such argument.

2) If neither party requests oral argument, the Committee may request that the parties make an oral presentation on the date scheduled for the hearing.

g) If two or more districts request an appeal regarding the same question of policy, law, or fact, the State Board may consolidate those appeals if the agency determines that consolidation would secure economies of time and effort and promote uniformity of decision-making by the Committee. Consolidated appeals shall be handled as provided in this subsection (g).

1) Each district may submit its own brief, or any two or more of the districts whose appeals are consolidated may elect to write a joint brief.

2) All districts whose appeals are consolidated will be given 40 minutes for argument, and the districts may reserve ten of their 40 minutes for rebuttal. The districts shall either select one or more representatives to argue on behalf of the districts or divide the time equally amongst all districts.

3) The agency shall submit one brief in response to the question of policy, law, or fact subject to the consolidated appeal and shall have 30 minutes for argument.

h) The chairman of the Committee will conduct the review proceeding and hearing. During the hearing, the Committee shall consider only those issues raised in the briefs or by oral argument of the parties. All hearings will be recorded. A majority of committee members shall constitute a quorum. Committee recommendations must be approved by a majority vote of a quorum. Each committee member shall recuse himself or herself when hearing an appeal from a district with which the member has a conflict of interest, e.g., employment by the district, having a close family member in attendance at a school in the district or employed by the district, service as a school board member, or other affiliation with the district. The Committee may adopt other procedures for its governance not inconsistent with this Part.

i) Within 30 days after the hearing, the Committee shall submit a written recommendation for action to the State Superintendent of Education and shall state the reasons for its recommendation. All recommendations shall be based on an objective evaluation of the district's claims and a review of the State Board's data and calculations. The Committee may recommend that the State Superintendent affirm or reverse the decision of the State Board, in whole or in part.

j) The State Superintendent shall thereafter make a recommendation for action to the State Board of Education. The State Board of Education shall make the final determination.

(Source: Added at 29 Ill. Reg. 19891, effective November 23, 2005)

Section 1.100 Waiver and Modification of State Board Rules and School Code Mandates

a) As authorized in Section 2-3.25g of the School Code [105 ILCS 5/2-3.25g], a school district or independent authority established pursuant to Section 2-3.25f of the School Code [105 ILCS 5/2-3.25f], *a joint agreement made up of school districts, or a Regional Superintendent of Schools applying on behalf of a school or program operated by the regional office of education,* or, as authorized under Sections 13A-5 and 13A-10 of the School Code [105 ILCS 5/13A-5 and 13A-10] with respect to regional safe schools programs, the governing board of an Intermediate Service Center operating such a program may petition for:

1) State Board approval of waivers or modifications of State Board of Education rules and of modifications of School Code mandates to allow a district to meet the intent of the rule or mandate in a more effective, efficient or economical manner or when necessary to stimulate innovation or to improve student performance; and/or

2) General Assembly approval of waivers of School Code mandates as necessary to stimulate innovation or improve student performance.

b) "The School Code" comprises only those statutes compiled at 105 ILCS 5. Waivers from State Board rules or School Code mandates pertaining to special education, teacher certification, or teacher tenure and seniority are not permitted (Section 2-3.25g of the School Code). Waivers of mandates contained in Section 5-1 of the School Code [105 ILCS 5/5-1] or in Section 5-2.1 of the School Code [105 ILCS 5/5-2.1] also shall not be requested. Further, pursuant to Section 2-3.25g of the School Code, *waivers may not be requested from compliance with* any provision of the School Code or the rules of the State Board of Education that reflects or implements the *No Child Left Behind Act of 2001 (Public Law 107-110),* which shall include all requirements for:

1) the entities to be held accountable for the achievement of their students;

2) the participation of students in the various forms of the State assessment;

3) the timing of administration of the State assessment;

4) the use of students' scores on the State assessment in describing the status of schools, districts, and other accountable entities;

5) the use of indicators other than test scores in determining the progress of students;

6) the required qualifications of paraprofessionals;

7) the placement of schools not making adequate yearly progress on academic early warning status or academic watch status, and the results to schools and districts that follow from such placement;

8) the district's responsibility to prepare revised school and/or district improvement plans in response to placement on academic warning or watch status;

9) the appointment of school or district improvement panels for schools or school districts on academic watch status; and

10) the use of State interventions according to the timeline set forth in Section 2-3.25f of the School Code; and

11) the appeals process set forth in Section 1.95 of this Part, and the authority of the State Board of Education to make final determinations on such appeals.

c) Each application for a waiver or modification shall provide the following, on a form supplied by the State Board of Education.

1) Identification of the rules or mandates involved, either by quoting the exact language of or by providing a citation to the rules or mandates at issue. Applicants unable to determine the exact language or citation may obtain a copy of, or citation to, the rules or mandates involved by contacting the State Board of Education Legal Department by mail at 100 North First Street, Springfield, Illinois, 62777-0001, or by telephone at 217-782-5270.

2) Identification as to the specific waivers and/or modifications sought. For modifications, the specific modified wording of the rules or mandates must be stated.

3) Identification as to whether the request is for an initial waiver or modification or for the renewal of a previously approved request.

4) For requests based upon meeting the intent of the rule or mandate in a more effective, efficient, or economical manner, a narrative description which sets forth:

   A) the intent of the rule or mandate to be achieved,

   B) the manner in which the applicant will meet that intent,

   C) how the manner proposed by the applicant will be more effective, efficient or economical, and

   D) if the applicant proposes a more economical manner, a fiscal analysis showing current expenditures related to the request and the projected savings that would result from approval of the request.

5) If the request is necessary for stimulating innovation or improving student performance, the request must include the specific plan for improved student performance and school improvement upon which the request is based. This plan must include a description of how the applicant will determine success in the stimulation of innovation or the improvement of student performance.

6) If the request is for a waiver of the administration expenditure limitation established by Section 17-1.5 of the School Code [105 ILCS 5/17-1.5], the request must include the amount, nature, and reason for the requested relief and all remedies that have been exhausted to comply with the administration expenditure limitation and shall otherwise comply with Section 17-1.5(d) of the School Code.

7) The time period for which the waiver or modification is sought. Pursuant to Section 2-3.25g of the School Code, such time period may not exceed

five years, except for requests made pursuant to subsection (c)(6) of this Section, which may not exceed one year (see Section 17-1.5(d) of the School Code).

8) A description of the public hearing held to take testimony about the request from educators, parents and students, which shall include the information required by Section 2-3.25g of the School Code.

9) An assurance stating the dates of the public hearing conducted to consider the application and, if applicable, the specific plan for improved student performance and school improvement, held as prescribed in Section 2-3.25g of the School Code, and stating the date the application (and, if applicable, the plan) was approved by the local governing board.

d) Each applicant must attach to the application a copy of the notice published in a newspaper of general circulation and a copy of the written notifications provided to the applicant's collective bargaining agent and to those State legislators representing the applicant, each of which must comply with the requirements of Section 2-3.25g of the School Code.

e) Applications must be sent by certified mail, return receipt requested, and addressed as specified on the application form.

f) Applications must be postmarked not later than 15 calendar days following the local governing board's approval. Applications addressed other than as specified on the application form shall not be processed.

g) Applications for the waiver or modification of State Board rules or for the modification of School Code mandates shall be deemed approved and effective 46 calendar days after the date of receipt by the State Board of Education unless disapproved in writing. Receipt by the State Board shall be determined by the date of receipt shown on the return receipt form, except in the case of an incomplete application.

1) An applicant submitting an incomplete application shall be contacted by staff of the State Board regarding the need for additional information.

2) The 45-day response time referred to in this subsection (g) shall not commence until the applicant submits the additional material requested by the State Board, which shall be sent by certified mail, return receipt

requested.

3) Incomplete requests will not be considered.

h) The State Board may disapprove a request for the waiver or modification of State Board rules or for the modification of School Code mandates if the request:

1) is not based upon sound educational practices,

2) endangers the health or safety of students or staff,

3) compromises equal opportunities for learning, or

4) does not address the intent of the rule or mandate in a more effective, efficient or economical manner or does not have improved student performance as a primary goal.

i) Disapproval of an application for a waiver or modification of a State Board rule or for a modification of a School Code mandate shall be sent by certified mail to the applicant no later than 45 calendar days after receipt of the application by the State Board. An applicant wishing to appeal the denial of a request may do so within 30 calendar days after receipt of the denial letter by sending a written appeal by certified mail to the Illinois State Board of Education, Rules and Waivers Unit, 100 North First Street, S-493~~W-475~~, Springfield, Illinois 62777-0001. The written appeal shall include the date the local governing board approved the original request, the citation of the rule or School Code section involved, and a brief description of the issue. Appeals of denials shall be submitted to the General Assembly in the semiannual report required under Section 2-3.25g of the School Code.

j) Applications for General Assembly approval of waivers of School Code mandates will be reviewed for completeness. Each incomplete application shall be returned to the applicant with an explanation as to the deficiencies. Complete applications shall be submitted to the General Assembly in the semiannual report required under Section 2-3.25g of the School Code. The State Board of Education shall periodically notify school districts and other potential applicants of the date by which applications must be postmarked in order to be processed for inclusion in the next report to the General Assembly.

k) The State Board of Education shall notify Regional Superintendents of Schools of

the disposition of requests for waivers or modifications submitted by school districts located within their regions.

(Source: Amended at 29 Ill. Reg. 19891, effective November 23, 2005)

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

1) Heading of the Part: Providers of Supplemental Educational Services

2) Code Citation: 23 Ill. Adm. Code 675

3)

Section Numbers:	Adopted Action:
675.10	New Section
675.20	New Section
675.30	New Section
675.40	New Section
675.50	New Section
675.60	New Section
675.70	New Section
675.80	New Section
675.90	New Section
675.100	New Section
675.110	New Section
675.150	New Section
675.200	New Section
675.210	New Section
675.220	New Section
675.230	New Section
675.240	New Section

4) Statutory Authority: 105 ILCS 5/2-3.6

5) Effective Date of Rules: November 23, 2005

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? Yes, these rules do contain instances of incorporation by reference pursuant to Section 5-75 of the Illinois Administrative Procedure Act. Please see Sections 675.20 and 675.210.

8) A copy of the adopted rules, 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 1, 2005; 29 Ill. Reg. 8961

10) Has JCAR issued a Statement of Objection to this rulemaking? No

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

11) Differences between proposal and final version: In Section 375.20, the definition of "eligible applicant" was revised to reflect flexibility announced by the U.S. Department of Education with regard to schools and districts that are identified for improvement.

A requirement was added in Section 375.30(b) for providers to furnish their promotional materials upon request by ISBE or the school districts in which they wish to serve.

The word "use" in Section 675.30(e) was changed to "distribute".

In Section 675.30(j), specificity was added to limit the amount that providers may spend on rewards to students but also to provide an exception to that limit.

Also in Section 675.30, the requirement that, as part of their applications for approval, potential providers describe the district facilities and equipment they will use was deleted. The corresponding rule regarding cost estimates was revised so the provider can state assumptions about occupancy costs (rather than providing a letter of understanding with the district), and a provision was made for the provider to adjust its estimate based on actual benefits received from the use of district facilities.

The approach to estimating a provider's per-pupil district program cost that had been taken in Section 675.50 was revised to rely on enrollment ranges.

Section 675.60(b) was revised to permit ISBE to circulate a provider's application to a sample of districts the provider would serve, rather than to every such district.

Provisions were inserted into Section 675.60 to prevent repeated applications for approval from providers that are rejected or removed from the State-approved list for most reasons.

In Section 375.70, the deadline for providers' year-end reports was extended.

A new Section 675.110 was added to provide for the removal of a provider from the State-approved list when the provider has not served any Illinois school district for 12 months.

Minor revisions were made in Section 675.150 to allow districts to impose requirements consistent with those set by ISBE and to refer to the district's original agreement with a provider.

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

Specificity was added to Section 675.210 to identify the cost principles that apply to the various types of entities that might be providers of supplemental educational services and to clarify that the administrative cost category concerning distribution to shareholders or retained earnings is subject to a maximum amount determined by the provider.

Also in Section 675.210, several types of expenditures were moved from the list of non-reimbursable costs to the list of reimbursable costs, and the prohibition on incentives to students was revised to refer to those prohibited by the Code of Ethics in Section 675.30.

Section 675.230 was revised to require year-end reporting only, and its requirements for the certification of financial information by a licensed CPA were restated more specifically.

Several technical corrections were incorporated.

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 rules replace any emergency rules currently in effect? No

14) Are there any other amendments pending on this Part? No

15) Summary and purpose of rules: Under the No Child Left Behind Act of 2001 (NCLB), students from low-income families attending schools that do not make adequate yearly progress for three consecutive years are eligible to receive Supplemental Educational Services (SES). School districts are responsible for funding these services, which must be provided outside the normal school day, through their Title I, Part A funds. State education agencies must develop and apply objective criteria to create approved lists of SES providers.

The programmatic requirements, approval criteria, procedures, and reporting requirements for the providers of Supplemental Education Services need to be promulgated as rules.

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

Robert Wolfe
External Assurance Division
Illinois State Board of Education
100 North First Street (W-375)

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

Springfield, Illinois 62777-0001

217/782-7970

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

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER o: MISCELLANEOUS

PART 675
PROVIDERS OF SUPPLEMENTAL EDUCATIONAL SERVICES

SUBPART A: GENERAL PROVISIONS

Section
675.10 Purpose and Scope
675.20 Definitions
675.30 Code of Ethics
675.40 Programmatic Requirements
675.50 Application Requirements
675.60 Application Process
675.70 Reporting Requirement
675.80 Retention of Records; Access to Premises
675.90 Sanctions
675.100 Public Information
675.110 Removal When No Services Offered
675.150 Provider's Relationship with District

SUBPART B: FINANCIAL REQUIREMENTS

Section
675.200 Financial Framework for SES
675.210 District Program Cost
675.220 Non-Reimbursable Expenses and Revenue Offsets
675.230 Cost Reports
675.240 Adjustments to Contract for Actual Cost

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

SOURCE: Emergency rules adopted at 29 Ill. Reg. 9516, effective June 17, 2005, for a maximum of 150 days; emergency expired November 13, 2005; adopted at 29 Ill. Reg. 19942, effective November 23, 2005.

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

SUBPART A: GENERAL PROVISIONS

Section 675.10 Purpose and Scope

The purpose of this Part is to establish the process by which the State Board of Education (ISBE) will approve supplemental educational service providers and verify the cost of services provided by such providers, establish reporting and records retention requirements for such providers, establish the process for placing providers in corrective action, and establish the process for terminating a provider's services.

Section 675.20 Definitions

"District" means a local education agency, as defined in NCLB, in which one or more schools are in their second year of school improvement, in corrective action, or in restructuring status under NCLB.

"Eligible applicant" means a public school or a school district, a private school, a regional office of education, an intermediate service center, an institution of higher education, a not-for-profit organization (including a faith-based or community-based organization), or a private business. Public schools or school districts identified for improvement under NCLB shall only be eligible to the extent permitted by the United States Department of Education.

"Nationally recognized assessment" means a standardized or commercially available criterion-referenced test, assured by the provider to meet the generally accepted standards of validity and reliability set forth in "Standards for Educational and Psychological Testing" (1999), published by the American Educational Research Association, 1230 17th St., N.W., Washington, D.C. 20036. (No later amendments to or editions of these standards are incorporated.)

"NCLB" means Title I of the Elementary and Secondary Education Act (ESEA), as reauthorized by the No Child Left Behind Act of 2001, and any regulations promulgated by the federal government to implement that Act.

"Provider" means an eligible applicant approved by ISBE to provide SES to one or more districts.

"Related organization" means an entity that:

directly or indirectly controls, or is controlled by, a provider; or

influences, or is influenced by, the provider in terms of operational policies; or

is controlled or influenced by another organization that also controls or influences the provider.

"SES reporting period" shall mean a twelve-month period commencing on July 1 of a calendar year and continuing through June 30 of the following calendar year. The State Superintendent of Education may, however, adjust the SES reporting period for a particular provider to accommodate reporting for summer sessions.

"Supplemental educational services" or "SES" means additional academic instruction that is provided outside of the regular school day and designed to increase the academic achievement of eligible students in schools required to provide such services in accordance with NCLB. These services may include academic assistance such as tutoring, remediation, and other educational interventions.

Section 675.30 Code of Ethics

In addition to all other requirements imposed by law, all providers of SES must abide by a code of ethics consisting of the following requirements:

a) Providers must accurately and completely describe services to consumers in terms that are easy to understand.

b) Providers must create and use promotional materials and advertisements that are free from deception. Upon request, providers shall submit all promotional materials and advertisements related to the SES program to ISBE or the school districts in which they wish to serve.

c) Providers must not misrepresent to anyone the location of a provider's program or the approval status of a program.

d) Providers must not publicly criticize or disparage other providers.

e) Providers must not distribute a district enrollment form that has the selected provider's name pre-printed as part of the form.

f) Providers must maintain a system of addressing consumer grievances and concerns and must immediately report any grievances to both the district and ISBE.

g) Providers must not compensate district employees in exchange for access to facilities, to obtain student lists, or for any illegal purpose. School personnel may be hired for instructional purposes only.

h) Providers must not make payments or in-kind contributions to a district, exclusive of customary fees for facility utilization.

i) Providers must not offer or advertise economic incentives or gratuities of any kind to parents or students to solicit them to select the provider for SES. Providers may not offer any incentives to potential students in the course of informational sessions.

j) During the provision of SES, providers may offer only nominal rewards to students for achievement and/or the completion of assessments and program objectives. On a per-pupil basis, providers shall not spend more than 5 percent of the Title I, Part A, per-pupil allocation on rewards, except that providers may exceed this limit for rewards that consist of materials and equipment used directly in the provision of services.

k) Providers must not encourage or induce students or parents to switch providers once enrolled.

l) Providers must not attempt to influence or bias parents when performing an evaluation of the provider's services and achievement of the objectives in the student's Individual Learning Plan.

Section 675.40 Programmatic Requirements

Each provider's SES program shall:

a) include an appropriate, nationally recognized diagnostic assessment for use in identifying students' weaknesses and achievement gaps upon which to build an individual student plan and learning goals, except that, for the 2005-06 reporting period, a diagnostic assessment other than a nationally recognized assessment

may be used by providers approved prior to July 1, 2005, upon notification to ISBE;

b) use targeted remediation/instruction that is aimed at addressing the individual skill gaps revealed during the assessment and that is based upon an individual learning plan;

c) include a post assessment linked to the diagnostic assessment to determine whether student gains occurred and to further develop a plan for either re-teaching skills or identifying new skills for instruction;

d) align with the Illinois Learning Standards set forth at 23 Ill. Adm. Code 1, Appendix D, in the area of reading and/or mathematics;

e) be consistent with the academic program a student experiences in the regular school day; and

f) use instructional practices that are high-quality, research-based, and specifically designed to increase students' academic achievement.

Section 675.50 Application Requirements

Each application for approval to provide SES in Illinois shall consist of the components described in this Section.

a) A summary of services that indicates:

1) the subject areas available (i.e., reading and/or mathematics);

2) the grade levels served;

3) the total program hours per student, provided that, for any program proposing fewer than 30 instructional hours per subject, the applicant must supply specific evidence that the program has resulted in increased student achievement in that subject, including verification from school district administrators in which the program has been previously provided;

4) the proposed locations of service delivery;

5) the minimum number of students required by the eligible applicant in order to offer SES to a district and the maximum number, if any, for each proposed district;

6) whether the eligible applicant can provide services to students of limited English proficiency and, if so, the languages in which the eligible applicant provides instruction and the maximum number of LEP students the eligible applicant can serve in each district;

7) whether the eligible applicant can provide services to students with disabilities and, if so, the accommodations or modifications the eligible applicant can offer and the maximum number of students with disabilities the eligible applicant can serve in each district;

8) the time of day and months during which SES will be offered;

9) the ratio of instructors to children, as determined by the provider; and

10) the districts the eligible applicant seeks to serve.

b) A rationale for the eligible applicant's SES program, including:

1) Evidence that the program complies with Section 675.40 of this Part; and

2) Evidence of effectiveness that complies with either subsection (b)(2)(A) or subsection (b)(2)(B) of this Section.

A) General Method

i) Evidence that the program proposed in the application has a positive impact on students' achievement in reading and/or math, particularly for low-income, underachieving students, as demonstrated by scores on the State assessment or on a nationally recognized assessment; and

ii) At least five but no more than ten letters of reference from previous clients (families, districts, or teachers) offering testimonial information on the positive impact of the program proposed in the application and including contact

information, starting and ending dates of service provided, and school and district names for each reference.

B) Alternate Method

i) Evidence that the eligible applicant has a minimum of three years' experience serving youth in the community where the eligible applicant intends to offer SES, through activities such as tutoring, mentoring or other extracurricular programs;

ii) Evidence that the curriculum to be used by the eligible applicant has been demonstrated to have a positive impact on students' achievement in reading and/or math, particularly for low-income, underachieving students, as demonstrated by scores on the State assessment or on a nationally recognized assessment;

iii) At least five but no more than ten letters of reference from previous clients (families, districts, or teachers) offering testimonial information on the positive impact of the youth services provided by the eligible applicant and including contact information, starting and ending dates of service provided, and school and district names for each reference; and

iv) An agreement to limit services to no more than 200 children during the first two years of SES.

c) The specific procedures to be used and frequency of reports of student progress to teachers, district staff, and parents/families (including a description of how information will be provided to parents and families in a format and language they can understand).

d) A description of the qualifications of instructional staff, including such resumes and other information on qualifications as ISBE may require.

e) Proof of liability insurance in amounts deemed sufficient by ISBE to protect the district and ISBE in light of the number of students to be served by the provider.

f) Evidence that the eligible applicant possesses a sound management structure.

g) Evidence that the provider has adequate financial, organizational and technical resources to administer the proposed program.

h) Proof of legal authority to conduct business in Illinois.

i) Information on the eligible applicant's estimated per-pupil district program cost, calculated as set forth in Section 675.210 of this Part. If the provider's costs will vary based on the number of students enrolled, costs must be provided for various enrollment ranges. Providers must specify the assumptions upon which occupancy costs are shown for services in district facilities.

j) Such certifications, assurances, and/or additional information as ISBE may require in order to verify any information reported by the eligible applicant or otherwise to fulfill its duties with respect to the administration of SES.

Section 675.60 Application Process

a) Applications for approval as SES providers will be accepted only from eligible applicants and only during the two application periods established by the State Superintendent of Education each year, unless an emergency application period is needed for a particular school district to enable students to continue receiving services through the remainder of a school year as required by NCLB.

b) Upon receipt of an application, ISBE will provide it to the district in which an eligible applicant seeks to serve for the district's general review and comment, but in particular for an assessment by the district as to whether the program is consistent with the academic program a student experiences during the regular school day. For providers seeking to serve all eligible districts, ISBE may elect to provide the application to a group of representative districts for review. The district and ISBE may seek additional information and clarifications from the eligible applicant. These clarifications will then be made a part of the provider's application.

c) Applications meeting the requirements set forth in Sections 675.40 and 675.50 of this Part and all other requirements of NCLB will be approved. If an application is rejected, neither the eligible applicant nor any related organization shall be eligible to re-apply during the following 12-month period.

d) If a provider is removed from the State-approved list for any reason other than as described in Section 675.110 of this Part, the provider and any related organization shall be ineligible to re-apply during the following five-year period, except that this period of ineligibility shall not apply to a provider that is a public school or school district that has its eligibility restored by being removed from "improvement status".

Section 675.70 Reporting Requirement

The requirements of this Section shall apply to reporting periods that begin on or after July 1, 2005.

a) Each provider shall be required to use a tracking system for student enrollment and progress developed by ISBE.

b) Within 60 days after a provider's conclusion of SES for the SES reporting period, the provider shall submit a report to ISBE and to each district in which the provider operates. This report shall include:

1) information on the students served;

2) details of any complaints received from teachers or parents;

3) the percentage of students meeting the academic goals set out in their Individual Learning Plans;

4) based upon a survey form prescribed by ISBE of all parents of children in the program, a report on the percentage of parents who:

A) agree with the provider's assessment of their respective students' achievement of the academic goals; and

B) are satisfied with the services provided to their children;

5) for any provider with a rating lower than 80% under either subsection (a)(4)(A) or subsection (a)(4)(B) of this Section, a description of specific actions the provider will take over the next SES reporting period to better inform parents regarding students' progress and/or increase parental satisfaction with the provider's services;

6) updates and revisions to any information set forth in the provider's approved application (including the submission of all information required by Section 675.50 of this Part not previously reported by the provider); and

7) an assurance that all other information set forth on the provider's approved application, as may be updated from time to time, remains true and correct.

c) ISBE may request additional information from a provider that may be necessary for ISBE to verify any information reported by the provider or otherwise to fulfill its duties with respect to the administration of SES.

d) Providers failing to submit timely and complete reports shall not be included on the list of eligible providers for the following SES reporting period.

Section 675.80 Retention of Records; Access to Premises

Each provider and its contractors shall maintain books and records relating to the provision of SES and necessary to support amounts charged to districts for SES. Books and records, including information stored in databases or other computer systems, shall be maintained by the provider and its contractors for a period of five years after the date of final payment under the district's agreement with the provider. Books and records required to be maintained under this Section shall be available for review or audit by representatives of ISBE during normal business hours, with or without notice from ISBE. The provider and its representatives shall fully cooperate with any such review or audit. Each provider shall also grant representatives of ISBE full access to any site at which the provider offers SES for purposes of observing and monitoring program activities.

Section 675.90 Sanctions

a) A provider shall be deemed to have failed to contribute to increased student proficiency relative to State academic content and achievement standards and may be removed from the State-approved list either overall or for a particular district, if, for two consecutive SES reporting periods, no more than 70 percent of the students served meet the academic goals set forth in the students' respective Individual Learning Plans.

b) If no more than 70 percent of the students in a provider's program (overall, or for a particular district) meet the academic goals set forth in the students' respective

Individual Learning Plans for one SES reporting period, the provider shall, within 75 days after the conclusion of services for that period, submit to the State Superintendent of Education for approval a corrective action plan detailing how the provider intends to improve the deficiencies in its program. If the provider does not undertake all actions set forth in an approved corrective action plan during the following SES reporting period, the provider shall be removed from the list of State-approved providers.

c) The State Superintendent of Education may require corrective action of a provider if compliance issues are raised through ISBE's monitoring of the provider's program. Providers placed in corrective action under this subsection (c) shall, within 30 days after receiving notice to this effect, submit to the State Superintendent of Education for approval a corrective action plan detailing how the provider intends to improve the deficiencies in its program. A provider shall be removed from the State-approved list if it fails to meet the requirements of its corrective action plan by the end of the SES reporting period following the provider's placement into corrective action.

d) The State Superintendent of Education may immediately suspend a provider's services if ISBE determines that a threat exists to the health or safety of students.

e) The State Superintendent of Education may remove a provider from the State-approved list upon 30 days' written notice if the provider has engaged in illegal or deceptive practices, violated any assurance or aspect of its application to ISBE, falsified any information on its application or other reports to ISBE, or otherwise violated State or federal law.

f) A provider may appeal its removal from the State-approved list by submitting an appeal to ISBE specifying the basis upon which it believes its removal is not in accordance with this Part or other applicable law. The provider will be given a hearing in accordance with the State Board's rules for Contested Cases and Other Formal Hearings (23 Ill. Adm. Code 475). A final decision shall be rendered by the State Board of Education.

g) Any corrective action or termination rights ISBE has pursuant to this Part may be exercised solely with respect to the provider's program in one or more schools or districts, if the performance issues are localized.

Section 675.100 Public Information

All information submitted to ISBE pursuant to this Part, and the provider's status in terms of corrective action, may be publicly reported by ISBE in any manner ISBE deems necessary to inform the public of the services offered by the provider.

Section 675.110 Removal When No Services Offered

A provider that has not proposed to provide SES in any Illinois school district over a consecutive period of 12 months shall be removed from the State-approved list.

Section 675.150 Provider's Relationship with District

a) A district may impose reasonable administrative and operational requirements through its agreements with providers that are consistent with requirements imposed generally on the district's contractors or requirements set by ISBE and that do not limit educational options for parents.

b) Districts may, but are not required to, allow the use of district facilities for SES. If a district determines that one or more facilities have a limited capacity to accommodate multiple providers for such reasons as limited available classroom space or a limit to the district's administrative capacity to oversee multiple contractors, the district may select those providers using an equitable selection process that considers the provider's cost of services and other reasonable administrative and operational criteria consistent with criteria generally used by the district in the selection of contractors.

c) A school district may, with notification to the State Superintendent of Education, terminate the services a provider is providing to a particular student if the provider is unable to meet the student's specific achievement goals within the timetable set out in the original agreement between the district and the provider.

d) For any other termination of services by a school district, the district shall provide prior written notification to the State Superintendent of Education if the district intends to terminate the services of a provider throughout the district or at a particular school.

1) The State Superintendent of Education shall require information from both the provider and the district to determine the validity of the complaint and to determine whether a corrective action plan should be implemented to address the complaint.

2) Upon receipt and review of information from both the district and provider, the State Superintendent of Education shall determine whether the district should be allowed to proceed with the termination.

SUBPART B: FINANCIAL REQUIREMENTS

Section 675.200 Financial Framework for SES

a) Under NCLB, the per-pupil amount a provider is permitted to charge for SES is limited to the lesser of:

1) the district's per-pupil allocation under Part A of Title I of NCLB; or

2) the actual cost of the services (hereafter, "actual cost").

b) Each provider shall demonstrate its actual cost through ISBE's application and annual reporting processes, as set forth in this Part. Each provider shall be required to determine its actual cost for each district in which the provider offers SES.

c) A provider's actual cost for a particular district during an SES reporting period shall consist of its district program costs (see Section 675.210 of this Part) divided by the total number of students enrolled in the provider's program as calculated in accordance with Section 675.230(a)(2) of this Part.

Section 675.210 District Program Cost

a) A provider's district program cost shall consist of the cost categories described in this subsection (a).

1) Direct program expenses caused directly by and related directly to the provision of SES within a district. Subcategories of direct program expenses include:

A) Program staff salaries or wages, payroll taxes, and fringe benefits (limited to staff having direct contact with students who receive services);

B) Program consultants having direct contact with students who receive services;

C) Program-related materials, supplies, and equipment (items costing more than $500 and having a useful life of more than one year must be capitalized and depreciated on a straight-line basis);

D) Snacks for program participants, provided that such snacks do not consist of confections, candy, potato chips, carbonated beverages, fruit drinks containing less than 50 percent pure fruit juice, tea, coffee, or other foods or beverages designated as "competitive foods" by the State Board of Education pursuant to 23 Ill. Adm. Code 305 (School Food Service).

E) Program Insurance – All liability, malpractice, personal injury, and other types of insurance not reported as property insurance or as employee benefits; and

F) Other (must be specified).

2) Occupancy expenses for facilities housing SES program activities. Subcategories of occupancy expenses include:

A) Lease, rental, or property taxes (less any revenues received from portions of a building not used for SES programs);

B) Operations and maintenance of buildings and equipment (including janitorial, building and grounds, and other maintenance supplies, equipment maintenance, utilities, telecommunications, and property/building insurance);

C) Housekeeping, maintenance, and security (including staff salaries, payroll taxes, and fringe benefits);

D) Mortgage and installment interest;

E) Operating interest; and

F) Other (must be specified).

3) Curriculum expenses directly attributable to the development of curriculum by the provider for its SES program and training costs directly

attributable to the training of instructional staff. Subcategories of curriculum and training expenses include:

A) Salaries or wages, payroll taxes, and fringe benefits for staff engaged in curriculum development;

B) Salaries or wages, payroll taxes, and fringe benefits for staff performing training; and

C) Other (must be specified).

4) Administrative and general expenses not directly attributable to the provision of SES within a district (other than costs reported for curriculum and training), including expenses for all staff, facilities, supplies, and equipment not used in direct connection with SES program activities (i.e., staff not having regular contact with SES students, and supplies and equipment not used during the delivery of SES at a particular site). Subcategories of administrative and general expenses include:

A) Salaries or wages, payroll taxes, and fringe benefits for all executive, administrative, managerial, office, and clerical employees not having direct contact with students who receive services;

B) Legal and accounting services and other administrative consultants;

D) Operations and maintenance of buildings and equipment – not assigned to program;

E) Materials, supplies, and equipment – not assigned to program;

F) Lease, rental, or property taxes for facilities not serving as a primary location for the delivery of SES (less any revenues from the rental of portions of the facility);

G) Corporate royalty fees;

H) Advertising and marketing expenses;

I) Meals and entertainment expenses;

J) Rewards for student achievement;

K) Distributions to shareholders or retained earnings (subject to a maximum amount determined by the provider); and

L) Other (must be specified).

b) Multiple Districts Served
If a provider serves multiple districts (either within or outside of Illinois), the provider's expenses in the categories outlined in subsections (a)(3) and (4) of this Section must be prorated, first in accordance with the percentage of time applicable to SES in general, and second in accordance with the percentage of students served within each district. (Example: a provider's program manager earns an annual salary of $100,000 and spends 50 percent of her time managing the provider's SES programs throughout the nation and the remainder of her time performing educational consulting services for districts. The provider serves 5,000 students in its SES programs nationwide, 1,000 of whom are within an Illinois district. $10,000 of her salary may be reported as an actual cost of providing SES within that district. ($100,000 x .5 x .2 = $10,000.) All of the foregoing allocations must be in accordance with the following cost principles, as applicable:

1) OMB Circulars (5 CFR 1310 (2005)) available at www.whitehouse.gov/omb/circulars/index.html:

A) OMB Circular A-87 (Cost Principles for State, Local and Indian Tribal Governments);

B) OMB Circular A-21 (Cost Principles for Educational Institutions);

C) OMB Circular A-122 (Cost Principles for Non-Profit Organizations).

2) Federal Acquisition Regulation (applicable to for-profit providers) (48 CFR 9904 (2005) available at www.access.gpo.gov/nara/cfr/waisidx_01/48cfr9904_01.html).

Section 675.220 Non-Reimbursable Expenses and Revenue Offsets

a) The expenditures discussed in this subsection (a) shall be non-reimbursable costs and shall not be calculated or reported as part of a provider's district program cost.

1) Expenses resulting from transactions with related organizations that are greater than the expense to the related organization. Providers may be required to submit evidence to substantiate or refute any claim of relatedness in determining allowable costs.

2) Non-straight-line depreciation.

3) Bad debt.

4) Special benefits to owners, including owner and keyman life insurance, except insofar as required by lending institutions.

5) Charity grants.

6) Interest payments related to a provider's assets that are unrelated to an SES program.

7) Costs incurred by owners for non-SES activities, including that portion of overhead that should be allocated to these activities.

8) Printing expenses unrelated to the program.

9) Lobbying activities.

10) Transportation of students to and from SES activities.

11) Meals provided to students enrolled in SES programs.

12) Confections, candy, potato chips, carbonated beverages, fruit drinks containing less than 50 percent pure fruit juice, tea, coffee, or other foods or beverages designated as "competitive foods" by the State Board of Education pursuant to 23 Ill. Adm. Code 305.

13) Fines and penalties.

14) Payments of principal on mortgages or loans.

15) Asset acquisition costs for items whose costs exceed $500 and have a useful life of one year or more.

16) Legal expenses incurred for non-program activities or for litigation against governmental entities.

17) Severance pay.

18) Sales tax (in the case of not-for-profit organizations).

19) Income tax.

20) Costs of any kind prohibited by the Code of Ethics set forth in Section 675.30 of this Part.

21) Economic incentives or gratuities of any kind to parents.

b) Any revenue received by the provider for the provision of SES from any source other than the district shall be offset against the provider's district program costs.

Section 675.230 Cost Reports

a) For each SES reporting period beginning on or after July 1, 2005, each provider shall report to the State Board of Education, no later than 60 days after the provider's conclusion of services for that SES reporting period and using a form provided by ISBE, the provider's district program cost for each district the provider served. The cost report shall also indicate the payments received or invoiced to the district for the SES reporting period, as well as the difference between these payments and the district program cost.

1) Each provider shall identify all transactions with related organizations and the actual cost of each transaction.

2) Each non-governmental provider serving more than 50 students within a district must engage an independent Licensed Certified Public Accountant (CPA) who is a member of the American Institute of Certified Public Accountants to perform agreed-upon procedures on its reported information. An agreed-upon procedures report must be submitted with

the district program cost report required by this subsection (a). The agreed-upon procedures must include the following:

A) Obtain the general ledger trial balance as of the reporting date and agree or reconcile the balances in the trial balance to the cost report;

B) Inquire of members of management who have responsibility for financial and accounting matters concerning:

i) whether the cost report has been prepared using the accrual basis;

ii) the procedures for recording, classifying, and summarizing transactions and accumulating information;

iii) the method used to allocate curriculum and training and administrative and general expenses to the district;

iv) known transactions with related organizations and whether the actual cost of such transactions was accurately reported; and

v) the provider's procedures for identifying non-reimbursable expenses;

C) Identify relationships between recorded amounts and expectations that appear to be unusual by performing the following procedures:

i) compare the average cost per pupil to the contract amount with the district;

ii) compare the difference between current-year and prior-year cost results; and

iii) perform additional procedures to respond to unexpected differences;

D) For providers serving more than 200 students in a district, select a sample of program and curriculum and training expenses for source

document testing. The sample must be representative of the population and represent no less than 25 percent of the expenses for each category. As a part of testing procedures, perform the following:

i) determine that the provider properly classified costs according to the categories and subcategories set forth in Section 675.210 of this Part;

ii) determine that the expense is not a non-reimbursable expense as defined in Section 675.220 of this Part; and

iii) determine that curriculum and training expenses have been allocated to the district in an accurate and consistent manner and in accordance with the appropriate allocation method; and

E) Report on whether, as a part of the procedures performed under subsection (a)(2)(D), the cost report contains errors, omissions, inconsistencies, or non-compliance with the cost reporting requirements set forth in this Section. Specify each material error, omission, inconsistency, or non-compliance with this Section.

b) Each provider shall report the number of students enrolled in the provider's program during each SES reporting period. If a student's services are terminated during the SES reporting period, the student shall be reported in accordance with the percentage of the program completed prior to termination of services. For example, a student who completed 60 percent of the provider's program prior to termination of services should be reported as .6 of a student on the provider's cost report.

c) All reporting shall be provided on an accrual basis.

d) All providers on the State-approved list as of June 16, 2005 shall report to ISBE, using a form provided by ISBE, the information required by subsections (a) and (b) of this Section for each district the provider served for the period from July 1, 2004 through June 30, 2005. This report shall be submitted no later than July 15, 2005, unless an extension of this deadline is granted by the State Superintendent of Education. By October 1, 2005, each non-governmental provider serving more than 50 students within a district shall also submit a letter from a Licensed

Certified Public Accountant who provides evidence of meeting the requirements of subsection (a)(2) of this Section, indicating that the information has been reviewed as required.

e) Additional Requirement for New Providers
Within 30 days after the closure of the enrollment period within each district served, each newly approved provider must submit to ISBE adjusted estimates of its actual per-pupil cost of service, based upon the number of students enrolled in the provider's program within each district served.

Section 675.240 Adjustments to Contract for Actual Cost

a) The initial per-pupil contract amount set forth in the provider's contract with a district shall be the lesser of:

1) the district's per-child allocation under Part A of Title I of NCLB; or

2) the provider's reasonable estimate of its actual cost of services during the SES reporting period. This estimate shall be submitted to ISBE on its district program cost report for the preceding SES reporting period.

b) A provider's reasonable estimate pursuant to subsection (a)(2) of this Section shall be established using the four expense categories set forth in Section 675.210(a) of this Part (i.e., program expenses, occupancy expenses, curriculum and training expenses, and administrative and general expenses). The estimate for administrative and general expenses shall also include the maximum amount the provider will claim for distribution to shareholders or retained earnings.

1) To the extent that any category of expenses in the estimate exceeds the per-pupil amount for the same category set out in the provider's district program cost report, the provider shall itemize the expenses and attach a specific justification for the increase based upon additional expenditures the provider reasonably expects to incur for reasons such as inflation, increased labor costs, or budgeted equipment expenditures or for another legitimate business purpose (e.g., additional investment in professional development for staff, increase in profit margins to reflect industry standards).

2) An estimate by a provider that will use a district's facilities shall specify the provider's assumptions for any occupancy costs and shall reflect the per-pupil savings the provider reasonably expects to receive, based upon:

A) operational savings associated with using the district's facilities;

B) the value of real estate provided by the district; and

C) the business advantages resulting from access to the district's facilities.

c) If the provider receives benefits from the use of district facilities not accounted for in the provider's assumptions, the provider's reasonable estimate pursuant to subsection (a)(2) of this Section shall be adjusted accordingly.

d) If permitted in the provider's contract with the district, the district may withhold no more than 20 percent of the total amount payable to the provider until such time as the provider reports to ISBE its district program costs, the amount paid by or invoiced to the district, and the number of students enrolled during the SES reporting period to which the contract relates. If the actual cost for the SES reporting period to which the contract relates is less than the amount paid by or invoiced to the district based upon the initial per-pupil contract amount set forth in the contract, and provided the contract permits a cost adjustment, the district shall be responsible for paying to the provider only the actual cost of services for the SES reporting period to which the contract relates.

e) Nothing in this Section shall affect the validity of any contracts in effect between districts and providers as of June 16, 2005.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED RULES

1) Heading of the Part: State Responsibility for Medicare Part D Low-Income Subsidy

2) Code Citation: 89 Ill. Adm. Code 127

3)

Section Numbers:	Adopted Action:
127.10	New Section
127.20	New Section
127.100	New Section

4) Statutory Authority: The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Effective Date of Rules: November 23, 2005

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 rules, 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 15, 2005; 29 Ill. Reg. 9972

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences Between Proposal and Final Version: No changes have been made to the proposed rulemaking.

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? Yes

14) Are there any other amendments pending on this Part? No

15) Summary and Purpose of Rules: These new rules describe the Department's responsibilities related to the Medicare Part D low-income subsidy (LIS) as mandated by the federal Medicare Prescription Drug, Improvement, and Modernization Act (MMA) of 2003. The MMA creates a voluntary prescription drug benefit for Medicare beneficiaries

under a new Medicare Part D. These new rules govern administrative action concerning determinations of LIS eligibility made by the Department.

Medicare Part D prescription drug coverage will take effect January 1, 2006. Medicare beneficiaries who enroll for drug coverage will be required to pay premiums, deductibles and coinsurance. However, beneficiaries with incomes under 150 percent of poverty and modest assets will be eligible for additional federal assistance, the LIS, to cover a portion of their out-of-pocket costs for Medicare prescription drug coverage. Beneficiaries who meet certain qualifications will receive the LIS automatically, and others must apply for it. The Social Security Administration (SSA) intends to receive and process most LIS applications. Both SSA and the federal Centers for Medicare & Medicaid Services have asked states to encourage all potential applicants to apply to SSA. Nonetheless, the MMA requires that single state Medicaid agencies also make determinations of LIS eligibility upon request beginning July 1, 2005. The process the Department will follow to satisfy the MMA and federal guidelines will be established under these new rules.

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

Joanne Scattoloni
Office of the General Counsel, Rules Section
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002

(217) 524-0081

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED RULES

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 127
STATE RESPONSIBILITY FOR MEDICARE PART D LOW-INCOME SUBSIDY

SUBPART A: GENERAL PROVISIONS

Section
127.10 Federal Legislative Base
127.20 Scope of Department Responsibility

SUBPART B: DETERMINATION OF ELIGIBILITY FOR
MEDICARE PART D LOW-INCOME SUBSIDY

Section
127.100 Eligibility for Low-Income Subsidy

AUTHORITY: Implementing and authorized by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (PL 108-173) and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13].

SOURCE: Adopted by emergency rulemaking at 29 Ill. Reg. 10254, effective July 1, 2005, for a maximum of 150 days; adopted at 29 Ill. Reg. 19968, effective November 23, 2005.

SUBPART A: GENERAL PROVISIONS

Section 127.10 Federal Legislative Base

The Medicare Prescription Drug, Improvement, and Modernization Act (MMA) of 2003 (PL 108-173) establishes a voluntary prescription drug benefit for Medicare beneficiaries under a new Medicare Part D that begins January 1, 2006. Medicare Part D provides medical coverage of prescription drugs to Medicaid eligible individuals who are also eligible for Medicare Part A or enrolled in Medicare Part B. It also provides for extra help with premiums, deductibles and co-payments under a low-income subsidy (LIS) for individuals who meet an income and asset test as described at 42 CFR 423.773.

Section 127.20 Scope of Department Responsibility

a) The federal Centers for Medicare and Medicaid Services (CMS) have overall responsibility for implementing Medicare Part D. Under Medicare Part D, the federal Social Security Administration (SSA) has responsibility for eligibility determinations and redeterminations for the LIS, and for appeals of those eligibility determinations and redeterminations.

b) As described at 42 CFR 423, Subpart S, the State has certain responsibilities related to Medicare Part D. As the agency responsible for administering Medicaid in Illinois, the Department shall make eligibility determinations and redeterminations for the LIS, and hear appeals of eligibility determinations and redeterminations, only for individuals who specifically request a State determination (see 89 Ill. Adm. Code 110.10). The Department is also required to notify CMS of LIS eligibility determinations.

SUBPART B: DETERMINATION OF ELIGIBILITY FOR MEDICARE PART D LOW-INCOME SUBSIDY

Section 127.100 Eligibility for Low-Income Subsidy

a) The Department will encourage individuals to apply for the LIS under Medicare Part D with the Social Security Administration.

b) The Department shall make eligibility determinations and redeterminations, and hear appeals of eligibility determinations and redeterminations, only for individuals who specifically request a State determination of eligibility for the LIS.

c) The determination and redetermination of eligibility for the LIS will be made in accordance with the financial and non-financial criteria established at 42 CFR 423, Subpart P (2005, no further editions or amendments included).

d) Individuals who are eligible for the LIS will not be required to report changes in circumstances, as described at 89 Ill. Adm. Code 102.50, until redetermination of eligibility for the LIS.

e) Unless otherwise specified in federal law or this Section, the Department will be governed by 89 Ill. Adm. Code 101, 102, 104, 110 and 120 in processing applications for the LIS and for hearing appeals of determinations and redeterminations of eligibility for the LIS.

f) No State benefit shall accrue under this Section to individuals for whom the Department makes a determination of eligibility for the LIS, and nothing in this Section shall be construed to confer a State benefit on any individual.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Hospital Services

2) Code Citation: 89 Ill. Adm. Code 148

3)

Section Numbers:	Adopted Action:
148.105	Amendment
148.295	Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Effective Date of Amendments: November 23, 2005

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: May 27, 2005; 29 Ill. Reg.7693

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences Between Proposal and Final Version: No substantive changes have been made to the proposed rulemaking.

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 any emergency amendments currently in effect? Yes

14) Are there any other amendments pending on this Part? Yes

Sections	Proposed Action	Illinois Register Citation
148.126	Amendment	August 26, 2005 (29 Ill. Reg. 13140)
148.140	Amendment	September 30, 2005 (29 Ill. Reg. 14502)
148.310	Amendment	July 1, 2005 (29 Ill. Reg. 9241)
148.402	New Section	July 1, 2005 (29 Ill. Reg. 9241)
148.404	New Section	July 1, 2005 (29 Ill. Reg. 9241)
148.406	New Section	July 1, 2005 (29 Ill. Reg. 9241)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

148.408	New Section	July 1, 2005 (29 Ill. Reg. 9241)
148.410	New Section	July 1, 2005 (29 Ill. Reg. 9241)
148.412	New Section	July 1, 2005 (29 Ill. Reg. 9241)
148.414	New Section	July 1, 2005 (29 Ill. Reg. 9241)
148.416	New Section	July 1, 2005 (29 Ill. Reg. 9241)
148.418	New Section	July 1, 2005 (29 Ill. Reg. 9241)
148.420	New Section	July 1, 2005 (29 Ill. Reg. 9241)
148.422	New Section	July 1, 2005 (29 Ill. Reg. 9241)
148.424	New Section	July 1, 2005 (29 Ill. Reg. 9241)
148.426	New Section	July 1, 2005 (29 Ill. Reg. 9241)
148.428	New Section	July 1, 2005 (29 Ill. Reg. 9241)
148.430	New Section	July 1, 2005 (29 Ill. Reg. 9241)
148.432	New Section	July 1, 2005 (29 Ill. Reg. 9241)
148.434	New Section	July 1, 2005 (29 Ill. Reg. 9241)

15) Summary and Purpose of Amendments: These amendments concerning Hospital Services pertain to psychiatric adjustment payments and Critical Hospital Adjustment Payments (CHAP). The changes are necessary to provide additional funding for inpatient psychiatric services and CHAP and thereby assure continued access to essential psychiatric care and other medical services.

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

Joanne Scattoloni
Office of the General Counsel, Rules Section
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002

(217) 524-0081

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~~PUBLIC AID~~
SUBCHAPTER d: MEDICAL PROGRAMS

PART 148
HOSPITAL SERVICES

SUBPART A: GENERAL PROVISIONS

Section
148.10 Hospital Services
148.20 Participation
148.25 Definitions and Applicability
148.30 General Requirements
148.40 Special Requirements
148.50 Covered Hospital Services
148.60 Services Not Covered as Hospital Services
148.70 Limitation On Hospital Services

SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

Section
148.80 Organ Transplants Services Covered Under Medicaid (Repealed)
148.82 Organ Transplant Services
148.85 Supplemental Tertiary Care Adjustment Payments
148.90 Medicaid Inpatient Utilization Rate (MIUR) Adjustment Payments
148.95 Medicaid Outpatient Utilization Rate (MOUR) Adjustment Payments
148.100 Outpatient Rural Hospital Adjustment Payments
148.103 Outpatient Service Adjustment Payments
148.105 Psychiatric Adjustment Payments
148.110 Psychiatric Base Rate Adjustment Payments
148.112 High Volume Adjustment Payments
148.115 Rural Adjustment Payments
148.120 Disproportionate Share Hospital (DSH) Adjustments
148.122 Medicaid Percentage Adjustments
148.126 Safety Net Adjustment Payments
148.130 Outlier Adjustments for Exceptionally Costly Stays
148.140 Hospital Outpatient and Clinic Services
148.150 Public Law 103-66 Requirements
148.160 Payment Methodology for County-Owned Hospitals in an Illinois County with a

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

Population of Over Three Million
148.170 Payment Methodology for Hospitals Organized Under the University of Illinois Hospital Act
148.175 Supplemental Disproportionate Share Payment Methodology for Hospitals Organized Under the Town Hospital Act
148.180 Payment for Pre-operative Days, Patient Specific Orders, and Services Which Can Be Performed in an Outpatient Setting
148.190 Copayments
148.200 Alternate Reimbursement Systems
148.210 Filing Cost Reports
148.220 Pre September 1, 1991, Admissions
148.230 Admissions Occurring on or after September 1, 1991
148.240 Utilization Review and Furnishing of Inpatient Hospital Services Directly or Under Arrangements
148.250 Determination of Alternate Payment Rates to Certain Exempt Hospitals
148.260 Calculation and Definitions of Inpatient Per Diem Rates
148.270 Determination of Alternate Cost Per Diem Rates For All Hospitals; Payment Rates for Certain Exempt Hospital Units; and Payment Rates for Certain Other Hospitals
148.280 Reimbursement Methodologies for Children's Hospitals and Hospitals Reimbursed Under Special Arrangements
148.285 Excellence in Academic Medicine Payments
148.290 Adjustments and Reductions to Total Payments
148.295 Critical Hospital Adjustment Payments (CHAP)
148.296 Tertiary Care Adjustment Payments
148.297 Pediatric Outpatient Adjustment Payments
148.298 Pediatric Inpatient Adjustment Payments
148.300 Payment
148.310 Review Procedure
148.320 Alternatives
148.330 Exemptions
148.340 Subacute Alcoholism and Substance Abuse Treatment Services
148.350 Definitions (Repealed)
148.360 Types of Subacute Alcoholism and Substance Abuse Treatment Services (Repealed)
148.368 Volume Adjustment (Repealed)
148.370 Payment for Subacute Alcoholism and Substance Abuse Treatment Services
148.380 Rate Appeals for Subacute Alcoholism and Substance Abuse Treatment Services (Repealed)
148.390 Hearings

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

148.400 Special Hospital Reporting Requirements

SUBPART C: SEXUAL ASSAULT EMERGENCY TREATMENT PROGRAM

Section
148.500 Definitions
148.510 Reimbursement

SUBPART D: STATE CHRONIC RENAL DISEASE PROGRAM

Section
148.600 Definitions
148.610 Scope of the Program
148.620 Assistance Level and Reimbursement
148.630 Criteria and Information Required to Establish Eligibility
148.640 Covered Services

148.TABLE A Renal Participation Fee Worksheet
148.TABLE B Bureau of Labor Statistics Equivalence
148.TABLE C List of Metropolitan Counties by SMSA Definition

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

SOURCE: Sections 148.10 thru 148.390 recodified from 89 Ill. Adm. Code 140.94 thru 140.398 at 13 Ill. Reg. 9572; Section 148.120 recodified from 89 Ill. Adm. Code 140.110 at 13 Ill. Reg. 12118; amended at 14 Ill. Reg. 2553, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 11392, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 15358, effective September 13, 1990; amended at 14 Ill. Reg. 16998, effective October 4, 1990; amended at 14 Ill. Reg. 18293, effective October 30, 1990; amended at 14 Ill. Reg. 18499, effective November 8, 1990; emergency amendment at 15 Ill. Reg. 10502, effective July 1, 1991, for a maximum of 150 days; emergency expired October 29, 1991; emergency amendment at 15 Ill. Reg. 12005, effective August 9, 1991, for a maximum of 150 days; emergency expired January 6, 1992; emergency amendment at 15 Ill. Reg. 16166, effective November 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 18684, effective December 23, 1991; amended at 16 Ill. Reg. 6255, effective March 27, 1992; emergency amendment at 16 Ill. Reg. 11335, effective June 30, 1992, for a maximum of 150 days; emergency expired November 27, 1992; emergency amendment at 16 Ill. Reg. 11942, effective July 10, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14778, effective October 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19873, effective December 7, 1992; amended at 17 Ill. Reg.

131, effective December 21, 1992; amended at 17 Ill. Reg. 3296, effective March 1, 1993; amended at 17 Ill. Reg. 6649, effective April 21, 1993; amended at 17 Ill. Reg. 14643, effective August 30, 1993; emergency amendment at 17 Ill. Reg. 17323, effective October 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 3450, effective February 28, 1994; emergency amendment at 18 Ill. Reg. 12853, effective August 2, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 14117, effective September 1, 1994; amended at 18 Ill. Reg. 17648, effective November 29, 1994; amended at 19 Ill. Reg. 1067, effective January 20, 1995; emergency amendment at 19 Ill. Reg. 3510, effective March 1, 1995, for a maximum of 150 days; emergency expired July 29, 1995; emergency amendment at 19 Ill. Reg. 6709, effective May 12, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 10060, effective June 29, 1995; emergency amendment at 19 Ill. Reg. 10752, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13009, effective September 5, 1995; amended at 19 Ill. Reg. 16630, effective November 28, 1995; amended at 20 Ill. Reg. 872, effective December 29, 1995; amended at 20 Ill. Reg. 7912, effective May 31, 1996; emergency amendment at 20 Ill. Reg. 9281, effective July 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 12510, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15722, effective November 27, 1996; amended at 21 Ill. Reg. 607, effective January 2, 1997; amended at 21 Ill. Reg. 8386, effective June 23, 1997; emergency amendment at 21 Ill. Reg. 9552, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9822, effective July 2, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 10147, effective August 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13349, effective September 23, 1997; emergency amendment at 21 Ill. Reg. 13675, effective September 27, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 16161, effective November 26, 1997; amended at 22 Ill. Reg. 1408, effective December 29, 1997; amended at 22 Ill. Reg. 3083, effective January 26, 1998; amended at 22 Ill. Reg. 11514, effective June 22, 1998; emergency amendment at 22 Ill. Reg. 13070, effective July 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 15027, effective August 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16273, effective August 28, 1998; amended at 22 Ill. Reg. 21490, effective November 25, 1998; amended at 23 Ill. Reg. 5784, effective April 30, 1999; amended at 23 Ill. Reg. 7115, effective June 1, 1999; amended at 23 Ill. Reg. 7908, effective June 30, 1999; emergency amendment at 23 Ill. Reg. 8213, effective July 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12772, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13621, effective November 1, 1999; amended at 24 Ill. Reg. 2400, effective February 1, 2000; amended at 24 Ill. Reg. 3845, effective February 25, 2000; emergency amendment at 24 Ill. Reg. 10386, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 11846, effective August 1, 2000; amended at 24 Ill. Reg. 16067, effective October 16, 2000; amended at 24 Ill. Reg. 17146, effective November 1, 2000; amended at 24 Ill. Reg. 18293, effective December 1, 2000; amended at 25 Ill. Reg. 5359, effective April 1, 2001; emergency amendment at 25 Ill. Reg. 5432, effective April 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 6959, effective June 1, 2001; emergency

amendment at 25 Ill. Reg. 9974, effective July 23, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 10513, effective August 2, 2001; emergency amendment at 25 Ill. Reg. 12870, effective October 1, 2001, for a maximum of 150 days; emergency expired February 27, 2002; amended at 25 Ill. Reg. 16087, effective December 1, 2001; emergency amendment at 26 Ill. Reg. 536, effective December 31, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 680, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 4825, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 4953, effective March 18, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 7786, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 7340, effective April 30, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 8395, effective May 28, 2002; emergency amendment at 26 Ill. Reg. 11040, effective July 1, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16612, effective October 22, 2002; amended at 26 Ill. Reg. 12322, effective July 26, 2002; amended at 26 Ill. Reg. 13661, effective September 3, 2002; amended at 26 Ill. Reg. 14808, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 14887, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17775, effective November 27, 2002; emergency amendment at 27 Ill. Reg. 580, effective January 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 866, effective January 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 4386, effective February 24, 2003; emergency amendment at 27 Ill. Reg. 8320, effective April 28, 2003, for a maximum of 150 days; emergency amendment repealed at 27 Ill. Reg. 12121, effective July 10, 2003; amended at 27 Ill. Reg. 9178, effective May 28, 2003; emergency amendment at 27 Ill. Reg. 11041, effective July 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16185, effective October 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16268, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18843, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 1418, effective January 8, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 1766, effective January 10, 2004, for a maximum of 150 days; emergency expired June 7, 2004; amended at 28 Ill. Reg. 2770, effective February 1, 2004; emergency amendment at 28 Ill. Reg. 5902, effective April 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7101, effective May 3, 2004; amended at 28 Ill. Reg. 8072, effective June 1, 2004; emergency amendment at 28 Ill. Reg. 8167, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9661, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10157, effective July 1, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 12036, effective August 3, 2004, for a maximum of 150 days; emergency expired December 30, 2004; emergency amendment at 28 Ill. Reg. 12227, effective August 6, 2004, for a maximum of 150 days; emergency expired January 2, 2005; amended at 28 Ill. Reg. 14557, effective October 27, 2004; amended at 28 Ill. Reg. 15536, effective November 24, 2004; amended at 29 Ill. Reg. 861, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2026, effective January 21, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 5514, effective April 1, 2005; emergency amendment at 29 Ill. Reg. 5756, effective April 8, 2005, for a maximum of 150 days;

emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 11622, effective July 5, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 8363, effective June 1, 2005; emergency amendment at 29 Ill. Reg. 10275, effective July 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12568, effective August 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 15629, effective October 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 19973, effective November 23, 2005.

SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

Section 148.105 Psychiatric Adjustment Payments

a) Qualifying Criteria
Psychiatric Adjustment Payments shall be made to a qualifying hospital, as defined in this subsection (a). A hospital not otherwise excluded under subsection (b) of this Section shall qualify for payment if it meets one of the following criteria as of July 1, 2002:

1) The hospital is located in Illinois; is a general acute care hospital with a distinct part unit as defined in 89 Ill. Adm. Code 149.50(d)(1) enrolled with the Department to provide inpatient psychiatric services; has a current psychiatric care per diem rate less than the statewide psychiatric distinct part unit average default rate; is located outside of HSA 6; and has a MIUR as described in subsection (e)(5) of this Section that is greater than 60 percent.

2) The hospital is located in Illinois; is a general acute care hospital with a distinct part unit as defined in 89 Ill. Adm. Code 149.50(d)(1) enrolled with the Department to provide inpatient psychiatric services; has a current psychiatric care per diem rate less than the statewide psychiatric distinct part unit average default rate; is located outside of HSA 6; has a MIUR as described in subsection (e)(5) that is greater than 20 percent; has greater than 325 total licensed beds as described in subsection (e)(2) of this Section; and has a psychiatric occupancy rate described in subsection (e)(4) of this Section that is greater than 50 percent.

3) The hospital is located in Illinois; is a general acute care hospital with a distinct part unit as defined in 89 Ill. Adm. Code 149.50(d)(1) enrolled with the Department to provide inpatient psychiatric services; has a current psychiatric care per diem rate less than the statewide psychiatric distinct part unit average default rate; is located outside of HSA 6; has a

MIUR as described in subsection (e)(5) of this Section that is greater than 15 percent; has greater than 500 total licensed beds as described in subsection (e)(2) of this Section; has a psychiatric occupancy rate as described in subsection (e)(4) of this Section that is greater than 35 percent; and has total licensed psychiatric beds described in subsection (e)(3) of this Section that is greater than 50.

4) The hospital is located in Illinois; is a general acute care hospital with a distinct part unit as defined in 89 Ill. Adm. Code 149.50(d)(1) enrolled with the Department to provide inpatient psychiatric services; has a current psychiatric care per diem rate less than the statewide psychiatric distinct part unit average default rate; is located outside of HSA 6; has a MIUR as described in subsection (e)(5) of this Section that is greater than 19 percent; has less than 275 total licensed beds as described in subsection (e)(2) of this Section; has fewer than 1,000 total psychiatric care days as described in subsection (e)(8) of this Section; has 40 or fewer total licensed psychiatric beds as described in subsection (e)(3) of this Section; has greater than 6,000 total days as described in subsection (e)(9) of this Section.

5) The hospital is located in Illinois; is a general acute care hospital with a distinct part unit as defined in 89 Ill. Adm. Code 149.50(d)(1) enrolled with the Department to provide inpatient psychiatric services; has a current psychiatric care per diem rate less than the Statewide psychiatric distinct part unit average default rate; is located outside of HSA 6; has 50 or more total licensed psychiatric beds as described in subsection (e)(3) of this Section; and has a psychiatric occupancy rate described in subsection (e)(4) of this Section that is greater than 60 percent.

b) The following five classes of hospitals are ineligible for Psychiatric Adjustment Payments associated with the qualifying criteria listed in subsections (a)(1) through (a)(4) of this Section:

1) Hospitals located outside of Illinois.

2) Hospitals located inside HSA 6.

3) Psychiatric hospitals, as described in 89 Ill. Adm. Code 149.50(c)(1).

4) Long term stay hospitals, as described in 89 Ill. Adm. Code 149.50(c)(4).

5) A children's hospital, as described in 89 Ill. Adm. Code 149.50(c)(3).

c) Psychiatric Adjustment Payment Rates

1) For a hospital qualifying under subsection (a)(1) of this Section, the rate is $63.00.

2) For a hospital qualifying under subsection (a)(2) of this Section that:

A) Has less than 10,000 total days, the rate is $78.00.

B) Has equal to or greater than 10,000 total days, the rate is $125.00.

3) For a hospital qualifying under subsection (a)(3) of this Section, the rate is $21.00.

4) For a hospital qualifying under subsection (a)(4) of this Section, the rate is $38.00.

5) For a hospital qualifying under subsection (a)(5) of this Section, the rate is $140.00

d) Payment to a Qualifying Hospital

1) The total annual adjustment amount to a qualifying hospital shall be the product of the appropriate psychiatric adjustment payment rate, as described in subsection (c) of this Section, multiplied by total days as described in subsection (e)(9) of this Section.

2) The total annual adjustment amount shall be paid to the hospital during the Psychiatric Adjustment Payment period in installments on, at least, a quarterly basis.

e) Definitions

1) "HSA" means Health Service Area, as defined by the Illinois Department of Public Health.

2) "Total licensed beds" means, for a given hospital, the number of licensed beds, excluding long term care and substance abuse beds, as listed in the July 25, 2001, Illinois Department of Public Health report entitled "Percent Occupancy by Service in Year 2000 for Short Stay, Non-Federal Hospitals in Illinois".

3) "Licensed psychiatric beds" means, for a given hospital, the number of psychiatric licensed beds, as listed in the July 25, 2001, Illinois Department of Public Health report entitled "Percent Occupancy by Service in Year 2000 for Short Stay, Non-Federal Hospitals in Illinois".

4) "Psychiatric occupancy rate" means, for a given hospital, the psychiatric hospital occupancy rate as listed in the July 25, 2001, Illinois Department of Public Health report entitled "Percent Occupancy by Service in Year 2000 for Short Stay, Non-Federal Hospitals in Illinois".

5) "MIUR" for a given hospital, has the meaning as defined in Section 148.120(k)(5), and shall be determined in accordance with Sections 148.120(c) and (f). For purposes of this rulemaking, the MIUR determination that was used to determine a hospital's eligibility for Disproportionate Share Hospital Adjustment Payments in rate year 2002 shall be the same determination used to determine a hospital's eligibility for Psychiatric Adjustment Payments in the Psychiatric Adjustment Payment Period.

6) "Psychiatric Adjustment Payment base year" means the 12-month period beginning on July 1, 2000~~,~~ and ending on June 30, 2001.

7) "Psychiatric Adjustment Payment period" means, beginning October 1, 2002, the nine month period beginning October 1 and ending June 30 of the following year, and beginning July 1, 2003, the 12 month period beginning July 1 of the year and ending June 30 of the following year.

8) "Total psychiatric care days" means, for a given hospital, the sum of days of inpatient psychiatric care, as defined in Section 148.40(a), provided to recipients of medical assistance under Title XIX of the federal Social Security Act, excluding days for individuals eligible for Medicare under Title XVIII of that Act (Medicaid/Medicare crossover days), as tabulated from the Department's claims data for admissions occurring in the

Psychiatric Adjustment Payment base year that were adjudicated by the Department through June 30, 2001.

9) "Total days" means, for a given hospital, the sum of days of inpatient hospital services provided to recipients of medical assistance under Title XIX of the federal Social Security Act, excluding days for individuals eligible for Medicare under Title XVIII of that Act (Medicaid/Medicare crossover days), as tabulated from the Department's claims data for admissions occurring in the Psychiatric Adjustment Payment base year that were adjudicated by the Department through June 30, 2001.

10) "Psychiatric care average length of stay" means the quotient of the fraction, the numerator of which is the number of psychiatric care days in the Psychiatric Adjustment Payment base year, the denominator of which is the number of admissions in the Psychiatric Adjustment Payment base year.

(Source: Amended at 29 Ill. Reg. 19973, effective November 23, 2005)

Section 148.295 Critical Hospital Adjustment Payments (CHAP)

Critical Hospital Adjustment Payments (CHAP) shall be made to all eligible hospitals excluding county-owned hospitals, as described in Section 148.25(b)(1)(A), unless otherwise noted in this Section, and hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B), for inpatient admissions occurring on or after July 1, 1998, in accordance with this Section.

a) Trauma Center Adjustments (TCA)
The Department shall make a TCA to Illinois hospitals recognized, as of the first day of July in the CHAP rate period, as a Level I or Level II trauma center by the Illinois Department of Public Health (IDPH) in accordance with the provisions of subsections (a)(1) through (a)(3) of this Section.

1) Level I Trauma Center Adjustment.

A) Criteria. Illinois hospitals that, on the first day of July in the CHAP rate period, are recognized as a Level I trauma center by the Illinois Department of Public Health shall receive the Level I trauma center adjustment.

B) Adjustment. Illinois hospitals meeting the criteria specified in subsection (a)(1)(A) of this Section shall receive an adjustment as follows:

i) Hospitals with Medicaid trauma admissions equal to or greater than the mean Medicaid trauma admissions, for all hospitals qualifying under subsection (a)(1)(A) of this Section, shall receive an adjustment of $21,365.00 per Medicaid trauma admission in the CHAP base period.

ii) Hospitals with Medicaid trauma admissions less than the mean Medicaid trauma admissions, for all hospitals qualifying under subsection (a)(1)(A) of this Section, shall receive an adjustment of $14,165.00 per Medicaid trauma admission in the CHAP base period.

2) Level II Rural Trauma Center Adjustment. Illinois rural hospitals, as defined in Section 148.25(g)(3), that, on the first day of July in the CHAP rate period, are recognized as a Level II trauma center by the Illinois Department of Public Health shall receive an adjustment of $11,565.00 per Medicaid trauma admission in the CHAP base period.

3) Level II Urban Trauma Center Adjustment. Illinois urban hospitals, as described in Section 148.25(g)(4), that, on the first day of July in the CHAP rate period, are recognized as Level II trauma centers by the Illinois Department of Public Health shall receive an adjustment of $11,565.00 per Medicaid trauma admission in the CHAP base period, provided that such hospital meets the criteria described below:

A) The hospital is located in a county with no Level I trauma center; and

B) The hospital is located in a Health Professional Shortage Area (HPSA) (42 CFR 5), as of the first day of July in the CHAP rate period, and has a Medicaid trauma admission percentage at or above the mean of the individual facility values determined in subsection (a)(3) of this Section; or the hospital is not located in an HPSA and has a Medicaid trauma admission percentage that is at least the mean plus one standard deviation of the individual facility values determined in subsection (a)(3) of this Section.

b) Rehabilitation Hospital Adjustment (RHA)
Illinois hospitals that, on the first day of July in the CHAP rate period, qualify as rehabilitation hospitals, as defined in 89 Ill. Adm. Code 149.50(c)(2), and that are accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF), shall receive a rehabilitation hospital adjustment in the CHAP rate period that consists of the following three components:

1) Treatment Component. All hospitals defined in subsection (b) of this Section shall receive $4,215.00 per Medicaid Level I rehabilitation admission in the CHAP base period.

2) Facility Component. All hospitals defined in subsection (b) of this Section shall receive a facility component that shall be based upon the number of Medicaid Level I rehabilitation admissions in the CHAP base period as follows:

A) Hospitals with fewer than 60 Medicaid Level I rehabilitation admissions in the CHAP base period shall receive a facility component of $229,360.00 in the CHAP rate period.

B) Hospitals with 60 or more Medicaid Level I rehabilitation admissions in the CHAP base period shall receive a facility component of $527,528.00 in the CHAP rate period.

3) Health Professional Shortage Area Adjustment Component. Hospitals defined in subsection (b) of this Section that are located in an HPSA on July 1, 1999, shall receive $276.00 per Medicaid Level I rehabilitation inpatient day in the CHAP base period.

c) Direct Hospital Adjustment (DHA) Criteria

1) Qualifying Criteria
Hospitals may qualify for the DHA under this subsection (c) under the following categories:

A) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals and long term stay hospitals, all other hospitals located in Health Service Area (HSA) 6 that either:

i) were eligible for Direct Hospital Adjustments under the CHAP program as of July 1, 1999~~,~~ and had a Medicaid inpatient utilization rate (MIUR) equal to or greater than the statewide mean in Illinois on July 1, 1999;

ii) were eligible under the Supplemental Critical Hospital Adjustment Payment (SCHAP) program as of July 1, 1999~~,~~ and had an MIUR equal to or greater than the statewide mean in Illinois on July 1, 1999; or

iii) were county owned hospitals as defined in 89 Ill. Adm. Code 148.25(b)(1)(A), and had an MIUR equal to or greater than the statewide mean in Illinois on July 1, 1999.

B) Illinois hospitals located outside of HSA 6 that had an MIUR greater than 60 percent on July 1, 1999~~,~~ and an average length of stay less than ten days. The following hospitals are excluded from qualifying under this subsection (c)(1)(B): children's hospitals; psychiatric hospitals; rehabilitation hospitals; and long term stay hospitals.

C) Children's hospitals, as defined under 89 Ill. Adm. Code 149.50(c)(3), on July 1, 1999.

D) Illinois teaching hospitals, with more than 40 graduate medical education programs on July 1, 1999, not qualifying in subsection (c)(1)(A), (B), or (C) of this Section.

E) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals, long term stay hospitals and hospitals qualifying in subsection (c)(1)(A), (B), (C) or (D) of this Section, all other hospitals located in Illinois that had an MIUR equal to or greater than the mean plus one-half standard deviation on July 1, 1999~~,~~ and provided more than 15,000 Total days.

F) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals, long term stay hospitals and hospitals otherwise qualifying in

subsection (c)(1)(A), (B), (C), (D), or (E) of this Section, all other hospitals that had an MIUR greater than 40 percent on July 1, 1999~~,~~ and provided more than 7,500 Total days and provided obstetrical care as of July 1, 2001.

G) Illinois teaching hospitals with 25 or more graduate medical education programs on July 1, 1999, that are affiliated with a Regional Alzheimer's Disease Assistance Center as designated by the Alzheimer's Disease Assistance Act [410 ILCS 405/4], that had an MIUR less than 25 percent on July 1, 1999~~,~~ and provided 75 or more Alzheimer days for patients diagnosed as having the disease.

H) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals, long term stay hospitals and hospitals otherwise qualifying in subsection (c)(1)(A) through (c)(1)(G) of this Section, all other hospitals that had an MIUR greater than 50 percent on July 1, 1999.

2) DHA Rates

A) For hospitals qualifying under subsection (c)(1)(A) of this Section, the DHA rates are as follows:

i) Hospitals that have a Combined MIUR that is equal to or greater than the Statewide mean Combined MIUR, but less than one standard deviation above the Statewide mean Combined MIUR, will receive $69.00 per day for hospitals that do not provide obstetrical care and $105.00 per day for hospitals that do provide obstetrical care.

ii) Hospitals that have a Combined MIUR that is equal to or greater than one standard deviation above the Statewide mean Combined MIUR, but less than one and one-half standard deviation above the Statewide mean Combined MIUR, will receive $105.00 per day for hospitals that do not provide obstetrical care and $142.00 per day for hospitals that do provide obstetrical care.

iii) Hospitals that have a Combined MIUR that is equal to or greater than one and one-half standard deviation above the Statewide mean Combined MIUR, but less than two standard deviations above the Statewide mean Combined MIUR, will receive $124.00 per day for hospitals that do not provide obstetrical care and $160.00 per day for hospitals that do provide obstetrical care.

iv) Hospitals that have a Combined MIUR that is equal to or greater than two standard deviations above the Statewide mean Combined MIUR will receive $142.00 per day for hospitals that do not provide obstetrical care and $179.00 per day for hospitals that do provide obstetrical care.

B) Hospitals qualifying under subsection (c)(1)(A) of this Section will also receive the following rates:

i) County owned hospitals as defined in Section 148.25 with more than 30,000 Total days will have their rate increased by $455.00 per day.

ii) Hospitals that are not county owned with more than 30,000 Total days will have their rate increased by $330.00 per day.

iii) Hospitals with more than 80,000 Total days will have their rate increased by an additional $423.00 per day.

iv) Hospitals with more than 4,500 Obstetrical days will have their rate increased by $101.00 per day.

v) Hospitals with more than 5,500 Obstetrical days will have their rate increased by an additional $194.00 per day.

vi) Hospitals with an MIUR greater than 74 percent will have their rate increased by $147.00 per day.

vii) Hospitals with an average length of stay less than 3.9 days will have their rate increased by $41.00 per day.

viii) Hospitals with an MIUR greater than the statewide mean plus one standard deviation that are designated a Perinatal Level 2 Center and have one or more obstetrical graduate medical education programs as of July 1, 1999~~,~~ will have their rate increased by $227.00 per day.

ix) Hospitals receiving payments under subsection (c)(2)(A)(ii) of this Section that have an average length of stay less than four days will have their rate increased by $182.25 per day.

x) Hospitals receiving payments under subsection (c)(2)(A)(ii) of this Section that have an MIUR greater than 60 percent will have their rate increased by $281.00~~$202.00~~ per day.

xi) Hospitals receiving payments under subsection (c)(2)(A)(iv) of this Section that have an MIUR greater than 70 percent and have more than 20,000 days will have their rate increased by $98.00 per day.

C) Hospitals qualifying under subsection (c)(1)(B) of this Section will receive the following rates:

i) Qualifying hospitals will receive a rate of $421.00 per day.

ii) Qualifying hospitals with more than 1,500 Obstetrical days will have their rate increased by $369.00 per day.

D) Hospitals qualifying under subsection (c)(1)(C) of this Section will receive the following rates:

i) Hospitals will receive a rate of $28.00 per day.

ii) Hospitals located in Illinois and outside of HSA 6 that have an MIUR greater than 60 percent will have their rate increased by $55.00 per day.

iii) Hospitals located in Illinois and inside HSA 6 that have an MIUR greater than 80 percent will have their rate increased by $573.00 per day.

iv) Hospitals that are not located in Illinois that have an MIUR greater than 45 percent will have their rate increased by $32.00 per day for hospitals that have fewer than 4,000 Total days; or $246.00 per day for hospitals that have more than 4,000 Total days but fewer than 8,000 Total days; or $178.00 per day for hospitals that have more than 8,000 Total days.

v) Hospitals with more than 3,200 Total admissions will have their rate increased by $248.00 per day.

E) Hospitals qualifying under subsection (c)(1)(D) of this Section will receive the following rates:

i) Hospitals will receive a rate of $41.00 per day.

ii) Hospitals with an MIUR between 18 percent and 19.75 percent will have their rate increased by an additional $14.00 per day.

iii) Hospitals with an MIUR equal to or greater than 19.75 percent will have their rate increased by an additional $87.00 per day.

iv) Hospitals with a combined MIUR that is equal to or greater than 35 percent will have their rate increased by an additional $41.00 per day.

F) Hospitals qualifying under subsection (c)(1)(E) of this Section will receive $188.00 per day.

G) Hospitals qualifying under subsection (c)(1)(F) of this Section will receive a rate of $55.00 per day.

H) Hospitals that qualify under subsection (c)(1)(G) of this Section will receive the following rates:

i) Hospitals with an MIUR greater than 19.75 percent will receive a rate of $69.00 per day.

ii) Hospitals with an MIUR equal to or less than 19.75 percent will receive a rate of $11.00 per day.

I) Hospitals qualifying under subsection (c)(1)(H) of this Section will receive a rate of $268.00 per day.

J) Hospitals that qualify under subsection (c)(1)(A)(iii) of this Section will have their rates multiplied by a factor of two. The payments calculated under this Section to hospitals that qualify under subsection (c)(1)(A)(iii) of this Section may be adjusted by the Department to ensure compliance with aggregate and hospital specific federal payment limitations. A portion of the payments calculated under this Section may be classified as disproportionate share adjustments for hospitals qualifying under subsection (c)(1)(A)(iii) of this Section.

3) DHA Payments

A) Payments under this subsection (c) will be made at least quarterly, beginning with the quarter ending December 31, 1999.

B) Payment rates will be multiplied by the Total days.

C) Total Payment Adjustments

i) For the CHAP rate period occurring in State fiscal year 2004, total payments will equal the methodologies described in subsection (c)(2) of this Section. For the period April 1, 2004, to June 30, 2004, payment will equal the State fiscal year 2004 amount less the amount the hospital received under DHA for the quarters ending September 30, 2003, December 31, 2003, and March 31, 2004.

ii) For CHAP rate periods occurring after State fiscal year 2004, total payments will equal the methodologies described in subsection (c)(2) of this Section.

d) Rural Critical Hospital Adjustment Payments (RCHAP)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

RCHAP shall be made to rural hospitals, as described in 89 Ill. Adm. Code 140.80(j)(1), for certain inpatient admissions. The hospital qualifying under this subsection that has the highest number of Medicaid obstetrical care admissions during the CHAP base period shall receive $367,179.00 per year. The Department shall also make an RCHAP to hospitals qualifying under this subsection at a rate that is the greater of:

1) the product of $1,367.00 multiplied by the number of RCHAP Obstetrical Care Admissions in the CHAP base period, or

2) the product of $138.00 multiplied by the number of RCHAP General Care Admissions in the CHAP base period.

e) Total CHAP Adjustments
Each eligible hospital's critical hospital adjustment payment shall equal the sum of the amounts described in subsections (a), (b), (c) and (d) of this Section. The critical hospital adjustment payments shall be paid at least quarterly.

f) Critical Hospital Adjustment Limitations
Hospitals that qualify for trauma center adjustments under subsection (a) of this Section shall not be eligible for the total trauma center adjustment if, during the CHAP rate period, the hospital is no longer recognized by the Illinois Department of Public Health as a Level I trauma center as required for the adjustment described in subsection (a)(1) of this Section, or a Level II trauma center as required for the adjustment described in subsection (a)(2) or (a)(3) of this Section. In these instances, the adjustments calculated shall be pro-rated, as applicable, based upon the date that such recognition ceased.

g) Critical Hospital Adjustment Payment Definitions
The definitions of terms used with reference to calculation of the CHAP required by this Section are as follows:

1) "Alzheimer days" means total paid days contained in the Department's paid claims database with a ICD-9-CM diagnosis code of 331.0 for dates of service occurring in State fiscal year 2001 and adjudicated through June 30, 2002.

2) "CHAP base period" means State Fiscal Year 1994 for CHAP calculated for the July 1, 1995, CHAP rate period; State Fiscal Year 1995 for CHAP calculated for the July 1, 1996, CHAP rate period; etc.

3) "CHAP rate period" means, beginning July 1, 1995, the 12 month period beginning on July 1 of the year and ending June 30 of the following year.

4) "Combined MIUR" means the sum of Medicaid Inpatient Utilization Rate (MIUR) as of July 1, 1999, and as defined in Section 148.120(k)(5), plus the Medicaid obstetrical inpatient utilization rate, as described in Section 148.120(k)(6), as of July 1, 1999.

5) "Medicaid general care admission" means hospital inpatient admissions that were subsequently adjudicated by the Department through the last day of June preceding the CHAP rate period and contained within the Department's paid claims data base, for recipients of medical assistance under Title XIX of the Social Security Act, excluding admissions for normal newborns, Medicare/Medicaid crossover admissions, psychiatric and rehabilitation admissions.

6) "Medicaid Level I rehabilitation admissions" means those claims billed as Level I admissions that were subsequently adjudicated by the Department through the last day of June preceding the CHAP rate period and contained within the Department's paid claims data base, with an ICD-9-CM principal diagnosis code of: 054.3, 310.1 through 310.2, 320.1, 336.0 through 336.9, 344.0 through 344.2, 344.8 through 344.9, 348.1, 801.30, 803.10, 803.84, 806.0 through 806.19, 806.20 through 806.24, 806.26, 806.29 through 806.34, 806.36, 806.4 through 806.5, 851.06, 851.80, 853.05, 854.0 through 854.04, 854.06, 854.1 through 854.14, 854.16, 854.19, 905.0, 907.0, 907.2, 952.0 through 952.09, 952.10 through 952.16, 952.2, and V57.0 through V57.89, excluding admissions for normal newborns.

7) "Medicaid Level I rehabilitation inpatient day" means the days associated with the claims defined in subsection (g)(5) of this Section.

8) "Medicaid obstetrical care admission" means hospital inpatient admissions that were subsequently adjudicated by the Department through the last day of June preceding the CHAP rate period and contained within the Department's paid claims data base, for recipients of medical assistance under Title XIX of Social Security Act, with Diagnosis Related Grouping (DRG) of 370 through 375; and specifically excludes Medicare/Medicaid crossover claims.

9) "Medicaid trauma admission" means those claims billed as admissions that were subsequently adjudicated by the Department through the last day of June preceding the CHAP rate period and contained within the Department's paid claims data base, with an ICD-9-CM principal diagnosis code of: 800.0 through 800.99, 801.0 through 801.99, 802.0 through 802.99, 803.0 through 803.99, 804.0 through 804.99, 805.0 through 805.98, 806.0 through 806.99, 807.0 through 807.69, 808.0 through 808.9, 809.0 through 809.1, 828.0 through 828.1, 839.0 through 839.31~~839.3~~, 839.7 through 839.9, 850.0 through 850.9, 851.0 through 851.99, 852.0 through 852.59, 853.0 through 853.19, 854.0 through 854.19, 860.0 through 860.5, 861.0 through 861.32, 862.8, 863.0 through 863.99, 864.0 through 864.19, 865.0 through 865.19, 866.0 through 866.13, 867.0 through 867.9, 868.0 through 868.19, 869.0 through 869.1, 887.0 through 887.7, 896.0 through 896.3, 897.0 through 897.7, 900.0 through 900.9, 902.0 through 904.9, 925 through 925.2, 926.8, 929.0 through 929.99, 958.4, 958.5, 990 through 994.99.

10) "Medicaid trauma admission percentage" means a fraction, the numerator of which is the hospital's Medicaid trauma admissions and the denominator of which is the total Medicaid trauma admissions in a given 12 month period for all Level II urban trauma centers.

11) "RCHAP general care admissions" means Medicaid General Care Admissions, as defined in subsection (g)(4) of this Section, less RCHAP Obstetrical Care Admissions, occurring in the CHAP base period.

12) "RCHAP obstetrical care admissions" means Medicaid Obstetrical Care Admissions, as defined in subsection (g)(7) of this Section, with a Diagnosis Related Grouping (DRG) of 370 through 375, occurring in the CHAP base period.

13) "Total admissions" means total paid admissions contained in the Department's paid claims database, including obstetrical admissions multiplied by two and excluding Medicare crossover admissions, for dates of service occurring in State fiscal year 1998 and adjudicated through June 30, 1999.

14) "Total days" means total paid days contained in the Department's paid claims database, including obstetrical days multiplied by two and

excluding Medicare crossover days, for dates of service occurring in State fiscal year 1998 and adjudicated through June 30, 1999.

15) "Total obstetrical days" means hospital inpatient days for dates of service occurring in State fiscal year 1998 and adjudicated through June 30, 1999, with an ICD-9-CM principal diagnosis code of 640.0 through 648.9 with a 5th digit of 1 or 2; 650; 651.0 through 659.9 with a 5th digit of 1, 2, 3, or 4; 660.0 through 669.9 with a 5th digit of 1, 2, 3, or 4; 670.0 through 676.9 with a 5th digit of 1 or 2; V27 through V27.9; V30 through V39.9; or any ICD-9-CM principal diagnosis code that is accompanied with a surgery procedure code between 72 and 75.99; and specifically excludes Medicare/Medicaid crossover claims.

(Source: Amended at 29 Ill. Reg. 19973, effective November 23, 2005)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Hospital Reimbursement Changes

2) Code Citation: 89 Ill. Adm. Code 152

3)

Section Numbers:	Adopted Action:
152.150	Amendment
152.200	Amendment

Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Effective Date of Amendments: November 23, 2005

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 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: May 27, 2005; 29 Ill. Reg. 7718

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences Between Proposal and Final Version:

No changes have been made to the proposed rulemaking.

However, the AUTHORITY for Part 148 is being changed to:

AUTHORITY: Implementing and authorized by Articles III, IV, V and VI and Sections 12-13 and 14-8 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and Sections 12-13 and 14-8].

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 any emergency amendments currently in effect? Yes

14) Are there any other amendments pending on this Part? No

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

15) Summary and Purpose of Amendments: These amendments provide changes concerning outlier adjustment payments for exceptionally costly stays provided by hospitals. Under the changes, which are applicable to hospitals reimbursed on a per diem basis and under the Diagnosis Related Grouping (DRG) Prospective Payment System (PPS), the hospital outlier calculation methodology is being revised to slow the growth of anticipated future reimbursement for outlier adjustments and thereby control spending. A net reduction in current funding levels is not expected. This cost saving reform is a component of the Fiscal Year 2006 budget.

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

Joanne Scattoloni
Office of the General Counsel, Rules Section
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002

(217) 524-0081

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~~PUBLIC AID~~
SUBCHAPTER e: GENERAL TIME-LIMITED CHANGES

PART 152
HOSPITAL REIMBURSEMENT CHANGES

Section
152.100 Reimbursement Add-on Adjustments (Repealed)
152.150 Diagnosis Related Grouping (DRG) Prospective Payment System (PPS)
152.200 Non-DRG Reimbursement Methodologies
152.250 Appeals (Repealed)

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

SOURCE: Emergency rules adopted at 18 Ill. Reg. 2150, effective January 18, 1994, for maximum of 150 days; adopted at 18 Ill. Reg. 10141, effective June 17, 1994; emergency amendment at 19 Ill. Reg. 6706, effective May 12, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10236, effective June 30, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16272, effective November 27, 1995; emergency amendment at 20 Ill. Reg. 9272, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15712, effective November 27, 1996; emergency amendment at 21 Ill. Reg. 9544, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 16153, effective November 26, 1997; emergency amendment at 25 Ill. Reg. 218, effective January 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 6966, effective May 28, 2001; emergency amendment at 25 Ill. Reg. 16122, effective December 3, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 7309, effective April 29, 2002; emergency amendment at 29 Ill. Reg. 10299, effective July 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 19997, effective November 23, 2005.

Section 152.150 Diagnosis Related Grouping (DRG) Prospective Payment System (PPS)

a) Notwithstanding any provisions set forth in 89 Ill. Adm. Code 149, the changes described in subsections (b) and (c) of this Section will be effective January 18, 1994.

b) For the rate periods, as described in 89 Ill. Adm. Code 148.25(g)(2)(B), the DRG weighting factors shall be adjusted by a factor, the numerator of which is the statewide weighted average DRG base payment rate in effect for the base period, as described in 89 Ill. Adm. Code 148.25(g)(2)(A), and the denominator of which

is the statewide weighted average DRG base payment rate for the rate period, as described in 89 Ill. Adm. Code 148.25(g)(2)(B). For this adjustment, DRG base payment rate means the product of the PPS base rate, as described in 89 Ill. Adm. Code 149.100(c)(3), and the indirect medical education factor, as described in 89 Ill. Adm. Code 149.150(c)(3).

c) All payments calculated under 89 Ill. Adm. Code 149.140 and 149.150(c)(1), (c)(2) and (c)(4), in effect on January 18, 1994, shall remain in effect hereafter.

d) For hospital inpatient services rendered on or after July 1, 1995, the Department shall reimburse hospitals using the relative weighting factors and the base payment rates calculated pursuant to the methodology described in this Section, that were in effect on June 30, 1995, less the portion of such rates attributed by the Department to the cost of medical education.

e) Notwithstanding the provisions set forth in 89 Ill. Adm. Code 149 (DRG PPS), the changes described in this subsection (e) shall be effective January 1, 2001. Payments for hospital inpatient and outpatient services shall not exceed charges to the Department. This payment limitation shall not apply to government owned or operated hospitals or children's hospitals as defined at 89 Ill. Adm. Code 149.50(c)(3). This payment limitation shall not apply to or affect disproportionate share payments as described at 89 Ill. Adm. Code 148.120, payments for outlier costs as described at 89 Ill. Adm. Code 149.105 or payments for Medicaid High Volume Adjustments as described at 89 Ill. Adm. Code 148.290(d).

f) Notwithstanding the provisions of 89 Ill. Adm. Code 149,~~for admissions on or after December 3, 2001,~~ payment for outlier cases pursuant to 89 Ill. Adm. Code 149.105 shall be determined by using the following factors that were in effect on June 30, 1995:

1) The marginal cost factor (see 89 Ill. Adm. Code 149.5(c)(4)),

2) The Metropolitan Statistical Area (MSA) wage index (see 89 Ill. Adm. Code 148.120(b)),

3) The Indirect Medical Education (IME) factor (see 89 Ill. Adm. Code 148.260(a)(1)(B)(iv)),

4) The cost to charge ratio (see 89 Ill. Adm. Code 149.105(c)(3)), and

5) Outlier Threshold~~The cost outlier threshold (see 89 Ill. Adm. Code 149.5(c)(5)) multiplied by 1.22.~~

A) For admissions on December 3, 2001 through June 30, 2005, the cost outlier threshold (see 89 Ill. Adm. Code 149.5(c) (5)) multiplied by 1.22.

B) For admissions on or after July 1, 2005, the cost outlier threshold (see 89 Ill. Adm. Code 149.5(c)(5)) multiplied by 1.40.

(Source: Amended at 29 Ill. Reg. 19997, effective November 23, 2005)

Section 152.200 Non-DRG Reimbursement Methodologies

a) Notwithstanding any provisions set forth in 89 Ill. Adm. Code 148, the changes described in subsection (b) of this Section will be effective January 18, 1994.

b) All per diem payments calculated under 89 Ill. Adm. Code 148, except for those described in 89 Ill. Adm. Code 148.120, 148.160, 148.170, 148.175 and 148.290(a), (c) and (d), in effect on January 18, 1994, less the portion of such rates attributed by the Department to the cost of medical education, shall remain in effect hereafter.

c) Notwithstanding the provisions set forth in 89 Ill. Adm. Code 148, Hospital Services, and 89 Ill. Adm. Code 146, Subpart A, Ambulatory Surgical Treatment Centers, the changes described in this subsection (c) shall be effective January 1, 2001. Payments for hospital inpatient and outpatient services and ambulatory surgical treatment services shall not exceed charges to the Department. This payment limitation shall not apply to government owned or operated hospitals or children's hospitals as defined at 89 Ill. Adm. Code 149.50(c)(3). This payment limitation shall not apply to or affect disproportionate share payments as described at 89 Ill. Adm. Code 148.120, payments for outlier costs as described at 89 Ill. Adm. Code 148.130 or payments for Medicaid High Volume Adjustments as described at 89 Ill. Adm. Code 148.290(d).

d) Notwithstanding the provisions of subsections (a), (b) and (c) of this Section, ~~for admissions on or after December 3, 2001,~~ payment for outlier adjustments provided for exceptionally costly stays pursuant to 89 Ill. Adm. Code 148.130 shall be determined using the following factors:~~factor 0.22 in place of the factor 0.25 described at 89 Ill. Adm. Code 148.130(b)(3)(D).~~

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) For admissions on December 3, 2001 through June 30, 2005, a factor of 0.22 in place of the factor 0.25 described at 89 Ill. Adm. Code 148.130(b)(3)(D).

2) For admissions on or after July 1, 2005, a factor of 0.20 in place of the factor 0.22 as described in subsection (d)(1) of this Section.

(Source: Amended at 29 Ill. Reg. 19997, effective November 23, 2005)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Illinois Home Health Agency Code

2) Code Citation: 77 Ill. Adm. Code 245

3)

Section Numbers:	Adopted Action:
245.20	Amendment
245.50	Amendment
245.72	Amendment

4) Statutory Authority: [210 ILCS 55]

5) Effective Date of Rulemaking: November 28, 2005

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain any incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.

9) Notices of Proposal published in Illinois Register: March 11, 2005; 29 Ill. Reg. 3832

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 response to comments received during the first notice or public comment period:

In Section 245.50(e)(4), "notated" was removed.

In Section 245.72, "A facility" was changed to "An agency".

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 these adopted amendments 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 the rulemaking: Section 245.20 is amended so that the definition of Medical Social Worker more closely conforms with the definition in the Clinical Work and Social Work Practice Act [225 ILCS 20]. Section 245.50 is amended to extend the time limit for obtaining a physician's or podiatrist's signature on any modification to a patient's medical treatment plan from 14 to 30 days. Section 245.72 is amended to replace the existing text with a requirement that facilities comply with the Health Care Worker Background Check Act [225 ILCS 46] and the Health Care Worker Background Check Code (77 Ill. Adm. Code 955) (adopted at 28 Ill. Reg. 14133, effective October 15, 2004).

Currently, Part 245 requires medical social workers to undergo a full year of training after acquiring their social worker license before being eligible for employment by home health agencies. But as a licensed social worker must already have completed 3,000 hours of work before getting his or her license, requiring them to complete an additional year of training constitutes an onerous burden. Abolishing the requirement eliminates the burden and brings Part 245 in line with the Act.

Section 245.50 sets 14 days as the maximum time limit to obtain a physician's or podiatrist's signature following a modification of a plan of treatment. It also sets 14 days as the maximum limit for verbal orders for medication or a change in medication to be written and signed by a patient's physician or podiatrist. However, the Act [210 ILCS 55] specifies no time limit, nor do federal regulations. Hospitals are permitted by code (77 Ill. Adm. Code 250) to set the time limit by policy. The standard of the Joint Commission on Accreditation of Health Care Organizations is 30 days. Amending Part 245 to extend the time limit to 30 days for home health agencies removes an undue burden.

When the Health Care Worker Background Check Act [the Act] was enacted in 1996, requirements for compliance with the Act were added to the rules governing licensure of each "health care employer" defined in the Act. Home health agencies are included as health care employers. Since that time, the Act has been amended several times and has increased in length. Amending each set of licensing rules (15 in all) each time the Act is amended has become a time-consuming process. The rules are also reviewed by seven different advisory boards. Since the boards meet at different times throughout the year, changes to the rules are not able to be promulgated all at the same time. Placing the rules in one Part is a more efficient use of the Department's resources.

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

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

217/782-2043
e-mail: rules@idph.state.Il.us

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 b: HOSPITALS AND AMBULATORY CARE FACILITIES

PART 245
ILLINOIS HOME HEALTH AGENCY CODE

SUBPART A: GENERAL PROVISIONS

Section
245.10 Purpose
245.20 Definitions
245.25 Incorporated and Referenced Materials

SUBPART B: OPERATIONAL REQUIREMENTS

Section
245.30 Organization and Administration
245.40 Staffing and Staff Responsibilities
245.50 Services
245.60 Annual Financial Statement
245.70 Home Health Aide Training
245.72 Health Care Worker Background Check

SUBPART C: LICENSURE PROCEDURES

Section
245.80 Licensure Required
245.90 License Application
245.100 Provisional License
245.110 Inspections and Investigations
245.120 Violations
245.130 Adverse Licensure Actions
245.140 Penalties and Fines
245.150 Hearings

AUTHORITY: Implementing and authorized by the Home Health Agency Licensing Act [210 ILCS 55].

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

SOURCE: Adopted at 2 Ill. Reg. 31, p. 77, effective August 2, 1978; emergency amendment at 3 Ill. Reg. 38, p. 314, effective September 7, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 40, p. 153, effective October 6, 1979; emergency amendment at 4 Ill. Reg. 18, p. 129, effective April 21, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 40, p. 56, effective September 23, 1980; emergency amendment at 6 Ill. Reg. 5855, effective April 28, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11006, effective August 30, 1982; amended at 7 Ill. Reg. 13665, effective October 4, 1983; codified at 8 Ill. Reg. 16829; amended at 9 Ill. Reg. 4836, effective April 1, 1985; amended at 14 Ill. Reg. 2382, effective February 15, 1990; amended at 15 Ill. Reg. 5376, effective May 1, 1991; amended at 18 Ill. Reg. 2414, effective January 22, 1994; emergency amendments at 20 Ill. Reg. 488, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 3273, effective February 15, 1996; amended at 20 Ill. Reg. 10033, effective July 15, 1996; amended at 22 Ill. Reg. 3948, effective February 13, 1998; amended at 22 Ill. Reg. 22050, effective December 10, 1998; amended at 23 Ill. Reg. 1028, effective January 15, 1999; amended at 24 Ill. Reg. 17213, effective November 1, 2000; amended at 25 Ill. Reg. 6379, effective May 1, 2001; amended at 26 Ill. Reg. 11241, effective July 15, 2002; amended at 28 Ill. Reg. 3487, effective February 9, 2004; amended at 28 Ill. Reg. 8094, effective May 26, 2004; amended at 29 Ill. Reg. 20003, effective November 28, 2005.

SUBPART A: GENERAL PROVISIONS

Section 245.20 Definitions

Act – the Home Health Agency Licensing Act [210 ILCS 55].

Administrator – any one of the following:

a physician;

a registered nurse;

an individual with at least one year of supervisory or administrative experience in home health care or in related health provider programs; or

an individual who meets the requirements for Public Health Administrator as contained in 77 Ill. Adm. Code 600.300 of the Certified Local Health Department Code (77 Ill. Adm. Code 600) as promulgated by the Department.

Agency – a Home Health Agency, unless otherwise designated.

Audiologist – a person who has received a license to practice audiology pursuant to the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110].

Branch Office – a location or site from which a home health agency provides services within a portion of the total geographic area served by the parent agency. The branch office is part of the home health agency and is located sufficiently close to share administration, supervision and services in a manner that renders it unnecessary for the branch independently to meet the conditions of participation as a home health agency.

Bylaws or Equivalent – a set of rules adopted by a home health agency for governing the agency's operation.

Clinical Note – a dated, written notation by a member of the health team of a contact with a patient, containing a description of signs and symptoms, treatment and/or drug given, the patient's reaction and any changes in physical or emotional condition.

Clinical Record – an accurate account of services provided for each patient and maintained by the agency in accordance with accepted professional standards.

Department – the ~~The~~ Department of Public Health of the State of Illinois. (Section 2.01 of the Act)

Director – the Director of Public Health of the State of Illinois, or his designee. (Section 2.02 of the Act)

Discharge Summary – the written report of services rendered, goals achieved and final disposition at the time of discharge from service.

Employee Prospect – a person or persons to whom an agency expects to extend an offer of employment.

Geographic Service Area – the area from which patients are drawn. This area is to be clearly defined by readily recognizable boundaries.

Home Health Agency – *a public agency or private organization which provides skilled nursing services and at least one other home health service as defined* in

this Part. (Section 2.04 of the Act)

Home Health Aide – a person who provides personal care and emotional comfort to assist the patient toward independent living in a safe environment. A person may not be employed as a home health aide unless he/she meets the requirements of Section 245.70 of this Part.

Home Health Services – services provided to a person at his residence according to a plan of treatment for illness or infirmity prescribed by a physician or podiatrist. *Such services include part-time and intermittent nursing services and other therapeutic services such as physical therapy, occupational therapy, speech therapy, medical social services or services provided by a home health aide.* (Section 2.05 of the Act)

Licensed Practical Nurse – a person currently licensed as a licensed practical nurse under the Nursing and Advanced Practice Nursing Act [225 ILCS 65].

Medical Social Worker – a person who is a licensed social worker or a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act [225 ILCS 20] ~~and has one year of social work experience in a health care setting~~.

Occupational Therapist – a person who is licensed as an occupational therapist under the Illinois Occupational Therapy Practice Act [225 ILCS 75] and meets one or more of the following requirements:

is a graduate of an occupational therapy curriculum accredited jointly by the Council on Medical Education of the American Medical Association and the American Occupational Therapy Association, or

is eligible for the National Registration Examination of the American Occupational Therapy Association, or

has two years of appropriate experience as an occupational therapist and has achieved a satisfactory grade on a proficiency examination conducted, approved or sponsored by the U.S. Public Health Service, except that such examinations of proficiency do not apply with respect to persons initially licensed by a state or seeking initial qualification as an occupational therapist after December 31, 1977.

Occupational Therapy Assistant – a person who is licensed as an occupational therapy assistant under the Illinois Occupational Therapy Practice Act and meets one or more of the following requirements:

meets the requirements for certification as an occupational therapy assistant established by the American Occupational Therapy Association; or

has two years of appropriate experience as an occupational therapy assistant and has achieved a satisfactory grade on a proficiency examination conducted, approved or sponsored by the U.S. Public Health Service, except that such determinations of proficiency do not apply with respect to persons initially licensed by a state or seeking initial qualification as an occupational therapy assistant after December 31, 1977.

Part Time or Intermittent Care – home health services given to a patient at least once every 60 days or as frequently as a few hours a day, several times per week.

Patient – a person who is under treatment or care for illness, disease, injury or conditions appropriately responsive to home health services to maintain health or prevent illness.

Patient Care Plan – a coordinated and combined care plan prepared by and in collaboration with each discipline providing service to the patient, to the patient's family, or to both.

Person – any individual, firm, partnership, corporation, company, association or any other legal entity. (Section 2.03 of the Act)

Physical Therapist – a person who is licensed as a physical therapist under the Illinois Physical Therapy Act [225 ILCS 90] and who meets the qualifications for a physical therapist under the Federal Conditions of Participation for Home Health Agencies established by the Health Care Financing Administration (42 CFR 484.1 through 484.40).

Physical Therapist Assistant – a person who is licensed as a physical therapist assistant under the Illinois Physical Therapy Act and who meets the qualifications for a physical therapist assistant under the Federal Conditions of Participation for Home Health Agencies established by the Health Care Financing Administration

(42 CFR 484.1 through 484.40).

Physician – Any person licensed to practice medicine in all of its branches under the Medical Practice Act of 1987 [225 ILCS 60]. For a patient who has received medical care in another state, or has moved from another state, and who has not secured the services of a physician licensed in Illinois, an individual who holds an active license to practice medicine in another state will be considered the physician for the patient during this emergency (as determined by the physician) as provided in Section 3 of the Medical Practice Act of 1987. Such an emergency may not extend more than six months in any case.

Plan of Treatment – a plan based on the patient's diagnosis and the assessment of the patient's immediate and long-range needs and resources. The plan of treatment is established in consultation with the home health services team, which includes the attending physician or podiatrist, pertinent members of the agency staff, the patient and members of the family.

Podiatrist – a person who is licensed to practice under the Podiatric Medical Practice Act of 1987 [225 ILCS 100].

Professional Advisory Group – a group composed of at least one practicing physician, one registered nurse (preferably a public health nurse), and with appropriate representation from other professional disciplines that are participating in the provision of home health services. It is highly recommended that a consumer be a member of the group. At least one member of the group is neither an owner nor an employee of the agency.

Progress Notes – a dated, written notation by a member of the health team, summarizing facts about care and the patient's response during a given period of time.

Purchase of Services/Contractual – the provision of services through a written agreement with other providers of services.

Registered Nurse – a person who is currently licensed as a registered nurse under the Nursing and Advanced Practice Nursing Act [225 ILCS 65].

Social Work Assistant – a person who has a baccalaureate degree in social work, psychology, sociology, or other field related to social work and has had at least one year of social work experience in a health care setting; or has two years of

appropriate experience as a social work assistant and has achieved a satisfactory grade on a proficiency examination conducted, approved or sponsored by the U.S. Public Health Service, except that such determinations of proficiency do not apply with respect to persons initially licensed by a state or seeking initial qualifications as a social work assistant after December 31, 1977.

Speech-Language Pathologist – a person who is licensed as a speech-language pathologist under the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110].

Student – an individual who is enrolled in an educational institution and who is receiving training in a health-related profession.

Subdivision – a component of a multi-function health agency, such as the home care department of a hospital or the nursing division of a health department, which independently meets the federal conditions of participation for home health agencies. A subdivision that has branches is regarded as a parent agency.

Substantial compliance or substantially meets – meeting requirements except for variance from the strict and literal performance, which results in unimportant omissions or defects given the particular circumstances involved.

Subunit – a semi-autonomous organization, which serves patients in a geographic area different from that of the parent agency. The subunit by virtue of the distance between it and the agency is judged incapable of sharing administration, supervision and services.

Summary Report – a compilation of the pertinent factors from the clinical notes and progress notes regarding a patient, which is submitted to the patient's physician or podiatrist.

Supervision – authoritative procedural guidance by a qualified person of the appropriate discipline.

(Source: Amended at 29 Ill. Reg. 20003, effective November 28, 2005)

SUBPART B: OPERATIONAL REQUIREMENTS

Section 245.50 Services

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

a) Services Provided

1) Each agency shall provide skilled nursing service and at least one other home health service on a part-time or intermittent basis. The basic skilled nursing service shall be provided directly by agency staff. Other home health services may be provided by agency staff directly or through a contractual purchase of services. Additional skilled specialty nursing services and use of additional nursing staff to meet changes in caseload may be provided by contract. All services shall be provided in accordance with the orders of the patient's physician or podiatrist, under a plan of treatment established by such physician or podiatrist, and under the supervision of agency staff.

2) The agency shall state in writing what services will be provided directly and what services will be provided under contractual arrangements.

3) Services provided under contractual arrangements shall be through a written agreement that includes but is not limited to the following:

A) Services to be provided.

B) Provision for adherence to all applicable agency policies and personnel requirements, including requirements for initial health evaluations and employee health policies.

C) Designation of full responsibility for agency control over contracted services.

D) Procedures for submitting clinical and progress notes.

E) Charges for contracted services.

F) Statement of responsibility of liability and insurance coverage.

G) Period of time in effect.

H) Date and signatures of appropriate authorities.

I) Provision for termination.

b) Acceptance of Patients. Patient acceptance and discharge policies shall include but not be limited to the following:

1) Persons shall be accepted for health service on a part-time or intermittent basis upon a plan of treatment established by the patient's physician or podiatrist. This plan shall be in writing within 14 days.

2) Prior to acceptance, the person shall be informed of the agency's charges for the various services that it offers.

3) No person shall be refused service because of age, race, color, sex, marital status, national origin or source of payment. An agency is not required to accept a patient whose source of payment is less than the cost of the service.

4) Patients are accepted for treatment on the basis of a reasonable expectation that the patient's medical, nursing, and social needs can be met adequately by the agency in the patient's place of residence.

5) When services are to be terminated by the home health agency, the patient is to be notified three working days in advance of the date of termination, stating the reason for termination. This information shall be documented in the clinical record. When indicated, a plan shall be developed or a referral made for any continuing care.

6) Services shall not be terminated until such time as the registered nurse, the appropriate therapist, or both, in consultation with the patient's physician or podiatrist, deem it appropriate or arrangements are made for continuing care.

c) Plan of Treatment

1) Skilled nursing and other home health services shall be in accordance with a plan based on the patient's diagnosis and assessment of the patient's immediate and long-range needs and resources. The plan of treatment is established in consultation with the home health services team, which includes the patient's physician or podiatrist, pertinent members of the agency staff, the patient and members of the patient's family. The plan of treatment shall include:

A) Diagnoses.

B) Functional limitations and rehabilitation potential.

C) Expected outcomes for the patient.

D) The patient's physician's or podiatrist's regimen of:

i) Medications;

ii) Treatments;

iii) Activity;

iv) Diet;

v) Specific procedures deemed essential for the health and safety of the patient;

vi) Mental status;

vii) Frequency of visits;

viii) Equipment required; and

ix) Instructions for timely discharge or referral.

E) The patient's physician's or podiatrist's signature and date.

2) Consultation with the patient's physician or podiatrist on any modifications in the plan of treatment deemed necessary shall be documented, and the patient's physician's or podiatrist's signature shall be obtained within 30~~14~~ days after any modification of the medical plan of treatment.

3) The plan shall be reviewed by the home health services team every 62 days or more often should the patient's condition warrant.

4) An updated plan of treatment shall be given to the patient's physician or podiatrist for review, for any necessary revisions, and for signature every

62 days or more often as indicated.

d) Patient Care Plan

1) Home health services from members of the agency staff as well as those under contractual arrangements shall be given in accordance with the plan of treatment and the patient care plan. The patient care plan shall be written by appropriate members of the home health services team based upon the plan of treatment and an assessment of the patient's needs, resources, family and environment. The initial assessment is to be made by a registered nurse. Assessment by other members of the health services team shall be made on orders of the patient's physician or podiatrist or by request of a registered nurse. In those circumstances where the patient's physician has ordered only therapy services, the appropriate therapist (physical therapist or speech-language pathologist) may perform the initial assessment.

2) The patient care plan shall be updated as often as the patient's condition indicates. The plan shall be maintained as a permanent part of the patient's record. The patient care plan shall indicate:

A) Patient problems.

B) Patient's goals, family's goals, service goals.

C) Service approaches to modify or eliminate problems.

D) The staff responsible for a given element of service.

E) Anticipated outcome of service approach with an estimated time frame for completion.

F) Potential for discharge from service.

e) Clinical Records. Each patient shall have a clinical record, identifiable for home health services and maintained by the agency in accordance with accepted professional standards. Clinical records shall contain:

1) Appropriate identifying information for the patient, household members and caretakers, medical history and current findings.

2) A plan of treatment signed by the patient's physician or podiatrist.

3) A patient care plan developed by the home health services team that is in accord with the patient's physician's or podiatrist's plan of treatment.

4) A ~~noted~~ medication list with dates reviewed, revised and date sent to the patient's physician or podiatrist.

5) Initial and periodic patient assessments by the registered nurse, which include documentation of the patient's functional status and eligibility for service.

6) Assessments made by other members of the home health services team.

7) Signed and dated clinical notes for each contact, which are written the day of service and incorporated into the patient's clinical record at least weekly.

8) Reports on all patient home health care conferences.

9) Reports of contacts with the patient's physician or podiatrist by patient and staff.

10) Indication of supervision of home health services by the supervising nurse, a registered nurse, or other members of the home health services team.

11) Written summary reports sent to the patient's physician or podiatrist every 62 days containing home health services provided, the patient's status, recommendations for revision of the plan of treatment and the need for continuation or termination of services noted.

12) Written and signed confirmation of the patient's physician's or podiatrist's interim verbal orders.

13) A discharge summary giving a brief review of service, patient status, reason or reasons for discharge and plans for post discharge needs of the patient. A discharge summary may suffice as documentation to close the patient record for one-time visits and short-term or event-focused or diagnosis-focused interventions. The discharge summary need not be a

separate piece of paper and may be incorporated into the routine summary reports already furnished to the physician.

14) A copy of appropriate patient transfer information, when requested, if the patient is transferred to another health facility or health agency.

15) Each agency shall have a written policy on records procedures and shall retain records for a minimum of five years beyond the last date of service provided. These procedures may include that the agency will utilize and maintain faxed copies of records from licensed professionals, rather than original records, provided that the faxed copies will be maintained on nonthermal paper and that the original records will be maintained for a period of five years by the professional who originated the records. If that professional is providing services through a contract with the agency, then the contract must include that the original records must be maintained for a period of five years by the professional.

16) Those agencies which are subject to the Local Records Act should note that *except as otherwise provided by law, no public record shall be disposed of by any officer or agency unless the written approval of the appropriate Local Records Commission is first obtained.* (Section 7 of the Local Records Act [50 ILCS 205/7])

17) Each agency shall have a written policy and procedure for the protection of confidentiality of patient records, which explains the use of records, removal of records and release of information.

f) Drugs and Biologicals. The agency shall have written policies governing the supervision and administration of drugs and biologicals, which shall include but not be limited to the following:

1) All orders for medications to be given shall be dated and signed by the patient's physician or podiatrist.

2) All orders for medications shall contain the name of the drug, dosage, frequency, method or site of injection and permission from the patient's physician or podiatrist if the patient, the patient's family, or both are to be taught to give medications.

3) The agency's physician or podiatrist or registered nurse shall check all

medicines a patient may be taking to identify possible ineffective drug therapy or adverse reactions, significant side effects, drug allergies, and contraindicated medications and shall promptly report any problem to the patient's physician or podiatrist.

4) All verbal orders for medication or change in medication orders shall be taken by the registered nurse, written, and signed by the patient's physician or podiatrist within 30 ~~14~~ days.

5) When any experimental drug, sera, allergenic desensitizing agent, penicillin or any other potentially hazardous drug is administered, the registered nurse administering such drugs shall have an emergency plan and any drugs and devices that may be necessary in the event of a drug reaction.

g) Evaluation. The home health agency shall have written policies and shall make an overall evaluation of the agency's total program at least once a year. This evaluation shall be made by the Professional Advisory Group (or a committee of this group), home health agency staff, consumers, or representation from professional disciplines that are participating in the provision of home health services. The evaluation shall consist of an overall policy and administrative review and a clinical record review. The evaluation shall assess the extent to which the agency's program is appropriate, adequate, effective and efficient. Results of the evaluation shall be reported to and acted upon by those responsible for the operation of the agency and maintained separately as administrative records.

h) Policy and Administrative Review. As a part of the evaluation process, the policies and administrative practices of the agency shall be reviewed to determine the extent to which they promote patient care that is appropriate, adequate, effective and efficient. Mechanisms shall be established in writing for the collection of pertinent data to assist in evaluation. The data to be considered may include but are not limited to: number of patients receiving each service offered, number of patient visits, reasons for discharge, breakdown by diagnosis, sources of referral, number of patients not accepted with reasons and total staff days for each service offered.

i) Clinical Record Review

1) At least quarterly, members of professional disciplines representing at

least the scope of the agency's programs~~,~~ shall review a sample of both active and closed clinical records to assure that established policies are followed in providing services (direct, as well as those under contractual arrangement). This review shall include, but not be limited to:

A) Whether the patient care plan was directly related to the stated diagnosis and plan of treatment;

B) Whether the frequency of visits was consistent with the plan of treatment;

C) Whether the services could have been provided in a shorter span of time.

2) Clinical records shall be reviewed continually for each 62 day period that a patient received home health services to determine the adequacy of the plan of treatment and the appropriateness of continuing home health care.

(Source: Amended at 29 Ill. Reg. 20003, effective November 28, 2005)

Section 245.72 Health Care Worker Background Check

An agency shall comply with the Health Care Worker Background Check Act [225 ILCS 46] and the Health Care Worker Background Check Code (77 Ill. Adm. Code 955).

~~a)~~ ~~The agency shall not *knowingly hire any individual in a position with duties involving direct care for patients* if that person *has been convicted of committing or attempting to commit one or more of* the following *offenses* (Section 25 of the Health Care Worker Background Check Act [225 ILCS 46/25]):~~

~~1)~~ ~~Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 8-1.1 and 8-1.2));~~

~~2)~~ ~~Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2 and 9-3.3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3; Ill. Rev. Stat. 1985; ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 3, 236, 358, 360, 361, 362, 363, 364, 364a, 365,~~

~~370, 373, 373a, 417, and 474));~~

~~3) Kidnaping or child abduction (Sections 10-1, 10-2, 10-5 and 10-7 of the Criminal Code of 1961 [720 ILCS 5/10-1, 10-2, 10-5, and 10-7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-1, 10-2, 10-5, and 10-7; Ill. Rev. Stat. 1985, ch. 38, par. 10-6; Ill. Rev. Stat. 1961, ch. 38, pars. 384 to 386));~~

~~4) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-4 of the Criminal Code of 1961 [720 ILCS 5/10-3, 10-3.1, and 10-4] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-3, 10-3.1, and 10-4; Ill. Rev. Stat. 1961, ch. 38, pars. 252, 252.1, and 252.4));~~

~~5) Indecent solicitation of a child, sexual exploitation of a child, exploitation of a child, child pornography (Sections 11-6, 11-9.1, 11-19.2, and 11-20.1 of the Criminal Code of 1961 [720 ILCS 5/11-6, 11-9.1, 11-19.2, and 11-20.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-6, 11-19.2, and 11-20.1; Ill. Rev. Stat. 1983, ch. 38, par. 11-20a; Ill. Rev. Stat. 1961, ch. 38, pars. 103 and 104));~~

~~6) Assault, battery, heinous battery, tampering with food, drugs or cosmetics, or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7 of the Criminal Code of 1961 [720 ILCS 5/12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7; Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 55, 56, and 56a to 60b));~~

~~7) Aggravated stalking (Section 12-7.4 of the Criminal Code of 1961 [720 ILCS 5/12-7.4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-7.4));~~

~~8) Home invasion (Section 12-11 of the Criminal Code of 1961 [720 ILCS 5/12-11] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-11));~~

~~9) Criminal sexual assault or criminal sexual abuse (Sections 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, 12-14.1, 12-15, and 12-16] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-1, 11-2, 11-3, 11-4, 11-5, 12-13, 12-14, 12-15, and 12-16; Ill. Rev. Stat. 1985, ch. 38, pars. 11-1, 11-4, and 11-4.1; Ill. Rev. Stat. 1961,~~

~~ch. 38, pars. 109, 141, 142, 490, and 491));~~

~~10) Abuse and gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-19));~~

~~11) Criminal abuse or neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-21));~~

~~12) Endangering the life or health of a child (Section 12-21.6 of the Criminal Code of 1961 [720 ILCS 5/12-21.6] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354; Ill. Rev. Stat. 1961, ch. 38, par. 95));~~

~~13) Ritual mutilation, ritualized abuse of a child (Sections 12-32 and 12-33 of the Criminal Code of 1961 [720 ILCS 5/12-32 and 12-33] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-32 and 12-33));~~

~~14) Theft, retail theft (Sections 16-1 and 16A-3 of the Criminal Code of 1961 [720 ILCS 5/16-1 and 16A-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 16-1 and 16A-3; Ill. Rev. Stat. 1961, ch. 38, pars. 62, 207 to 218, 240 to 244, 246, 253, 254.1, 258, 262, 262a, 273, 290, 291, 301a, 354, 387 to 388b, 389, 393 to 400, 404a to 404c, 438, 492 to 496));~~

~~15) Financial exploitation of an elderly person or a person with a disability (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 16-1.3));~~

~~16) Forgery (Section 17-3 of the Criminal Code of 1961 [720 ILCS 5/17-3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 17-3; Ill. Rev. Stat. 1961, ch. 38, pars. 151 and 277 to 286));~~

~~17) Robbery, armed robbery (Sections 18-1 and 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-1 and 18-2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 18-1 and 18-2));~~

~~18) Vehicular hijacking, aggravated vehicular hijacking, aggravated robbery (Sections 18-3, 18-4, and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-3, 18-4, and 18-5]);~~

~~19) Burglary, residential burglary (Sections 19-1 and 19-3 of the Criminal Code of 1961 [720 ILCS 5/19-1 and 19-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 19-1 and 19-3; Ill. Rev. Stat. 1961, ch. 38, pars. 84 to 86, 88 and 501));~~

~~20) Criminal trespass to a residence (Section 19-4 of the Criminal Code of 1961 [720 ILCS 5/19-4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 19-4));~~

~~21) Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961 [720 ILCS 5/20-1 and 20-1.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 20-1 and 20-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 48 to 53 and 236 to 238));~~

~~22) Unlawful use of weapons, aggravated discharge of a firearm, or reckless discharge of a firearm (Sections 24-1, 24-1.2, and 24-1.5 of the Criminal Code of 1961 [720 ILCS 5/24-1, 24-1.2, and 24-1.5] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1 and 24-1.2; Ill. Rev. Stat. 1961, ch. 38, pars. 152, 152a, 155, 155a to 158b, 414a to 414c, 414e and 414g));~~

~~23) Armed violence - elements of the offense (Section 33A-2 of the Criminal Code of 1961 [720 ILCS 5/33A-2] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 33A-2));~~

~~24) Those provided in Section 4 of the Wrongs to Children Act (Section 4 of the Wrongs to Children Act [720 ILCS 150/4] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354));~~

~~25) Cruelty to children (Section 53 of the Criminal Jurisprudence Act [720 ILCS 115/53] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2368));~~

~~26) Manufacture, delivery or trafficking of cannabis, delivery of cannabis on school grounds, delivery to person under 18, violation by person under 18 (Sections 5, 5.1, 5.2, 7, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1, 5.2, 7, and 9] (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 705, 705.1, 705.2, 707 and 709)); or~~

~~27) Manufacture, delivery or trafficking of controlled substances (Sections 401, 401.1, 404, 405, 405.1, 407 and 407.1 of the Illinois Controlled Substances Act [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407, and 407.1] (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 1401, 1401.1, 1404, 1405, 1405.1, 1407, and 1407.1)).~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

b) The agency shall not *knowingly employ or retain any individual in a position with duties involving direct care for patients* if that person *has been convicted of committing or attempting to commit one or more of the offenses* listed in subsections (a)(1) to (27) of this Section *unless the applicant, employee* or employer *obtains a waiver pursuant to* this Section. (Section 25 of the Health Care Worker Background Check Act)

c) The agency *shall not hire, employ, or retain any individual in a position with duties involving direct care of clients, patients, or residents if the* agency *becomes aware that the individual has been convicted in another state of committing or attempting to commit an offense that has the same or similar elements as an offense listed in* subsections (a)(1) to (27) of this Section, *as verified by court records, records from a State agency, or an FBI criminal history record check. This shall not be construed to mean that an agency has an obligation to conduct a criminal history records check in other states in which an employee has resided.* (Section 25(b) of the Act)

d) For the purpose of this Section:

1) *"Applicant" means an individual seeking employment with* an agency *who has received a bona fide conditional offer of employment*.

2) *"Conditional offer of employment" means a bona fide offer of employment by* an agency *to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses* listed in subsections (a)(1) to (27) of this Section.

3) *"Direct care" means the provision of nursing care or assistance with feeding, dressing, movement, bathing, or other personal needs*.

4) *"Initiate" means the obtaining of the authorization for a record check from a student, applicant, or employee.* (Section 15 of the Health Care Worker Background Check Act)

e) For purposes of the Health Care Worker Background Check Act, the agency shall establish a policy defining which employees provide direct care. In making this determination, the agency shall consider the following:

1) The employee's assigned job responsibilities as set forth in the employee's job description;

2) Whether the employee is required to or has the opportunity to be alone with patients, with the exception of infrequent or unusual occasions;

3) Whether the employee's responsibilities include physical contact with patients, for example to provide therapy or to draw blood.

f) *Beginning January 1, 1996,* when the agency *makes a conditional offer of employment to an applicant* who is not exempt under subsection (w) of this Section, *for a position with duties that involve direct care for patients,* the employer *must initiate or have initiated on* its *behalf a* Uniform Conviction Information Act (UCIA) *criminal history record check for that applicant.* (Section 30(c) of the Health Care Worker Background Check Act) If the applicant is on the Department's Nurse Aide Registry in good standing and has had a UCIA criminal history record check within the last 12 months, the employer need not initiate another check.

g) *The* facility *shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization.* (Section 15 of the Health Care Worker Background Check Act)

h) The agency may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (f) of this Section.

i) *The request for a UCIA criminal history record check shall be* made as *prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint-*based UCIA criminal history record *check is made:*

1) *That the* agency *shall request or have requested on its behalf a* non-fingerprint-based *UCIA criminal history record check pursuant to* the Health Care Worker Background Check *Act*.

2) *That the applicant or employee has a right to obtain a copy of the criminal records report from the agency, challenge the accuracy and completeness of the report, and request a waiver* in accordance with this Section.

3) That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (k) of this Section.

4) That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section.

5) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the employee's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section. (Section 30(e) and (f) of the Health Care Worker Background Check Act)

j) An agency may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)

k) An applicant or employee whose non-fingerprint-based UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section may request that the agency or its designee or the Department commence a fingerprint-based UCIA criminal records check by submitting any necessary fees and information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)

l) An agency having actual knowledge from a source other than a non-fingerprint check that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in Section 25 of the Act must initiate a fingerprint-based background check within 10 working days after acquiring that knowledge. The agency may continue to employ that individual in a direct care position, may reassign that individual to a non-direct care position, or may suspend the

~~*individual until the results of the fingerprint-based background check are received.* (Section 30(d) of the Health Care Worker Background Check Act)~~

~~m) *An applicant, employee* or employer *may request a waiver* to subsection (a), (b) or (c) of this Section *by submitting the following to* the Department *within five working days after the receipt of the criminal records report*:~~

~~1) A completed *fingerprint-based UCIA criminal records check* form (Section 40(a) of the Health Care Worker Background Check Act), which the Department will forward to the Department of State Police; and~~

~~2) A certified check, money order or agency check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA criminal records check.~~

~~n) *The Department may accept the results of the fingerprint-based UCIA criminal records check instead of the items required by* subsections (m)(1) and (2).~~

~~o) An application for a waiver shall be denied unless the applicant meets the following requirements and submits documentation thereof with the waiver application:~~

~~1) Except in the instance of payment of court-imposed fines or restitution in which the applicant is adhering to a payment schedule, the applicant shall have met all obligations to the court and under terms of parole (i.e., probation has been successfully completed); and~~

~~2) The applicant shall have satisfactorily completed a drug and/or alcohol recovery program, if drugs and/or alcohol were involved in the offense.~~

~~p) The Department *may grant a waiver based on mitigating circumstances, which may include:*~~

~~1) *The age of the individual at which the crime was committed;*~~

~~2) *The circumstances surrounding the crime;*~~

~~3) *The length of time since the conviction;*~~

~~4) *The applicant's or employee's criminal history since the conviction*;~~

~~5)~~ ~~*The applicant's or employee's work history;*~~

~~6)~~ ~~*The applicant's or employee's current employment references;*~~

~~7)~~ ~~*The applicant's or employee's character references;*~~

~~8)~~ ~~*Nurse Aide Registry records; and*~~

~~9)~~ ~~*Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of patients*, which may include, but is not limited to, the applicant's or employee's participation in a drug/alcohol rehabilitation program and continued involvement in recovery; the applicant's or employee's participation in anger management or domestic violence prevention programs; the applicant's or employee's status on nurse aide registries in other states; the applicant's or employee's criminal history in other states; or the applicant's or employee's successful completion of all outstanding obligations or responsibilities imposed by or to the court. (Section 40(b) of the Health Care Worker Background Check Act)~~

~~q)~~ ~~Waivers will not be granted to individuals who have not met the following time frames. "Disqualifying" refers to offenses listed in subsections (a)(1) to (27) of this Section:~~

~~1)~~ ~~Single disqualifying misdemeanor conviction – waiver consideration no earlier than one year after the conviction date;~~

~~2)~~ ~~Two to three disqualifying misdemeanor convictions – waiver consideration no earlier than three years after the most recent conviction date;~~

~~3)~~ ~~More than three disqualifying misdemeanor convictions – waiver consideration no earlier than five years after the most recent conviction date;~~

~~4)~~ ~~Single disqualifying felony convictions – waiver consideration no earlier than three years after the conviction date;~~

5) Two to three disqualifying felony convictions – waiver consideration no earlier than five years after the most recent conviction date;

6) More than three disqualifying felony convictions – waiver consideration no earlier than ten years after the most recent conviction date.

r) Waivers will not be granted to individuals who have been convicted of committing or attempting to commit one or more of the following offenses:

1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2]);

2) Murder, homicide, manslaughter, concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3]);

3) Kidnaping or aggravated kidnaping (Sections 10-1 and 10-2 of the Criminal Code of 1961 [720 ILCS 5/10-1 and 10-2]);

4) Aggravated battery, heinous battery, or infliction of great bodily harm (Sections 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7 of the Criminal Code of 1961 [720 ILCS 5/12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7]);

5) Criminal sexual assault or aggravated criminal sexual assault (Sections 12-13, 12-14, and 12-14.1 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, and 12-14.1]);

6) Criminal sexual abuse or aggravated criminal sexual abuse (Sections 12-15 and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-15 and 12-16]);

7) Abuse and gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19]);

8) Criminal abuse or neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21]);

9) Financial exploitation of an elderly person or a person with a disability (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3]);

10) Indecent solicitation of a child, sexual exploitation of a child, exploitation of a child, child pornography (Sections 11-6, 11-9.1, 11-19.2, and 11-20.1 of the Criminal Code of 1961 [720 ILCS 5/11-6, 11-9.1, 11-19.2, and 11-20.1]);

11) Armed robbery (Section 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-2]); and

12) Aggravated vehicular hijacking, aggravated robbery (Sections 18-4 and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-4 and 18-5]).

s) The Director of Public Health may grant a waiver to an individual who does not meet the requirements of subsection (o), (q), or (r), *based on mitigating circumstances* (see subsection (p)). (Section 40(b) of the Health Care Worker Background Check Act)

t) *An individual shall not be employed in a direct care position from the time that the employer receives the results of a non-fingerprint check containing disqualifying conditions until the time that the individual receives a waiver from the Department. If the individual challenges the results of the non-fingerprint check, the employer may continue to employ the individual in a direct care position if the individual presents convincing evidence to the employer that the non-fingerprint check is invalid. If the individual challenges the results of the non-fingerprint check, his or her identity shall be validated by a fingerprint-based records check in accordance with* subsection (k) of this Section. (Section 40(d) of the Health Care Worker Background Check Act)

u) An agency *is not obligated to employ or offer permanent employment to an applicant, or to retain an employee who is granted a waiver.* (Section 40(f) of the Health Care Worker Background Check Act)

v) An agency may retain the individual in a direct care position if the individual presents clear and convincing evidence to the agency that the non-fingerprint-based criminal records report is invalid and if there is a good faith belief on the part of the employer that the individual did not commit an offense listed in subsections (a)(1) to (27) of this Section, pending positive verification through a fingerprint-based criminal records check. Such evidence may include, but not be

~~limited to:~~

~~1) certified court records;~~

~~2) written verification from the State's Attorney's office that prosecuted the conviction at issue;~~

~~3) written verification of employment during the time period during which the crime was committed or during the incarceration period stated in the report;~~

~~4) a signed affidavit from the individual concerning the validity of the report; or~~

~~5) documentation from a local law enforcement agency that the individual was not convicted of a disqualifying crime.~~

~~w) This Section *shall not apply to:*~~

~~1) *An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State;*~~

~~2) *An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State; or*~~

~~3) *A student in a licensed health care field including, but not limited to, a student nurse, a physical therapy student, or a respiratory care student unless he or she is employed by a health care employer in a position with duties involving direct care for residents.* (Section 20 of the Health Care Worker Background Check Act)~~

~~x) *An employer need not initiate an additional criminal background check for an employee if the employer initiated a criminal background check for the employee after January 1, 1996 and prior to* January 1, 1998. *This subsection applies only to persons employed prior to* January 1, 1998. *Any person newly employed on or after* January 1, 1998 *must receive a background check as required by Section 30* of the Health Care Worker Background Check Act. (Section 25.1 of the Health Care Worker Background Check Act)~~

~~y)~~ ~~*The agency* shall *send a copy of the results of the UCIA* criminal history *record check to the State Nurse Aide Registry* for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act) The agency shall include the individual's Social Security number on the criminal history record check results.~~

~~z)~~ ~~*The* agency *shall retain on file, for a period of 5 years, records of criminal records requests for all employees. The* agency *shall retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. The files shall be subject to inspection by the* Department. A *fine of $500* shall *be imposed for failure to maintain the*se *records.* (Section 50 of the Health Care Worker Background Check Act)~~

~~aa)~~ ~~The agency shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.~~

(Source: Amended at 29 Ill. Reg. 20003, effective November 28, 2005)

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Procedures for License Hearings

2) Code Citation: 11 Ill. Adm. Code 205

3)

Section Numbers:	Adopted Action:
205.10	Amend
205.20	Amend
205.30	Amend
205.50	Repeal
205.60	Amend
205.70	Repeal
205.75	New Section
205.80	Amend
205.85	New Section
205.90	Amend
205.95	New Section
205.100	Amend
205.110	Amend
205.120	Amend
205.125	New Section
205.140	Amend
205.150	Amend

4) Statutory Authority: 230 ILCS 5/9(b)

5) Effective Date of Rulemaking: November 28, 2005

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporation by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's central office and is available for public inspection.

9) Notice of Proposal published in Illinois Register: 29 Ill. Reg. 8074; June 3, 2005

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: In addition to non-substantive changes, including changing "Licensing" to "License", the following changes were made:

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

In Section 205.20(a)(1), host date was defined.

In Section 205.20(a), new subsection (6) was added.

In Section 205.20(b), the Open Meetings Act was cited.

In Section 205.30, requested the Board to provide applications to conduct horse race meetings to all current organization licensees by July 1 and August 1 was changed to July 31.

In Section 205.40, subsection (b) was deleted.

In Section 205.60, Organizations representing the largest number of owners trainers drivers or jockeys may provide evidence at the invitation of the Board or another party.

In Section 205.75, subsection (3) was added.

In Section 205.80(b)(4), language was added after "between" and "exhibits".

In Section 205.90, language was added stating that the deadline for filing motions will be determined by the Board at the pre-hearing conference.

In Section 205.100(a), "10" was changed to "15" and new subsection (f) was added.

In Section 205.125(b), subsection (9) was added.

Section 205.130 was not repealed.

In Section 205.150(b), language was added after "notice" and "date".

In Section 205.150(d), Article 10 of the IAPA was cited and a statutory cite was added.

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? Yes

14) Are there any amendments pending on this Part? No

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

15) Summary and purpose of rulemaking: These are adopted changes to the Racing Board's Administrative rules concerning procedures for conducting Dates Hearings. The revised rules provide for a Licensing Hearing for the award of racing dates conducted according to the provisions of the Illinois Administrative Procedure Act. Part 205 was restrictive in that applicants were required to pre-file all testimony as written testimony. This rulemaking allows applicants to present their case-in-chief at the public board meeting through witness testimony, followed by cross examination by the other parties. The adopted amendments also restrict ex parte communications between applicants and track operators and further define the parameters of any ex parte communications, discovery, evidence and procedures to conduct hearings.

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

Mickey Ezzo
Illinois Racing Board
100 West Randolph
Suite 7-701
Chicago, Illinois 60601

312/814-5017
mickey_ezzo@irb.state.il.us

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

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER a: GENERAL RULES

PART 205
PROCEDURES FOR LICENSE HEARINGS

Section
205.10 Purpose
205.20 Notice
205.30 Filing of Applications
205.40 Use of Applications
205.50 Filing of Evidence Supporting Applications (Repealed)
205.60 Parties
205.70 Service of Application and Evidence Supporting Application (Repealed)
205.75 Discovery
205.80 Pre-Hearing Conference
205.85 Hearing Officer
205.90 Filing and Service of~~Responsive Evidence &~~ Motions
205.95 Evidence
205.100 License~~Licensing~~ Hearing
205.110 Disqualification of Hearing Officer
205.120 Ex Parte Communications
205.125 Record
205.130 Incorporation of Part 204
205.140 Notice to and Acceptance by Applicants
205.150 Emergency Hearing to Re-award Dates

AUTHORITY: Authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Emergency adoption at 16 Ill. Reg. 16318, effective October 6, 1993, for a maximum of 150 days; emergency expired March 5, 1993; emergency rule adopted at 17 Ill. Reg. 6859, effective April 16, 1993, for a maximum of 150 days; adopted at 17 Ill. Reg. 13615, effective July 30, 1993; emergency amendment at 19 Ill. Reg. 8011, effective June 5, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13953, effective October 1, 1995; amended at 20 Ill. Reg. 7944, effective June 1, 1996; emergency amendment at 29 Ill. Reg. 10425, effective July 1, 2005, for a maximum of 150 days; emergency expired November 27, 2005 amended at 29 Ill. Reg. 20033, effective November 28, 2005.

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

Section 205.10 Purpose

The purpose of this Part is to provide procedures to govern the conduct of the License Hearing~~licensing hearing~~ ~~(the "Licensing Hearing")~~ provided for in Section 20 of the Illinois Racing Act (the "Racing Act"~~)~~, [230 ILCS 5/20], supplemental to those provided for in Part 204. This Part implements the provisions of the Racing Act~~,~~ and the Illinois Administrative Procedure Act (the "IAPA"~~)~~, [5 ILCS 100], and should be construed to give effect to, and not to limit, the rights conferred by those Acts~~thereby~~. This Part~~These rules~~ expressly adopts~~adopt~~ the applicable provisions of the IAPA, including the IAPA's provisions applicable in contested cases such as the License~~Licensing~~ Hearing. (See Section ~~IAPA,~~ 10-65 of the IAPA and the Open Meetings Act [5 ILCS 120].)~~.~~

(Source: Amended at 29 Ill. Reg. 20033, effective November 28, 2005)

Section 205.20 Notice

a) At least 30~~thirty~~ days prior to the application deadline, the Board shall provide all current organization licensees, and any other person who has requested an application for an organization license to conduct a horse race meeting, with notice of the License~~Licensing~~ Hearing, including:

1~~(a)~~ a statement of the time, place and nature of the License~~Licensing~~ Hearing (e.g., whether the award of host dates or the License~~Licensing~~ Hearing will determine the allocation of racing dates in a single year or in multiple years) and the time, place and date of the pre-hearing conference. A host date is a day awarded to an organization licensee in which the licensee controls the simulcast signals and its own live racing program;~~ what conditions the Board proposes to impose upon licensees; whether the Licensing Hearing will determine inter-track wagering licenses and proposed conditions upon inter-track wagering licenses, such as a requirements that an inter-track wagering licensee receive simulcasts of certain races other than its own races);~~

2~~(b)~~ a statement of the legal authority and jurisdiction under which the License~~Licensing~~ Hearing is to be held;

3~~(c)~~ a reference to the particular Sections of the substantive and procedural statutes involved;

4(d) a short and plain statement of the matters at issue and the consequences of a failure to participate in the LicenseLicensing Hearing (see 230 ILCS 5/20);and

5(e) the name and address of any hearing officer the Board may appoint, or a statement that the members of the Board themselves intend to preside as hearing officers at the LicenseLicensing Hearing; and.

6) the time, place and date of the pre-hearing conference.

b) TheThis notice of the License Hearing shall be made public and shall also be posted in accordance with the requirements of Section 2.02 of the Open Meetings Act [5 ILCS 120/2.02]rules governing the posting of agendas for Board meetings of public bodies.

(Source: Amended at 29 Ill. Reg. 20033, effective November 28, 2005)

Section 205.30 Filing of Applications

The Board shall provide to all current organization licensees, no later than July 1, an application to conduct a horse race meeting. Applications for an organization license to conduct a horse racing meeting in Illinois pursuant to the Racing Act shall be filed at the office of the Board no later than 5:00 p.m. on July 31August 1 (or if July 31August 1 is not a business day, the next business day thereafter) of the year prior to the year in which the meet is sought. Each applicant shall file with the Board fifteen (15) copies of the application and all exhibits referred to in the applicationwith the Board.

(Source: Amended at 29 Ill. Reg. 20033, effective November 28, 2005)

Section 205.50 Filing of Evidence Supporting Applications (Repealed)

Each applicant for an organization license shall file, simultaneously with its application, fifteen (15) copies of the following:

(a) prefiled written testimony in the form of an affidavit or affidavits (or pursuant to certificate as provided in Section 1-109 of the Illinois Code of Civil Procedure), and in question and answer format, supporting its Petition. Except as stipulated by the parties, this written testimony, together with any exhibits referred to therein, shall constitute the applicant's case-in-chief at the Licensing Hearing. The written testimony shall conform to the provisions of Illinois Supreme Rule 191(a)

~~applicable to affidavits offered in support of, or in opposition to, motions for summary judgment; and~~

~~(b) all exhibits referred to in the application or prefiled written testimony.~~

(Source: Repealed at 29 Ill. Reg. 20033, effective November 28, 2005)

Section 205.60 Parties

Parties to the License~~Licensing~~ Hearing consist of persons who have filed an application for an organization license.~~In addition, pursuant to Section 16(e) of the Racing Act, the Attorney General of the State of Illinois may participate as a party, at the request of the Racing Board, in order to protect public rights and enforce public duties arising in the Licensing Hearing.~~ No other person, other than outside counsel for the parties, a witness or witnesses called by the parties pursuant to the rules of evidence, may ~~intervene or~~ participate in the License~~Licensing~~ Hearing before the Racing Board or its duly appointed hearing officer~~Hearing Officer~~, except that this provision shall not be construed to prohibit the Board and/or the hearing officer~~Hearing Officer~~ from taking official notice of staff data or memoranda pursuant to Section 10-40 of the Illinois Administrative Procedure Act [5 ILCS 100/10-40]. The Board shall be permitted to call lay and/or expert witnesses. This Section~~Rule~~ shall not prohibit representatives of any organization~~, including one~~ representing the largest number of horse owners, trainers, drivers or jockeys that has negotiated a contract with the organization licensee~~horsemen,~~ from providing testimonial or other evidence of its membership's position on any application at the invitation of the Board or other party, subject to Sections 205.95 and 205.100 evidentiary rules and cross examination.~~through written testimony, sponsored by a party, as provided for herein. In the event an organization wishes to provide evidence of its membership's position on any application and can find no party to sponsor it as a witness, the organization may apply to the Hearing Officer for permission to provide written testimony subject to cross-examination as provided herein. The Hearing Officer shall allow such testimony, subject to the evidentiary rules set forth herein, upon a showing that despite reasonable efforts by the organization, no party would sponsor the testimony of the organization.~~ Permission to an organization to provide testimony under this Section shall not make that organization a party or confer any of the rights of a party on that organization. In addition to the parties named in this Section, the Board may request that the Attorney General of the State of Illinois participate as a party to the License Hearing (see 230 ILCS 5/16(e)).

(Source: Amended at 29 Ill. Reg. 20033, effective November 28, 2005)

Section 205.70 Service of Application and Evidence Supporting Application (Repealed)

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

~~Each applicant shall serve a complete copy of its application and all supporting written testimony and exhibits on all persons who had applied for an organizational license the previous year by 5:00 p.m. on August 1 (or, if August 1 is not a business day, on the next business day) and on any other party who has filed an application in the current year. The Board shall notify all parties of the name and address of any other party filing an application for an organization license and all applicants shall serve a copy of the application and all supporting written testimony and exhibits on all such additional parties by messenger or overnight delivery.~~

(Source: Repealed at 29 Ill. Reg. 20033, effective November 28, 2005)

Section 205.75 Discovery

a) The Board shall notify all parties of the name and address of all applicants for an organization license.

b) Each applicant shall serve on all other applicants of the same breed and the Board, on such date and time as ordered by the Board:

1) The name and address of any witness who may be reasonably expected to testify on behalf of the party, together with a brief summary of the subject matter of each witness' anticipated testimony;

2) All documents, reports, summaries, tables, comparisons (i.e., attendance figures, handle comparisons, purse earnings and purse distributions), and all other materials, including videotape, DVD, film, and/or computer presentations the party intends to introduce into evidence at the hearing. The party's burden of production includes those documents the applicant reasonably expects to introduce into evidence; and

3) A complete copy of its application and supporting documents.

c) Parties shall be notified, either before the hearing or by reference in preliminary reports or otherwise, of any material to be noticed and/or relied upon by the Board, including any staff memoranda, staff reports, charts or data.

d) Witnesses not identified and documents and other materials that are not timely produced may be excluded from the hearing as specified in subsection (b).

e) No oral or written discovery beyond that specified in this Section shall be permitted.

(Source: Added at 29 Ill. Reg. 20033, effective November 28, 2005)

Section 205.80 Pre-Hearing Conference

a) Upon written notice by the Board or its duly appointed hearing officer, the parties may be directed to appear at a specified date, time and place for a conference for the purposes of considering an agreement among applicants as to the award of racing dates (see 230 ILCS 5/21(b)).

b) If an agreed dates schedule is not reached, the Board or the hearing officer shall enter an order addressing preliminary matters, including but not limited to:

1) stipulation to matters not in dispute;

2) procedural matters at the hearing;

3) order of witnesses;

4) deadline for mutual exchange between applicants of the same breed of prepared testimony or exhibits and applications;

5) scheduling of pre-hearing motions; and

6) any other matters to facilitate expeditious conduct of the License Hearing and disposition of the proceeding.

~~A pre-hearing conference shall be conducted on August 24 (or, if August 24 is not a business day, on the next business day thereafter), during which conference the parties and Hearing Officer shall address preliminary matters including discussing stipulations required under Section 204.110 of Title 11, Subtitle B, Chapter I, of the Illinois Administrative Code, the likely number of witnesses or exhibits preliminarily anticipated by any party, and any other matters designed to facilitate expeditious conduct of the Licensing Hearing. The pre-hearing conference may be adjourned and continued to a date selected by the Hearing Officer between the date applications must be filed and the date the Licensing Hearing shall commence. At the adjourned pre-hearing conference, the parties and the Hearing Officer may address objections to evidence filed with applications and also may address further stipulations intended to simplify evidentiary matters.~~

c) The Board or hearing officer shall rule on pre-hearing motions in writing prior to

the License Hearing.

d) The pre-hearing conference may be adjourned and continued to a date selected by the Board or the hearing officer prior to the License Hearing.

e) Pre-hearing conferences under this Section shall be open to the public, notice ~~thereof~~ shall be given in the same manner as notice is given of meetings of the Board, and a transcript shall be kept and~~, which transcript~~ shall become a part of the record in the proceeding.

f) Under no circumstance shall offers of settlement, offers of agreement, concessions or statements made at the pre-hearing conference be admissible in evidence for any purpose at the License Hearing.

(Source: Amended at 29 Ill. Reg. 20033, effective November 28, 2005)

Section 205.85 Hearing Officer

The Chairman of the Board may preside over any hearings or pre-hearing conference in accordance with this Part, or the Chairman may appoint a Board member or an Illinois licensed attorney as a hearing officer to conduct any hearings or pre-hearing conference in accordance with this Part. The hearing officer shall perform such duties as provided in 230 ILCS 5/14(a) and 14a.

(Source: Added at 29 Ill. Reg. 20033, effective November 28, 2005)

Section 205.90 Filing and Service of ~~Responsive Evidence &~~ Motions

Any party filing a motion shall serve 15 copies of the motion on the Board and shall also serve a copy on each of the other parties. Service shall be by messenger, overnight delivery, facsimile or in person. Applicants applying for organization licenses at the same race track may file motions to consolidate parties for the purpose of consolidating evidence and testimony. The deadline for filing motions shall be determined by the Board at the pre-hearing conference.~~On or before 5:00 p.m. of September 14 (or, if September 14 is not a business day, the next business day thereafter), any party may file with the Board fifteen copies (15), and simultaneously serve on all other parties to the license hearing one copy of prefiled written testimony and exhibits responding to the application, supporting evidence, or exhibits filed by any other party. The responsive testimony and exhibits shall be in the same form as required for evidentiary materials submitted in support of an application. Any motion to strike or limit any prefiled supporting testimony or exhibits shall be filed with the Board and served by messenger or overnight~~

~~delivery on all other parties on this same date.~~

(Source: Amended at 29 Ill. Reg. 20033, effective November 28, 2005)

Section 205.95 Evidence

a) Evidence shall be received by way of direct and cross examination of witnesses and introduction of documentary evidence subject to the rules of evidence.

b) The Chairman of the Board, or a Board member appointed by the Chairman, who is a licensed Illinois attorney, shall decide all evidentiary objections and questions of evidence raised at the License Hearing, subject to de novo review by the Board. The Chairman or Board member appointed to rule on matters of evidence may seek the advice of the other members of the Board on evidentiary issues at his/her discretion. Any evidence ruled inadmissible may be submitted as an offer of proof.

c) The rules of evidence shall be applied liberally. Any relevant evidence may be admitted and shall be sufficient in itself to support a finding if it is the sort of evidence on which reasonably prudent persons are accustomed to rely in the conduct of serious affairs. The Board or its appointed hearing officer shall exclude immaterial, irrelevant and repetitious evidence.

d) The rules of evidence shall apply only to the parties. The Board may rely on technical and/or scientific facts within the Board's specialized knowledge. Nothing in this subsection shall be deemed to diminish the ability of the Board to enter documentary or testimonial evidence in its own discretion.

(Source: Added at 29 Ill. Reg. 20033, effective November 28, 2005)

Section 205.100 License~~Licensing~~ Hearing

a) The License Hearing shall commence on the date fixed by the Board during the last 15 days of September of the year prior to the applicable racing dates.~~September 7 (or, if September 7 is not a business day, the next business day thereafter).~~

b) The Board shall conduct, and the Chairman or the duly appointed hearing officer shall preside over, the License Hearing. Any testimony shall be given under oath or affirmation.

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

c) Cases shall be presented by category of breed. Applicants for one breed may proceed in alphabetical order, or reverse alphabetical order, as determined by the Chairman.

d) Board members may question any applicant or witness during the course of or following testimony.

e) Each party may conduct adverse examination of witnesses according to the rules of evidence applicable for cross and redirect examination in the Circuit Court of Cook County, Illinois for non-jury trials and as provided in Section 10-40 of the IAPA [5 ILCS 10/10-40].

f) *At* this *meeting, the Board* will *announce the award of racing* dates, *live racing schedule and designation of host track to the applicants and its approval or disapproval of each application.* [230 ILCS 5/20(e)]

~~b) The members of the Racing Board or hearing officer presiding over the Licensing Hearing shall decide all evidentiary objections raised at the Licensing Hearing, subject to de novo review by the Board of the ruling of any hearing officer the Board may appoint, at the request of any party. Any evidence ruled inadmissible may be submitted as an offer of proof.~~

~~c) Each party shall, in alphabetical order, offer into evidence the prefiled written testimony and exhibits of each witness whose testimony it has filed in support of its application. Each such witness will then be subject to oral, cross and redirect examination by all parties according to the rules of evidence applicable for cross and redirect examination in the Circuit Court of Cook County, Illinois for non-jury trials and as provided in Section 10-40 of the Illinois Administrative Procedure Act [5 ILCS 100/10-40]. Thereafter, each party shall, in the same order, offer into evidence the prefiled written testimony and exhibits of each witness whose written testimony and exhibits it has filed in response to another party's application or supporting evidence. Each such witness will then be subject to oral, cross and redirect examination by all parties according to the rules of evidence applicable for cross and redirect examination in the Circuit Court of Cook County, Illinois for non-jury trials and as provided in Section 10-40 of the Illinois Administrative Procedure Act [5 ILCS 100/10-40].~~

g)~~d)~~ The Chairman~~Board~~ or hearing officer may limit the time allotted to parties ~~a participant~~ for both direct and cross examination, if the ~~cross~~ examination of

witnesses would unduly obstruct the award of an organization license within the time allotted in Section 20(e) of the Act [230 ILCS 5/20(e)].

(Source: Amended at 29 Ill. Reg. 20033, effective November 28, 2005)

Section 205.110 Disqualification of Hearing Officer

~~(~~a) Whenever any party believes a hearing officer~~Hearing Officer~~ or any Racing Board member~~Member~~ should be disqualified, for bias, prejudice, conflict of interest or any other reason, from conducting, or continuing to conduct, a License~~Licensing~~ Hearing, that~~such~~ party may file with the Racing Board a motion to disqualify the hearing officer~~Hearing Office~~ or Board member~~Member~~, setting forth the alleged grounds for disqualification. A party shall file such a motion promptly~~,~~ upon learning of any grounds for disqualification. The motion shall be filed as provided in Section 205.90.~~A party filing such a motion shall also serve a copy of such motion on the Hearing Officer and the Board, by messenger or overnight delivery.~~ The Board shall enter a written ruling on the~~such~~ motion within ~~three (~~3~~)~~ days after~~of~~ the date on which the~~such~~ motion is filed.

~~(~~b) A hearing officer~~Hearing Officer~~ or Board member may recuse himself or herself from presiding at a License~~Licensing~~ Hearing.

(Source: Amended at 29 Ill. Reg. 20033, effective November 28, 2005)

Section 205.120 Ex Parte Communications

a) After service of the notice of the License Hearing on the parties, and until such time a formal written Dates Order is executed by the Board, any communication, directly or indirectly, in connection with any matter regarding the award of racing dates, between any Board member, Racing Board employee or hearing officer, with any party or representative of any party to the License Hearing shall be considered ex parte pursuant to Section 10-60(a) of the IAPA.

~~a) This rule expressly adopts the applicable provision of the IAPA, Section 10-60, regarding ex parte communications. Section 10-60 includes provisions that:~~

~~1) after notice of a hearing in a contested case such as the Licensing Hearing, agency heads, agency employees and hearing officers shall not communicate, directly or indirectly, in connection with any issue of fact, with any person or party, or in connection with any other issue with any~~

~~party or the representative of any party, except upon notice and opportunity for all parties to participate;~~

~~2) a Board Member may, however, communicate with other members of the Board, and a Board Member or hearing officer may have the advice of one or more "personal assistants." To avoid any appearance of impropriety, however, the Board and the hearing officer shall utilize "personal assistants" who have no other involvement or participation in the Licensing Hearing. For purposes of this Section, a "personal assistant" shall not be deemed to be subject to a disqualifying involvement or participation in the Licensing Hearing if the "personal assistant" has observed the proceedings or reviewed testimony or exhibits for the purpose of advising a Board Member or the hearing officer.~~

b) Pursuant to Section 20(e-10) of the Act [230 ILCS 5/20(e-10)], ex parte communication shall be allowed provided that such communications are in the best interest of racing ~~(e.g., the matters enumerated in subsection (e-5)(1) through (8), or suggestions or comments from knowledgeable persons who are not licensees or applicants)~~. The phrase "best interest of racing" includes, among other factors, the quality and integrity of racing, public interest, State revenue and the availability of wagering opportunities. ~~Such communications shall be made part of the record of the licensing hearing.~~

c) Pursuant to Section 10-60(c) of the IAPA, any ex parte communication received by any Board employee, Board member or hearing officer shall be made a part of the record of the License Hearing, including all written communications, all written responses to the communications and a memorandum stating the substance of all oral communications and all responses made, and the identity of each person from whom the ex parte communication was received.

d) Communications between Board employee and the applicants pursuant to Section 21(a) of the Horse Racing Act [230 ILCS 5/21(a)] regarding the correction of deficiencies of the application within the prescribed 21 day time period after submission of the application shall not be considered ex parte communication under this Section.

e) Communications regarding matters of procedure and practice, such as format of applications, number of copies required, manner of service and status of proceedings are not considered ex parte communication under this Section.

f) Ex parte communications pursuant to this Section shall not be exempt from the provisions of the Open Meetings Act [5 ILCS 120].

(Source: Amended at 29 Ill. Reg. 20033, effective November 28, 2005)

Section 205.125 Record

a) The transcript made in connection with the hearing shall constitute the official transcript.

b) The record in an administrative hearing shall include:

1) Applications, amended applications and exhibits;

2) All notices, motions, briefs and rulings;

3) Evidence received;

4) A statement of matters officially noticed;

5) Past annual reports;

6) Offers of proof, objections and rulings;

7) Official transcript;

8) Report of Findings of Fact by the hearing officer, if the License Hearing is conducted by a hearing officer; and

9) Ex parte communications pursuant to Section 205.120.

c) The complete record of the License Hearing shall be submitted to the Board. If the decision of the Board is unanimous, the Chairman of the Board, or a member of the Board appointed by the Chairman, shall draft the final Dates Order. If the decision of the Board is split, the majority shall draft the Board's final Dates Order. The majority opinion shall be submitted to all Board members who voted with the minority, and the minority Board members may draft a minority opinion. Any and all minority opinions shall be attached to the final Dates Order and made a part of the record. A formal written Dates Order shall be executed by the Board no later than October 15 of the year prior to the racing schedule.

(Source: Added at 29 Ill. Reg. 20033, effective November 28, 2005)

Section 205.140 Notice to and Acceptance by Applicants

a) The Board shall, within 5~~five~~ days after the date its formal order is executed:

1) Send each applicant a copy of that executed order awarding racing dates by certified mail, return receipt requested, addressed to the applicant at the address stated in its application;

2) Issue letters of acceptance to successful applicants for racing dates no later than 5~~five~~ days after the date of execution of its formal order. Each applicant shall submit signed acceptance letters to the Board by certified mail, return receipt requested, or by personal delivery at the central office of the Board. Applicants shall furnish signed acceptance letters, together with required fees, to the Board no later than 10 days after receipt of the Board's executed Dates Order~~dates order~~. Acceptance letters, mailed or delivered, shall be received at the central office of the Board on or before the expiration of the 10 day limit. Acceptance of dates pursuant to this Section shall not abridge an applicant's right to appeal.

b) In the event an applicant does not submit a signed acceptance letter and/or the required fees in the manner and within the 10 day limit ~~as~~ stated in subsection (a)(2) of this Section, the Board may conduct an emergency hearing, as provided in Section 205.150, and may re-award racing dates previously awarded to the applicant. The Board may exercise its discretion not to re-award dates when to do so would not be in the best interest of the~~th~~ sport, industry and/or State of Illinois (instances include, but are not limited to, conflicting meets, failure to maximize State revenue, shortage of horses, inadequate facilities or officials, lack of character or financial fitness of the applicant and inadequate promotional budget).

(Source: Amended at 29 Ill. Reg. 20033, effective November 28, 2005)

Section 205.150 Emergency Hearing to Re-award Dates

a) Pursuant to Section 20(f-5) of the Act [230 ILCS 5/20(f-5)], the Board may conduct an emergency hearing and may re-award dates if acceptance is not received from the applicant in the 10 days prescribed by the Act or a license to conduct a race meeting has been suspended or revoked.

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

b) The Board shall serve notice personally or by certified or registered mail to all interested parties of the date, time and place of the emergency hearing and dates for filing applications and supporting documentation for the racing dates in question.

c) A re-award of racing dates shall be based on the criteria contained in Section 20(e-5) of the Act [230 ILCS 5/20(e-5)].

d) Article 10 of the Illinois Administrative Procedure Act shall not apply to the conducting of an emergency hearing for the reallocation of racing dates pursuant to this Section (see 230 ILCS 5/20(f-5)).

(Source: Amended at 29 Ill. Reg. 20033, effective November 28, 2005)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: State (of Illinois) Employees' Deferred Compensation Plan

2) Code Citation: 80 Ill. Adm. Code 2700

3)

Section Numbers:	Emergency Action:
2700.110	Amendment
2700.120	Repealed
2700.200	Amendment
2700.320	Amendment
2700.400	Amendment
2700.410	Amendment
2700.415	New Section
2700.420	Amendment
2700.430	Amendment
2700.435	New Section
2700.440	Amendment
2700.450	Amendment
2700.610	Amendment
2700.620	Amendment
2700.630	Amendment
2700.640	Amendment
2700.660	Amendment
2700.680	New Section
2700.690	New Section
2700.700	Amendment
2700.710	Amendment
2700.720	Repealed
2700.730	Amendment
2700.735	Amendment
2700.745	New Section
2700.750	Amendment
2700.760	Amendment
2700.800	Amendment
2700.850	New Section
2700.860	New Section
2700.870	New Section
2700.920	Amendment

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

4) Statutory Authority: Implementing Section 457 of the Internal Revenue Code (26 USC 457 et seq.) and implementing and authorized by Section 22A-11.1 and Article 24 of the Illinois Pension Code [40 ILCS 5/22A-11.1 and Art. 24].

5) Effective Date of Amendments: November 23, 2005

6) If this emergency rulemaking is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency rulemaking has no earlier effective date specified.

7) Date Filed with the Index Department: November 23, 2005

8) A copy of the emergency amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Reason for Emergency: The Internal Revenue Service (IRS) has made significant changes to its Code that impact the State of Illinois Deferred Compensation Plan. The IRS provided Model Amendments in late 2004 to facilitate the implementation of these proposals. All anticipated modifications to the Model Amendments have now been included, and the proposed changes, based upon the IRS Model Amendments, are to be implemented with the start of the 2006 tax year, or no later than December 31, 2005.

10) A Complete Description of the Subjects and Issues Involved: Generally, the emergency rulemaking outlines the eligibility and participation requirements for the State of Illinois Deferred Compensation Plan (Plan). Specifically, the proposed amendments clarify the tax requirements for the Plan; remove a number existing Sections and replace them with new language provided by the IRS that streamlines the Plan process; remove reliance upon the Economic Growth and Tax Relief Reconciliation Act of 2001 Good Faith Amendment (which was designed only as a temporary measure) and incorporate any remaining provisions from that Act into the body of the rule; add new Sections to clarify the time frames for enrollment, the allowable beneficiaries and the permissible "catch-up" deferments for employees nearing retirement; and make it simpler for participants to transfer funds between two or more qualifying plans, allow for an increase in the amount of funds available for deferment and expand the methods for distribution for both participants and beneficiaries. Additional modifications have been made based upon terminology changes by the IRS as well as for consistency of terminology within the rule.

11) Are there any proposed amendments to this Part pending? No

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

12) Statement of Statewide Policy Objective: These emergency amendments will not create a State mandate for units of local government.

13) Information and questions regarding this emergency rulemaking shall be directed to:

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

217/785-1793

OR

Janice Bonneville
Illinois Department of Central Management Services
720 Stratton Office Building
Springfield, IL 62706

217/782-9491

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

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE H: DEFERRED COMPENSATION
CHAPTER I: ILLINOIS STATE BOARD OF INVESTMENT

PART 2700
STATE (OF ILLINOIS) EMPLOYEES' DEFERRED COMPENSATION PLAN

SUBPART A: INTRODUCTION AND PURPOSE OF PLAN

Section
2700.100 Establishment of Plan
2700.110 Purpose of Plan
EMERGENCY
2700.120 Economic Growth and Tax Relief Reconciliation Act of 2001 Good
EMERGENCY Faith Amendment (Repealed)

SUBPART B: DEFINITIONS

Section
2700.200 Definitions
EMERGENCY

SUBPART C: ADMINISTRATION

Section
2700.300 Responsibilities of the Department
2700.310 Responsibilities of the Board
2700.320 Deferred Compensation Hardship Committee
EMERGENCY
2700.330 Applicable Law

SUBPART D: PARTICIPATION IN THE PLAN

Section
2700.400 Eligibility
EMERGENCY
2700.410 Enrollment
EMERGENCY
2700.415 Designation of Beneficiary
EMERGENCY

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

2700.420 Minimum Deferment
EMERGENCY
2700.430 Basic Annual Limitation~~Maximum Deferment~~
EMERGENCY
2700.435 Age 50 Catch-up Annual Deferral Contribution
EMERGENCY
2700.440 Special Section 457 Catch-up Limitation
EMERGENCY
2700.450 Revocation of Deferral
EMERGENCY

SUBPART E: ESTABLISHMENT OF RETIREMENT AGE

Section
2700.500 Normal Retirement Age
2700.510 Alternative Normal Retirement Age

SUBPART F: PARTICIPANT'S ACCOUNTS, INVESTMENTS AND STATEMENTS

Section
2700.600 Deferred Compensation Accounts
2700.610 Allocation of Investment Earnings or Losses
EMERGENCY
2700.620 Investment Fund Valuation
EMERGENCY
2700.630 Administrative Costs
EMERGENCY
2700.640 Method of Making Investment Requests
EMERGENCY
2700.650 Participant Statements
2700.660 Custodial Account
EMERGENCY
2700.670 Investment Funds
2700.680 Rollovers to the Plan
EMERGENCY
2700.690 Plan-to-Plan Transfers to the Plan
EMERGENCY

SUBPART G: DISTRIBUTIONS

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

Section
2700.700 Distribution Events
EMERGENCY
2700.710 Beneficiary Election of Method of Distribution
EMERGENCY
2700.720 Election of Delayed Distribution Date (Repealed)
EMERGENCY
2700.730 Election of Method of Distribution
EMERGENCY
2700.735 Distribution for Certain Balances of $5,000 or Less~~of Small Accounts~~
EMERGENCY
2700.740 Unforeseeable Emergency
EMERGENCY
2700.745 Plan-to-Plan Transfers from the Plan
EMERGENCY
2700.750 Permissive Service Credit Transfers~~Designation of Beneficiary~~
EMERGENCY
2700.760 Leave of Absence
EMERGENCY

SUBPART H: MISCELLANEOUS

Section
2700.800 Nonassignability
EMERGENCY
2700.810 Payments to Minors and Incompetents
2700.820 Missing Persons
2700.830 Severability
2700.840 Days and Dates
2700.850 Domestic Relations Orders
EMERGENCY
2700.860 IRS Levy
EMERGENCY
2700.870 Mistaken Contributions
EMERGENCY

SUBPART I: AMENDMENT OR TERMINATION OF PLAN

Section
2700.900 Amendment of Plan

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

2700.910 Termination of Plan
2700.920 Merger with Prior Plans
EMERGENCY

2700.APPENDIX A Administrative Rules (Repealed)
2700.EXHIBIT A Administrative Rule I (Repealed)
2700.EXHIBIT B Administrative Rule II (Repealed)
2700.EXHIBIT C Administrative Rule III (Repealed)
2700.EXHIBIT D Administrative Rule IV (Repealed)
2700.EXHIBIT E Administrative Rule V (Repealed)
2700.EXHIBIT F Administrative Rule VI (Repealed)

AUTHORITY: Implementing section 457 of the Internal Revenue Code (26 USCA 457, et seq., as now or hereafter amended) and implementing and authorized by Section 22A-111.1 and Article 24 of the Illinois Pension Code [40 ILCS 5/22A-111.1 and Art. 24].

SOURCE: Emergency rule adopted at 3 Ill. Reg. 11, p. 161, effective March 6, 1979, for a maximum of 150 days; adopted at 3 Ill. Reg. 13, p. 7, effective March 19, 1979; amended at 3 Ill. Reg. 36, p. 436, effective August 29, 1979; amended at 4 Ill. Reg. 1, p. 45, effective December 26, 1979; amended at 6 Ill. Reg. 9655, effective July 23, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 10845, effective August 31, 1983; emergency amendments at 13 Ill. Reg. 629, effective January 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 9308, effective May 31, 1989; emergency amendment at 17 Ill. Reg. 19976, effective November 2, 1993, for a maximum of 150 days; emergency expired April 2, 1994; amended at 18 Ill. Reg. 7224, effective May 2, 1994; amended at 21 Ill. Reg. 10050, effective July 15, 1997; emergency amendment at 23 Ill. Reg. 566, effective January 1, 1999, for a maximum of 150 days; amendment at 23 Ill. Reg. 6039, effective May 5, 1999; emergency amendment at 26 Ill. Reg. 478, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7442, effective May 6, 2002; emergency amendment at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum of 150 days.

SUBPART A: INTRODUCTION AND PURPOSE OF PLAN

Section 2700.110 Purpose of Plan
EMERGENCY

a) The purpose of this Plan is to allow Employees to designate a portion of their Compensation to be withheld each month by the State of Illinois and invested at the discretion of and in a manner approved by the Board until Severance of Employment~~Termination of Service~~, Unforeseeable Emergency or death of the

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

Employee.

b) Participation in this Plan shall not be construed to establish or create an employment contract between the Employee and the State of Illinois.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum of 150 days)

Section 2700.120 Economic Growth and Tax Relief Reconciliation Act of 2001 Good Faith Amendment (Repealed)
EMERGENCY

~~This Section reflects certain provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA). This Section is intended as good faith compliance with the requirements of EGTRRA and is to be construed in accordance with EGTRRA and guidance issued under EGTRRA. Except as otherwise provided, this Section shall be effective January 1, 2002. This Section shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Section.~~

~~a) Pertaining to direct rollovers and distributions made under EGTRRA after December 31, 2001, an eligible retirement plan shall also mean an annuity contract described in section 403(b) and eligible plans under sections 401(a) and 401(k) of the Internal Revenue Code (Code), and an eligible plan under section 457(b) of that Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and that agrees to separately account for amounts transferred into such plan from this Plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relation order, as defined in section 414(p) of the Code. For purposes of direct rollovers, any amount that is distributed on account of hardship shall not be an eligible rollover distribution and the distributee may not elect to have any portion of that distribution paid directly to an eligible retirement plan.~~

~~b) The Plan will accept direct rollovers of distributions made after December 31, 2001 from the types of plans specified in this subsection (b). Rollovers from other plans shall become effective January 1, 2002 and thereafter. The Plan will accept a direct rollover of an eligible rollover distribution from:~~

~~1) A qualified plan described in section 401(a) or 403(a) of the Code,~~

~~excluding after-tax employee contributions.~~

~~2) An eligible plan under section 457(b) of the Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.~~

~~c) The Department does not elect to exclude rollover contributions in determining the value of the participant's non-forfeitable account balance for purposes of the Plan's involuntary cash-out rules.~~

~~d) All employees who are eligible to make elective deferrals under this Plan and who have attained age 50 before the close of the Plan year shall be eligible to make catch-up contributions in accordance with, and subject to the limitations of, section 414(v) of the Code. The catch-up contributions shall not be taken into account for purposes of the provisions of the Plan implementing the required limitations of sections 402(g) and 415 of the Code. The Plan shall not be treated as failing to satisfy the provisions of the Plan implementing the requirements of section 401(k)(3), (k)(11), (k)(12), 410(b), or 416 of the Code, as applicable, by reason of the making of such catch-up contributions. Catch-up contributions shall apply to contributions after December 31, 2001.~~

~~e) A participant who receives a distribution of elective deferrals after December 31, 2001 on account of hardship shall be prohibited from making elective deferrals and employee contributions under this and all other plans of the State for 6 months after receipt of the distribution. A participant who receives a distribution of elective deferrals in calendar year 2001 on account of hardship shall be prohibited from making elective deferrals and employee contributions under this and all other plans of the State for 6 months after receipt of the distribution or until January 1, 2002 if later.~~

~~f) Regardless of when the severance from employment occurred, distribution upon severance from employment shall apply for distributions after December 31, 2001.~~

~~g) Except to the extent permitted by section 631 of EGTRRA and section 414(v) of the Code that allows for catch-up contributions, the annual addition that may be contributed or allocated to a participant's account under the Plan for any limitation year shall not exceed the lessers of:~~

~~1) $40,000, as adjusted for increases in the cost-of-living under section~~

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

~~415(d) of the Code, or~~

~~2) 100 percent of the participant's compensation, within the meaning of section 415(c)(3) of the Code, for the limitation year. The 100 percent limit referred to here shall not apply to any contribution for medical benefits after separation from service (within the meaning of section 401(h) or section 419A(f)(2) of the Code) that is otherwise treated as an annual addition.~~

~~h) The coordinated deferral limit under sections 403(b) and 457 of the Code will not apply to any contributions made after December 31, 2001.~~

(Source: Repealed by emergency rulemaking at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum of 150 days)

SUBPART B: DEFINITIONS

Section 2700.200 Definitions
EMERGENCY

a) Whenever used in the Plan, the following terms shall have the meanings set forth below unless otherwise expressly provided, and when the defined meaning is intended, the term is capitalized:

"Account Balance" means the bookkeeping account maintained with respect to each Participant that reflects the value of the Deferred Compensation credited to the Participant, including Annual Deferrals, the earnings or loss of the Fund (net of Fund expenses) allocable to the Participant, any transfers for the Participant's benefit, and any distribution made to the Participant or the Participant's Beneficiary. If a Participant has more than one Beneficiary at the time of the Participant's death, then a separate Account Balance shall be maintained for each Beneficiary. The Account Balance includes any account established for rollover contributions and plan-to-plan transfers made for a Participant, the account established for a Beneficiary after a Participant's death, and any account or accounts established for an alternate payee (as defined in section 414(p)(8) of the Internal Revenue Code of 1954).

~~"Accounting Date" means the date on which an Investment Fund is valued and earnings and/or losses are allocated to Participants' Deferred Compensation Accounts. There shall be an Accounting Date at least once a month and, if~~

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

~~practical in the discretion of the Board, more frequent Accounting Dates to reflect, as closely as possible, the earnings and/or losses of any particular Deferred Compensation Account from the time Compensation is deferred and invested in various Investment Funds until it is eventually distributed according to the Plan.~~

"Alternate Retirement System" means this Plan, which is described in section~~Section~~ 457 of the Internal Revenue Code, when used for purposes of section~~Section~~ 3121(b)(7)(F) of the Code to exclude contractual employees from mandatory Social Security coverage.

"Annual Deferral" means the amount of Compensation deferred in any year.

"Applicable Dollar Amount" means the amount of Compensation allowed to be deferred in any calendar year as established under section 457(e)(15) of the Code.

"Beneficiary" means the person, persons or legal entity entitled to receive any undistributed Deferred Compensation that~~which~~ becomes payable in the event of the Participant's death, as designated by the Participant, or provided for in accordance with ~~Section 2700.750 of~~ the Plan.

"Board" means the Illinois State Board of Investment.

"Code" means the Internal Revenue Code of 1954 (26 USC~~U.S.C.A.~~ 1 et seq.), as amended from time to time, or any successor statute.

"Compensation" means all cash compensation for services to the State, including salary, wages, fees, commissions, bonuses, and overtime pay, that is includable in the Employee's gross income for the calendar year but for a compensation reduction election under section 125, 132(f), 401(k), 403(b) or 457(b) of the Code. ~~any remuneration payable to an Employee for employment or contractual services rendered to the Employer which is reportable as taxable income for the purposes of the Code.~~

"Custodial Account" means the fund created under and subject to the Custodial Agreement.

"Custodial Agreement" means the written agreement made by and between the State and the custodian under which the Custodial Account is maintained.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

"Deferred Compensation" means that portion of the Participant's Compensation that~~which~~ the Participant defers under this Plan.

"Deferred Compensation Account" means an account established under this Plan that is the basis for any distribution payable to the Participant under Section 2700.730 of this Part.

"Delayed Distribution Date" means the date a Participant elects to make a decision regarding distribution of the Participant's account.~~ It can be no later than defined in Section 401(a)(9)(C) of the Code (26 U.S.C.A. 401(a)(9)(C) (1986), as amended by P.L. 99-514, effective January 1, 1989) and explained in Section 2700.720 of this Part.~~

"Department" means the Department of Central Management Services of the State of Illinois.

"Employee" means *any person, including a person elected, appointed or under contract, receiving compensation from the State...for personal services rendered, including salaried persons* [40 ILCS 5/24-102], except that any person under contract with the Employer shall be eligible only to the extent the Internal Revenue Service or the Illinois Department of Revenue shall permit or approve.

"Employer" means the State of Illinois, including all officers, boards, commissions and agencies created by the Illinois Constitution, whether in the executive, legislative or judicial branch, all officers, departments, boards, commissions, agencies, institutions, authorities, universities, bodies politic and corporate of the State; and administrative units or corporate outgrowths of the State government that~~which~~ are created by or pursuant to statute other than units of local government and their officers, school districts and boards of election commissioners; all administrative units and corporate outgrowths of the above as may be created by executive order of the Governor.

"Hardship Committee" means a committee that is responsible for determining whether any Participant has suffered an Unforeseeable Emergency and is entitled to a distribution as provided under Section 2700.740 of this Part.

"Includable Compensation" means the Employee's actual wages in box 1 of Form W-2 for a year for services to the State, as defined in section 457(e)(5) of the Code.~~amount of an Employee's Compensation for a taxable year that is includable in the Employee's gross income for the taxable year for federal income tax~~

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

~~purposes; such term does not include any amount excludable from gross income under this Plan or any other plan described in Section 457(a) of the Internal Revenue Code, any amount excludable from gross income under Section 403(b) of the Internal Revenue Code, or any other amount excludable from gross income for federal income tax purposes. Includable Compensation shall be determined without regard to any community property laws.~~

"Investment Fund" means any and all funds established by the Board for the investment of Deferred Compensation.

"Minor" means a Beneficiary who is under age 18 at the time a benefit under this Plan becomes payable to him or her, unless Illinois law defines another age.

"Normal Retirement Age" means age 70½ unless the Participant has elected an alternative Normal Retirement Age by written instrument delivered to the Department within 30 days of the Participant's Severance of Employment ~~Termination of Service~~ as provided in Section 2700.510 of this Part. A Participant's Normal Retirement Age determines:

the latest time when benefits may commence under this Plan (unless the Participant continues employment after Normal Retirement Age);~~,~~ and

the period during which a Participant may utilize the three-year Catch-up provision of Section 2700.440 of this Part~~in this Plan~~.

"Participant" means any Employee who has enrolled in this Plan as provided in Section 2700.410 of this Part and has not had a complete distribution of his or her Deferred Compensation Account.

"Pay Period" means a regular accounting period established by the State of Illinois for measuring and paying Compensation earned by Employees. A Pay Period may be monthly, semi-monthly or bi-weekly.

"Plan" means the State (of Illinois) Employees' Deferred Compensation Plan, as set forth in these rules, and as it may be amended from time to time.

"Plan Year" shall be the tax year as established by the Comptroller for payroll purposes.

"Prior Plan I" means the State Employees' Deferred Compensation Plan approved

and adopted by the Board on September 10, 1976.

"Prior Plan II" means the State Employees' Deferred Compensation Plan approved and adopted by the Board on May 18, 1979.

"Prior Plan III" means the State Employees' Deferred Compensation Plan (80 Ill. Adm. Code 2700) adopted at 7 Ill. Reg. 10845, effective August 31, 1983.

~~"State" means State of Illinois.~~

"Severance from Employment"~~Termination of Service"~~ means the permanent severance of the Participant's employment relationship with the Employer by means of:

retirement;

discharge;

resignation, provided seniority or continuous service is interrupted;

layoff, unless there is a designated date for return to paid status;

expiration or non-renewal of contract, appointment or term of office;

nonreelection; or

~~such~~ other form of permanent severance as may be provided by appropriate law, contract or rules and regulations.

For the purposes of this definition, neither a break in State service for a period of less than 30 days nor transfers among various branches of State Government shall be considered a Severance from Employment~~Termination of Service~~.

An independent contractor is considered to sever~~terminate~~ service with the Employer upon the expiration of all contracts under which services are performed for the Employer, if the expiration constitutes a good faith and complete termination of the contractual relationship.

"State" means State of Illinois.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

"Unforeseeable Emergency" means severe financial hardship to the Participant resulting from an ~~a sudden and~~ unexpected illness or accident of the Participant or of a dependent of the Participant, loss of the Participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant.

"Valuation Date" means the date on which an Investment Fund is valued and earnings and/or losses are allocated to Participants' Deferred Compensation Accounts. There shall be a Valuation Date at least once a month and, if practical at the discretion of the Board, more frequent Valuation Dates to reflect, as closely as possible, the earnings and/or losses of any particular Deferred Compensation Account from the time Compensation is deferred and invested in various Investment Funds until it is eventually distributed according to the Plan. It may also include each business day/the last day of the calendar month/the last day of the calendar quarter/each December 31.

b) Except when otherwise indicated by context, any masculine terminology herein shall also include the feminine and neuter and vice-versa, and the definition of any terms herein in the singular may also include the plural.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum of 150 days)

SUBPART C: ADMINISTRATION

Section 2700.320 Deferred Compensation Hardship Committee
EMERGENCY

a) A Hardship Committee shall be formed that~~which~~ shall be responsible for determining whether any Participant has suffered an Unforeseeable Emergency and is entitled to a distribution under Section 2700.740 of this Part~~the Plan~~.

b) Members of this Hardship Committee shall be appointed by the Department but shall include at least:

1) one Department employee, and

2) two persons not employees of the Department.

c) Members of this Committee shall be entitled to defer Compensation so long as

they are otherwise eligible; however, no member of the Hardship Committee shall make any determination with respect to any interest that he or she may have under the Plan.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum of 150 days)

SUBPART D: PARTICIPATION IN THE PLAN

Section 2700.400 Eligibility
EMERGENCY

All Employees shall be eligible to participate in the Plan and defer Compensation immediately upon becoming employed by the State.~~who are receiving Compensation on or after the date the Plan first became effective shall be eligible to become Participants.~~

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum of 150 days)

Section 2700.410 Enrollment
EMERGENCY

a) Any Employee eligible to participate in the Plan may become a Participant by agreeing in writing, on a form to be provided by the Department, to a deferment of his or her Compensation.

b) The deferment will commence no sooner than the first Pay Period of the month following the date the form is properly completed by the Employee, accepted by the Department, and for which the Agency payroll has not closed.

c) A new Employee may defer Compensation payable in the calendar month during which the Participant first becomes an Employee if an agreement providing for the deferral is entered into on or before the first day on which the Participant performs services for the State.

d~~e~~) The amount to be deferred will be selected by the Participant and will be agreed to at the time of enrollment. This~~Such~~ amount may not be less than the minimum amount allowable or exceed the basic annual limitation~~maximum amount allowable~~.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

e~~d~~) The amount deferred may be changed by the Participant at any time. The~~Such a~~ change shall become effective no sooner than the first Pay Period of the month following the date the form is properly completed by the Employee and accepted by the Department.

f~~e~~) A Participant's request to defer Compensation shall remain in effect until the Participant's Severance from Employment~~Termination of Service~~, unless revoked prior to that time. The Department shall suspend deferrals for the remainder of the calendar year for Participants who have deferred in excess of the allowable maximum. The Department shall also withdraw and return to the Participant the excess amount deferred.

g~~f~~) Deferrals can be made by reductions in Compensation only.

h~~g~~) The Participant election shall also include the designation of Investment Funds and a designation of Beneficiary. This election shall remain in effect until a new election is filed.

i) Acceptance by the Department shall be granted whenever forms are properly completed and the criteria set by the Plan for acceptance are met.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum of 150 days)

Section 2700.415 Designation of Beneficiary
EMERGENCY

a) A Participant may designate a Beneficiary or Beneficiaries who will receive any balance in the Participant's Deferred Compensation Account in the event of his or her death.

b) A designation of Beneficiary shall be effective for subsequent distributions when received by the Department. The designation shall be in writing on a form provided by the Department for that purpose that has been signed by the Participant.

c) A Participant may, at any time, change his or her Beneficiary by completion of the form provided by the Department.

d) No Beneficiary shall have any rights under this Plan until the death of the

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

Participant who has designated him or her and a separate account has been established by the Department as provided for under this Section.

e) Participants may designate primary and contingent Beneficiaries. A contingent Beneficiary's interest will become effective only upon the death of any and all primary Beneficiaries, or if any and all of the primary Beneficiary designations have been found invalid.

f) If more than one Beneficiary is named in either category, benefits will be paid according to the following rules:

1) Beneficiaries can be designated to share equally or to receive specific percentages.

2) If a Beneficiary dies before the Participant, only the surviving Beneficiaries will be eligible to receive any benefits in the event of the death of the Participant. If more than two Beneficiaries are originally named to receive different percentages of the benefits, surviving Beneficiaries will share in the same proportion to each other as indicated in the original designation.

g) A person, trust, estate or other legal entity may be designated as a Beneficiary.

h) If a Beneficiary has not been designated, or a designation is ineffective due to the death of all Primary and Contingent Beneficiaries prior to the death of the Participant, or the designation is ineffective for any reason, the estate of the Participant shall be the Beneficiary.

i) Upon the death of the Participant, any Beneficiary entitled to the value of the Deferred Compensation Account under the provisions of this Section shall become a "vested Beneficiary" and have all the rights of the Participant, with the exception of making any deferrals.

j) Before the account can be distributed, the Beneficiary must provide the Department with his or her Social Security Number and a certified copy of the Participant's death certificate.

k) In the event of a conflict between the provisions of this Section and any annuity contract purchased prior to January 1, 1999, this Section shall prevail.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

(Source: Added by emergency rulemaking at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum of 150 days)

Section 2700.420 Minimum Deferment
EMERGENCY

a) Each Employee who becomes a Participant must agree to defer a minimum amount of $10 ~~ten dollars ($10.00)~~ per Pay Period or $20~~twenty dollars ($20.00)~~ per month, whichever is greater.

b) The minimum for an Employee who is a contractual Employee, who is participating in the Plan and who uses the Plan as an Alternate Retirement System as defined in regulations for Code section~~Section~~ 3121(b)(7)(F) is 7.5% of Compensation each Pay Period~~pay period~~ unless the minimum is changed by Code section~~Section~~ 3121(b)(7)(F) regulations, in which case the minimum is whatever is prescribed by the Code. If the 7.5% minimum is less than $10 a Pay Period~~pay period~~ or $20 a month, the latter becomes the minimum.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum of 150 days)

Section 2700.430 Basic Annual Limitation~~Maximum Deferment~~
EMERGENCY

The maximum amount of the Annual Deferral under the Plan for any calendar year shall not exceed the lesser of the Applicable Dollar Amount or the Participant's Includible Compensation for the calendar year. The Applicable Dollar Amount in calendar year 2005 is $14,000; and in 2006, or after, the Applicable Dollar Amount is $15,000, adjusted for cost-of-living after 2006 to the extent provided under section 415(d) of the Code.~~a)The total amount of Deferred Compensation during any Plan Year shall not exceed:~~

~~1) 33 1/3% of Includable Compensation (25% of taxable compensation), or the maximum deferral amount as adjusted by the Internal Revenue Service pursuant to 26 U.S.C. 457(e)(15), whichever is less, or~~

~~2) the maximum amount allowable during the "Catch-up" period.~~

~~b) In no event, however, can the maximum amount deferred exceed:~~

~~1) $15,000 for any taxable year during which Catch-up is utilized, and~~

~~2) an amount in excess of the amount of an Employee's Compensation per Pay Period less deductions for FICA, any other taxes, pension contributions and other mandatory deductions.~~

~~c) If an individual participates in two or more deferred compensation plans maintained by different employers, the maximum that may be deferred under all plans for a taxable year cannot exceed the maximum deferral amount as defined by the Internal Revenue Service, or, as applicable, the maximum permitted under the Catch-up provision.~~

~~d) If a Participant has deferred Compensation in excess of the maximum amount allowable, the Department shall withdraw and return to the Participant the excess amount deferred.~~

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum of 150 days)

Section 2700.435 Age 50 Catch-up Annual Deferral Contributions
EMERGENCY

A Participant who will attain age 50 or more by the end of the calendar year is permitted to elect an additional amount of Annual Deferrals, up to the maximum age 50 catch-up Annual Deferrals for the year. The maximum dollar amount of the age 50 catch-up Annual Deferral for a year is $4,000 for calendar year 2005; and for 2006, or after, the maximum age 50 catch-up dollar amount is $5,000, adjusted for cost-of-living after 2006 to the extent provided under the Code.

(Source: Added by emergency rulemaking at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum of 150 days)

Section 2700.440 Special Section 457 Catch-up Limitation
EMERGENCY

a) If the applicable year is one of a Participant's last 3 calendar years ending before the year in which the Participant attains Normal Retirement Age, and the amount determined under this Section exceeds the amount computed under Sections 2700.430 and 2700.435 of this Part, then the Annual Deferral limit in the Plan shall be the lesser of:

1) An annual amount equal to 2 times the Applicable Dollar Amount for the

applicable year as provided for in Section 2700.430 of this Part; or

2) The sum of:

A) An amount equal to the aggregate limit, as defined in Section 2700.430 of this Part, for the current year plus each prior calendar year beginning after December 31, 2001 during which the Participant was an Employee under the Plan, minus the aggregate amount of Compensation that the Participant deferred under the Plan after December 31, 2001, plus

B) An amount equal to the aggregate limit referred to in section 457(b)(2) of the Code for each prior calendar year beginning after December 31, 1978 and before January 1, 2002 during which the Participant was an Employee (determined without regard to Section 2700.435 and this Section) minus the aggregate contributions to pre-2002 coordination plans for those years.

~~For one or more of the Participant's last three taxable years ending before the Participant attains Normal Retirement Age, a Participant may defer an additional amount, not in excess of the maximum amount deferrable, and not greater than the difference between the amount which could have been deferred under this Plan or another Plan authorized under Section 457 of the Code for each year since January 1, 1979, and the amount that was actually deferred during that time.~~

b) In no event can the deferred amount be more than the Participant's Compensation for the applicable years.~~A Participant eligible for Catch-up may defer the additional amount by declaring his or her Normal Retirement Age and by agreeing to the Catch-up conditions stated in this Section on a form to be provided by the Department.~~

c) If the Participant is or has been a participant in one or more other eligible plans within the meaning of section 457(b) of the Code, then this Plan and all other eligible plans shall be considered as one plan for purposes of applying foregoing limitations of this Section. For this purpose, the Department shall take into account any other eligible plan for which the Department receives, from the Participant, sufficient information concerning his or her participation in the other plan.~~Once a Participant has deferred additional Compensation under the Catch-up provision of this Plan,~~

d) In applying this Section, a year shall be taken into account only if the Participant was eligible to participate in the Plan during all or a portion of the year and Compensation deferred, if any, under the Plan during the year was subject to the basic annual limitation described in Section 2700.430 of this Part or any other plan ceiling required by section 457(b) of the Code.

e) For purposes of subsection (a)(2)(B), "contributions to pre-2002 coordination plan" means any employer contribution, salary reduction or elective contribution under any other eligible Code section 457(b) plan, or a salary reduction or elective contribution under any Code section 401(k) qualified cash or deferred arrangement, Code section 402(h)(1)(B) simplified employee pension deferred arrangement, Code section 403(b) annuity contract, and Code section 408(p) simple retirement account, or under any plan for which a deduction is allowed because of a contribution to an organization described in section 501(c)(18) of the Code, including plans, arrangements or accounts maintained by the Employer or any employer for whom the Participant performed services. However, the contributions for any calendar year are only taken into account for purposes of subsection (a)(2)(B) of this Section to the extent that the total of the contributions does not exceed the aggregate limit referred to in section 457(b)(2) of the Code for that year.

f) If the Annual Deferral on behalf of a Participant for any calendar year exceeds the limitations described in subsection (a), or the Annual Deferral on behalf of a Participant for any calendar year exceeds the limitations described in subsection (a) when combined with other amounts deferred by the Participant under another eligible deferred compensation plan under section 457(b) of the Code, for which the Participant provides information that is accepted by the Department, then the Annual Deferral, to the extent in excess of the applicable limitation (adjusted for any income or loss in value, if any, allocable to the investment), shall be distributed to the Participant.

g) An Employee whose employment is interrupted by qualified military service under Code section 414(u) or who is on a leave of absence for qualified military service under Code section 414(u) may elect to make additional Annual Deferrals upon resumption of employment with the State equal to the maximum Annual Deferrals that the Employee could have elected during that period if the Employee's employment with the State had continued (at the same level of Compensation) without the interruption or leave, reduced by the Annual Deferrals, if any, actually made for the Employee during the period of the interruption or leave. This right applies for 5 years following the resumption of

employment (or, if sooner, for a period equal to 3 times the period of the interruption or leave).

~~1) he or she may not change his or her Normal Retirement Age.~~

~~2) he or she may not use the Catch-up provision more than once whether or not the Participant rejoins the Plan or joins a new plan, and whether or not the Catch-up is used in one or all three of the applicable taxable years.~~

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum of 150 days)

Section 2700.450 Revocation of Deferral
EMERGENCY

a) Any Participant may revoke his or her election to have Compensation deferred by completing the Revocation Section of the Enrollment Form.

b) Following ~~such~~ notice of revocation, the Participant's full Compensation shall be restored as soon as possible. In no case shall deductions continue later than the Pay Period occurring 30 days after receipt of the revocation form and any other forms requested by the Department to fulfill the requirements of the Office of the Comptroller or any other State agency.

c) The Department shall suspend a Participant's deferrals for the remainder of the calendar year when the Participant has deferred in excess of the allowable maximum and shall withdraw and return the excess amount deferred consistent with Section 2700.440(f) of this Part.

d) Revocation shall not cause distribution of the Participant's Account.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum of 150 days)

SUBPART F: PARTICIPANT'S ACCOUNTS, INVESTMENTS AND STATEMENTS

Section 2700.610 Allocation of Investment Earnings or Losses
EMERGENCY

a) To the extent that Investment Funds are established by the Board, Deferred

Compensation Accounts shall be allocated among the~~such~~ Investment Funds according to the investment elections in effect on behalf of the Participants. Earnings and losses of each Investment Fund shall be based on the actual investment experience of the~~such~~ Investment Fund.

b) Earnings and losses will be measured from the Valuation~~Accounting~~ Date coincident with or immediately preceding the date on which any Deferred Compensation is invested in any Investment Fund to the Valuation Date~~Accounting Date~~ coincident with or immediately preceding the date any Deferred Compensation is withdrawn from any Investment Fund.

c) The amount of earnings or losses allocated to each Deferred Compensation Account shall reflect the proportion a Participant's Deferred Compensation Account ~~represents~~ in relation to the other Deferred Compensation Accounts having an interest in that Fund.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum of 150 days)

Section 2700.620 Investment Fund Valuation
EMERGENCY

a) Any Investment Fund under this Plan shall be valued at fair market value as of each Valuation Date~~Accounting Date~~.

b) Any withdrawals or distributions made under this Plan shall be made in cash by electronic transfer, or as authorized by the State.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum of 150 days)

Section 2700.630 Administrative Costs
EMERGENCY

a) It is the intent of this Plan that it shall not be implemented or administered so as to be an expense to the State of Illinois, except for the State's obligation to pay the Deferred Compensation Accounts as provided in this Plan. Therefore, any expenses of maintaining and administering the Plan shall be borne by the Participants. Cost ~~Such cost~~ shall include, but not be limited to, the costs of:

1) making investments, exchanges, or distributions if any,

2) collecting the Deferred Compensation, and

3) providing information to Participants, Employees and other agencies of the State.

b) The method of sharing any expenses and the amount of those~~such~~ expenses shall be determined by the Department subject to the approval of the Board.

c) An asset charge at an annual rate not to exceed a cap of 1~~one~~ percent (.01) shall be levied against the Account of each Participant in the ~~State (of Illinois) Employees' Deferred Compensation~~ Plan. This~~Such~~ charge shall be assessed solely to offset the cost incurred by the State in administering the Plan. Any asset charge will be based on this cost~~such costs~~, but in no case may the actual charge exceed the established cap.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum of 150 days)

Section 2700.640 Method of Making Investment Requests
EMERGENCY

a) A Participant shall, at the time of enrollment, make an investment request on a form provided for that purpose by the Department.

b) Once made, an investment request shall continue for any deferments unless later changed by the Participant.

c) A Participant may change investment requests for future amounts of Deferred Compensation an unlimited number of times.

d) A change in investment request shall be made to the Plan's record keeper by telephone notice or use of internet on-line access programs. ~~effective no later than the second Pay Period following receipt of the properly completed form by the Department or telephone notice to the Plan's recordkeeper.~~

e) A Participant may change an investment request governing amounts previously deferred. However, after June 1, 1994, amounts previously deferred into the stable value~~return~~ option shall not be exchanged directly or indirectly into a

money market or bond fund. Any exchange from the stable value~~return~~ option must first be exchanged into one of the other investment options for a period of 90 days.

f) There will be no charge for the first exchange each quarter of each Plan Year. Each additional exchange will be assessed a transaction charge of $10.~~00~~

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum of 150 days)

Section 2700.660 Custodial Account
EMERGENCY

a) Notwithstanding any contrary provision of the Plan, in accordance with section~~Section~~ 457(g) of the Code, all amounts of Compensation ~~compensation~~ deferred pursuant to the Plan, all property and rights purchased with these~~such~~ amounts, and all income attributable to these~~such~~ amounts, property, or rights shall be held in one or more Custodial Accounts ~~custodial accounts~~ for the exclusive benefit of Participants~~participants~~ and Beneficiaries~~beneficiaries~~ under the Plan. For purposes of this subsection, the custodian of any Custodial Account~~custodial account~~ created pursuant to the Plan must be a bank, as described in section~~Section~~ 408(n) of the Internal Revenue Code, or a person who meets the non-bank trustee requirements in accordance with the regulations under section~~Section~~ 408(a)(2) of the Code relating to the use of non-bank trustees. All amounts of Compensation~~compensation~~ deferred under the Plan shall be transferred to a Custodial Account ~~custodial account~~ described in section~~Section~~ 401(f) of the Code within a period that is not longer than is reasonable for the proper administration of the accounts of Participants~~participants~~.

b) The Participant and his or her Beneficiary~~beneficiary~~ shall not have any property interest whatsoever in any specific asset of the State of Illinois on account of his or her election to defer any Compensation under this Plan.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum of 150 days)

Section 2700.680 Rollovers to the Plan
EMERGENCY

a) A Participant who is an Employee and who is entitled to receive an eligible

rollover distribution from another eligible retirement plan may request to have all or a portion of the eligible rollover distribution paid to the Plan.

b) The Department may require documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with section 402 of the Code and to confirm that the plan is an eligible retirement plan within the meaning of section 402(c)(8)(B) of the Code.

c) For purposes of this Section, an eligible rollover distribution means any distribution of all or any portion of a Participant's benefit under another eligible retirement plan, except that an eligible rollover distribution does not include:

1) any installment payment for a period of 10 years or more;

2) any distribution made as a result of an Unforeseeable Emergency or other distribution that is made to a Participant; or

3) any other distribution, the portion, if any, of the distribution that is a required minimum distribution under section 401(a)(9) of the Code.

d) In addition, an eligible retirement plan means an individual retirement account described in section 408(b) of the Code, a qualified trust described in section 401(a) of the Code, an annuity plan described in section 403(a) or 403(b) of the Code, or an eligible governmental plan described in section 457(b) of the Code that accepts the eligible rollover distribution.

e) The Plan shall establish and maintain for the Participant a separate account for any eligible rollover distribution paid to the Plan from any eligible retirement plan that is not an eligible governmental plan under section 457(b) of the Code.

f) In addition, the Plan shall establish and maintain for the Participant a separate account for any eligible rollover distribution paid to the Plan from any eligible retirement plan that is an eligible governmental plan under section 457(b) of the Code.

(Source: Added by emergency rulemaking at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum of 150 days)

Section 2700.690 Plan-to Plan Transfers to the Plan
EMERGENCY

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

a) Participants who participate in another eligible governmental plan under section 457(b) of the Code may transfer assets to the Plan as provided in this Section. A transfer is permitted only if the other plan provides for the direct transfer of a Participant's interest in the other plan to the Plan.

b) The transfer is permitted only in the form of cash or other similar property deemed acceptable to the Department.

c) The Department may require documentation from the other plan as it deems necessary to effectuate the transfer in accordance with section 457(e)(10) of the Code and section 1.457-10(b) of the Income Tax Regulations and to confirm that the other plan is an eligible governmental plan as defined in section 457-2(f) of the Income Tax Regulations.

d) The amount transferred shall be credited to the Participant's account balance and shall be held, accounted for, administered and otherwise treated in the same manner as an Annual Deferral by the Participant under the Plan, except that the transferred amount shall not be considered an Annual Deferral under the Plan in determining the maximum deferral under Section 2700.430 of this Part.

(Source: Added by emergency rulemaking at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum of 150 days)

SUBPART G: DISTRIBUTIONS

Section 2700.700 Distribution Events
EMERGENCY

a) Distributions under this Plan will be made in accordance with the regulations under section~~Section~~ 401(a)(9) of the Code (26 CFR 54, 52 FR 28070, July 27, 1987). The provisions reflecting section~~Section~~ 401(a)(9) override any distribution options in the Plan inconsistent with section~~Section~~ 401(a)(9).

b) A Participant's Deferred Compensation Account may begin to be distributed 30 days after the date of one of the following events:.

1) Severance from Employment~~Termination of Service~~,

2) Death, or

3) Delayed Distribution Date.

c) A Participant's Deferred Compensation Account may begin to be distributed as soon as possible but not later than 30 days after determination of an Unforeseeable Emergency by the Hardship Committee.

d) A Participant, with $5,000~~3,500~~ or less in his or her Deferred Compensation Account, may elect to cash out the Account in compliance with conditions specified in Section 2700.735 of this Part.

e) No distributions will be made to a Participant who is employed as an independent contractor before a date that~~which~~ is at least 12 months after the day on which his or her employment contract expires. Should the independent contractor be re-employed by the State as either an Employee or independent contractor during the 12-month waiting period, no distribution will be started on the projected distribution date. If the contractor has attained age 70½ at the time the contract is terminated, the 12-month waiting period is waived.

f) Participants are responsible for notifying the Department of their Termination of Service.

g) Beneficiaries are responsible for notifying the Department of the death of the Participant and supplying the Department with a certified copy of the Death Certificate.

h) A Participant who does not receive the initial distribution until the calendar year following the year in which he or she reaches age 70½ or separates, if he or she works past age 70½, will receive at least 2~~two~~ taxable distributions in the same year.

i) If a Participant has a separate account attributable to rollover contributions to the Plan, the Participant may at any time elect to receive a distribution of all or any portion of the amount held in the rollover account.

j) An alternate payee, pursuant to the terms of a qualified domestic relations order, may at any time elect to receive a distribution of all or any portion of the amount held and maintained on behalf of the alternate payee upon the proper execution and designation under the qualified domestic relations order.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 20050, effective November 23, 2005 for a maximum of 150 days)

Section 2700.710 Beneficiary Election of Method of Distribution
EMERGENCY

a) Commencing in the calendar year following the calendar year of the Participant's death, the Participant's Account Balance shall be paid to the Beneficiary in a lump sum. ~~Within 60 days after the date of death of a Participant, the Beneficiary shall elect a method of distribution.~~

b) Alternatively, if the Beneficiary with respect to the Participant's Account Balance is a natural person, at the Beneficiary's election, distribution can be made in annual installments (calculated in a manner that is similar to installments under Section 2700.730 of this Part) with the distribution period determined in the following manner: ~~In the case of a distribution to a Beneficiary when the account was partially distributed to the Participant before death:~~

1) If the Beneficiary is the Participant's surviving spouse, the distribution period is equal to the Beneficiary's life expectancy using the single life table in section 1.401(a)(9)-9, A-1, of the Income Tax Regulations for the spouse's age on the spouse's birthday for that year. ~~The Beneficiary may elect one of the options provided in Section 2700.730.~~

2) If the Beneficiary is not the Participant's surviving spouse, the distribution period is the Beneficiary's life expectancy determined in the year following the year of the Participant's death using the single life table in section 1.401(a)(9)-9, A-1, of the Income Tax Regulations for the Beneficiary's age on the Beneficiary's birthday for that year, reduced by one for each year that has elapsed after that year.~~The installment period is limited to the balance of the deceased Participant's installment period.~~

~~3) Distribution to a Beneficiary who does not make an election within the 60-day election period will be a continuation of the method under which the account was being distributed prior to the Participant's death, unless the amount of the account is $3,500 or less in which case the distribution will be immediately in a lump sum.~~

c) For any year, a Beneficiary can elect distribution of a greater amount (not to exceed the amount of the remaining Account Balance) rather than the amount

calculated under Section 2700.710(b).~~In the case of a distribution to a Beneficiary when the Participant died before distributions began:~~

~~1) The Beneficiary may elect one of the options provided in Section 2700.730.~~

~~2) The installment period cannot exceed the Beneficiary's life expectancy or 15 years, whichever is shorter.~~

~~If a Participant has more than one designated Beneficiary, the designated Beneficiary with the shortest life expectancy will be the designated Beneficiary for purposes of determining the distribution period.~~

~~3) The Beneficiary who does not make an election within the 30-day election period will have the account distributed in five annual installments, unless the amount of the account is $3,500 or less in which case it will be distributed immediately in a lump sum.~~

~~d) If the Beneficiary dies after the distribution has commenced:~~

~~1) The balance of the account will be distributed to the Beneficiary of the Beneficiary receiving distributions.~~

~~2) The distribution method will be a continuation of the method in effect prior to the Beneficiary's death, unless the amount of the account is under $3,500 in which case the distribution will be immediately in a lump sum.~~

~~e) The Beneficiary's election becomes irrevocable after the 60-day election period expires.~~

~~f) If the designated Beneficiary is other than an individual:~~

~~1) The Beneficiary may elect a lump sum cash payment of all or a portion of the balance of the account, or~~

~~2) The Beneficiary may elect installments over a period of time not longer than five years.~~

~~3) The Beneficiary who does not make an election within the 60-day election~~

~~period will have the account distributed in a lump sum.~~

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum of 150 days)

Section 2700.720 Election of Delayed Distribution Date (Repealed)
EMERGENCY

~~a) Within 60 days after Termination of Service, a Participant may elect a Delayed Distribution Date. Participant's election becomes irrevocable after the 60 day election period expires~~.

~~b) The Delayed Distribution Date may be:~~

~~1) A specific future date,~~

~~2) Normal Retirement Age.~~

~~c) In no case may a Participant elect a Delayed Distribution Date beyond age 70 1/2.~~

~~d) A Participant may elect to make a one-time change forward of the Delayed Distribution Date provided that the election is made during the 30 day election period after the Delayed Distribution Date is reached and such election shall be irrevocable.~~

~~e) In the event a Participant who has terminated State service and elected a Delayed Distribution Date returns to State employment prior to reaching the Delayed Distribution Date, the Delayed Distribution Date is effectively voided. Whether or not the Participant resumes deferrals shall not affect the nullification.~~

~~f) Neither a Participant who works past age 70 1/2, nor a participant with an account value less than $3,500, nor a Beneficiary may elect a Delayed Distribution Date.~~

(Source: Repealed by emergency rulemaking at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum of 150 days)

Section 2700.730 Election of Method of Distribution
EMERGENCY

a) In an election to commence benefits as provided for under Section 2700.700 of

this Part, a Participant entitled to a distribution of benefits may elect to receive payment in any of the following forms of distribution:~~At any time prior to the end of the Participant's election period, a Participant may elect one or more of the following methods by which the Deferred Compensation Account shall be distributed:~~

1) a lump sum payment of the total Account Balance; or~~A lump sum cash payment of all or a portion of the balance of the Account. The amount paid for such lump sum withdrawal shall be based upon the value of the Participant's Account as of the Accounting Date.~~

2) annual installment payments through the year of the Participant's death, the amount payable each year equal to a fraction of the Account Balance equal to 1 divided by the distribution period set forth in the Uniform Lifetime Table at section 1.401(a)(9)-9, A-2, of the Income Tax Regulations for the Participant's age on the Participant's birthday for that year.~~Monthly installments of fixed dollar amounts.~~

A) If the Participant's age is less than age 70, the distribution period is 27.4 plus the number of years that the Participant's age is less than age 70.~~The installment dollar amount may be selected by the Participant, but shall not be less than the amount determined to provide for total payout over a period of years not to exceed the life expectancy of the Participant.~~

B) At the Participant's election, this annual payment can be made in monthly, quarterly or semi-annual installments.~~The installment dollar amounts may be changed by the Department, but only to assure adherence to Section 2700.730(a)(3)(B) of the Plan or as ordered by the Hardship Committee.~~

C) The Account Balance for this calculation (other than the final installment payment) is the Account Balance as of the end of the year prior to the year for which the distribution is being calculated.~~The amount of each distribution may be transferred electronically to the Participant's bank or other account which accepts direct deposits.~~

D) For any year, the Participant can elect distribution of a greater amount (not to exceed the amount of the remaining Account

Balance) rather than the amount calculated under subsection (a)(2)(C).

~~3) In installments over a period of years not longer than the life expectancy of the Participant.~~

~~A) Such installments shall be made in regular increments of monthly, quarterly, semi-annual or annual payments. The amount of each distribution may be transferred electronically to the Participant's bank or other account which accepts direct deposits from the State, or its agent, except for annual payments.~~

~~B) Such installments shall be made in such amount to assure that the total value of the Participant's account shall be received by the Participant during his or her projected life time (as determined at the time distributions commence or as otherwise provided by applicable code and regulations).~~

~~C) For the purposes of this Plan, the Participant's life expectancy shall be determined by an applicable Internal Revenue Service Table in accordance with the regulations under Section 401(a)(9) of the Code, provided, however, that the Participant may elect whether or not his or her life expectancy will be recalculated annually. Such election must be made prior to the first required distribution date, shall be irrevocable and shall apply to all subsequent years.~~

~~D) Any portion of the Deferred Compensation Account which has not been distributed shall continue to be credited and/or debited according to the provisions of Sections 2700.600 and 2700.610.~~

~~E) The amount of a periodic installment benefit payment shall be determined each time there is a distribution. This amount shall be calculated on the Accounting Date for the month based on the value of the Participant's Account on that date and the number of installments remaining. However, the final installment will be an amount equal to the value of the Participant's Account on the Accounting Date for that final distribution.~~

~~4) A transfer of all of the account from this plan to an eligible plan authorized under Section 457 of the Code.~~

~~A) The State or local government sponsoring the receiving 457 Plan is responsible for determining whether the Plan is eligible and certifying the same on a form provided by the Department.~~

~~B) The transfer will commence on the next Accounting Date following receipt of the certification and any other required forms.~~

~~C) In the event the receiving plan is not an eligible plan or does not authorize transfers, the distribution of the account will be held no longer than 180 days and the Participant will be given 30 days to make a new distribution method election.~~

b) A Participant or the surviving spouse of a Participant (or a Participant's former spouse who is an alternate payee under a domestic relations order, as defined in section 414(p) of the Code) who is entitled to an eligible rollover distribution may elect, at the time and in the manner prescribed by the Department, to have all or any portion of the distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover. An eligible retirement plan means an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, a qualified trust described in section 401(a) of the Code, an annuity plan described in section 403(a) or 403 (b) of the Code, or an eligible governmental plan described in section 457(b) of the Code, that accepts the eligible rollover distribution. ~~If the Participant does not elect a method of distribution prior to the end of the Participant's election period, the Deferred Compensation Account will be distributed in five annual installments, unless the amount of the account is $3,500 or less in which case it will be distributed immediately in a lump sum.~~

c) For purposes of this Section, an eligible rollover distribution means any distribution of all or any portion of a Participant's Account Balance, except that an eligible rollover distribution does not include:

1) any installment payment under subsection (a) of this Section for a period of 10 years or more;

2) any distribution made under Section 2700.740 of this Part as a result of an Unforeseeable Emergency; or

3) the portion, if any, of the distribution that is a required minimum distribution under section 401(a)(9) other than those distributions described in subsections (c)(1) and (c)(2).

~~The Participant's election becomes irrevocable after the election period expires.~~

d) In no event shall any distribution under this Section begin later than the latter of:

1) April 1 of the year following the calendar year in which the Participant attains age 70½; or

2) April 1 of the year following the year in which the Participant retires or otherwise has a Severance from Employment.

e) If distributions commence in the calendar year following the latter of the calendar year in which the Participant attains age 70½ or the calendar year in which the Severance from Employment occurs, the distribution on the date that distribution commences must be equal to the annual installment payment for the year that the Participant has a Severance from Employment determined under subsection (a)(2) of this Section, and an amount equal to the annual installment payment for the year after Severance from Employment determined under subsection (a)(2) of this Section must also be paid before the end of the calendar year of commencement.

f) Any election made under this Section may be revoked at any time.

g) Any portion of the Deferred Compensation Account that has not been distributed shall continue to be credited and/or debited according to the provisions of Sections 2700.600 and 2700.610 of this Part.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum of 150 days)

Section 2700.735 Distribution for Certain Balances of $5, 000 or Less~~of Small Accounts~~ EMERGENCY

At the direction of the Participant, a Participant's total Account Balance shall be paid in a lump sum on the next Valuation Date following the direction if:

a) the total Account Balance does not exceed $5,000;

b) the Participant has not previously received a distribution of the total amount payable to the Participant under this Section; and

c) no Annual Deferral has been made with respect to the Participant during the 2-year period ending immediately before the date of the distribution.

~~a) If a Deferred Compensation Account plus any uninvested deferrals on the date the Participant separates from State service (or dies) is equal to or less than $3,500, the Account shall be distributed in a lump sum on the next Accounting Date or, in the event of the participant's separation, transferred to another 457 Plan in accordance with Section 2700.730(a)(5).~~

~~b) If a Participant's Deferred Compensation Account is $3,500 or less, such Account may be distributed, in a lump sum on the next Accounting Date, to the Participant during employment provided the Participant has not contributed to the Account during the 2-year period ending on the date of the distribution. The cash-out provisions may be used only once by a Participant.~~

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum of 150 days)

Section 2700.740 Unforeseeable Emergency
EMERGENCY

a) A distribution of all or a portion of a Participant's Deferred Compensation Account or a change in method of distribution to a Participant shall be permitted in the event the Participant experiences an Unforeseeable Emergency.

b) Distributions shall not be made to the extent that the~~such~~ hardship is or may be relieved:

1) through reimbursement or compensation by insurance or otherwise;~~,~~

2) by liquidation of the Participant's assets to the extent the liquidation of ~~such~~ assets would not itself cause severe financial hardship;~~,~~ or

3) by cessation of deferrals under the Plan.

c) A Participant's deferrals will automatically be revoked upon application for a hardship distribution.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

d) If the application is approved, the Participant cannot re-enroll for 6~~12~~ months following receipt of the hardship application, unless the application is to request cessation of distribution payments.

e) For the purposes of this Plan, a Beneficiary whose interest has "vested" in accordance with Section 2700.415 of this Part ~~2700.750~~ shall have all rights of a Participant to request a distribution in the event of an Unforeseeable Emergency.

f) A Participant desiring a distribution by reason of a serious Unforeseeable Emergency must apply to the Hardship Committee and demonstrate that:

1) the circumstances being experienced were not under the Participant's control, and

2) the circumstances constitute a real emergency that~~which~~ is likely to cause the Participant great financial hardship.

g) The Hardship Committee shall have the authority to require ~~such~~ medical or other evidence as it may need to determine the necessity for Participant's withdrawal request. In the event this information is not provided, the case will be considered closed 60 days after the date of request by the Hardship Committee.

h) The Hardship Committee shall reach its decision to approve or disapprove the financial hardship withdrawal request within 30 days following receipt of the completed application and necessary information required by the application or the Hardship Committee.

i) In the event a Participant is not satisfied with the decision of the Hardship Committee on an application for an Unforeseeable Emergency distribution or change in distribution, the Participant may appeal in writing to the Board within 15 days of receipt of the Hardship Committee's decision.

j) The Board shall, within 30 days of receipt of the appeal, conduct a hearing and review evidence presented by the Participant.

k) The Board shall then render a final decision within 15 days after~~of~~ the hearing ~~which~~ that shall be binding on all parties.

l) If an application for an Unforeseeable Emergency distribution is approved, the

distribution shall be limited to an amount sufficient only to meet the emergency and shall in no event exceed the amount of his or her Deferred Compensation Account as of the Valuation~~Accounting~~ Date next preceding or coincident with the~~such~~ withdrawal.

m) The allowed distribution shall be payable in a method determined by the Hardship Committee and shall commence as soon as possible, but not later than 30 days after notice to the Participant and the Department of approval of the request by the Committee.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 20050, effective November 23 2005, for a maximum of 150 days)

Section 2700.745 Plan-to-Plan Transfers from the Plan
EMERGENCY

a) Participants and Beneficiaries may elect to have all or any portion of their Account Balance transferred to another eligible governmental plan within the meaning of section 457(b) of the Code and section 1.457-2(f) of the Tax Regulations.

b) A transfer is permitted under this Section only if:

1) the Participant has had a Severance from Employment with the State and is an employee of the entity that maintains the other eligible governmental plan; and

2) the other eligible governmental plan provides for the acceptance of plan-to-plan transfers with respect to the Participants and Beneficiaries and for each Participant and Beneficiary to have an amount deferred under the other plan immediately after the transfer at least equal to the amount transferred.

c) Upon the transfer of assets under this Section, the Plan's liability to pay benefits to the Participant or Beneficiary under this Plan shall be discharged to the extent of the amount transferred for the Participant or Beneficiary.

d) The Department may require documentation from the receiving plan as it deems appropriate or necessary to comply with this Section or to effectuate the transfer pursuant to section 1.457-10(b) of the Income Tax Regulations.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

(Source: Added by emergency rulemaking at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum of 150 days)

Section 2700.750 Permissive Service Credit Transfers~~Designation of Beneficiary~~ EMERGENCY

a) If a Participant is also a participant in a tax-qualified defined benefit governmental plan (as defined in section 414(d) of the Code) that provides for the acceptance of plan-to-plan transfers with respect to the Participant, then the Participant may elect to have any portion of the Participant's Account Balance transferred to the defined benefit governmental plan.~~A Participant may designate a Beneficiary or Beneficiaries who will receive any balance in the Participant's Deferred Compensation Account in the event of his or her death.~~

b) A transfer under this Section may be made before the Participant has had a Severance from Employment.~~A designation of Beneficiary shall be effective for subsequent distributions when received by the Department. Such designation shall be in writing and should be made on a form provided by the Department for that purpose which has been signed by the Participant.~~

c) A transfer may be made under this Section ~~2700.750~~ only if the transfer is either for the purchase of permissive service credit (as defined in section 415(n)(3)(A) of the Code) under the receiving defined benefit governmental plan or a repayment to which section 415 of the Code does not apply by reason of section 415(k)(3) of the Code.~~A Participant may, at any time, change his or her Beneficiary by completion of the form provided by the Department.~~

d) The amount of the transfer must be an amount equal to the amount of the intended purchase of the permissive service credit. No partial payment is allowed.~~No Beneficiary shall have any rights under this Plan until the death of the Participant who has designated him or her.~~

~~e) Participants may designate primary and contingent Beneficiaries. A contingent Beneficiary's interest will become effective only upon the death of all primary Beneficiary(ies), or if all the primary Beneficiary(ies) designation(s) has (have) been found invalid.~~

~~f) If more than one Beneficiary is named in either category, benefits will be paid according to the following rules:~~

~~1) Beneficiaries can be designated to share equally or to receive specific percentages.~~

~~2) If a Beneficiary dies before the Participant, only the surviving Beneficiaries will be eligible to receive any benefits in the event of the death of the Participant. If more than two Beneficiaries are originally named to receive different percentages of the benefits, surviving Beneficiaries will share in the same proportion to each other as indicated in the original designation.~~

~~g) A person, trust, estate or other legal entity may be designated as a Beneficiary.~~

~~h) If a Beneficiary has not been designated, or a designation is ineffective due to the death of all Primary and Contingent Beneficiaries prior to the death of the Participant, or the designation is ineffective for any reason, the estate of the Participant shall be the Beneficiary.~~

~~i) Upon the death of the Participant, any Beneficiary entitled to the value of the Deferred Compensation Account under the provisions of this Section shall become a "Vested Beneficiary" and have all the rights of the Participant with the exception of making any deferrals.~~

~~j) Before the account can be distributed, the Beneficiary must provide the Department with his or her Social Security Number, and a certified copy of the Participant's death certificate.~~

~~k) In the event of a conflict between the provisions of this Section and any annuity contract purchased in accordance with Section 2700.730(a)(4), as in effect prior to January 1, 1999, the latter shall prevail.~~

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 20050, effective November 23, 2005 for a maximum of 150 days)

Section 2700.760 Leave of Absence
EMERGENCY

a) Any Participant who is granted a leave of absence by the Employer may continue to participate in this Plan as long as the leave of absence is approved by the Employer.

b) If an approved leave of absence is terminated by the Employer or Employee without the resumption of the employment relationship, and if the Employee has been removed from the payroll for 30 days, the Participant shall be treated as having a Severance of Employment~~Termination of Service~~ under this Plan, as of the date of termination of the~~such~~ leave, and may elect a distribution method as provided in Section 2700.730 of this Part~~shall have 60 days to elect a method of distribution~~.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum of 150 days)

SUBPART H: MISCELLANEOUS

Section 2700.800 Nonassignability
EMERGENCY

a) The contract entered into between the Employer and a Participant through this Plan and the benefits, proceeds or payments under this Plan~~thereunder~~ cannot be sold, assigned, pledged, commuted, transferred or otherwise conveyed by an Employee, Participant or Beneficiary. Any attempt to assign or transfer shall not be recognized and shall impose no liability upon the Employer.

~~b) To the extent required under a final judgment, decree, or order made pursuant to a State domestic relations law that relates to the provision of child support, alimony payments or marital property rights to a spouse, former spouse or child or other dependent of the Participant (an "Alternate Payee"), a portion of a Participant's Deferred Compensation Account may be transferred to a separate account and any amount so set aside shall be distributed to the Alternate Payee upon the Participant's termination of service or death, whichever of the two events shall first occur.~~

b~~e~~) Except as otherwise required by law and as provided in Sections 2700.850 and 2700.860 of this Part, any Deferred Compensation monies withheld pursuant to this Plan shall not be subject to attachment, garnishment, or execution, or to transfer by operation of law in the event of bankruptcy or insolvency of the Participant or otherwise.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum 150 days)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

Section 2700.850 Domestic Relations Orders
EMERGENCY

a) Notwithstanding Section 2700.800 of this Part, if a judgment, decree or order (including approval of a property settlement agreement) that relates to the provision of child support, alimony payments, or the marital property rights of a spouse or former spouse, child, or other dependent of a Participant is made pursuant to the domestic relations law of the state (domestic relations order), then the amount of the Participant's Account Balance shall be paid in the manner and to the person or persons so directed in the domestic relations order.

b) Payment under a judgment, decree or order shall be made without regard to whether the Participant is eligible for a distribution of benefits under the Plan.

c) The Department shall establish reasonable procedures for determining the status of any decree or order and for effectuating distribution pursuant to the domestic relations order.

(Source: Added by emergency rulemaking at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum of 150 days)

Section 2700.860 IRS Levy
EMERGENCY

Notwithstanding Section 2700.800 of this Part, the Department may pay from a Participant's or Beneficiary's Account Balance the amount that the Department finds is lawfully demanded under a levy issued by the Internal Revenue Service with respect to that Participant or Beneficiary or is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against a Participant or Beneficiary.

(Source: Added by emergency rulemaking at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum of 150 days)

Section 2700.870 Mistaken Contributions
EMERGENCY

If any contribution (or any portion of a contribution) is made to the Plan by a good faith mistake of fact, then, within one year after the payment of the contribution and upon receipt in good order of a proper request approved by the Department, the amount of the mistaken contribution

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

(adjusted for any income or loss in value, if any, resulting from the good faith mistake) shall be returned directly to the Participant or, to the extent required or permitted by the Department, to the Employer.

(Source: Added by emergency rulemaking at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum of 150 days)

SUBPART I: AMENDMENT OR TERMINATION OF PLAN

Section 2700.920 Merger with Prior Plans
EMERGENCY

a) This Plan constitutes an amendment and restatement of the State Employees' Deferred Compensation Plan (80 Ill. Adm. Code 2700) adopted at 7 Ill. Reg. 10845, effective August 31, 1983 (Prior Plan III).

b) All Participants and any Compensation deferred under the Prior Plans are, from the Effective Date of this Plan, governed by the terms of this Plan subject to the following provisions:

1) All deferrals elected under the Prior Plans shall continue without further action so long as they do not exceed the limits defined in Section 2700.430 of this Part.

2) Any investment requests made under the Prior Plans shall continue to apply to any deferrals made under this Plan until changed by a Participant in accordance with Section 2700.640 of this Part.

3) Any election of the method of distribution of benefits made through Prior Plan I shall be void, and a Participant or Beneficiary may elect the form of distribution in accordance with Sections 2700.710 and 2700.730 of this Part~~Plan~~.

4) Any election of the method of distribution of benefits made through Prior Plan II and III shall remain in full force and effect unless it conflicts with the provisions of this Plan. In the event of a conflict, a Participant or Beneficiary shall have 30 days from date of notification to elect a new method of distribution consistent with the requirements of this Plan.

c) Any Delayed Distribution Dates elected under Prior Plan II by a Participant or

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENTS

Beneficiary made prior to October 27, 1982 shall remain in full force and effect and are irrevocable. Delayed Distribution Dates elected under Prior Plan II made after October 27, 1982 shall be void if they conflict with the provisions of this Plan. A Participant whose Delayed Distribution Date is void shall have his or her Deferred Compensation Account distributed in accordance with Section 2700.730 of this Part.

d) A Participant who has elected a Delayed Distribution Date but not yet reached it may choose, within 60 days from the effective date of this Plan, to transfer the value of the account to another eligible plan authorized under section 457 of the Code.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum of 150 days)

ILLINOIS GAMING BOARD

NOTICE OF EMERGENCY AMENDMENT

1) Heading of the Part: Riverboat Gambling

2) Code Citation: 86 Ill. Adm. Code 3000

3) Section Number: 3000.1071 Emergency Action: Amendment

4) Statutory Authority: Riverboat Gambling Act [230 ILCS 10] (specifically 230 ILCS 10/5(b)(4) and 5(c)(3) and Public Act 94-673)

5) Effective Date of Amendment: November 23, 2005

6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it expires: This emergency amendment will not expire before the end of the 150-day period.

7) Date Filed with the Index Department: November 23, 2005

8) A copy of the emergency amendment, including any material incorporated by reference, is on file in the agency's principal office in Chicago and is available for public inspection.

9) Reason for Emergency: P.A. 94-673 became effective immediately upon approval by the Governor on August 23, 2005. To date, the rules have not been amended to reflect the changes in law, although the collection of taxes immediately reflected the changes in the statute. For clarity and consistency, the rules should be amended to reflect P.A. 94-673.

10) A Complete Description of the Subjects and Issues Involved: The General Assembly passed Senate Bill 316 on May 31, 2005, which became Public Act 94-673 upon approval by the Governor on August 23, 2005. P.A. 94-673 amends, among others, Section 12(a) of the Riverboat Gambling Act, 230 ILCS 10/12(a), to change the admission tax rate imposed upon holders of owners licenses to conduct riverboat gaming operations. P.A. 94-673 became effective immediately. An emergency amendment is necessary in order to ensure that the Board's adopted rules properly reflect the collection of admission fees pursuant to the new tax rates, which were applied to the August 23, 2005 Gaming Day and continue to be applied to each subsequent Gaming Day.

11) Are there any other proposed amendments pending on this Part? No

12) Statement of Statewide Policy Objectives: The General Assembly amended the admission tax rate paid by licensed owners of riverboat gaming operations to the State of

ILLINOIS GAMING BOARD

NOTICE OF EMERGENCY AMENDMENT

Illinois. This amendment allows the rules to reflect the collection of admission taxes at the correct rates.

13) Information and questions regarding this emergency amendment should be directed to:

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

ILLINOIS GAMING BOARD

NOTICE OF EMERGENCY AMENDMENT

TITLE 86: REVENUE
CHAPTER IV: ILLINOIS GAMING BOARD

PART 3000
RIVERBOAT GAMBLING

SUBPART A: GENERAL PROVISIONS

Section
3000.100 Definitions
3000.101 Invalidity
3000.102 Public Inquiries
3000.103 Organization of the Illinois Gaming Board
3000.104 Rulemaking Procedures
3000.105 Board Meetings
3000.110 Disciplinary Actions
3000.115 Records Retention
3000.120 Place to Submit Materials
3000.130 No Opinion or Approval of the Board
3000.140 Duty to Disclose Changes in Information
3000.141 Applicant/Licensee Disclosure of Agents
3000.150 Owner's and Supplier's Duty to Investigate
3000.155 Investigatory Proceedings
3000.160 Duty to Report Misconduct
3000.161 Communication with Other Agencies
3000.165 Participation in Games by Owners, Directors, Officers, Key Persons or Gaming Employees
3000.170 Fair Market Value of Contracts
3000.180 Weapons on Riverboat

SUBPART B: LICENSES

Section
3000.200 Classification of Licenses
3000.210 Fees and Bonds
3000.220 Applications
3000.221 Other Required Forms
3000.222 Identification and Requirements of Key Persons
3000.223 Disclosure of Ownership and Control
3000.224 Economic Disassociation

ILLINOIS GAMING BOARD

NOTICE OF EMERGENCY AMENDMENT

3000.225 Business Entity and Personal Disclosure Filings
3000.230 Owner's Licenses
3000.231 Distributions
3000.232 Undue Economic Concentration
3000.234 Acquisition of Ownership Interest By~~by~~ Institutional Investors
3000.235 Transferability of Ownership Interest
3000.236 Owner's License Renewal
3000.237 Renewed Owner's Licenses, Term and Restrictions
3000.238 Appointment of Receiver for an Owner's License
3000.240 Supplier's Licenses
3000.241 Renewal of Supplier's License
3000.242 Amendment to Supplier's Product List
3000.243 Bankruptcy or Change in Ownership of Supplier
3000.244 Surrender of Supplier's License
3000.245 Occupational Licenses
3000.250 Transferability of Licenses
3000.260 Waiver of Requirements
3000.270 Certification and Registration of Electronic Gaming Devices
3000.271 Analysis of Questioned Electronic Gaming Devices
3000.272 Certification of Voucher Systems
3000.280 Registration of All Gaming Devices
3000.281 Transfer of Registration (Repealed)
3000.282 Seizure of Gaming Devices (Repealed)
3000.283 Analysis of Questioned Electronic Gaming Devices (Repealed)
3000.284 Disposal of Gaming Devices
3000.285 Certification and Registration of Voucher Validation Terminals

SUBPART C: OWNER'S INTERNAL CONTROL SYSTEM

Section
3000.300 General Requirements – Internal Control System
3000.310 Approval of Internal Control System
3000.320 Minimum Standards for Internal Control Systems
3000.330 Review of Procedures (Repealed)
3000.340 Operating Procedures (Repealed)
3000.350 Modifications (Repealed)

SUBPART D: HEARINGS ON NOTICE OF DENIAL,
RESTRICTION OF LICENSE OR PLACEMENT ON EXCLUSION LIST

ILLINOIS GAMING BOARD

NOTICE OF EMERGENCY AMENDMENT

Section
3000.400 Coverage of Subpart
3000.405 Requests for Hearings
3000.410 Appearances
3000.415 Discovery
3000.420 Motions for Summary Judgment
3000.424 Subpoena of Witnesses
3000.425 Proceedings
3000.430 Evidence
3000.431 Prohibition on Ex Parte Communication
3000.435 Sanctions and Penalties
3000.440 Transmittal of Record and Recommendation to the Board
3000.445 Status of Applicant for Licensure or Transfer Upon Filing Request for Hearing

SUBPART E: CRUISING

Section
3000.500 Riverboat Cruises
3000.510 Cancelled or Disrupted Cruises

SUBPART F: CONDUCT OF GAMING

Section
3000.600 Wagering Only with Electronic Credits, Approved Chips, Tokens and Electronic Cards
3000.602 Disposition of Unauthorized Winnings
3000.605 Authorized Games
3000.606 Gaming Positions
3000.610 Publication of Rules and Payout Ratio for Live Gaming Devices
3000.614 Tournaments, Enhanced Payouts and Give-aways
3000.615 Payout Percentage for Electronic Gaming Devices
3000.616 Cashing-In
3000.620 Submission of Chips for Review and Approval
3000.625 Chip Specifications
3000.630 Primary, Secondary and Reserve Sets of Gaming Chips
3000.631 Tournament Chips
3000.635 Issuance and Use of Tokens for Gaming
3000.636 Distribution of Coupons for Complimentary Chips, Tokens and Cash
3000.640 Exchange of Chips and Tokens
3000.645 Receipt of Gaming Chips or Tokens from Manufacturer or Distributor

ILLINOIS GAMING BOARD

NOTICE OF EMERGENCY AMENDMENT

3000.650 Inventory of Chips
3000.655 Destruction of Chips, Tokens, and Vouchers
3000.660 Minimum Standards for Electronic Gaming Devices
3000.661 Minimum Standards for Voucher~~Vouchering~~ Systems
3000.665 Integrity of Electronic Gaming Devices
3000.666 Bill Validator Requirements
3000.667 Integrity of Voucher Systems
3000.670 Computer Monitoring Requirements of Electronic Gaming Devices
3000.671 Computer Monitoring Requirements of Voucher~~Vouchering~~ Systems

SUBPART G: EXCLUSION OF PERSONS

Section
3000.700 Duty to Exclude
3000.705 Voluntary Self-Exclusion Policy
3000.710 Distribution and Availability of Exclusion Lists
3000.720 Criteria for Exclusion or Ejection and Placement on an Exclusion List
3000.725 Duty of Licensees
3000.730 Procedure for Entry of Names
3000.740 Petition for Removal from Exclusion List
3000.750 Establishment of an Self-Exclusion List
3000.751 Locations to Execute Self-Exclusion Forms
3000.755 Information Required for Placement on the Self-Exclusion List
3000.756 Stipulated Sanctions for Failure to Adhere to Voluntary Self-Exclusion
3000.760 Distribution and Availability of Confidential Self-Exclusion List
3000.770 Duties of Owner Licensees
3000.780 Request for Removal from the IGB Self-Exclusion List
3000.785 Appeal of a Notice of Denial of Removal
3000.790 Duties of the Board

SUBPART H: SURVEILLANCE AND SECURITY

Section
3000.800 Required Surveillance Equipment
3000.810 Riverboat and Board Surveillance Room Requirements
3000.820 Segregated Telephone Communication
3000.830 Surveillance Logs
3000.840 Storage and Retrieval
3000.850 Dock Site Board Facility
3000.860 Maintenance and Testing

ILLINOIS GAMING BOARD

NOTICE OF EMERGENCY AMENDMENT

SUBPART I: LIQUOR LICENSES

Section
3000.900 Liquor Control Commission
3000.910 Liquor Licenses
3000.920 Disciplinary Action
3000.930 Hours of Sale

SUBPART J: OWNERSHIP AND ACCOUNTING RECORDS AND PROCEDURES

Section
3000.1000 Ownership Records
3000.1010 Accounting Records
3000.1020 Standard Financial and Statistical Records
3000.1030 Annual and Special Audits and Other Reporting Requirements
3000.1040 Accounting Controls Within the Cashier's Cage
3000.1050 Procedures for Exchange of Checks Submitted by Gaming Patrons and Granting Credit
3000.1060 Handling of Cash at Gaming Tables
3000.1070 Tips or Gratuities
3000.1071 Admission Tax and Wagering Tax
EMERGENCY
3000.1072 Cash Reserve Requirements

SUBPART K: SEIZURE AND DISCIPLINARY HEARINGS

Section
3000.1100 Coverage of Subpart
3000.1105 Duty to Maintain Suitability
3000.1110 Board Action Against License or Licensee
3000.1115 Complaint
3000.1120 Appearances
3000.1125 Answer
3000.1126 Appointment of Hearing Officer
3000.1130 Discovery
3000.1135 Motions for Summary Disposition
3000.1139 Subpoena of Witnesses
3000.1140 Proceedings
3000.1145 Evidence

ILLINOIS GAMING BOARD

NOTICE OF EMERGENCY AMENDMENT

3000.1146 Prohibition of Ex Parte Communication
3000.1150 Sanctions and Penalties
3000.1155 Transmittal of Record and Recommendation to the Board

AUTHORITY: Implementing and authorized by the Riverboat Gambling Act [230 ILCS 10].

SOURCE: Emergency rule adopted at 15 Ill. Reg. 11252, effective August 5, 1991, for a maximum of 150 days; adopted at 15 Ill. Reg. 18263, effective December 10, 1991; amended at 16 Ill. Reg. 13310, effective August 17, 1992; amended at 17 Ill. Reg. 11510, effective July 9, 1993; amended at 20 Ill. Reg. 5814, effective April 9, 1996; amended at 20 Ill. Reg. 6280, effective April 22, 1996; emergency amendment at 20 Ill. Reg. 8051, effective June 3, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14765, effective October 31, 1996; amended at 21 Ill. Reg. 4642, effective April 1, 1997; emergency amendment at 21 Ill. Reg. 14566, effective October 22, 1997, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 978, effective December 29, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 4390, effective February 20, 1998; amended at 22 Ill. Reg. 10449, effective May 27, 1998; amended at 22 Ill. Reg. 17324, effective September 21, 1998; amended at 22 Ill. Reg. 19541, effective October 23, 1998; emergency amendment at 23 Ill. Reg. 8191, effective July 2, 1999, for a maximum of 150 days; emergency expired November 28, 1999; amended at 23 Ill. Reg. 8996, effective August 2, 1999; amended at 24 Ill. Reg. 1037, effective January 10, 2000; amended at 25 Ill. Reg. 94, effective January 8, 2001; amended at 25 Ill. Reg. 13292, effective October 5, 2001; amended at 26 Ill. Reg. 9307, effective June 14, 2002; emergency amendment at 26 Ill. Reg. 10984, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 15296, effective October 11, 2002; amended at 26 Ill. Reg. 17408, effective November 22, 2002; emergency amendment at 27 Ill. Reg. 10503, effective June 30, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 15793, effective September 29, 2003; amended at 27 Ill. Reg. 18595, effective November 25, 2003; amended at 28 Ill. Reg. 12824, effective August 31, 2004; emergency amendment at 28 Ill. Reg. 13238, effective September 22, 2004, for a maximum of 150 days; emergency expired February 18, 2005; amended at 29 Ill. Reg. 10590, effective July 7, 2005; emergency amendment at 29 Ill. Reg. 20095, effective November 23, 2005, for a maximum of 150 days.

SUBPART J: OWNERSHIP AND ACCOUNTING RECORDS AND PROCEDURES

Section 3000.1071 Admission Tax and Wagering Tax
EMERGENCY

a) Each holder of an Owner's license ("owner licensee") and licensed manager ("manager") is subject to tax and fee liability assessment for each Gaming Day for the applicable Admission Tax or~~,~~ Admission Fee and the Wagering Tax as

imposed under the Act.

b) Admission Taxes and Fees and Wagering Taxes shall be paid via an electronic funds transfer system employing an Automated Clearinghouse Debit method (ACH-Debit). Each owner licensee and manager shall maintain an account with sufficient funds to pay, in a timely fashion, all tax and fee liabilities due under the Act. The account shall be maintained at a financial institution capable of making payments to the State under the electronic funds transfer requirements imposed by the State.

c) Admission Taxes and Fees and Wagering Tax liability shall be established on the basis of a Gaming Day. Each owner licensee and manager shall select, with the approval of the Administrator, a 24 hour cycle to be defined as the uniform Gaming Day for that owner licensee or manager. A Gaming Day may begin on one calendar day and end the next calendar day, provided that the Gaming Day does not extend beyond the uniform 24 hour period selected in advance by the owner licensee or manager.

d) The Administrator shall prescribe and make available to each owner licensee and manager forms, instructions and reporting requirements for Admission Taxes and Fees and Wagering Taxes. The required forms include the Daily Tax and Fee Schedules. The Daily Tax and Fee Schedules may be provided by the Administrator to owner licensees and managers in computer-based format and include a computer program that, upon input by the licensee and manager of requisite data, provides for the calculation of tax and fee reporting information and tax and fee liability. Daily Tax and Fee Schedules shall be completed for each Gaming Day. The monthly float adjustment shall be completed on the Daily Tax and Fee Schedule for the final Gaming Day of each month.

e) The Daily Tax and Fee Schedules must be filed with the Board no later than 12:00 noon on the Due Date. Admission Taxes and Fees and Wagering Tax payments shall be transferred electronically on the Due Date to the Board's designated financial institution by the end of that financial institution's business day. For purposes of tax and fee schedules and tax and fee payments, the Due Date shall be defined as one bank business day after the close of the Gaming Day for which the liability is established. For example, if the Gaming Day of an owner~~a~~ licensee or manager ends at 2:00 a.m. on a Tuesday (i.e., the end of a Gaming Day that began on Monday), the Due Date is the Wednesday which follows, unless that Wednesday is not a bank business day, in which case the subsequent bank business day is the Due Date.

ILLINOIS GAMING BOARD

NOTICE OF EMERGENCY AMENDMENT

f) The Admission Tax for a Gaming Day shall be calculated and imposed on owner licensees as provided in Section 12 of the Act. *From the Gaming Day of August 23, 2005, for a licensee that admitted 1,000,000 persons or fewer in calendar year 2004, the rate is $2 per person admitted, and for all other licensees the rate is $3 per person admitted.*~~*Until July 1, 2002, the rate is $2 per person admitted. From July 1, 2002 until July 1, 2003, the rate is $3 per person admitted. Beginning July 1, 2003, for a licensee that admitted 1,000,000 persons or fewer in the previous calendar year, the rate is $3 per person admitted; for a licensee that admitted more than 1,000,000 but no more than 2,300,000 persons in the previous calendar year, the rate is $4 per person admitted; and for a licensee that admitted more than 2,300,000 persons in the previous calendar year, the rate is $5 per person admitted. This admission tax is imposed upon the licensed owner conducting gambling. The admission tax shall be paid for each admission.*~~ [230 ILCS 10/12(a)]

g) The Admission Fee for a Gaming Day shall be calculated and imposed on licensed managers as provided in Section 12 of the Act. *For a licensee that admitted 1,000,000 persons or fewer in the previous calendar year, the rate is $3 per person admitted; for a licensee that admitted more than 1,000,000 but no more than 2,300,000 persons in the previous calendar year, the rate is $4 per person admitted; and for a licensee that admitted more than 2,300,000 persons in the previous calendar year, the rate is $5 per person admitted.* [230 ILCS 10/12(a-5)] This Admission Fee is imposed upon admissions to riverboat gambling operations operated by managers on behalf of the State pursuant to Section 7.3 of the Act. The Admission Fee shall be paid for each admission, except for the admissions for holders of the Board approved fee-free passes issued to actual and necessary officials and employees of the manager or other persons actually working on the riverboat as provided in the Act.

h) For any Gaming Day that commences after December 31, 1997 and ends on July 1, 2002, the Wagering Tax imposed on the owner licensee shall be based on each calendar year's accumulated Adjusted Gross Receipts and calculated at the following graduated rates:

1) 15% of the calendar year Adjusted Gross Receipts up to and including $25,000,000;

2) 20% of the calendar year Adjusted Gross Receipts in excess of $25,000,000 but not exceeding $50,000,000;

3) 25% of the calendar year Adjusted Gross Receipts in excess of $50,000,000 but not exceeding $75,000,000;

4) 30% of the calendar year Adjusted Gross Receipts in excess of $75,000,000 but not exceeding $100,000,000; and

5) 35% of the calendar year Adjusted Gross Receipts in excess of $100,000,000.

i) For any Gaming Day that commences on or after July 1, 2002 and ends on July 1, 2003, the Wagering Tax imposed on the owner licensee shall be based on each calendar year's accumulated Adjusted Gross Receipts and calculated at the following graduated rates:

1) 15% of the calendar year Adjusted Gross Receipts up to and including $25,000,000;

2) 22.5% of the calendar year Adjusted Gross Receipts in excess of $25,000,000 but not exceeding $50,000,000;

3) 27.5% of the calendar year Adjusted Gross Receipts in excess of $50,000,000 but not exceeding $75,000,000;

4) 32.5% of the calendar year Adjusted Gross Receipts in excess of $75,000,000 but not exceeding $100,000,000;

5) 37.5% of the calendar year Adjusted Gross Receipts in excess of $100,000,000 but not exceeding $150,000,000;

6) 45% of the calendar year Adjusted Gross Receipts in excess of $150,000,000 but not exceeding $200,000,000; and

7) 50% of the calendar year Adjusted Gross Receipts in excess of $200,000,000.

j) For any Gaming Day that commences on or after July 1, 2003 and ends on July 1, 2005, the Wagering Tax imposed on the owner licensee shall be based on each calendar year's accumulated Adjusted Gross Receipts and calculated at the following graduated rates:

ILLINOIS GAMING BOARD

NOTICE OF EMERGENCY AMENDMENT

1) 15% of the calendar year Adjusted Gross Receipts up to and including $25,000,000;

2) 27.5% of the calendar year Adjusted Gross Receipts in excess of $25,000,000 but not exceeding $37,500,000;

3) 32.5% of the calendar year Adjusted Gross Receipts in excess of $37,500,000 but not exceeding $50,000,000;

4) 37.5% of the calendar year Adjusted Gross Receipts in excess of $50,000,000 but not exceeding $75,000,000;

5) 45% of the calendar year Adjusted Gross Receipts in excess of $75,000,000 but not exceeding $100,000,000;

6) 50% of the calendar year Adjusted Gross Receipts in excess of $100,000,000 but not exceeding $250,000,000; and

7) 70% of the calendar year Adjusted Gross Receipts in excess of $250,000,000.

k) The Wagering Tax imposed under subsection (j) shall no longer be imposed as~~beginning the earlier~~ of any Gaming Day that commences on or after~~:1)~~ July 1, 2005.~~;~~

~~2) the first date after July 1, 2003 that riverboat gambling operations are conducted pursuant to a non-operating or dormant license; or~~

~~3) the first day that riverboat gambling operations are conducted under the authority of an Owner's license that is in addition to the 10 Owner's licenses initially authorized under Section 7 of the Act.~~

l) For any Gaming Day that commences on or after July 1, 2005, the Wagering Tax imposed on the owner licensee shall be based on each calendar year's accumulated Adjusted Gross Receipts and calculated at the following graduated rates:~~Beginning on the first day on which the tax imposed under subsection (j) is no longer imposed, a privilege tax is imposed on persons engaged in the business of conducting riverboat gambling operations, based on the Adjusted Gross Receipts received by a licensed owner from gambling games authorized under the~~

ILLINOIS GAMING BOARD

NOTICE OF EMERGENCY AMENDMENT

~~Act at the following rates:~~

1) 15% of annual Adjusted Gross Receipts up to and including $25,000,000;

2) 22.5% of annual Adjusted Gross Receipts in excess of $25,000,000 but not exceeding $50,000,000;

3) 27.5% of annual Adjusted Gross Receipts in excess of $50,000,000 but not exceeding $75,000,000;

4) 32.5% of annual Adjusted Gross Receipts in excess of $75,000,000 but not exceeding $100,000,000;

5) 37.5% of annual Adjusted Gross Receipts in excess of $100,000,000 but not exceeding $150,000,000;

6) 45% of annual Adjusted Gross Receipts in excess of $150,000,000 but not exceeding $200,000,000;

7) 50% of annual Adjusted Gross Receipts in excess of $200,000,000.

m) Riverboat gambling operations conducted by a manager on behalf of the State are not subject to the Wagering Tax imposed under Section 13 of the Act.

n) Daily Tax and Fee Schedules shall include all information necessary for adjustments and reconciliation of tax and fee liability and shall be subject to audit by the Board and its audit agents. Adjustments to previously reported tax and fee information shall be made by the owner licensee or manager, except that no adjustment of $25,000 or more shall be made to previously reported Adjusted Gross Receipts without the prior written approval of the Administrator or the Administrator's designee.

o) Any adjustment for a Gaming Day which commenced on or before December 31, 1997, shall be authorized by the Administrator or the Administrator's designee, and shall be taxed at a rate of 20% of Adjusted Gross Receipts. Any adjustment for a Gaming Day that commences after December 31, 1997, shall be taxed at the graduated tax or fee rate applicable to the Gaming Day upon which the adjustment is effected.

p) In the event that a Daily Tax and Fee Schedule for a specific Gaming Day

properly reflects a net wagering loss experienced by the owner licensee or manager, an adjustment for the amount of any remaining net wagering loss (negative Adjusted Gross Receipts) shall be carried forward on the subsequent Daily Tax and Fee Schedules until such loss is offset by Gaming win (positive Adjusted Gross Receipts).

q) All Admission Taxes and Fees and Wagering Taxes paid pursuant to the requirements of the Act shall be deposited by the Board into the State Gaming Fund or Common School Fund. The Board shall from time to time transfer excess funds in the State Gaming Fund to the Education Assistance Fund. The Board shall determine the amount of excess funds subject to transfer to the Common School Fund based upon the addition to the amount of Wagering Taxes that would have been collected if the Wagering Tax rates under subsection (j) were not in effect. The Board shall determine the amount of excess funds subject to transfer based upon the difference between the State Gaming Fund balance and the outstanding obligations, including any outstanding share of Admission and Wagering Taxes due to local governments, the Horse Racing Equity Fund, a home rule county with a population over 3,000,000, and the Chicago State University. The Administrator will be responsible for calculating the allocation of the Admission Taxes and Fees and Wagering Taxes between the State and the unit of local government designated as the home dock of the Riverboat and the other required allocations, as provided in the Act. Payments for Admission Taxes and Fees shall be made by the Board to units of local government quarterly, and payments for Wagering Taxes and all other payments, other than the Common School Fund, shall be made monthly, by voucher/warrant, subject to appropriation.

r) An owner~~A~~ licensee's or manager's failure to comply with the provisions of this Section may subject the owner licensee or manager to penalty and interest amounts pursuant to the Uniform Penalty and Interest Act [35 ILCS 735]. The Administrator is authorized to waive any penalty and interest for the late filing of a tax schedule or late tax payment, if the owner licensee or manager can show good cause. "Good cause" shall include, but not be limited to, detection and correction of a deficiency in filing or payment that resulted from a documented inadvertent or unintentional error that was corrected within one business day after the applicable Due Date. The owner licensee or manager shall be notified by the Administrator in writing of any penalty or interest payable because of a late tax schedule filing or late tax payment. The owner licensee or manager may, within 10 business days after receiving the notice, file a written request for a waiver with the Administrator. The Administrator shall act on the request for waiver and

notify the owner licensee or manager in writing of the decision within 15 calendar days after receiving the request. If the Administrator fails to act within the 15 day period the waiver is deemed granted. If the Administrator denies the request for waiver the owner licensee or manager may ask the Board for a hearing. The request for hearing must be in writing and filed not later than 15 calendar days after receipt of the notice of denial. Except as provided in this subsection (r), the provisions for hearings under Subpart D shall apply to any hearing conducted under this Section. A hearing under this Section is not a disciplinary hearing under Subpart K of this Part.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 20095, effective November 23, 2005, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
DECEMBER AGENDA

SCHEDULED MEETING:

JAMES R. THOMPSON CENTER
ROOM 16-503
CHICAGO, ILLINOIS
10:30 A.M.
DECEMBER 13, 2005

NOTICES: The scheduled date and time for the JCAR meeting are subject to change. Due to *Register* submittal deadlines, the Agenda below may be incomplete. Other items not contained in this published Agenda are likely to be considered by the Committee at the meeting and items from the list can be postponed to future meetings.

If members of the public wish to express their views with respect to a rulemaking, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:

Joint Committee on Administrative Rules
700 Stratton Office Building
Springfield, Illinois 62706
Email: jcar@legis.state.il.us
Phone: 217/785-2254

RULEMAKINGS CURRENTLY BEFORE JCAR

Agriculture

1. Insect Pest and Plant Disease Act (8 Ill. Adm. Code 240)
   -First Notice Published: 29 Ill. Reg. 12305 – 8/12/05
   -Expiration of Second Notice: 12/27/05

Community College Board

2. Administration of the Illinois Public Community College Act (23 Ill. Adm. Code 1501)
   -First Notice Published: 29 Ill. Reg. 8540 – 6/24/05
   -Expiration of Second Notice: 12/21/05

Corrections

3. Transitional Housing Licensure for Sex Offenders on Parole, Probation, or Supervision

JOINT COMMITTEE ON ADMINISTRATIVE RULES
DECEMBER AGENDA

(20 Ill. Adm. Code 800)
-First Notice Published: 29 Ill. Reg. 14145 – 9/23/05
-Expiration of Second Notice: 12/22/05

Financial and Professional Regulation

4. Americans With Disabilities Act Grievance Procedure (4 Ill. Adm. Code 250)
-First Notice Published: 29 Ill. Reg. 12311 – 8/12/05
-Expiration of Second Notice: 1/6/06

5. Payday Loan Reform Act (38 Ill. Adm. Code 210)
-First Notice Published: 29 Ill. Reg. 13073 – 8/26/05
-Expiration of Second Notice: 1/16/06

6. The Illinois Landscape Architecture Act of 1989 (68 Ill. Adm. Code 1275)
-First Notice Published: 29 Ill. Reg. 12320 – 8/12/05
-Expiration of Second Notice: 1/25/06

Human Rights

7. Housing Discrimination (71 Ill. Adm. Code 2300)
-First Notice Published: 29 Ill. Reg. 13635 – 9/9/05
-Expiration of Second Notice: 12/28/05

8. Procedures of the Department of Human Rights (56 Ill. Adm. Code 2520)
-First Notice Published: 29 Ill. Reg. 13617 – 9/9/05
-Expiration of Second Notice: 12/28/05

Human Services

9. Assessment for Determining Eligibility and Rehabilitation Needs (89 Ill. Adm. Code 553)
-First Notice Published: 29 Ill. Reg. 8496 – 6/17/05
-Expiration of Second Notice: 12/31/05

10. Application (89 Ill. Adm. Code 557)
-First Notice Published: 29 Ill. Reg. 10560 – 7/22/05
-Expiration of Second Notice: 12/31/05

Military Affairs

JOINT COMMITTEE ON ADMINISTRATIVE RULES
DECEMBER AGENDA

11. Illinois Military Family Relief Fund Act (95 Ill. Adm. Code 200)
-First Notice Published: 28 Ill. Reg. 16077 – 12/17/04
-Expiration of Second Notice: 12/15/05

Natural Resources

12. Ginseng Harvest and Commerce Regulations (17 Ill. Adm. Code 1580)
–First Notice Published: 29 Ill. Reg. 13975 – 9/16/05
–Expiration of Second Notice: 1/11/06

13. Illinois Resident Armed Forces Fee Exemptions (17 Ill. Adm. Code 2510)
-First Notice Published: 29 Ill. Reg. 14164 – 9/23/05
-Expiration of Second Notice: 1/5/06

14. Off-Highway Vehicle Recreational Trails Grant Program (17 Ill. Adm. Code 3045)
-First Notice Published: 29 Ill. Reg. 13978 – 9/16/05
-Expiration of Second Notice: 12/22/05

Pollution Control Board

15. Effluent Standards (35 Ill. Adm. Code 304)
-First Notice Published: 29 Ill. Reg. 6200 – 5/6/05
-Expiration of Second Notice: 1/4/06

Property Tax Appeal Board

16. Practice and Procedure for Appeals Before the Property Tax Appeal Board (86 Ill. Adm. Code 1910)
-First Notice Published: 29 Ill. Reg. 12218 – 8/5/05
-Expiration of Second Notice: 12/25/05

Racing Board

17. Totalizator Operations (11 Ill. Adm. Code 433)
-First Notice Published: 29 Ill. Reg. 13205 – 8/26/05
-Expiration of Second Notice: 1/17/06

EMERGENCY RULEMAKINGS

Commerce and Economic Opportunity

JOINT COMMITTEE ON ADMINISTRATIVE RULES
DECEMBER AGENDA

18. High Technology School-To-Work Program (14 Ill. Adm. Code 110)
-Notice Published: 29 Ill. Reg. 19279 – 11/28/05

19. Technology Advancement and Development Act Programs (14 Ill. Adm. Code 545)
-Notice Published: 29 Ill. Reg. 15045 – 10/7/05

20. Technology Advancement and Development Act Programs (14 Ill. Adm. Code 545)
-Notice Published: 29 Ill. Reg. 18950 – 11/18/05

21. Technology Advancement and Development Act programs (Repeal) (14 Ill. Adm. Code 110)
-Notice Published: 29 Ill. Reg. 19284 – 11/18/05

Financial and Professional Regulation

22. Transfer of Creditable Service Time from IMRF to Article 3 Police Pension Fund (50 Ill. Adm. Code 4403)
-Notice Published: 29 Ill. Reg. 19296 – 11/28/05

Law Enforcement Training and Standards Board

23. Illinois Police Training Act (20 Ill. Adm. Code 1720)
-Notice Published: 29 Ill. Reg. 19708 – 12/2/05

Treasurer

24. Conditions of Employment (80 Ill. Adm. Code 630)
-Notice Published: 29 Ill. Reg. 18155 – 11/4/05

25. College Savings Pool (23 Ill. Adm. Code 2500)
-Notice Published: 29 Ill. Reg. 19308 – 11/18/05

AGENCY RESPONSES

Education

26. Conservation Education (Repealer) (23 Ill. Adm. Code 251)
-First Notice Published: 29 Ill. Reg. 8048 – 6/3/05
-Recommendation Date: 10/11/05
-Agency Response: Agreement

JOINT COMMITTEE ON ADMINISTRATIVE RULES
DECEMBER AGENDA

27. Staff Development Plans and Programs (Repealer) (23 Ill. Adm. Code 30)
-First Notice Published: 29 Ill. Reg. 8572 – 6/24/05
-Recommendation Date: 10/11/05
-Agency Response: Agreement

28. Insurance for Certificated Employees (Repealer) (23 Ill. Adm. Code 56)
-First Notice Published: 29 Ill. Reg. 8578 – 6/24/05
-Recommendation Date: 10/11/05
-Agency Response: Agreement

29. Professional Development Block Grant (Repealer) (23 Ill. Adm. Code 160)
-First Notice Published: 29 Ill. Reg. 8590 – 6/24/05
-Recommendation Date: 10/11/05
-Agency Response: Agreement

30. Scientific Literacy (Repealer) (23 Ill. Adm. Code 220)
-First Notice Published: 29 Ill. Reg. 8595 – 6/24/05
-Recommendation Date: 10/11/05
-Agency Response: Agreement

31. Alcohol and Drug Education Initiative (Repealer) (23 Ill. Adm. Code 225)
-First Notice Published: 29 Ill. Reg. 8604 – 6/24/05
-Recommendation Date: 10/11/05
-Agency Response: Agreement

32. Summer School for Remedial Education (Repealer) (23 Ill. Adm. Code 230)
-First Notice Published: 29 Ill. Reg. 8615 – 6/24/05
-Recommendation Date: 10/11/05
-Agency Response: Agreement

33. Alternative Learning Opportunities Program (23 Ill. Adm. Code 240)
-First Notice Published: 29 Ill. Reg. 8621 – 6/24/05
-Recommendation Date: 10/11/05
-Agency Response: Agreement

34. Urban Education Partnership Program (Repealer) (23 Ill. Adm. Code 245)
-First Notice Published: 29 Ill. Reg. 8632 – 6/24/05
-Recommendation Date: 10/11/05
-Agency Response: Agreement

35. Comprehensive Arts Programs (Repealer) (23 Ill. Adm. Code 250)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
DECEMBER AGENDA

-First Notice Published: 29 Ill. Reg. 8644
-Recommendation Date: 10/11/05
-Agency Response: Agreement

36. Mathematics and Science Loan Program (Repealer) (23 Ill. Adm. Code 360)
-First Notice Published: 29 Ill. Reg. 8650 – 6/24/05
-Recommendation Date: 10/11/05
-Agency Response: Agreement

37. School Technology Program (23 Ill. Adm. Code 575)
-First Notice Published: 29 Ill. Reg. 8661 – 6/24/05
-Recommendation Date: 10/11/05
-Agency Response: Agreement

Human Services

38. Food Stamps (89 Ill. Adm. Code 121)
-First Notice Published: 29 Ill. Reg. 12132 – 7/29/05
-Objection Date: 8/16/05
-Agency Response: Agreement

JOINT COMMITTEE ON ADMINISTRTIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of November 22, 2005 through November 28, 2005 and have been scheduled for review by the Committee at its December 13, 2005 meeting in Chicago. 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
1/5/06	Department of Natural Resources, Illinois Resident Armed Forces Fee Exemptions (17 Ill. Adm. Code 2510)	9/23/05 29 Ill. Reg. 14164	12/13/05
1/11/06	Department of Natural Resources, Ginseng Harvest and Commerce Regulations (17 Ill. Adm. Code1580)	9/16/05 29 Ill. Reg. 13975	12/13/05

PROCLAMATIONS

2005-384
LAKE COUNTY CHAMBER OF COMMERCE DAY

WHEREAS, on December 1, the Lake County Chamber of Commerce will celebrate 90 years of service to businesses in Lake County, Illinois. According to their records, they are the oldest chamber of commerce to serve Lake County businesses; and

WHEREAS, the Lake County Chamber of Commerce was established in 1915 as an all volunteer organization called the Waukegan Commercial Association. In 1917, they changed their name to the Waukegan Chamber of Commerce; and

WHEREAS, as they grew and expanded over the years, the organization underwent additional name changes to reflect its changing membership, including the Waukegan/North Chicago Chamber of Commerce in 1946 and the Waukegan/Lake County Chamber of Commerce in 1975, before adopting their current name during the mid-90's; and

WHEREAS, today, the Lake County Chamber of Commerce has more than 400 members and is the parent association of three affiliate organizations: the Gurnee, Hispanic, and Waukegan Chambers of Commerce; and

WHEREAS, each affiliate organization helps the businesses within their area, while the Lake County Chamber of Commerce provides opportunities that benefit businesses throughout the county; and

WHEREAS, their educational programs and seminars, networking events such as the Lake County Power Breakfast and Business Luncheon series, and promotional resources such as newsletters and websites have helped countless businesses boost sales and succeed:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim December 1, 2005 as **LAKE COUNTY CHAMBER OF COMMERCE DAY** in Illinois in recognition of them as they celebrate 90 years of commitment and dedication to businesses in Lake County.

Issued by the Governor on November 23, 2005.

Filed with the Secretary of State November 23, 2005.

2005-385
PEARL HARBOR REMEMBRANCE DAY

WHEREAS, December 7, 1941 is one of the most memorable dates of the 20th century. On that day, Japanese bombers attacked unsuspecting American sailors and soldiers stationed at Pearl Harbor; and

WHEREAS, more than 2,000 Americans were killed, including 50 servicemen from Illinois, and another 1,000 were wounded during the bombardment, which outraged Americans like few other events in our nation's history; and

WHEREAS, President Franklin Roosevelt and Congress promptly declared war against Japan and her allies, and our sailors and soldiers performed superbly on all fronts. Together, a Grand Coalition of French, English, Russian, and American servicemen conducted mass campaigns and operations in the Pacific, African, and European theaters; and

PROCLAMATIONS

WHEREAS, on May 7, 1945 Germany surrendered, which was swiftly followed by Japan's surrender on August 14 of that same year; and

WHEREAS, during the war, more American sailors and soldiers were mobilized than at any other time in our history. By war's end, more than 8 million Americans were serving in just the Army; and

WHEREAS, thanks to the Grand Coalition, our servicemen, and all those at home who contributed to the war effort, the world was made safer for liberty and freedom, the right of all peoples everywhere, which the aggressions of Germany and Japan endangered; and

WHEREAS, this year marks the 60th anniversary of the end of the Second World War. Although we can never repay all those who faithfully and honorably served during the war, we will always remember what they did and fought for:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim December 7, 2005 as **PEARL HARBOR REMEMBRANCE DAY** in Illinois in memory of all the heroes who died from the attack, and in tribute to all the men and women whose sacrifices made the world safer for liberty and freedom.

Issued by the Governor on November 28, 2005.

Filed with the Secretary of State November 28, 2005.

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 29, Issue 50 are listed in the Issues Index by Title number, Part number, Volume and Issue.
Inquires about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

PROPOSED RULES

80 - 2700		19737
23 - 401		19740
26 - 125		19766
86 - 3000		19773
89 - 146		19775
59 - 51		19807
4 - 1750		19812
92 - 2520		19819
92 - 2520		19856

ADOPTED RULES

23 - 1	11/23/2005	19891
23 - 675	11/23/2005	19942
89 - 127	11/23/2005	19968
89 - 148	11/23/2005	19973
89 - 152	11/23/2005	19997
77 - 245	11/28/2005	20003
11 - 205	11/28/2005	20033

EMERGENCY RULES

80 - 2700	11/23/2005	20050
86 - 3000	11/23/2005	20095

EXECUTIVE ORDERS AND PROCLAMATIONS

05 - 385	11/28/2005	20117
05 - 384	11/23/2005	20117

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