

2009

ILLINOIS

REGISTER

RULES
OF GOVERNMENTAL
AGENCIES



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INTRODUCTION

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

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

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

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

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2009

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

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
23	May 26, 2009	June 5, 2009
24	June 1, 2009	June 12, 2009
25	June 8, 2009	June 19, 2009
26	June 15, 2009	June 26, 2009
27	June 22, 2009	July 6, 2009
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49	November 23, 2009	December 4, 2009
50	November 30, 2009	December 11, 2009
51	December 7, 2009	December 18, 2009
52	December 14, 2009	December 28, 2009

Editor's Note: The Secretary of State Index Department is providing this opportunity to remind you that the next filing period for your Regulatory Agenda will occur from October 13, 2009 to January 4th, 2010 by 4:30 pm, as January 1st is a holiday and the office will be closed.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Licensing Standards for Day Care Homes
- 2) Code Citation: 89 III. Adm. Code 406
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
406.2	Amend
406.4	Amend
406.5	Amend
406.6	Amend
406.7	Amend
406.8	Amend
406.9	Amend
406.12	Amend
406.16	Amend
406.24	Amend
406. APPENDIX D	Amend
406. APPENDIX E	Amend
- 4) Statutory Authority: Child Care Act of 1969 [225 ILCS 10], Children's Product Safety Act [430 ILCS 125], Abused and Neglected Child Reporting Act [325 ILS 5/3], Carbon Monoxide Alarm Detector Act [430 ILCS 135/10], and Section 5 of the Missing Children Records Act [325 ILCS 50/5]
- 5) A Complete Description of the Subjects and Issues Involved:

Section 406.2 – Add the definition of "Substantiated violation" as mentioned in Section 406.24.

Section 406.4 – Requires 15 hours of pre-service training for new applicants. Fire safety prevention inspections are to be done by the Office of the State Fire Marshal for multi level or unusual or complex homes; for single-floor homes the inspections shall be done by a trained licensing representative. Clarifies the provisions of when a new license is required and moves the provision regarding changes to capacity to Section 406.6, Provisions Pertaining to the License.

Section 406.5 – Clarifies language for how a renewal application is to be considered timely and sufficient. Adds the requirement that prior to license renewal, the licensees must be current with the required 15 hours of annual training. Requires the reviewing of the day care home's emergency, tornado and hazard protection plans prior to renewal.

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Fire safety prevention inspections are to be done by the Office of the State Fire Marshal or a trained licensing representative.

Section 406.7 – Adds provisions requiring completion of 15 hours of pre-service training and fire safety prevention inspections prior to issuing a permit.

Section 406.8 – Requires smoke detectors to be installed in each room where children nap or sleep as required by State Fire Code, and not just within 15 feet of these rooms. Moves forward the carbon monoxide detector provision of this section. Requires that the home be maintained in good repair and provide a safe environment for children. In addition, it requires a range of ambient temperatures during summer and winter months. Improves fire safety standards in the home as required by State Fire Code and the Department's agreement with the Office of the State Fire Marshal.

Section 406.9 – Requires that after September 2011 new day care home applicants shall have a high school diploma, or equivalency certificate.

Section 406.12 – Amended to comply with the Missing Children Records Act [325 ILCS 50/5], that requires that the parent or guardian of a child to be enrolled for the first time in a day care home provide a certified copy of the child's birth certificate within 30 days after enrollment. The licensee shall report to the Illinois State Police any request concerning flagged records or knowledge as to the whereabouts of any missing child.

Section 406.16 – Deletes the obsolete date to start complying with 89 Il. Adm. Code 386 (Children's Product Safety).

Section 406.24 – Requires that substantiated licensing violations be posted in a prominent area of the home until all violations have been corrected.

Section Appendix D – Adds the pre-service requirement mentioned in previous Sections. Sets the time frame for completing the 15 hours of in-service training to the period of the licensing year instead of calendar year and deletes the requirement to prorate hours of training in each calendar year.

Section Appendix E – Revises the List of Items for Fire Safety Prevention Inspection in accordance with revised provisions in Part 406.

- 6) Published studies and reports, and sources of underlying data used to compose this rulemaking: None

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- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Do these proposed amendments contain an automatic repeal date? No
- 9) Do these proposed amendments contain incorporations by reference? Yes, 41 Ill. Adm. Code 100, Fire Prevention and Safety.
- 10) Are there any other amendments pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate under the State Mandates Act [30 ILCS 805].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. Comments should be submitted to:

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

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

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

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses affected: This rulemaking affects home-operated child care businesses that are subject to licensure by the Department.

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- B) Reporting, bookkeeping or other procedures required for compliance: The ability to retain records related to compliance with fire codes and notices of compliance or non-compliance.
 - C) Types of professional skills necessary for compliance: The ability to understand and comply with licensing regulations affecting children's health and safety.
- 14) Regulatory Agenda on which this rulemaking was summarized: The rulemaking was not included on either of the 2 most recent regulatory agendas because: the need for the rulemaking was not anticipated.

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 406

LICENSING STANDARDS FOR DAY CARE HOMES

Section

406.1	Purpose
406.2	Definitions
406.3	Effective Date of Standards (Repealed)
406.4	Application for License
406.5	Application for Renewal of License
406.6	Provisions Pertaining to the License
406.7	Provisions Pertaining to Permits
406.8	General Requirements for Day Care Homes
406.9	Characteristics and Qualifications of the Day Care Family
406.10	Qualifications for Assistants
406.11	Substitutes
406.12	Admission and Discharge Procedures
406.13	Number and Ages of Children Served
406.14	Health, Medical Care and Safety
406.15	Discipline of Children
406.16	Activity Requirements
406.17	Nutrition and Meals
406.18	Transportation of Children By Day Care Home
406.19	Swimming
406.20	Children with Special Needs
406.21	School Age Children
406.22	Children Under 30 Months of Age
406.23	Night Care
406.24	Records and Reports
406.25	Confidentiality of Records and Information
406.26	Cooperation with the Department
406.27	Severability of This Part
406.APPENDIX A	Meal Pattern Chart for Children 0 to 12 Months of Age
406.APPENDIX B	Meal Pattern Chart for Children Over One Year of Age
406.APPENDIX C	Background of Abuse, Neglect, or Criminal History Which May Prevent Licensure or Employment in a Day Care Home

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- 406.APPENDIX D **Pre-Service and** In-Service Training
406.APPENDIX E List of Items for Fire **SafetyPrevention** Inspection

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10], the Children's Product Safety Act [430 ILCS 125], Section 3 of the Abused and Neglected Child Reporting Act [325 ILCS 5/3], Sections 1 and 2 of the Facilities Requiring Smoke Detectors Act [425 ILCS 10/1 and 2], and Section 5 of The Missing Children Records Act [325 ILCS 50/5].

SOURCE: Adopted and codified at 7 Ill. Reg. 7855, effective July 1, 1983; amended at 8 Ill. Reg. 24951, effective January 1, 1985; amended at 9 Ill. Reg. 2454, effective March 1, 1985; emergency amendment at 15 Ill. Reg. 15088, effective October 8, 1991, for a maximum of 150 days; modified at 16 Ill. Reg. 2269; amended at 16 Ill. Reg. 7602, effective April 30, 1992; amended at 18 Ill. Reg. 5531, effective April 1, 1994; amended at 19 Ill. Reg. 2765, effective February 23, 1995; amended at 21 Ill. Reg. 4524, effective April 1, 1997; emergency amendment at 24 Ill. Reg. 4207, effective March 1, 2000, for a maximum of 150 days; emergency expired July 28, 2000; amended at 24 Ill. Reg. 17047, effective November 1, 2000; amended at 25 Ill. Reg. 5714, effective April 1, 2001; emergency amendment at 26 Ill. Reg. 13694, effective August 30, 2002, for a maximum of 150 days; emergency expired on January 26, 2003; amended at 27 Ill. Reg. 19180, effective December 15, 2003; amended at 30 Ill. Reg. 18280, effective November 13, 2006; amended at 32 Ill. Reg. 9137, effective June 20, 2008; amended at 34 Ill. Reg. _____, effective _____.

Section 406.2 Definitions

"Access to children" means an employee's job duties require that the employee be present in a licensed child care facility during the hours that children are present in the facility. In addition, any person who is permitted to be alone outside the visual or auditory supervision of facility staff with children receiving care in a licensed child care facility is subject to the background check requirements of this Part.

"Adult" means any person who is 18 years of age or older.

"Applicant" means a person living in the residence to be licensed who will be the primary caregiver in the day care home.

"Approved smoke detector" or "detector" means a smoke detector of the ionization or photoelectric type which complies with all the requirements of the rules and regulations of the Illinois State Fire Marshal. (Section 2 of the

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Facilities Requiring Smoke Detectors Act [425 ILCS 10/2])

"Assistant" or "child care assistant" means a person (whether a volunteer or an employee) who assists a licensed home caregiver in the operation of the day care home.

"Attendance" means the total number of children under the age of 12 present at any one time.

"Authorized representative of the Department" means the licensing representative or any person acting on behalf of the Director of the Department.

"Background check" means:

- a criminal history check via fingerprints of persons age 18 and over that are submitted to the Illinois State Police and the Federal Bureau of Investigation (FBI) for comparison to their criminal history records, as appropriate; and
- a check of the Statewide Automated Child Welfare Information System (SACWIS) and other state child protection systems, as appropriate, to determine whether an individual is currently alleged or has been indicated as a perpetrator of child abuse or neglect; and
- a check of the Statewide Child Sex Offender Registry.

"Basement" means the story below the street floor where occupants must traverse a full set of stairs, 8 or more risers, to access the street floor.

"CANTS" means the Child Abuse and Neglect Tracking System operated and maintained by the Department. This system is being replaced by the Statewide Automated Child Welfare Information System (SACWIS).

"Caregiver" means the individual directly responsible for child care.

"Children with special needs" means children who exhibit one or more of the following characteristics, confirmed by clinical evaluation:

- Visual impairment: the child's visual impairment is such that development

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to full potential without special services cannot be achieved.

- Hearing impairment: the child's residual hearing is not sufficient to enable him or her to understand the spoken word and to develop language, thus causing extreme deprivation in learning and communication, or a hearing loss is exhibited that prevents full awareness of environmental sounds and spoken language, limiting normal language acquisition and learning.
- Physical or health impairment: the child exhibits a physical or health impairment that requires adaptation of the physical plant.
- Speech and/or language impairment: the child exhibits deviations of speech and/or language processes that are outside the range of acceptable variation within a given environment and prevent full social development.
- Learning disability: the child exhibits one or more deficits in the essential processes of perception, conceptualization, language, memory, attention, impulse control or motor function.
- Behavioral disability: the child exhibits an effective disability and/or maladaptive behavior that significantly interferes with learning and/or social functioning.
- Mental impairment: the child's intellectual development, mental capacity, and/or adaptive behavior are markedly delayed. Such mental impairment may be mild, moderate, severe or profound.

"Consultants" means those individuals providing technical assistance or advice regarding any aspect of the operation of the day care home.

"Conviction" means a judgment of conviction or sentence entered upon a plea of guilty or upon a verdict or finding of guilty of an offense, rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury. (Section 2-5 of the Criminal Code of 1961 [720 ILCS 5/2-5])

"Corporal punishment" means hitting, spanking, swatting, beating, shaking, pinching, excessive exercise, exposure to extreme temperatures, and other measures that produce physical pain.

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"Cot" means a comfortable, safe and child-sized alternative bed made of resilient, fire retardant, sanitizable fabric that is on legs or otherwise above the floor and can be stored to allow for air flow.

"Day care homes" means family homes which receive more than 3 up to a maximum of 12 children for less than 24 hours per day. The maximum of 12 children includes the family's natural, foster, or adopted children and all other persons under the age of 12. The term does not include facilities which receive only children from a single household. (Section 2.18 of the Child Care Act of 1969 [225 ILCS 10/2.18])

"Department" means the Illinois Department of Children and Family Services. (Section 2.02 of the Child Care Act of 1969)

"Discipline" means the process of helping children to develop inner controls so that they can manage their own behavior in socially acceptable ways.

"Disinfect" means to eliminate virtually all germs from inanimate surfaces through the use of chemicals or physical agents (e.g., heat). In the child care environment, a solution of ¼ cup household liquid chlorine bleach added to one gallon of water (or one tablespoon bleach to one quart water) and prepared fresh daily is an effective disinfectant for environmental surfaces and other objects. A weaker solution of 1 tablespoon bleach to 1 gallon of cool water is effective for use on toys, eating utensils, etc. Commercial products may also be used.

"Family home" or "family residence" means the location or portion of a location where the applicant and his or her family reside, and may include basements and attics. It does not include other structures that are separate from the home but are considered part of the overall premises, such as adjacent apartments, unattached basements in multi-unit buildings, unattached garages, and other unattached buildings.

"Ground level" means that a child can step directly from the exit onto the ground, a sidewalk, a patio, or any surface that is not above or below the ground.

"Guardian" means the guardian of the person of a minor. (Section 2.03 of the Child Care Act of 1969 [225 ILCS 10/2.03])

"Infant" means a child through 12 months of age.

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"Initial background check" means fingerprints have been obtained for a criminal history check, and the individual has cleared a check of the Statewide Automated Child Welfare Information System (SACWIS) and the Illinois Sex Offender Registry.

"License" means a document issued by the Department that authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Child Care Act of 1969.

"License applicant", for purposes of background checks, means the operator or persons with direct responsibility for daily operation of the facility to be licensed. (Section 4.4 of the Child Care Act of 1969 [225 ILCS 10/4.4])

"License study" means the review of an application for license, on-site visits, interviews, and the collection and review of supporting documents to determine compliance with the Child Care Act of 1969 and the standards prescribed by this Part.

"Licensed capacity" means the number of children the Department has determined the day care home can care for at any one time in addition to any children living in the home who are under the age of 12 years. Children age 12 and over on the premises are not considered in determining licensed capacity.

"Licensing representative" means a person authorized by the Department under Section 5 of the Child Care Act of 1969 to examine facilities for licensure.

"Member of the household" means a person who resides in a family home as evidenced by factors including, but not limited to, maintaining clothing and personal effects at the household address, or receiving mail at the household address, or using identification with the household address.

"Minor traffic violation" means a traffic violation under the laws of the State of Illinois or any municipal authority therein or another state or municipal authority that is punishable solely as a petty offense. (See Section 6-601 of the Illinois Driver Licensing Law [625 ILCS 5/6-601].)

"Parents", as used in this Part, means those persons assuming legal responsibility for care and protection of the child on a 24-hour basis; includes guardian or legal

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custodian.

"Permit" means a one-time only document issued by the Department of Children and Family Services for a 2-month period to allow the individuals to become eligible for a license.

"Person" means any individual, group of persons, agency, association, or organization.

"Persons subject to background checks" means:

- the operators of the child care facility;
- all current and conditional employees of the child care facility;
- any person who is used to replace or supplement staff; and
- any person who has access to children, as defined in this Section.

If the child care facility operates in a family home, the license applicants and all members of the household age 13 and over are subject to background checks, as appropriate, even if these members of the household are not usually present in the home during the hours the child care facility is in operation.

"Physician" means a person licensed to practice medicine in the State of Illinois or a contiguous state.

"Premises" means the location of the day care home wherein the family resides and includes the attached yard, garage, basement and any other outbuildings.

"Preschool age" means children under 5 years of age and children 5 years old who do not attend full day kindergarten.

"Program" means all activities provided for the children during their hours of attendance in the day care home.

"Protected exit from a basement" means an exit that is separated from the remainder of the day care home by barriers (such as walls, floors, or solid doors) providing one-hour fire resistance. The separation must be designed to limit the

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spread of fire and restrict the movement of smoke.

"Related" means any of the following relationships by blood, marriage, or adoption: parent, grandparent, sibling, great-grandparent, great-uncle, great-aunt, brother, sister, stepparent, stepbrother, stepsister, uncle, aunt, nephew, niece, or first cousin. (Section 2.04 of the Child Care Act of 1969 [225 ILCS 10/2.04])

"SACWIS" means the Statewide Automated Child Welfare Information System operated by the Illinois Department of Children and Family Services that is replacing the Child Abuse and Neglect Tracking System (CANTS).

"School age" means children from 6 to 12 years of age and 5 year olds who are in full-day kindergarten.

"Special use areas" means areas of the home that may not be included in the measurements of the area used for child care. Special use areas include, but are not limited to, laundry rooms, furnace rooms, bathrooms, hazardous areas, and areas off-limits to children.

"Story" means that level of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.

"Street floor" means a story or floor level accessible from the street or from outside a building at ground level, with the floor level at the main entrance located not more than 4 risers above or below the ground level and arranged and utilized to qualify as the main floor.

"Substantiated violation" means that the licensing representative has determined, during a licensing complaint investigation or a monitoring or renewal visit, that the licensee has violated a licensing standard of this Part or the Child Care Act.

"Supervising agency", as used in this Part, means a licensed child welfare agency, a licensed day care agency, or the Department.

"Swimming pool" means any natural or artificial basin of water intended for public swimming or recreational bathing that exceeds 2'6" in depth as specified in the Illinois Swimming Pool and Bathing Beach Code (77 Ill. Adm. Code 820). The term includes bathing beaches and pools at private clubs, health clubs, or

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private residences when used for children enrolled in a child care facility.

"Wading pool" means any natural or artificial basin of water less than 2'6" in depth that is intended for recreational bathing, water play or similar activity. The term includes recessed areas less than 2'6" in depth in swimming pools that are designated primarily for children.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 406.4 Application for License

- a) A complete application shall be filed with the Department of Children and Family Services by the supervising agency on forms prescribed and provided by the Department.
- b) [Contents of Application](#)
 - [1\)](#) A complete application shall include:
 - [A4\)](#) a completed, signed and dated Application for Home License;
 - [B2\)](#) a list of persons who will be working in the day care home, including any substitutes and assistants, and members of the household age 13 and over;
 - [C3\)](#) completed, signed and dated authorizations to conduct the background check for the applicants, each employee or person used to replace or supplement staff, and each member of the household age 13 and over;
 - [D4\)](#) a completed, signed and dated Child Support Certification form;
 - [E5\)](#) the names, addresses and telephone numbers of at least 3 adults not related to the applicants, nor living in the household, who can attest to their character and suitability to provide child care; and
 - [F6\)](#) a written hazard protection plan identifying potential hazards within the home and outdoor area accessible to the children in care. The written plan shall address the specific hazards and the adult

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supervision and physical means required to minimize the risks to children. Conditions to be addressed include, but are not limited to, traffic construction, bodies of water accessible to the children, open stairwells, and neighborhood dogs.

- 2) For initial applications submitted after September 1, 2010, the applicant shall have completed at least 15 hours of pre-service training, not more than one year prior to the application date, in accordance with Appendix D of this Part.
- c) The supervising agency shall study each day care home under its supervision before recommending issuance of a license. The licensing study shall be conducted by a licensing representative and shall be reviewed and approved by his/her supervisor. Supervisory approval indicates recommendation for license or denial of a license and compliance or non-compliance with the standards prescribed by this Part. The study shall be in writing and shall be signed by the licensing representative performing the study and by his/her supervisor. A license may not be recommended without the receipt of at least 3 positive, written references, and a written study signed by the licensing representative and supervisor. The applicant shall receive a copy of the results of the on-site compliance review upon request.
- d) Fire Safety Inspection

 - 1) The Department shall request the Office of the State Fire Marshal (OSFM) to perform a fire safety inspection of homes where an initial application is being considered for licensure and where care will be provided on more than grade level and apartments and submit a written recommendation of the inspection to the supervising agency of the day care home and to the applicant;
 - 2) The fire safety inspection on single floor homes, at grade with no unusual or complex code considerations, shall be completed following the list of items for fire safety inspection in Appendix E by a licensing representative trained by OSFM to conduct that fire prevention inspection;
 - 3) Prior to OSFM recommending issuance of a permit or a license, the day care home shall have written approval by OSFM or staff trained by OSFM, indicating the home meets fire safety requirements.

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- ~~1) In order for a home to be licensed as a day care home, a fire inspection report (Appendix E) must be completed using forms provided by the Department indicating that the home is safe.~~
 - ~~2) The fire inspection may be conducted by the licensing representative conducting the licensure study, staff of the private agency that supervises the day care home, the local fire department or the Office of the State Fire Marshal.~~
 - ~~A) For each new application received, the Department's Central Office of Licensing will notify the local fire prevention authorities and give them the opportunity to inspect the home applying for licensure and make recommendations on its suitability based on the standards prescribed by this Part.~~
 - ~~B) Department licensing staff and staff of child welfare agencies supervising licensed day care homes shall keep a list of fire departments that receive this notification. For license applicants residing in areas not covered by a participating fire department, Department staff or staff of the supervising agency shall notify the Office of the State Fire Marshal.~~
 - ~~C) Once notified, the fire prevention authority shall have 15 working days to return its recommendations to the Department or supervising agency. Any comments received by the Department or supervising agency shall be considered in the licensing study. Applicants must comply with all requirements of this Part, whether or not recommendations are received.~~
 - ~~D) If the local fire prevention authority or OSFM does not conduct a fire inspection, the fire inspection report shall be completed by the Department licensing representative or staff of the private agency supervising the home.~~
 - ~~3) All fire inspection reports must be completed on forms prescribed and provided by the Department.~~
- e4) Licensed day care homes that fail to comply with all applicable local, municipal

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and State regulations may be prohibited from operating.

fe) New Applications

1) A new application shall be filed when any of the following occurs:

A1) When an application for a license has been withdrawn, surrendered or denied and the applicant or licensee ~~or agency~~ seeks to reapply;

~~2) When there is a change in the name of the licensee, the location of the day care home, or the supervising agency;~~

~~3) When there is a change in the status of joint licensees, such as separation, divorce or death; or~~

B4) Not sooner than 12 months after the Department has revoked or refused to renew a license, after the previous license has been surrendered with cause, or refused to issue a full license to a permit holder, failure to submit a completed application for address change to the supervising agency within 14 days after a change of residence and a new license is sought.

2) For the application to be considered timely and sufficient, a new application shall be completed, signed by the licensee and submitted to the supervising agency within 30 days after the following changes:

A) When there is a change in the name of the licensee, the supervising agency or the legal status from a social security number to Federal Employer Identification Number (FEIN); or

B) When there is a change in the status of joint licensees, such as separation, divorce or death.

~~f) Written approval of the supervising agency is required to effect changes in the license capacity or the ages of children served in conformance with the requirements of Section 406.13. Approval will not be granted unless the day care home's current operation is in compliance with the standards prescribed by this Part.~~

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(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 406.5 Application for Renewal of License

- a) Application forms for license renewal shall be mailed to day care home licensees by the supervising agency 6 months prior to the expiration date of the license.
- b) The completed application shall be signed by the licensees and submitted to the supervising agency at least 3 months prior to expiration of the current license, in order no later than 3 months from the date mailed to licensees to be considered timely and sufficient.
- c) When a licensed day care home seeks to change its name, location, or supervising agency, a new application reflecting the changes must be completed, signed by the licensees and submitted to the supervising agency 30 days prior to the effective date of the changes for the application to be considered timely and sufficient.
- d) *When a licensee has made timely and sufficient application for renewal of a license or a new license with reference to any activity of a continuing nature and the Department fails to render a decision on the application for renewal of the license prior to the expiration date of the license, the existing license shall continue in full force and effect for up to 30 days until the final Department decision has been made. The Department may further extend the period in which such decision must be made in individual cases for up to 30 days, if good cause is shown. [225 ILCS 10/5(d)]*
- e) Prior to renewal, the licensee shall be current with the annual 15 hours of required training.
- f) At the time of license renewal, the supervising agency shall review the fire emergency, tornado/severe weather emergency, and hazard protection written plans. Any revision or enhancement shall be part of the licensing renewal process. Licensed homes that do not have a written hazard plan (see Section 406.4(b)(6)) shall develop a plan and submit it to the supervising agency prior to renewal.
- ge) Fire Safety Inspection

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- 1) Fire safety inspections of homes licensed for multi-levels or apartments shall be completed by OSFM or its designee;
- 2) Fire safety inspection of homes licensed for a single floor with no unusual or complex code considerations shall be completed by a licensing representative trained by OSFM;
- 3) The fire safety prevention inspection shall be conducted in accordance with the requirements of Appendix E.
- ~~1) In order for a home to be licensed as a day care home, a fire inspection report (Appendix E) must be completed using forms provided by the Department indicating that the home is safe.~~
- ~~2) The fire inspection may be conducted by the licensing representative conducting the licensure study, staff of the private agency that supervises the day care home, the local fire department or the Office of the State Fire Marshal.~~
 - ~~A) For each renewal application received, the Department's Central Office of Licensing will notify the local fire prevention authorities and give them the opportunity to inspect the home applying for licensure and make recommendations on its suitability based on the standards prescribed by this Part.~~
 - ~~B) Department licensing staff and staff of child welfare agencies supervising licensed day care homes shall keep a list of fire departments that receive this notification. For license applicants residing in areas not covered by a participating fire department, Department staff or staff of the supervising agency shall notify the Office of the State Fire Marshal.~~
 - ~~C) Once notified, the fire prevention authority shall have 15 working days to return its recommendations to the Department or supervising agency. Any comments received by the Department or supervising agency shall be considered in the licensing study. Applicants must comply with all requirements of this Part, whether or not recommendations are received.~~

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- ~~D) If the local fire prevention authority or OSFM does not conduct a fire inspection, the fire inspection report shall be completed by the Department licensing representative or staff of the private agency supervising the home.~~
- ~~3) All fire inspection reports must be completed on forms prescribed and provided by the Department.~~
- ~~4) Licensed day care homes that fail to comply with all applicable local, municipal and State regulations may be prohibited from operating.~~
- hf) Upon receipt of the application for license renewal, the supervising agency shall conduct a license study in order to determine that the day care home continues to meet licensing standards. The licensing study shall be in writing and shall be reviewed and signed by the licensing supervisor and the licensing representative performing the study. The licensees shall receive a copy of the results of the on-site compliance review upon request.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 406.6 Provisions Pertaining to the License

- a) The licensees shall be a primary caregiver or caregivers who reside in the family home and meet the requirements of this Part. If there are joint licensees, they must be related and both must live in the family home.
- b) A day care home license is valid for 3 years unless revoked by the Department or voluntarily surrendered by the licensee.
- c) The number and age of children under age 12 cared for in the day care home at any one time shall be in compliance with provision in Section 406.13. Changes in the license capacity or the ages of children served shall be with written approval of the supervising agency.
- d) The age limits specified on the license shall be observed, unless the licensee has submitted a transition plan to the Department in accordance with Section 406.13(h) in order to keep members of a sibling group together and the Department has approved the plan.

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- e) Child care may be provided only in those areas specified on the license.
- f) The license is valid only for the family residence of the licensee and shall not be transferred to another person or other legal entity.
- g) The license shall not be valid for a name or location other than the name and location on the license.
- h) No day care home provider shall be licensed to provide care for more than 18 hours within a 24-hour period.
- i) The license shall be prominently displayed in the home at all times.
- j) There shall be no fee or charge for the license.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 406.7 Provisions Pertaining to Permits

- a) A permit shall not be issued until:
 - 1) The application for license has been completed and signed by the applicants and submitted to the Department;
 - 2) The background checks required by Section 406.9 have been completed and the results of the background check have been received for the operator of the day care home;
 - 3) Medical reports as required in Section 406.24(~~ih~~) have been received by the Department for all caregivers and assistants;
 - 4) The applicant who is the primary caregiver has been certified in first-aid, the Heimlich maneuver, and infant/child cardiopulmonary resuscitation (CPR) in accordance with Section 406.9(~~nk~~);
 - 5) For initial applications submitted after September 1, 2010, the applicant for license has completed at least 15 hours of pre-service training, not more than one year prior to application, in accordance with Appendix D:

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- ~~65~~) Character references have been requested, and at least two favorable references have been received and the results of the background check have been received for the operator of the day care home;
- ~~76~~) A personal visit to the home by a licensing representative has been completed. The purpose of this visit is to determine compliance with all the licensing requirements except the requirements for remaining character references, medical examination reports, and well water tests compliance that may be complied with within the 2 month period covered by the permit. However, when well water tests are required, applicants must agree to boil all drinking and cooking water and to provide only bottled water for children under 15 months of age until the test results are received; and
- ~~87~~) A written plan has been submitted to the licensing representative that indicates that requirements for a license shall be met within the 2 month permit period.
- ~~9~~) A written fire safety inspection and approval of the home has been completed in accordance with Section 406.4(d) of this Part.
- b) A permit shall not be issued retroactively.
- c) Permits shall not be transferred to another person or other legal entity.
- d) Permits shall not be valid for a name or location different from the name and location shown on the issued permit.
- e) Permits shall not be renewable.
- f) A current permit shall be available in the day care home at all times while the home is operating under a permit.
- g) A license shall be issued at any time within the 2 month period covered by the permit provided that the day care home achieves and maintains compliance with the Department's licensing standards.
- h) The day care home shall adhere to the provisions or restrictions specified on the permit.

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- i) There shall be no fee or charge for the permit.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 406.8 General Requirements for Day Care Homes

- a) The physical facilities of the home, both indoors and outdoors, shall meet the following requirements for safety to children.
- 1) The home shall have a first aid kit consisting of adhesive bandages, scissors, thermometer, non-permeable gloves, Poison Control Center telephone number (1-800-222-1222 or 1-800-942-5969), sterile gauze pads, adhesive tape, tweezers and mild soap.
 - 2) The kitchen shall be equipped with a readily accessible and operable fire extinguisher rated for Class A, B, and C fires and a flashlight in working order.
 - 3) ~~All electrical~~Electrical outlets that are in areas used by the day care children within reach of children under 5 years of age shall have protective coverings. There shall be no exposed or uninsulated wiring.
 - 4) The home shall be equipped with a minimum of one approved smoke detector in operating condition on every floor level, including basements and occupied attics.
 - A) A smoke detector in operating condition shall be within each room 15 feet of rooms where children nap or sleep. *The detector shall be installed on the ceiling and at least 6 inches from any wall, or on a wall located between 4 and 6 inches from the ceiling.* In addition, there shall be at least one detector at the beginning and end of each separate corridor or hallway 200 feet or more in length in any occupied story.
 - B) *In any facility constructed after December 31, 1987, or which undergoes substantial remodeling of its structure or wiring system after that date, the smoke detectors shall be permanently wired into the structure's AC power line, and, if more than one detector*

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is required to be installed, the detectors shall be wired so that the activation of one detector will activate all the detectors in the facility unit. For purposes of this subsection (a)(4), "substantial remodeling" represents more than 15% of the replacement cost of the day care home.

- C) *Compliance with any applicable federal, State or local law, rule or building code which requires the installation and maintenance of smoke detectors in a manner different from this Section, but providing a level of safety for occupants which is equal to or greater than that provided by this Section, shall be deemed to be compliance with this Section. (Section 2 of the Facilities Requiring Smoke Detectors Act [425 ILCS 10/2])*

5) Carbon Monoxide Detector

A) A home that has an attached garage and/or relies on combustion of fossil fuel for heating, ventilation, or hot water shall be equipped with a minimum of one approved carbon monoxide detector in operating condition within 15 feet of rooms where children nap or sleep.

B) The carbon monoxide detector may be combined with smoke detector devices, provided that the combined unit complies with subsection (a)(4) and this subsection (a)(5). [430 ILCS 135/10]

6) The home and indoor space shall be maintained in good repair and shall provide a safe, comfortable environment for the children.

7) A draft-free temperature of 65°F to 75°F shall be maintained during the winter months or heating season. For infants and toddlers, a temperature of 68°F to 82°F shall be maintained during the summer or air-conditioning months. When the temperature in the home exceeds 78°F, measures shall be taken to cool the children. Temperatures shall be measured at least 3 feet above the floor.

8) Fixed space heaters, fireplaces, radiators, and other heating sources in areas occupied by children shall be separated by partitions or a sturdy barrier to prevent contact. Portable space heaters may not be used in a day

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care home during the hours that child care is provided.

- 96) Facilities in which a wood-burning stove or fireplace has been installed and which is used during the hours that child care is provided shall provide a written plan of how the stove or fireplace will be used and what actions will be taken to ensure the children's safety when in use.
- 107) When the basement area may be used for child care, 2 exits shall be provided.
- A) At least one exit shall be a basement exit via a door directly to the outside (without traversing any other level of the home) or a protected exit from a basement via a door or stairway that allows unobstructed travel directly to the outside of the building at street or ground level. The stairway may not be more than 8 feet high.
- B) A second exit may be a window.
- i) The window shall be operable from the inside without the use of tools and provide a clear opening not less than 20 inches in width, 24 inches in height, and 5.7 square feet in area.
- ii) If the window is used as a second exit, the bottom of the window opening shall be no more than 44 inches above the floor.
- iii) When the bottom of the window opening used as a second exit is greater than 24 inches above the floor, there shall be a permanently affixed, sturdy ramp or stairs located below the window to allow speedy access in the event of an emergency.
- C) If the basement area does not meet these exiting requirements, the basement may be used for child care only with the prior written approval of ~~OSFM~~the Office of the State Fire Marshal or local agencies authorized by ~~the Office of the State Fire Marshal to~~ conduct inspections on its behalf.

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- ~~118~~) All walls and surfaces shall be free from chipped or peeling paint, carpeting, fabric or plastic products. Flammable or combustible artwork attached to the walls shall not exceed 20% of the wall area.
- ~~129~~) Walls of rooms that children use shall be maintained free of lead paint.
- ~~1340~~) Furniture and equipment shall be kept in safe repair.
- ~~1411~~) First aid supplies, medication, cleaning materials, poisons, sharp scissors, plastic bags, sharp knives, cigarettes, matches, lighters, flammable liquids, and other hazardous materials shall be stored in places inaccessible to children. Hazardous items for infants and toddlers also include items that can cause choking, including but not limited to: coins, balloons, safety pins, marbles, Styrofoam™ and similar products, and sponge, soft rubber or soft plastic toys that can be bitten or broken into small pieces.
- ~~1512~~) Tools and gardening equipment shall be stored in locked cabinets, if possible, or in places inaccessible to all children.
- ~~1613~~) *Handguns are prohibited on the premises of the day care home except in the possession of peace officers or other adults who must possess a handgun as a condition of employment and who reside in the day care home.*
- ~~1714~~) *Any firearm, other than a handgun in the possession of a peace officer or other person as provided in subsection (a)(~~1613~~), shall be kept in a disassembled state, without ammunition, in locked storage in a closet, cabinet, or other locked storage facility inaccessible to children.*
- ~~A~~) *Ammunition for such firearms shall be kept in locked storage separate from that of the disassembled firearms, inaccessible to children.*
- ~~B15~~) *The operator of the home shall notify the parents or guardian of any child accepted for care that firearms and ammunition are stored on the premises. The operator shall also notify the parents or guardian that such firearms and ammunition are locked in storage inaccessible to children. (Section 7 of the Act) Such notification need not disclose the location where the firearms and*

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ammunition are stored.

- 1816) There shall be written plans for fire and tornado emergencies~~immediate evacuation in case of emergency~~. Caregivers and assistants in the home shall be familiar with these plans.
- A) The fire evacuation plan shall identify the exits from each area used for child care and shall specify the evacuation route.
- B) The fire evacuation plan shall identify a safe assembly area outside of the home. It shall also identify a near-by indoor location for post-evacuation holding if needed.
- C) The fire evacuation plan shall require that the home be evacuated before calling the local emergency number 911.
- D) The written tornado plan shall specify what actions will be taken in the event of tornado or other severe weather warning, including designation of those areas of the home to be used as the safe spots.
- 19) Monthly fire drills shall be conducted for the purpose of removing children from the home as quickly as possible.
- 20) Tornado drills shall be conducted monthly for the purpose of getting children accustomed to moving to a position of safety in the event of a tornado. ~~Records shall be maintained of the dates and times required drills are conducted.~~
- 21) Fire and tornado drills shall be recorded on forms prescribed by the Department and maintained on file for a period of 3 years.
- 22) Escape routes from the home shall be designed and maintained for swift and safe exiting in the event of an emergency.
- A) All corridors and escape routes from the home shall be kept clear of obstructions.
- B) Dead-end paths or corridors within the home shall be a maximum of 20 feet in length.

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- C) All escape routes from the home shall have operable lighting. The lighting shall be activated during any hours of operation when natural lighting is reduced to a level that prohibits visibility within the escape route.
- D) Bathroom doors in areas accessible to day care children shall allow a caregiver to open the door from outside of the bathroom if necessary.
- E) All closet doors accessible to children shall be able to be opened from inside of the closet without the use of a key.
- F) There shall be no more than 2 releasing devices (door knobs, hand-operated deadbolts, thumb-turn locks, etc.) on any exit door or exit window.
- G) Exit doors and exit windows shall be operable without the use of a key, a tool or special knowledge to open for exit to the outside.
- ~~H17)~~ Exit doors and exit windows shall be kept clear of equipment and debris at all times.
- 23) The licensee shall inspect the home daily, prior to arrival of children, ensuring that escape routes are clear and that exit doors and exit windows are operable. A log of these daily inspections shall be maintained for at least one year, and shall be available for review. The log shall reflect, at minimum, the date and time of each inspection and the full name of the person who conducted it.
- 2418) In the event of a fire, the day care home shall be evacuated immediately and the children's safety insured before calling the fire department or attempting to combat the fire.
- 2519) There shall be an operable telephone available on the premises of the licensee. The number of the Poison Control Center (1-800-222-1222 or 1-800-942-5969) and other emergency numbers shall be posted in an area that is readily available in an emergency.

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~~2620~~) All in-ground swimming pools located in areas accessible to children shall be fenced. The fence shall be at least 5 feet in height and secured by a locked gate. Day care homes that have a license or a permit on April 1, 2001 and are in compliance with the requirement for a 3½ foot fence shall be considered in compliance with the fence requirement.

~~2724~~) All above-ground pools shall have non-climbable sidewalls that are at least 4 feet high or shall be enclosed with a 5 foot fence that is at least 36 inches away from the pool's side wall and secured with a locked gate. When the pool is not in use, steps shall be removed from the pool or otherwise protected to insure the pool cannot be accessed. Day care homes that have a license or a permit on April 1, 2001 and are in compliance with the requirement for a 3½ foot fence shall be considered in compliance with the fence requirement.

~~2822~~) Portable wading pools shall be emptied daily and disinfected before being air-dried.

~~2923~~) All hot tubs shall have securely locked covers or otherwise be inaccessible to children.

~~3024~~) Free hanging cords on blinds, shades and drapes shall be tied or otherwise kept out of reach of children.

~~25) Carbon Monoxide Detector~~

~~A) A home that has an attached garage and/or relies on combustion of fossil fuel for heating, ventilation, or hot water shall be equipped with a minimum of one approved carbon monoxide detector in operating condition within 15 feet of rooms where children nap or sleep.~~

~~B) The carbon monoxide detector may be combined with smoke detector devices, provided that the combined unit complies with subsection (a)(4) and this subsection (a)(25). [430 ILCS 135/10]~~

b) The kitchen shall be clean, equipped for the preservation, storage, preparation and serving of food, and reasonably safe from hazards.

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- c) Garbage and refuse containers used to discard diapering supplies, food products or disposable meal service supplies in areas for child care shall be disinfected daily unless plastic liners are used and disposed of daily.
- d) A safe and sanitary water supply shall be maintained. If a private water supply is used instead of an approved public water supply, the applicant shall supply written records of current test results indicating the water supply is safe for drinking. New test results must be provided prior to renewal of licensereliensing. If nitrate content exceeds 10 parts per million, bottled water must be used for children under 15 months of age.
- e) Hot and cold running water shall be provided. When children under age 10 or who are developmentally disabled are cared for, the maximum hot water temperature from all faucets of sinks designated for children washing hands shall be no more than 115° Fahrenheit. Caregivers shall always test the hot water before allowing children less than 5 years of age to use the water.
- f) Insect and rodent control shall be maintained.
 - 1) All outside doors except those with operable self-closing devices, operable windows, and other openings used for ventilation shall be screened.
 - 2) Chemicals for insect and rodent control shall be applied in minimum amounts and shall not be used when children are present. Over-the-counter products may be used only according to package instructions. Commercial chemicals, if used, shall be applied by a licensed pest control operator and shall meet all standards of the Department of Public Health (Structural Pest Control Code, 77 Ill. Adm. Code 830). A record of any pesticides used shall be maintained.
- g) Healthy household pets that present no danger to children are permitted.
 - 1) A licensed veterinarian shall certify that the animals are free of diseases that could endanger the children's health and that dogs and cats have been inoculated for rabies.
 - 2) If certification is not available, animals shall be confined at all times in an area inaccessible to children.

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- 3) There shall be careful supervision of children who are permitted to handle and care for the animals.
 - 4) Immediate treatment shall be available to any child who is bitten or scratched by an animal.
 - 5) The presence of monkeys, ferrets, turtles, iguanas, psittacine birds (birds of the parrot family) or any wild or dangerous animal is prohibited in areas accessible to children during the hours the day care home is in operation. Wild and dangerous animals include, but are not limited to, venomous and constricting snakes, undomesticated cats and dogs, racoons, and other animals determined to be dangerous by local public health authorities.
- h) Indoor space shall consist of a clean, comfortable environment for children.
- 1) The day care home shall be well-ventilated, free from observable hazards, properly lighted and heated, and free of fire hazards.
 - 2) The dwelling shall be kept clean, sanitary, and in good repair.
 - 3) There shall be provision for isolating a child who becomes ill or who is suspected of having a contagious disease.
 - 4) When used for child care, floors shall have protective covering such as, but not limited to, tile, carpet, linoleum. Paint or sealer alone is not acceptable as a protective covering.
 - 5) When children under 30 months of age are in care, stairs leading to second levels, attics or basements shall be fitted with a sturdy gate, door or other barrier to prevent the children's access to stairs without adult supervision. Such a barrier shall be moveable enough so as not to impede evacuation, if necessary.
- i) The licensee shall identify those areas in the home used for child care. The identified areas minus any special use areas shall be measured to calculate the square footage available for child care. When the licensed capacity of the home exceeds 8 children, there shall be:
- 1) A minimum of 35 square feet of floor space per each child in care, and

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- 2) An additional 20 square feet of floor space for each child under 30 months of age when the play area is the same as the sleep area. However, if portable bedding is used for napping, then removed, the licensing representative shall approve the use of only 35 square feet of space for each child if the applicant/licensee has adequate storage for the bedding materials and the bedding materials are removed before and after naptime.
- j) *No person may smoke tobacco in any area of the day care home in which day care services are being provided to children, while those children are present on the premises. In addition, no person may smoke tobacco while providing transportation, in either an open or enclosed motor vehicle, to children who are receiving child care services. Nothing in this subsection prohibits smoking in the home in the presence of a person's own children or in the presence of children to whom day care services are not then being provided. [225 ILCS 10/5.5]*
- k) There shall be safe outdoor space for active play.
- 1) Space shall be provided for play in yards, nearby parks or playgrounds under adult supervision.
 - 2) Space shall be protected by physical means (e.g., fence, tree line, chairs, ropes, etc.) against all water hazards, including, but not limited to, pools, ponds, standing water, ornamental bodies of water, and retention ponds, regardless of the depth of the water, and by adult caregiver supervision at times when children in care are present. Other hazards, such as, but not limited to, heavy traffic and construction, shall be inaccessible to children in care through a physical barrier and adult supervision.
 - 3) Play areas shall be well drained and safely maintained.
 - 4) All pieces of outdoor equipment used by children 5 years of age and younger on the day care home premises that is purchased or installed on or after April 1, 2001 shall meet the following standards to guard against entrapment or situations that may cause strangulation.
 - A) Openings in exercise rings shall be smaller than 4½ inches or larger than 9 inches in diameter.

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- B) There shall be no openings in a play structure with a dimension between 3½ inches and 9 inches (except for exercise rings). Side railings, stairs and other locations that a child might slip or climb through shall be checked for appropriate dimensions.
 - C) Distances between vertical slats or poles, where used, must be 3½ inches or less (to prevent head entrapment).
 - D) No opening shall form an angle of less than 55 degrees unless one leg of the angle is horizontal or slopes downward.
 - E) No openings shall be between ⅜ inch and one inch in size (to prevent finger entrapment).
- 5) The use of a trampoline by children in care is prohibited.
 - 6) Children shall be closely supervised by the caregiver when public parks or playgrounds are used for play, during play and while traveling to and from the area.
 - 7) Supervision shall be provided during outdoor play by caregivers who meet the requirements of Section 406.9.
- l) Operation of other business on the premises must not interfere with the care of children.
 - m) A day care home may not house bedridden or chronically ill persons except by permission of the supervising agency. The supervising agency shall grant such permission unless the person has a contagious or a reportable communicable disease or requires care that adversely affects the ability of the caregiver to supervise children.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 406.9 Characteristics and Qualifications of the Day Care Family

- a) No individual may receive a license from the Department when the applicant, a member of the household age 13 and over, or any individual who has access to the children cared for in a day care home, or any employee of the day care home, has

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not authorized the background check required by 89 Ill. Adm. Code 385 (Background Checks) and been cleared in accordance with the requirements of Part 385.

- b) Employees subject to background checks may begin employment on a conditional basis while awaiting the results of the background check. Such employees may not be alone with children until the results of the initial background check have been received.
- c) Persons who have been the perpetrator of certain types of child abuse or neglect or who have committed or attempted to commit certain crimes may not be licensed to operate a day care home, be a member of the household of a family home in which a day care home operates, or be an employee or volunteer in a day care home. These allegations/criminal convictions are listed in Appendix C of this Part.
- d) Day care homes shall be responsible for ensuring that persons subject to criminal background checks make themselves available for fingerprinting when scheduled by the Department or its authorized representatives. Failure of a person subject to criminal background checks to appear for scheduled fingerprinting may result in the denial of a license application or refusal to renew or revocation of an existing license unless the child care facility can demonstrate that it took reasonable measures to insure cooperation with the fingerprinting process. Adequate cause for failure to appear for fingerprinting includes, but is not limited to:
 - 1) death in the family of the person;
 - 2) serious illness of the person or illness in the person's immediate family; or
 - 3) weather or transportation emergencies.
- e) As a condition of licensure, each licensee or license applicant must *certify under penalty of perjury that he or she is current or not more than 30 days delinquent in complying with a child support order. Failure to so certify may result in a denial of the license application, refusal to renew the license, or revocation of the license.* (Section 10-65(c) of the Illinois Administrative Procedure Act [5 ILCS 100/10-65(c)])
- f) If the licensees or license applicants acknowledge that they are more than 30 days

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delinquent in complying with an order for child support or, upon completion of the background check, the licensees or license applicants are found to be delinquent despite their certification, the Department shall deny the application for license, refuse to renew the license, or revoke the license unless the licensees or license applicants arrange for payment of past due and current child support and pay child support in accordance with that agreement.

- g) Members of the household who have contact with the children in care shall treat them with respect, courtesy, and patience.
- h) The ~~caregiver~~~~caregiver~~ is responsible for the day-to-day operation of the day care home in accordance with the standards prescribed in this Part.
- i) The licensee shall be present in the home when day care children are in attendance unless a qualified substitute caregiver per Section 406.11 is present.
- j) The licensee and other adult members of the household in contact with day care children shall be stable, law abiding, responsible, mature individuals.
- k) The caregivers in a day care home shall be at least 18 years of age.
- l) Caregivers licensed after September 1, 2011 shall have a high school diploma or equivalency certificate.
- ~~m~~) The caregivers and all members of the household shall provide medical evidence as required by Section 406.24(~~ih~~) that they are free of reportable communicable disease, and, in the case of caregivers, free of physical or mental conditions that could interfere with the child care responsibilities.
- ~~nm~~) The licensee who is the primary caregiver shall be certified in first aid, the Heimlich maneuver and infant/child cardiopulmonary resuscitation (CPR) by the American Red Cross, the American Heart Association or other entity approved by the Illinois Department of Public Health.
- ~~on~~) During the hours of operation of the day care home, there shall be at least one person on the premises certified in first aid, the Heimlich maneuver and infant/child cardiopulmonary resuscitation (CPR) by the American Red Cross or the American Heart Association, or other entity approved by the Illinois Department of Public Health. The caregivers shall have on file current

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certificates attesting to the training.

- ~~pe~~) The caregiver shall successfully complete a Department approved basic training course of 6 or more clock hours in providing care to children with disabilities. Refer to Appendix D for basic course requirements. The licensee shall have on file a certificate attesting to the successful completion of the training.
- ~~1)~~ ~~Current license holders shall complete this training within 36 months from November 15, 2003.~~
- ~~12)~~ New licensee shall complete this training within 36 months from the issue date of the initial license.
- ~~23)~~ A licensee who has completed training prior to November 15, 2003 may have that training approved as meeting the provisions of this Section. A certificate of training completion and a description of the course content must be submitted to the Department for approval.
- ~~qp~~) Through interaction with the licensing representative, children, parents or guardian of children in care and operation of the day care home in accordance with standards prescribed by this Part, caregivers shall exhibit competence in the following specific areas:
- 1) Knowledge of basic hygiene, safety, and nutrition.
 - 2) The ability to relate comfortably with parents and to communicate with them on differences in caregiving methods, values, and goals.
 - 3) The ability to communicate with children.
 - 4) The ability to set realistic controls for children and to enforce these without harshness or physical abuse.
 - 5) Knowledge of the child's need to explore and manipulate and the willingness to provide and maintain a home where children can enjoy living and learning.
 - 6) Using developmentally appropriate behavior management techniques that do not constitute corporal punishment of children.

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- rq)** The caregivers may not work or be employed outside the home during the hours that child care is being provided. Outside employment during hours that child care is not being provided shall not interfere with child care.
- sf)** The caregiver shall be awake, alert, and able to supervise the children when providing care, except as allowed by Section 406.23(h), night care.
- ts)** The caregivers shall complete 15 clock hours of in-service training per calendar year in accordance with the requirements in Appendix D.
- 1) Such training may be derived from programs offered by any of the entities identified in Appendix D.
 - 2) Courses or workshops to meet this requirement include, but are not limited to, those listed in Appendix D.
 - 3) The records of the day care home shall document the training in which the caregiver has participated, and these records shall be available for review by the Department.
 - 4) Caregivers obtaining clock hours in excess of the required 15 clock hours per year may apply up to 5 clock hours to the next year's training requirements.
- ut)** Licensees or applicants shall not provide false or misleading information regarding their compliance with the applicable regulations.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 406.12 Admission and Discharge Procedures

- a) No child served in a day care home shall remain on the premises for more than 12 hours in any 24-hour period, unless the parent's employment schedule requires more than 12 hours of day care. Regardless of the parent's work or training schedule, at no time shall children cared for in a day care facility remain on the premises for more than 18 consecutive hours.
- b) Prior to acceptance of a child for care;

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- 1) ~~The~~ caregiver shall require that the parent or guardian accompany the child to the home to become acquainted with the caregiver and with the service to be provided.
- 2) No child under 6 years of age may be admitted to the day care home unless the health examination, complete with lead risk assessment, if the child resides in an area defined as low risk by the Illinois Department of Public Health or a screening for lead poisoning, if the child resides in an area defined as high risk by the Illinois Department of Public Health (see 77 Ill. Adm. Code 845, Lead Poisoning Prevention Code), has been completed as required by Department of Public Health rules at 77 Ill. Adm. Code 665, Child Health Examination Code.
- 3) The caregiver shall require that the parent or guardian provide a certified copy of the child's birth certificate. The caregiver:
 - A) Shall provide a written notice to the parent or guardian of a child to be enrolled for the first time that within 30 days after enrollment the parent or guardian shall provide a certified copy of the child's birth certificate or other reliable proof of identity and age of the child.
 - i) The caregiver shall promptly make a copy of the certified copy and return the original certified copy to the parent or guardian.
 - ii) If a certified copy of the birth certificate is not available, the parent or guardian must submit a passport, visa or other governmental documentation as proof of the child's identity and age and an affidavit or notarized letter explaining the inability to produce a certified copy of the birth certificate [325 ILCS 50/5].
 - iii) The notice to parent or guardian shall also indicate that the caregiver is required by law to notify the Illinois State Police or local law enforcement agency if the parent or guardian fails to submit proof of the child's identity within the 30 day time frame.

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- B) Shall notify the Illinois State Police or local law enforcement agency of the parent's or guardian's failure to submit a certified copy of the child's birth certificate or other reliable proof of identity. The caregiver shall also notify the parent or guardian in writing that the Illinois State Police or local law enforcement has been notified as required by law and that the parent or guardian has 10 additional days to comply by submitting the required documentation. [325 ILCS 50/5]
- C) Shall report to the Illinois State Police or local law enforcement agency any affidavit received which appears inaccurate or suspicious in form or content. [325 ILCS 50/5]
- D) Shall flag the record of a child enrolled at the day care who is reported by the Illinois State Police as a missing person, and shall immediately report to the Illinois State Police any request concerning flagged records or knowledge as to the whereabouts of any missing child. [325 ILCS 50/5]
- c) The parents or guardian shall be permitted to visit the home, without prior notice, during the hours their children are in care.
- d) A child shall be discharged from the facility only to the child's parents or guardian or to a person designated in writing by the parents or guardian to receive the child.
- e) The caregiver shall refuse to release a child to any person, whether related or unrelated to the child, who has not been authorized, in writing, by the parents or guardian to receive the child. Persons not known to the caregiver shall be required to provide a driver's license (with photo) or photo identification card issued by the Illinois Secretary of State to establish their identity prior to a child's release to them.
- f) The facility shall maintain a list of persons designated, in writing, by the parents, or guardian to whom the facility can be expected to discharge the child at least once per week. These persons, in addition to the parents or guardian, shall constitute the primary list of persons to whom the child may be released. In addition, the facility shall maintain a contingency list of persons designated, in writing, by the parents or guardian to whom the child may be released less

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frequently than once per week. When the child is released to a person on the contingency list, the facility shall maintain a record of the person to whom the child was released, the date and time that the child was released, and the manner that the child left the facility (whether on foot, by passenger car, by taxicab or other means of transportation).

- g) Other discharge provisions of this Section notwithstanding, a child leaving the day care home to attend school shall be released in accordance with the written authorization of the parents or guardian. The authorization shall include the time that the child is to be released and the means of transportation the child is to use.
- h) All day care homes shall have a written policy that explains the actions the provider will take if a parent or guardian does not retrieve, or arrange to have someone retrieve, his or her child at the designated, agreed upon time. The policy shall consist of the provider's expectations, clearly presented to the parent or guardian, in the form of a written agreement that shall be signed by the parent or guardian, and shall include at least the following elements:
 - 1) The consequences of not picking up the child on time, including:
 - A) Amount of late fee, if any, and when those fees begin to accrue;
 - B) The degree of diligence the provider will use to reach emergency contacts, e.g., number of attempted phone calls to parents and emergency contacts, requests for police assistance in finding emergency contacts; and
 - C) Length of time the facility will keep the child beyond the pick-up time before contacting outside authorities, such as the child abuse hotline or police.
 - 2) Emphasis on the importance of having up-to-date emergency contact numbers on file.
 - 3) Acknowledgement of the provider's responsibility for the child's protection and well-being until the parent or outside authorities arrive.
 - 4) A reminder to the day care provider that the child is not responsible for the situation. All discussions regarding these situations shall be with the

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parent or guardian, never the child.

- i) The daily list of children in care shall be readily accessible in case of emergency evacuations and fire drills.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 406.16 Activity Requirements

- a) The caregiver and parent shall discuss the child's health, development, behavior and activities to ensure consistency in planning for the child.
- b) The daily activities shall be well-balanced and geared to the needs of the children served.
 - 1) The activities shall be informal, providing a family atmosphere that promotes the physical and emotional well-being of the individual.
 - 2) Children shall be encouraged to participate in age appropriate household routines such as preparing food, setting tables, and cleaning up.
 - 3) Regularity in routines such as, but not limited to, eating, napping, and toileting, with sufficient flexibility to respond to the needs of the individual shall be provided.
 - 4) A balance of active and quiet play shall be provided.
 - 5) There shall be activities, both indoors and outdoors, in which children make use of both large and small muscles.
 - 6) There shall be a variety of chores and activities at the child's developmental level.
 - 7) Each child's individuality shall be respected and a sense of self and development of self esteem shall be encouraged.
 - 8) Children shall not be left unattended and supervision shall be provided at all times.

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- c) The materials and equipment and their arrangements and use must be appropriate to the developmental needs of the children in care. The day care home may not use or have on the premises, ~~on or after July 1, 2000~~, any unsafe children's product as described in the Children's Product Safety Act and 89 Ill. Adm. Code 386 (Children's Product Safety).
- 1) Simple play equipment, suitable to the age and developmental needs of the children, shall be available for use indoors and outdoors.
 - 2) Materials and toys shall be kept clean, orderly, attractive, and accessible to the children.
 - 3) There shall be stimulating play and learning materials; these may include household items used creatively.
 - 4) Materials and equipment must be of sufficient quantity to provide for a variety of experiences and to appeal to the individual interests of the children under care.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 406.24 Records and Reports

- a) Records as required by this Part shall be maintained and available for review ~~on forms supplied~~ by the Department.
- b) Information about the child and family shall be confidential as required by Section 406.25.
- c) There shall be a record of identifying information as required in Section 406.12(b)(3) on each child received at the time the child is accepted into the home.
- d) A medical report for each child, on forms provided by the Department, shall be maintained at the facility, dated no earlier than 6 months prior to enrollment, and signed by the examining physician, an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes the advance practice nurse to perform health examinations, or a physician assistant who has been delegated the performance of health examinations by the

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supervising physician; or certified by a recognized health facility.

- 1) The medical report shall be valid for 2 years except that subsequent exams for school age children shall be in accordance with the Illinois School Code requirements, provided that copies of the exam are on file at the facility.
 - 2) If a child is in a high risk group, as determined by the examining physician, a tuberculin test shall be included in the initial exam and when the child enters elementary and secondary school.
 - 3) The reports shall indicate that the child has been immunized as required by Rules and Regulations of the Illinois Department of Public Health for immunizations. These required immunizations are poliomyelitis, measles, rubella, diphtheria, mumps, pertussis, tetanus, hepatitis B, haemophilus influenza B, and varicella (chickenpox) or provide proof of immunity [accordingaeordanee](#) to requirements in 77 Ill. Adm. Code 695.50 of the Department of Public Health.
 - 4) The report shall include a statement on any physical limitations.
 - 5) Exceptions made for children who for medical reasons should not be subjected to immunizations or a tuberculin test shall be so indicated by the physician on the child's medical form.
- e) There shall be signed consent forms from the parent or guardian including:
- 1) Permission for emergency medical care and treatment if the parent is not readily available.
 - 2) Permission to administer medication, if applicable.
 - 3) Permission for someone other than parent or guardian to pick up child if necessary.
 - 4) Visits, trips or excursions off the premises.
 - 5) Transportation provided by caregiver and caregiver assistant, if applicable.

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- 6) Permission to use the facility's swimming pool, if applicable.
- f) The caregiver shall distribute a summary of the licensing standards, provided by the Department, to the parents or guardian of each child at the time that the child is accepted for care in the home. In addition, consumer information materials provided by the Department, including, but not limited to, information on reporting and prevention of child abuse and neglect and preventing and reporting communicable disease, shall be distributed to the parents or guardian of each child cared for when designated for such distribution by the Department. Each child's record shall contain a statement signed by the child's parents or guardian, indicating that they have received a summary of licensing standards and other materials designated by the Department for such distribution.
- g) When the licensed day care home is cited for one or more substantiated violations of licensing standards by the supervising agency, the caregiver shall prominently display in the home the list of violations and the corrective plan, on a form provided by the supervising agency. The caregiver shall keep the form posted until a licensing representative has verified in writing that every violation on that form has been corrected.
- hg) In accordance with the Child Care Act of 1969, a parent may request that immunizations, physical examinations, and/or medical treatment be waived on religious grounds. A request for waiver shall be in writing, signed by the parent, and kept in the child's record.
- ih) Members of the household, regular substitutes, and assistants shall have a complete physical examination. The medical reports shall be submitted on forms provided by the Department.
- 1) The report shall be based on an examination that occurred no earlier than 6 months prior to application, with a tuberculin test to be included in the initial exam only. If the skin test is positive, a chest x-ray is required.
 - 2) Immunizations and the tuberculin test for an infant shall be given at the discretion of the physician.
 - 3) The caregivers and assistants shall be found free of communicable diseases and shall be physically and emotionally fit to care for young children.

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- j) The medical report for caregivers, regular substitutes, and assistants shall be valid for 3 years.
- k) Evidence of freedom from communicable disease or illness may be required at any time for members of the household, regular substitutes and assistants.
- l) Suspected child abuse and/or neglect shall be reported immediately to the Child Abuse/Neglect Hotline as required by the Abused and Neglected Child Reporting Act. The telephone number for the reporting hotline is 1-800-252-2873.
- m) The licensee and each staff person shall sign a statement prescribed by the Department acknowledging his or her status as a mandated reporter of child abuse or neglect under the Abused and Neglected Child Reporting Act and acknowledging he or she has knowledge and understanding of the reporting requirements under that Act. The statement shall be signed and dated by the staff person prior to employment, and shall be maintained by the licensee.
- n) The supervising agency shall be notified immediately by telephone, and in writing within one week, if any of the following situations involving children occurs at the facility:
- 1) Accident or injury resulting in death or requiring emergency medical care;
 - 2) A child is missing from the day care home; or
 - 3) Notice is received of legal action against the facility.
- o) The facility shall promptly report any known or suspected case or carrier of communicable disease to the supervising agency and to local health authorities, and shall comply with the Illinois Department of Public Health's rules for the Control of Communicable Diseases (77 Ill. Adm. Code 690).
- p) The supervising agency shall be notified immediately by telephone, and in writing within one week, of fires or other incidents resulting in structural damage to the day care home. A supervisory visit will be conducted by the supervising agency to determine the safety of the licensed premises in conformance with the other provisions of this Part.

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- ~~q~~) The licensee shall notify the supervising agency within one week, in writing, of any changes to the household composition. Changes that require notification include the addition of any new person into the home, the return of any former household member, or the departure of any household member.
- ~~r~~) The licensee shall keep a record of dates and hours worked by the substitute caregiver while the licensee is absent from the day care home per Section 406.11(a).
- ~~s~~) The licensee shall maintain records required for fire safety in accordance with Section 406.8. Fire safety records include monthly fire drill reports, monthly fire safety inspections conducted by the licensee, and the log of daily inspections by the licensee to ensure that exit routes are kept clear.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

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Section 406. APPENDIX D Pre-Service and In-Service Training

- a) Entities that may provide pre-service and in-service training to meet the requirements of this PartSection 406.9(s) include, but are not limited to:
- 1) colleges and universities
 - 2) child care resource and referral agencies
 - 3) Illinois Department of Public Health or local health departments
 - 4) Office of the State Fire Marshal or local fire department
 - 5) Illinois Department of Children and Family Services
 - 6) Illinois Department of Human Services
 - 7) state or national child care or child advocacy organizations
 - 8) national, state or local family day care home associations
 - 9) Child and Adult Care Food Program sponsors
 - 10) Healthy Child Care Illinois nurses
 - 11) American Red Cross, American Heart Association and other providers of first aid and CPR training that have been approved by the Illinois Department of Public Health
- b) Topics or courses to meet the in-service training requirements include, but are not limited to:
- 1) child care and child development
 - 2) guidance and discipline
 - 3) first aid and CPR
 - 4) symptoms of common childhood illness

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- 5) food preparation and nutrition
- 6) health and sanitation
- 7) small business management
- 8) child abuse and neglect
- 9) working with parents and families
- 10) caring for children with disabilities
- 11) information about asthma and its management
- 12) SIDS education
- 13) service obligations under the federal Americans ~~With~~[with](#) Disabilities Act (ADA)

c) ~~Pre-service and in-service~~[In-service](#) training may be acquired through the following:

- 1) attending college or university or vocational school classes (Clock hours spent in the classroom are counted.)
- 2) attending conferences or workshops (Certificate or other proof of attendance, clock hours and subject matter is required.)
- 3) attending state or local child care association meetings when a specific training program is provided by a guest speaker or group member (Documentation of attendance, subject matter and clock ~~hours~~[hour](#) is required.)
- 4) in-home training by a Child and Adult Care Food Program sponsor representative, nurse or other trainer (Documentation must include the topic and the clock hours.)
- 5) self-study materials provided by a child care resource and referral

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(CCR&R) agency (Certification of clock hours must be secured from the CCR&R.)

- 6) internet home study programs if the internet site provides documentation of use and number of clock hours

The training instructor, speaker or president of the child care organization sponsoring the training may sign the documentation of completion. The child care resource and referral (CCR&R) agency must sign and provide documentation of completion for self-study materials, and the internet site must provide documentation for home study programs.

- d) Licensed providers shall complete 15 clock hours of in-service training per period of the licensing calendar year. Caregivers obtaining clock hours in excess of the required 15 clock hours per year may apply up to 5 clock hours to the next year's training requirements.

- e) ~~For newly licensed providers, required annual in-service training hours are prorated based on the month of the effective date of license.~~

~~For newly licensed providers in 2003 and thereafter~~

Month of License	Training Hours Required
January	15 Hrs.
February	13 Hrs. 45 Min.
March	12 Hrs. 30 Min.
April	11 Hrs. 15 Min.
May	10 Hrs.
June	8 Hrs. 45 Min.
July	7 Hrs. 30 Min.
August	6 Hrs. 15 Min.
September	5 Hrs.
October	3 Hrs. 45 Min.
November	1 Hr. 30 Min.
December	1 Hr. 15 Min.

- ~~e)~~ Courses/training approved by the Department in caring for children with disabilities must include the following components:

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- Introduction to Inclusive Child Care
- Understanding Child Development in Relation to Disabilities
- Building Relationships with Families
- Preparing for and Including Young Children in the Child Care Setting
- Community Services for Young Children with Disabilities (including Early Intervention services)

(Source: Amended at 34 Ill. Reg. _____, effective _____)

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Section 406.APPENDIX E List of Items for Fire Safety Prevention Inspection

The Department shall notify the Office of the State Fire Marshal (OSFM)~~local fire prevention authority in the area where the applicant resides~~ of the name and address of a day care home licensure initial applicant. ~~Notification about a new applicant shall be on a form prescribed by the Department and shall include a space for comments and recommendations by the local fire prevention authority, the Department's or supervising agency's return address, and the~~ The following list of items shall be inspected by OSFM, or by a Department or supervising agency licensing representative trained by OSFM to conduct fire safety inspections for license renewal or annual monitoring visits~~for inspection~~:

1. The paths of escape, including doors and escape windows from the home, are kept operable and clear from obstruction (see Section 406.8(a)(22)(A))~~Number of smoke detectors on each level of the home (see Section 406.8(a)(4))~~
2. Smoke detectors are provided on each level of the home (including basements and second floors even if they are not used for child care) and in any room where children are allowed to nap or sleep~~Smoke detectors within 15' of each sleeping area (see Section 406.8(a)(4)(A))~~
3. All smoke detectors are less than 10 years old and functioning properly (detected by pushing the test button) (see Section 406.8(a)(4)(A))
4. Locks and deadbolts on exit doors are operable without the use of a key, tool or special knowledge to open the door from inside the home to exit to the outside (see Section 406.8(a)(22)(F))~~Secondary means of escape provided from all levels utilized for the home (i.e., windows/doors) (see Section 406.8(a)(7))~~
5. Occupants shall be able to escape the home without having to activate more than 2 releasing devices (e.g., door knobs, deadbolts, thumb-turn lock) on any exit door (see Section 406.8(a)(22)(F))~~All exits are unobstructed (see Section 406.8(a)(17))~~
6. Bathroom doors shall be able to be opened by a caregiver from outside the room if necessary (see Section 406.8(a)(22)(D))~~Emergency contingency plan and properly posted emergency floor plan (see Section 406.8(a)(16))~~
7. Closet doors shall be able to open from inside the closet without the use of a key (see Section 406.8(a)(22)(E))~~An available operational telephone with proper emergency numbers displayed (see Section 406.8(a)(19))~~

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8. Paths of escape from the home shall have operable lighting if needed (light bulbs are in place and functioning) (see Section 406.8(a)(22)(C))~~Proper all-purpose portable fire extinguishers are functional and located in the kitchen (see Section 406.8(a)(2))~~
9. Protective covers for all electrical receptacles are provided in areas used by children (see Section 406.8(a)(3))~~First aid kit with prescribed contents (see Section 406.8(a)(1))~~
10. Heating sources in spaces occupied by children is separated by partitions, screens or other means to protect children from hot surfaces and open flames (see Section 406.8(a)(8))~~Displayed CPR/first aid certificate for home child care provider and assistant (if applicable) (see Section 406.9(m))~~
11. Carbon monoxide detectors are installed and operable in areas occupied by children (see Section 406.8(a)(5))~~All electrical outlets have protective covers (see Section 406.8(a)(3))~~

Operating Requirements (renewal and subsequent monitoring visits)

12. There is a comprehensive written fire emergency response plan in the home (see Section 406.8(a)(18))~~No exposed or damaged wiring (see Section 406.8(a)(3))~~
13. There are monthly tornado and fire drills conducted by the caregiver with participation by children (see Section 406.8(a)(19) and (20))~~No space heaters used during hours of daycare operation (see Section 406.8(a)(5))~~
14. Monthly basic fire safety inspections of the home are conducted by the caregiver or staff members in the home (see Section 406.8(a)(21))~~Written operations plan for the use of wood burning fireplace (if applicable) (see Section 406.8(a)(6))~~
15. Daily fire safety inspections are done by the caregiver to ensure that escape paths are clear and exit doors and escape windows are operable (see Section 406.8(a)(22))~~All medicines, cleaning supplies and chemicals are contained in a locked cabinet (see Section 406.8(a)(11))~~

Additional Items for Inspection at Renewal of Licensure

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16. Corridors are clear of clothing and personal effects (see Section 406.8(a)(22)(A))~~Fire drills conducted monthly (and properly posted) (see Section 406.8(a)(16))~~
17. Flammable and combustible artwork and teaching materials attached directly to the walls are limited to no more than 20% of the wall area (see Section 406.8(a)(11))~~Tornado drills conducted monthly (see Section 406.8(a)(16))~~
18. Caregivers are awake and alert when children are present in the home (see Section 406.9(s))~~No evidence of smoking during the hours of daycare operation (see Section 406.8(j))~~
19. ~~Number of children licensed for daycare operation is prominently displayed during hours of operation (see Section 406.6(i))~~
20. ~~Actual number of children present at time of inspection (see Section 406.13).~~

(Source: Amended at 34 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Licensing Standards for Group Day Care Homes
- 2) Code Citation: 89 III. Adm. Code 408
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
408.5	Amend
408.10	Amend
408.15	Amend
408.20	Amend
408.25	Amend
408.30	Amend
408.35	Amend
408.45	Amend
408.60	Amend
408.85	Amend
408.115	Amend
408.120	Amend
408. APPENDIX G	Amend
408. APPENDIX I	Amend
- 4) Statutory Authority: Child Care Act of 1969 [225 ILCS 10], Children's Product Safety Act [430 ILCS 125], Abused and Neglected Child Reporting Act [325 ILS 5/3], Carbon Monoxide Alarm Detector Act [430 ILCS 135/10], and Section 5 of the Missing Children Records Act [325 ILCS 50/5]
- 5) A Complete Description of the Subjects and Issues Involved: In addition to minor corrections:

Section 408.5 – Add the definition of "Substantiated violation" as mentioned in Section 408.120.

Section 408.10 – Requires 15 hours of pre-service training for new applicants. Fire safety prevention inspections are to be done by the Office of the State Fire Marshal for multi level or unusual or complex homes; for single-floor homes the inspections shall be done by a trained licensing representative. Clarifies the provisions of when a new license is required and moves the provision regarding changes to capacity to Section 408.20, Provisions Pertaining to the License.

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Section 408.15 – Clarifies language for how a renewal application is to be considered timely and sufficient. Adds the requirement that prior to license renewal, the licensees must be current with the required 15 hours of annual training. Requires the reviewing of the day care home's emergency, tornado and hazard protection plans prior to renewal. Fire safety prevention inspections are to be done by the Office of the State Fire Marshal or a trained licensing representative.

Section 408.25 – Adds provisions requiring completion of 15 hours of pre-service training and fire safety prevention inspections prior to issuing a permit.

Section 408.30 – Requires smoke detectors to be installed in each room where children nap or sleep as required by State Fire Code, and not just within 15 feet of these rooms. Moves forward the carbon monoxide detector provision of this Section. Requires that the home be maintained in good repair and provide a safe environment for children. In addition, it requires a range of ambient temperatures during summer and winter months. Improves fire safety standards in the home as required by State Fire Code and the Department's agreement with the Office of the State Fire Marshal.

Section 408.35 – Amends to comply with the Smoke Free Illinois Act (PA 95-17 and 225 ILCS 10/5.5) requiring no person shall smoke in the home or vehicle when children are in care. Adds the conditions, similar to day care homes, of counting children who are being home schooled into the capacity of the group day care home unless another parent or caregiver is providing the schooling apart from the day care area and the caregiver has no responsibility for the care or supervision or schooling of the children during the hours home day care is provided.

Section 408.45 – Adds the provision for caregivers obtaining clock hours of training in excess of the required 15 clock hours per year may apply up to 5 clock hours to the next year's training requirements.

Section 408.60 – Amended to comply with the Missing Children Records Act [325 ILCS 50/5], that requires that the parent or guardian of a child to be enrolled for the first time in a day care home provide a certified copy of the child's birth certificate within 30 days after enrollment. The licensee shall report to the Illinois State Police any request concerning flagged records or knowledge as to the whereabouts of any missing child.

Section 408.85 – Deletes the obsolete date to start complying with 89 Il. Adm. Code 386 (Children's Product Safety).

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Section 408.120 – Requires that substantiated licensing violations be posted in a prominent area of the home until all violations have been corrected. Fire safety and related records shall be maintained in the home for inspection.

Section Appendix G – Adds the pre-service requirement mentioned in previous Sections. Sets the time frame for completing the 15 hours of in-service training to the period of the licensing year instead of calendar year and deletes the requirement to prorate hours of training in each calendar year.

Section Appendix I – Revises the List of Items for Fire Safety Prevention Inspection in accordance with revised provisions in Part 408.

- 6) Published studies and reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes, 41 Ill. Adm. Code 100, Fire Prevention and Safety.
- 10) Are there any other rulemakings pending on this Part? Yes
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate under the State Mandates Act [30 ILCS 805].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. Comments should be submitted to:

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

Telephone: 217/524-1983
TDD: 217/524-3715

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E-Mail: CFPolicy@idcfs.state.il.us

Facsimile 217/557-0692

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

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses affected: This rulemaking affects home-operated child care businesses that are subject to licensure by the Department.
- B) Reporting, bookkeeping or other procedures required for compliance: The ability to retain records related to compliance with fire codes and notices of compliance or non-compliance.
- C) Types of professional skills necessary for compliance: The ability to understand and comply with licensing regulations affecting children's health and safety.

14) Regulatory Agenda on which this rulemaking was summarized: These amendments were not anticipated.

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

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TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 408

LICENSING STANDARDS FOR GROUP DAY CARE HOMES

Section

408.1	Purpose
408.5	Definitions
408.7	Effective Date of Standards (Repealed)
408.10	Application For License
408.15	Application for Renewal of License
408.20	Provisions Pertaining to the License
408.25	Provisions Pertaining to Permits
408.30	General Requirements for Group Day Care Homes
408.35	General Requirements for Group Day Care Home Family
408.40	Background Checks
408.45	Caregivers
408.50	Child Care Assistants
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408.60	Admission and Discharge Procedures
408.65	Number and Ages of Children Served
408.70	Health, Medical Care and Safety
408.75	Discipline of Children
408.80	Nutrition and Meals
408.85	Program
408.90	Transportation of Children
408.95	Swimming
408.100	Children with Special Needs
408.105	Children Under 30 Months of Age
408.110	School Age Children
408.115	Night Care
408.120	Records and Reports
408.125	Confidentiality of Records and Information
408.130	Cooperation with the Department
408.135	Severability of This Part
408.APPENDIX A	Meal Pattern Chart for Children 0 to 12 Months of Age
408.APPENDIX B	Meal Pattern Chart for Children Over One Year of Age

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408.APPENDIX C	Minimum Equipment and Supplies – Preschool Programs
408.APPENDIX D	Minimum Equipment and Supplies – Infant and Toddler Programs
408.APPENDIX E	Background of Abuse, Neglect, or Criminal History Which May Prevent Licensure or Employment in a Group Day Care Home
408.APPENDIX F	Early Childhood Teacher Credentialing Programs
408.APPENDIX G	Pre-Service and In-Service Training
408.APPENDIX H	Chart of Number and Ages of Children Served
408.APPENDIX I	List of Items for Fire Safety Prevention Inspection

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10], the Children's Product Safety Act [430 ILCS 125], Section 3 of the Abused and Neglected Child Reporting Act [325 ILCS 5/3], and Sections 1 and 2 of the Facilities Requiring Smoke Detectors Act [425 ILCS 10/1 and 2], and Section 5 of The Missing Children Records Act [325 ILCS 50/5].

SOURCE: Adopted at 13 Ill. Reg. 14828, effective October 1, 1989; emergency amendment at 15 Ill. Reg. 15104, effective October 8, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 8950, effective May 30, 1992; amended at 18 Ill. Reg. 5540, effective April 1, 1994; amended at 19 Ill. Reg. 2784, effective February 23, 1995; amended at 21 Ill. Reg. 4563, effective April 1, 1997; emergency amendment at 24 Ill. Reg. 4212, effective March 1, 2000, for a maximum of 150 days; emergency expired July 28, 2000; amended at 24 Ill. Reg. 17057, effective November 1, 2000; amended at 25 Ill. Reg. 5281, effective April 1, 2001; amended at 27 Ill. Reg. 19232, effective December 15, 2003; amended at 30 Ill. Reg. 18310, effective November 13, 2006; amended at 32 Ill. Reg. 9164, effective June 20, 2008; amended at 34 Ill. Reg. _____, effective _____.

C

Section 408.5 Definitions

"Access to children" means an employee's job duties require that the employee be present in a licensed child care facility during the hours that children are present in the facility. In addition, any person who is permitted to be alone outside the visual or auditory supervision of facility staff with children receiving care in a licensed child care facility is subject to the background check requirements of this Part.

"Accredited college or university" means a college or university that has been accredited by a regional or national institutional accrediting association recognized by the U.S. Department of Education or a non-governmental recognition counterpart.

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"Adult" means a person who is 18 years of age or older.

"Applicant" means a person living in the residence to be licensed who will be the primary caregiver in the group day care home.

"Approved smoke detector" or "detector" means a smoke detector of the ionization or photoelectric type which complies with all the requirements of the rules and regulations of the Illinois State Fire Marshal. (Section 2 of the Facilities Requiring Smoke Detectors Act [425 ILCS 10/2])

"Assistant" or "child care assistant" means a person (whether a volunteer or an employee) who assists a licensed home caregiver in the operation of the group day care home.

"Attendance" means the total number of children under the age of 12 present at any one time.

"Authorized representative of the Department" means the licensing representative or any person acting on behalf of the Director of the Department.

"Background check" means:

- a criminal history check via fingerprints of persons age 18 and over that are submitted to the Illinois State Police and the Federal Bureau of Investigation (FBI) for comparison to their criminal history records, as appropriate; and
- a check of the Statewide Automated Child Welfare Information System (SACWIS) and other state child protection systems, as appropriate, to determine whether an individual is currently alleged or has been indicated as a perpetrator of child abuse or neglect; and
- a check of the Statewide Child Sex Offender Registry.

"Basement" means the story below the street floor where occupants must traverse a full set of stairs, 8 or more risers, to access the street floor.

"CANTS" means the Child Abuse and Neglect Tracking System operated and

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maintained by the Department. This system is being replaced by the Statewide Automated Child Welfare Information System (SACWIS).

"Caregiver" means the individual directly responsible for child care.

"Children with special needs" means children who exhibit one or more of the following characteristics, confirmed by clinical evaluation:

- Visual impairment: the child's visual impairment is such that development to full potential without special services cannot be achieved.
- Hearing impairment: the child's residual hearing is not sufficient to enable him or her to understand the spoken word and to develop language, thus causing extreme deprivation in learning and communication, or a hearing loss is exhibited that prevents full awareness of environmental sounds and spoken language, limiting normal language acquisition and learning.
- Physical or health impairment: the child exhibits a physical or health impairment that requires adaptation of the physical plant.
- Speech and/or language impairment: the child exhibits deviations of speech and/or language processes that are outside the range of acceptable variation within a given environment and prevent full social development.
- Learning disability: the child exhibits one or more deficits in the essential processes of perception, conceptualization, language, memory, attention, impulse control or motor function.
- Behavioral disability: the child exhibits an effective disability and/or maladaptive behavior that significantly interferes with learning and/or social functioning.
- Mental impairment: the child's intellectual development, mental capacity, and/or adaptive behavior are markedly delayed. Such mental impairment may be mild, moderate, severe or profound.

"Conviction" means a judgment of conviction or sentence entered upon a plea of guilty or upon a verdict or finding of guilty of an offense, rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case

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without a jury. (Section 2-5 of the Criminal Code of 1961 [720 ILCS 5/2-5])

"Corporal punishment" means hitting, spanking, swatting, beating, shaking, pinching, excessive exercise, exposure to extreme temperatures, and other measures that produce physical pain.

"Cot" means a comfortable, safe and child-sized alternative bed made of resilient, fire retardant, sanitizable fabric that is on legs or otherwise above the floor and can be stored to allow for air flow.

"Department" means the Illinois Department of Children and Family Services. (Section 2.18 of the Child Care Act of 1969 [225 ILCS 10/2.18])

"Discipline" means the process of helping children to develop inner controls so that they can manage their own behavior in socially acceptable ways.

"Disinfect" means to eliminate virtually all germs from inanimate surfaces through the use of chemicals or physical agents (e.g., heat). In the child care environment, a solution of ¼ cup household liquid chlorine bleach added to one gallon of water (or one tablespoon bleach to one quart of water) and prepared fresh daily is an effective disinfectant for environmental surfaces and other objects. A weaker solution of 1 tablespoon bleach to 1 gallon of cool water is effective for use on toys, eating utensils, etc. Commercial products may also be used.

"Extended capacity" means an addition of 4 school age children who may be accepted in accordance with 408.65(c). This allows the maximum capacity in a group day care home to reach 16.

"Family home" or "family residence" means the location or portion of a location where the applicant and his or her family reside, and may include basements and attics. It does not include other structures that are separate from the home but are considered part of the overall premises, such as adjacent apartments, unattached basements in multi-unit buildings, unattached garages, and other unattached buildings.

"Ground level" means that a child can step directly from the exit onto the ground, a sidewalk, a patio, or any other surface that is not above or below the ground.

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"Group day care home" means a family home which receives more than 3 up to 16 children for less than 24 hours per day. The number counted includes the family's natural, foster, or adopted children and all other persons under the age of 12. (Section 2.20 of the Child Care Act of 1969 [225 ILCS 10/2.20])

"Guardian" means the guardian of the person of a minor. (Section 2.03 of the Child Care Act of 1969 [225 ILCS 10/2.03])

"Infant" means a child through 12 months of age.

"Initial background check" means fingerprints have been obtained for a criminal history check, and the individual has cleared a check of the Statewide Automated Child Welfare Information System (SACWIS) and the Illinois Sex Offender Registry.

"License" means a document issued by the Department that authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Child Care Act of 1969.

"License applicant", for purposes of background checks, means the operator or persons with direct responsibility for daily operation of the facility to be licensed. (Section 4.4 of the Child Care Act of 1969 [225 ILCS 10/4.4])

"License study" means the review of an application for license, on-site visits, interviews, and the collection and review of supporting documents to determine compliance with the Child Care Act of 1969 and the standards prescribed by this Part.

"Licensed capacity" means the number of children the Department has determined the group day care home can care for at any one time, in addition to any children living in the home who are under the age of 12 years. Children age 12 and over on the premises are not considered in determining licensed capacity.

"Licensing representative" means a person authorized by the Department under Section 5 of the Child Care Act of 1969 to examine facilities for licensure.

"Member of the household" means a person who resides in a family home as evidenced by factors including, but not limited to, maintaining clothing and personal effects at the household address, or receiving mail at the household

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address, or using identification with the household address.

"Minor traffic violation" means a traffic violation under the laws of the State of Illinois or any municipal authority therein or another state or municipal authority that is punishable solely as a petty offense. (See Section 6-601 of the Illinois Driver Licensing Law [625 ILCS 5/6-601].)

"Parents", as used in this Part, means those persons assuming legal responsibility for care and protection of the child on a 24-hour basis; includes guardian or legal custodian.

"Permit" means a one-time only document issued by the Department of Children and Family Services for a 6-month period to allow the individuals to become eligible for a license.

"Persons subject to background checks" means:

- the operators of the child care facility;
- all current and conditional employees of the child care facility;
- any person who is used to replace or supplement staff; and
- any person who has access to children, as defined in this Section.

If the child care facility operates in a family home, the license applicants and all members of the household age 13 and over are subject to background checks, as appropriate, even if these members of the household are not usually present in the home during the hours the child care facility is in operation.

"Physician" means a person licensed to practice medicine in the State of Illinois or a contiguous state.

"Premises" means the location of the group day care home wherein the family resides and includes the attached yard, garage, basement and any other outbuildings.

"Preschool age" means children under 5 years of age and children 5 years old who do not attend full day kindergarten.

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"Program" means all activities provided for the children during their hours of attendance in the group day care home.

"Protected exit from a basement" means an exit that is separated from the remainder of the group day care home by barriers (such as walls, floors, or solid doors) providing one-hour fire resistance. The separation must be designed to limit the spread of fire and restrict the movement of smoke.

"Resource personnel" means physicians, nurses, psychologists, social workers, speech therapists, physical and occupational therapists, educators and other technical and professional persons whose expertise is utilized in providing specialized services to children with special needs.

"SACWIS" means the Statewide Automated Child Welfare Information System operated by the Illinois Department of Children and Family Services that is replacing the Child Abuse and Neglect Tracking System (CANTS).

"School age" means children 6 to 12 years of age and 5 year olds who are in full-day kindergarten.

"Special use areas" means areas of the home that may not be included in the measurement of the area used for child care. Special use areas include, but are not limited to, laundry rooms, furnace rooms, bathrooms, hazardous areas, and areas off-limits to children.

"Story" means that level of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.

"Street floor" means a story or floor level accessible from the street or from outside a building at ground level, with the floor level at the main entrance located not more than 4 risers above or below the ground level and arranged and utilized to qualify as the main floor.

["Substantiated violation" means that the licensing representative has determined, during a licensing complaint investigation or a monitoring or renewal visit, that the licensee has violated a licensing standard of this Part or the Child Care Act.](#)

"Swimming pool" means any natural or artificial basin of water intended for

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public swimming or recreational bathing which exceeds 2'6" in depth as specified in the Illinois Swimming Pool and Bathing Beach Act and Code (77 Ill. Adm. Code 820). The term includes bathing beaches and pools at private clubs, health clubs, or private residences when used for children enrolled in a child care facility.

"Wading pool" means any natural or artificial basin of water less than 2'6" in depth that is intended for recreational bathing, water play or similar activity. The term includes recessed areas less than 2'6" in depth in swimming pools that are designated primarily for children.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 408.10 Application For License

- a) A complete application shall be filed with the Department of Children and Family Services on forms prescribed and provided by the Department.
- b) [Contents of Application](#)
 - 1) A complete application shall include:
 - A+) a completed, signed and dated Application for Home License;
 - B2) a list of persons who will be working in the group day care home, including any substitutes and assistants, and members of the household age 13 and over;
 - C3) completed, signed and dated authorizations to conduct the background check for the applicant, each employee or person used to replace or supplement staff, and each member of the household age 13 and over;
 - D4) a completed, signed and dated Child Support Certification form;
 - E5) documentation that the applicant meets the qualifications for a caregiver in Section 408.45(e);
 - F6) the names, addresses and telephone numbers of at least 3 adults not

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related to the applicants, nor living in the household, who can attest to their character and suitability to provide child care; and

~~G7~~ a written hazard protection plan identifying potential hazards within the home and outdoor area accessible to the children in care. The written plan shall address the specific hazards and the adult supervision and physical means required to minimize the risks to children. Conditions to be addressed include, but are not limited to, traffic, construction, bodies of water accessible to the children, open stairwells, and neighborhood dogs.

2) For initial applications submitted after September 1, 2010, the applicant shall have completed at least 15 hours of pre-service training not more than one year prior to the application date, in accordance with Appendix G of this Part.

c) Fire Safety Inspection

1) For initial applications of group day care homes in multi-housing units, or single family dwellings in which care will be provided on more than grade level, the Department shall request a fire safety inspection from the Office of the State Fire Marshal (OSFM). OSFM shall submit its written recommendation to the supervising agency of the group day care home and to the applicant;

2) The fire safety inspection on single floor homes at grade with no unusual or complex code considerations shall be completed following the list of items for fire safety inspection in Appendix I by a licensing representative trained by OSFM to conduct that fire prevention inspection;

3) Prior to OSFM recommending issuance of a permit or a license, the day care home shall have written approval by OSFM or staff trained by OSFM, indicating the home meets fire safety requirements.

4) In order for a home to be licensed as a group day care home, a fire inspection report (Appendix I) must be completed using forms provided by the Department indicating that the home is safe.

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- ~~2) The fire inspection may be conducted by the licensing representative conducting the licensure study, staff of the private agency that supervises the group day care home, the local fire department or the Office of the State Fire Marshal.~~
- ~~A) For each new application received, the Department's Central Office of Licensing will notify the local fire prevention authorities and give them the opportunity to inspect the home applying for licensure and make recommendations on its suitability based on the standards prescribed by this Part.~~
- ~~B) Department licensing staff supervising licensed group day care homes shall keep a list of fire departments that receive this notification. For license applicants residing in areas not covered by a participating fire department, Department staff shall notify the Office of the State Fire Marshal.~~
- ~~C) Once notified, the fire prevention authority shall have 15 working days to return its recommendations to the Department. Any comments received by the Department shall be considered in the licensing study. Applicants must comply with all requirements of this Part, whether or not recommendations are received.~~
- ~~D) If the local fire prevention authority or OSFM does not conduct a fire inspection, the fire inspection report shall be completed by the Department licensing representative supervising the home.~~
- ~~3) All fire inspection reports must be completed on forms prescribed and provided by the Department.~~
- d4) Licensed group day care homes that fail to comply with all applicable local, municipal and State regulations may be prohibited from operating.
- ed) The license shall be issued when the standards prescribed by this Part have been met. Upon receipt of an application for a license, the Department shall conduct a license study to determine if the group day care home meets licensing standards. The licensing study shall be in writing and shall be reviewed and signed by the licensing supervisor and the licensing representative performing the study. A license may not be recommended without the receipt of at least three positive,

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written references, and a written study signed by the licensing representative and supervisor. The applicant shall receive a copy of the results of the on-site compliance review upon request.

fe) New Applications

1) A new application shall be filed when any of the following occurs:

A1) When an applicant or licensee seeks to reapply application for a license after it has been withdrawn, surrendered or denied and the applicant or licensee seeks to reapply;

B2) When there is a failure to submit a completed application within 14 days after a change of residence or change in the name of the licensee or the location of the group day care home;

3) When there is a change in the status of joint licensees, such as separation, divorce or death; or

C4) When 12 months have elapsed and the applicant seeks to reapply for a license after: ~~Not sooner than 12 months after~~

i) the Department has revoked or refused to renew a license; ~~and a new license is sought.~~

ii) the previous license has been surrendered with cause; or

iii) The Department has refused to issue a full license to a permit holder.

2) For the application to be considered timely and sufficient, a new application shall be completed, signed by the licensee and submitted to the supervising agency within 30 days after the following changes:

A) When there is a change in the name of the licensee, the supervising agency or the legal status from a social security number to Federal Employer Identification Number (FEIN); or

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B) When there is a change in the status of joint licensees, such as separation, divorce or death.

- f) ~~Written approval of the Department is required to effect changes in the license capacity, the area of the home used for child care, or the ages of children served in conformance with the requirements of Section 408.65. Approval will not be granted unless the day care home's current operation is in compliance with the standards prescribed by this Part.~~

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 408.15 Application for Renewal of License

- a) Application forms for license renewal shall be mailed to group day care home licensees by the Department 6 months prior to the expiration date of the license.
- b) The completed application shall be signed by the licensees and submitted to the Department at least 3 months prior to expiration of the current license, in order~~no later than 30 days from the date mailed to licensees~~ to be considered timely and sufficient.
- c) When a licensed group day care home seeks to change its name or location, a new application reflecting the changes must be completed, signed by the licensees and submitted to the Department at least 30 days~~3 months~~ prior to the effective date of the changes for the application to be considered timely and sufficient.
- d) *When a licensee has made timely and sufficient application for renewal of a license or a new license with reference to any activity of a continuing nature and the Department fails to render a decision on the application for renewal of the license prior to the expiration date of the license, the existing license shall continue in full force and effect for up to 30 days until the final Department decision has been made. The Department may further extend the period in which such decision must be made in individual cases for up to 30 days, if good cause is shown. [225 ILCS 10/5(d)]*
- e) Prior to renewal, the licensee shall be current with the annual 15 hours of required training in accordance with Appendix G.

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- f) At the time of license renewal, the supervising agency shall review the fire emergency, tornado/severe weather emergency, and hazard protection written plans. Any revision or enhancement shall be part of the licensing renewal process. Licensed homes that do not have a written hazard plan (see Section 408.10(b)(7)) shall develop a plan and submit it to the supervising agency prior to renewal.
- ge) Fire Safety Inspection
- 1) Fire safety inspections of homes licensed for multi-levels or multi-housing units shall be completed by OSFM or its designee;
 - 2) Fire safety inspection of homes licensed for a single floor with no unusual or complex code considerations shall be completed by a licensing representative trained by OSFM;
 - 3) The fire safety inspection shall be conducted in accordance with the requirements of Appendix I.
 - 1) In order for a home to be licensed as a group day care home, a fire inspection report (Appendix I) must be completed using forms provided by the Department indicating that the home is safe.
 - 2) The fire inspection may be conducted by the licensing representative conducting the licensure study, staff of the private agency that supervises the group day care home, the local fire department or the Office of the State Fire Marshal.
 - A) For each renewal application received, the Department's Central Office of Licensing will notify the local fire prevention authorities and give them the opportunity to inspect the home applying for licensure and make recommendations on its suitability based on the standards prescribed by this Part.
 - B) Department licensing staff supervising licensed group day care homes shall keep a list of fire departments that receive this notification. For license applicants residing in areas not covered by a participating fire department, Department staff shall notify the Office of the State Fire Marshal.

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- ~~C) Once notified, the fire prevention authority shall have 15 working days to return its recommendations to the Department. Any comments received by the Department shall be considered in the licensing study. Applicants must comply with all requirements of this Part, whether or not recommendations are received.~~
- ~~D) If the local fire prevention authority or OSFM does not conduct a fire inspection, the fire inspection report shall be completed by the Department licensing representative supervising the home.~~
- ~~3) All fire inspection reports must be completed on forms prescribed and provided by the Department.~~
- ~~4) Licensed day care homes that fail to comply with all applicable local, municipal and State regulations may be prohibited from operating.~~

hf) Upon receipt of the application for license renewal, the Department shall conduct a license study in order to determine that the group day care home continues to meet licensing standards. The licensing study shall be in writing and shall be reviewed and signed by the licensing supervisor and the licensing representative performing the study. The licensees shall receive a copy of the results of the on-site compliance review upon request.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 408.20 Provisions Pertaining to the License

- a) The licensees shall be a primary caregiver or caregivers who reside in the family home and meet the requirements of this Part. Further, the licensees shall be an individual, a man and woman married to each other or 2 persons related by blood, marriage, or adoption who reside in the family home.
- b) A group day care home license is valid for three years unless revoked by the Department or voluntarily surrendered by the licensee.
- c) The number and ages of children under age 12 cared for in the group day care home at any one time shall be in compliance with provisions in Section 408.65. Changes in the license capacity or the ages of children served shall be with written approval of the supervising agency.

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- d) The age limits specified on the license shall be observed, unless the licensee has submitted a transition plan to the Department in accordance with Section 408.65(e) in order to keep members of a sibling group together, and the Department has approved the plan.
- e) Child care may be provided only in those areas specified on the license.
- f) The license is valid only for the family residence of the licensee and shall not be transferred to another person or other legal entity.
- g) The license shall not be valid for a name or an address other than the name and address on the license.
- h) No group day care home provider shall be licensed to provide care for more than 18 hours within a 24-hour period.
- i) The license shall be prominently displayed in the home at all times.
- j) There shall be no fee or charge for the license.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 408.25 Provisions Pertaining to Permits

- a) A permit shall not be issued until:
 - 1) The application for license has been completed and signed by the applicants and submitted to the Department;
 - 2) The background checks required by Section 408.40 have been completed and the results of the background check have been received for the operator of the group day care home;
 - 3) Character references have been requested regarding the primary caregivers, and at least 2 favorable references have been received;
 - 4) Medical reports as required in Section 408.35(~~f~~) have been received by the Department for all caregivers and assistants;

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- [5\)](#) [For initial applications submitted after September 1, 2010, the applicant for license has completed at least 15 hours of pre-service training, not more than 1 year prior to application, in accordance with Appendix G;](#)
- [65\)](#) The applicant who is the primary caregiver has been certified in first-aid, the Heimlich maneuver, and infant/child cardiopulmonary resuscitation (CPR) in accordance with Section 408.35([ig](#));
- [76\)](#) A personal visit to the home by a licensing representative has been completed. The purpose of this visit is to determine compliance with all the licensing requirements except the requirements for remaining character references, medical examination reports, and well water tests compliance that may be complied with within the 6 month period covered by the permit. However, when well water tests are required, applicants must agree to boil all drinking and cooking water and to provide only bottled water for children under 15 months of age until the test results are received;
- [87\)](#) Proof of public liability insurance as required by Section 408.35([jh](#)) (such proof may consist of, but is not limited to, a copy of an insurance policy, binder or certificate; or a letter from the insurance carrier);
- [98\)](#) Plan developed for emergency medical care as required by Section 408.70;
- [109\)](#) Furnishings and equipment have been acquired for the number of children to be served during the 6 month permit period in accordance with Appendix C and D;
- [1140\)](#) Medical reports and character references are on file for employed staff at the home; and
- [12\)](#) [A written fire safety inspection and approval has been completed in accordance with Section 408.10\(c\).](#)
- [1344\)](#) A written plan has been submitted to the licensing representative that indicates that requirements for a license shall be met within the 6 month permit period.

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- b) A permit shall not be issued retroactively.
- c) A permit shall not be transferred to another person or other legal entity.
- d) A permit shall not be valid for a name or address different from the name and address shown on the issued permit.
- e) A permit shall not be renewable.
- f) A current permit shall be [prominently displayed](#) available in the group day care home at all times while the home is operating under a permit.
- g) A license shall be issued at any time within the 6 month period covered by the permit provided that the group day care home achieves and maintains compliance with the Department's licensing standards.
- h) The group day care home shall adhere to the provisions or restrictions specified on the permit.
- i) There shall be no fee or charge for the permit.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 408.30 General Requirements for Group Day Care Homes

- a) The physical facilities of the home, both indoors and outdoors, shall meet the following requirements for safety to children.
 - 1) The home shall have a first aid kit consisting of adhesive bandages, scissors, non-permeable gloves, Poison Control Center telephone number (1-800-222-1222 [or 1-800-942-5969](#)), thermometer, sterile gauze pads, adhesive tape, tweezers, first aid cream and mild soap.
 - 2) The kitchen shall be equipped with a readily accessible and operable fire extinguisher rated for Class A, B, and C fires and a flashlight in working order.
 - 3) [All electrical](#) ~~Electrical~~ outlets that are [in areas used by the day care children within reach of children under 5 years of age](#) shall have protective

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coverings. There shall be no exposed or uninsulated wiring.

- 4) The home shall be equipped with a minimum of one approved smoke detector in operating condition on every floor level, including basements and occupied attics.
 - A) A smoke detector in operating condition shall be within each room~~15 feet of rooms~~ where day care children nap or sleep. *The detector shall be installed on the ceiling and at least 6 inches from any wall, or on a wall located between 4 and 6 inches from the ceiling.* In addition, there shall be at least one detector at the beginning and end of each separate corridor or hallway 200 feet or more in length in any occupied story.
 - B) *In any facility constructed after December 31, 1987, or which undergoes substantial remodeling of its structure or wiring system after that date, the smoke detectors shall be permanently wired into the structure's AC power line, and, if more than one detector is required to be installed, the detectors shall be wired so that the activation of one detector will activate all the detectors in the facility unit.* For purposes of this subsection (a)(4), "substantial remodeling" represents more than 15 percent of the replacement cost of the group day care home.
 - C) *Compliance with any applicable federal, State or local law, rule or building code which requires the installation and maintenance of smoke detectors in a manner different from this Section, but providing a level of safety for occupants which is equal to or greater than that provided by this Section, shall be deemed to be compliance with this Section.* (Section 2 of the Facilities Requiring Smoke Detectors Act [425 ILCS 10/2])
- 5) Carbon Monoxide Detector
 - A) A home that has an attached garage and/or relies on combustion of fossil fuel for heating, ventilation, or hot water shall be equipped with a minimum of one approved carbon monoxide detector in operating condition within 15 feet of rooms where children nap or sleep.

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- B) *The carbon monoxide detector may be combined with smoke detector devices, provided that the combined unit complies with subsection (a)(4) and this subsection (a)(5). [430 ILCS 135/10]*
- 6) The home and indoor space shall be maintained in good repair and shall provide a safe, comfortable environment for the children.
- 7) A draft-free temperature of 65°F to 75°F shall be maintained during the winter months or heating season. For infants and toddlers, a temperature of 68°F to 82°F shall be maintained during the summer or air-conditioning months. When the temperature in the home exceeds 78°F, measures shall be taken to cool the children. Temperatures shall be measured at least 3 feet above the floor.
- 85) Fixed space heaters, fireplaces, radiators, and other heating sources in areas occupied by children shall be separated by partitions or a sturdy barrier to prevent contact. Portable space heaters may not be used in a group day care home during the hours that child care is provided.
- 96) A facility, in which a wood-burning stove or fireplace has been installed and that is used during the hours that child care is provided, shall provide a written plan of how the stove or fireplace will be used and what actions will be taken to ensure the children's safety when in use.
- 107) In one and 2 family dwellings, children under 30 months of age shall be housed and cared for on the second floor or below. In other residential buildings, children under 30 months of age shall be housed and cared for only in areas in which OSFM states that the Office of the State Fire Marshal or local agencies authorized by the Office of the State Fire Marshal to conduct inspections on its behalf state, in writing, that the combination of remote exits, fire detection, fire suppression, and/or automatic sprinkler systems render the residence safe for the care of infants and toddlers.
- 118) No area accessible only by a ladder or folding stairs or through a trap door shall be used for sleeping or napping.
- 129) When the basement area may be used for child care, 2 exits shall be

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provided.

- A) At least one exit shall be a basement exit via a door directly to the outside (without traversing any other level of the home) or a protected exit from a basement via a door or stairway that allows unobstructed travel directly to the outside of the building at street or ground level. The stairway may not be more than 8 feet high.
- B) A second exit may be a window.
- i) The window shall be operable from the inside without the use of tools and provide a clear opening not less than 20 inches in width, 24 inches in height, and 5.7 square feet in area.
- ii) If the window is used as a second exit, the bottom of the window opening shall be no more than 44 inches above the floor.
- iii) When the bottom of the window opening used as a second exit is more than 24 inches from the floor, there shall be a permanently affixed, sturdy ramp or stairs located below the window to allow speedy access in the event of an emergency.
- C) If the basement area does not meet these existing requirements, the basement may be used for child care only with the prior written approval of ~~OSFM~~the Office of the State Fire Marshal or local agencies authorized by the Office of the State Fire Marshal to conduct inspections on its behalf.
- ~~1310~~) All walls and surfaces shall be free from chipped or peeling paint.
- ~~1411~~) Walls of rooms that children use shall be maintained free of lead paint, carpeting, fabric or plastic products. Flammable or combustible artwork attached to the walls shall not exceed 20% of the wall area.
- ~~1512~~) Furniture and equipment shall be kept in safe repair.

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- ~~1613~~) First aid supplies, medication, cleaning materials, poisons, sharp scissors, plastic bags, sharp knives, cigarettes, matches, lighters, flammable liquids, and other hazardous materials shall be stored in places inaccessible to children. Hazardous items for infants and toddlers also include items that can cause choking, including but not limited to: coins, balloons, safety pins, marbles, Styrofoam (trademark) and similar products, and sponge, soft rubber or soft plastic toys that can be bitten or broken into small pieces.
- ~~1714~~) Tools and gardening equipment shall be stored in locked cabinets, if possible, or in places inaccessible to all children.
- ~~15)~~ ~~Exit doors shall be kept clear of equipment and debris at all times.~~
- ~~1816~~) There shall be an operable telephone available on the premises of the licensee. The number of the Poison Control Center (1-800-222-1222 or 1-800-942-5969) and other emergency numbers shall be posted in an area that is readily available in an emergency.
- ~~1917~~) Free hanging cords on blinds, shades and drapes shall be tied or otherwise kept out of reach of children.
- ~~18)~~ ~~Carbon Monoxide Detector~~
- ~~A)~~ ~~A home that has an attached garage and/or relies on combustion of fossil fuel for heating, ventilation, or hot water shall be equipped with a minimum of one approved carbon monoxide detector in operating condition within 15 feet of rooms where children nap or sleep.~~
- ~~B)~~ ~~The carbon monoxide detector may be combined with smoke detector devices, provided that the combined unit complies with subsection (a)(4) and this subsection (a)(18). [430 ILCS 135/10]~~
- b) Escape routes from the group day care home shall be designed and maintained for swift and safe exiting in the event of an emergency.
- 1) All corridors and escape routes from the group day care home shall be kept clear of obstructions.

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- 2) Dead-end paths or corridors within the group day care home shall be a maximum of 20 feet in length.
 - 3) All escape routes from the group day care home shall have operable lighting. The lighting shall be activated during any hours of operation when natural lighting is reduced to a level that prohibits visibility within the escape route.
 - 4) Bathroom doors in areas accessible to day care children shall allow staff to open the door from the outside of the bathroom if necessary.
 - 5) All closet doors shall be able to be opened from inside of the closet without the use of a key.
 - 6) There shall be no more than 2 releasing devices (door knobs, hand-operated deadbolts, thumb-turn locks, etc.) on any exit door or exit window.
 - 7) Exit doors and exit windows shall be operable without the use of a key, a tool or special knowledge to open the door from the inside and exit to the outside.
 - 8) Exit doors and exit windows shall be kept clear of equipment and debris at all times.
 - 9) The licensee shall hold monthly fire safety inspections of the group day care home.
 - 10) The licensee or staff in the home shall inspect the group day care home daily, prior to arrival of children, ensuring that escape routes are clear and that exit doors and exit windows are operable.
 - 11) A log of these monthly and daily inspections shall be maintained for at least one year, and shall be available for review by the licensing representative. The log shall reflect, at minimum, the date and time of each inspection and the full name of the person who conducted it.
- cb) The licensee shall identify those areas in the home used for child care. The

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identified areas minus any special use areas shall be measured to calculate the square footage available for child care. There shall be:

- 1) A minimum of 35 square feet of floor space for each child in care; and
- 2) An additional 20 square feet of floor space for each child under 30 months of age when the play area is the same as the sleep area. However, if portable bedding is used for napping, then removed, the licensing representative shall approve the use of only 35 square feet of space for each child if the applicant/licensee has adequate storage space for the bedding materials and the bedding materials are removed before and after nap time.

de) No person may smoke tobacco in any area of the group day care home in which day care services are being provided to children, while those children are present on the premises. In addition, no person may smoke tobacco while providing transportation, in either an open or enclosed vehicle, to children who are receiving child care services. Nothing in this subsection prohibits smoking in the home in the presence of a person's own children or in the presence of children to whom day care services are not then being provided. [225 ILCS 10/5.5]

ed) Indoor space shall consist of a clean, comfortable environment for children.

- 1) The group day care home shall be well-ventilated, free from observable hazards, properly lighted and heated, and free of fire hazards.
- 2) The dwelling shall be kept clean, sanitary, and in good repair.
- 3) There shall be provision for isolating a child who becomes ill or who is suspected of having a communicable, infectious or contagious disease.
- 4) When used for child care, floors shall have protective covering such as, but not limited to, tile, carpet, linoleum. Paint or sealer alone is not acceptable as a protective covering.
- 5) When children under 30 months of age are in care, stairs leading to second levels, attics or basements shall be fitted with a sturdy gate, door or other barrier to prevent the children's access to the stairs without adult supervision. Such a barrier shall be moveable enough so as not to impede

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evacuation, if necessary.

- | [fe](#)) The kitchen shall be clean, equipped for the preservation, storage, preparation and serving of food, and reasonably safe from hazards.
- | [gf](#)) Garbage and refuse containers used to discard diapering supplies, food products or disposable meal service supplies in areas for child care shall be disinfected daily unless plastic liners are used and disposed of daily.
- | [hg](#)) A safe and sanitary water supply shall be maintained. If a private water supply is used instead of an approved public water supply, the applicant shall supply written records of current test results indicating the water supply is safe for drinking. New test results must be provided prior to [renewal of licenserelicensing](#). If nitrate content exceeds 10 parts per million, bottled water must be used for children under 15 months of age.
- | [ih](#)) Hot and cold running water shall be provided. When children under age 10 or who are developmentally disabled are cared for, the maximum hot water temperature from all faucets of sinks designated for children washing hands shall be no more than 115° Fahrenheit. Caregivers shall always test the hot water before allowing children less than 5 years of age to use the water.
- | [ji](#)) The group day care home shall provide one toilet for each 10 persons or portion thereof who are present during the hours the group day care home is in operation. These 10 persons include caregivers, child care assistants, members of the household and children other than those under 30 months of age for whom a potty chair is provided.
- | [kj](#)) There shall be a minimum of 75 square feet of outdoor space per child for the total number of children using the area at any one time. At least 25% of the required space shall be on the premises of the group day care home. The remainder may be a public park, playground or other outdoor recreation area within walking distance (1000 feet) of the group day care home provided the caregiver or an adult assistant accompanies children to this outdoor area.
- | [lk](#)) There shall be safe outdoor space for active play.
 - 1) Space shall be provided for play in yards, nearby parks or playgrounds under adult supervision.

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- 2) Space shall be protected by physical means (e.g., fence, tree line, chairs, ropes, etc.) against all water hazards, including, but not limited to, pools, ponds, standing water, ornamental bodies of water, and retention ponds, regardless of the depth of the water, and by adult caregiver supervision at times when children in care are present. Other hazards, such as, but not limited to, heavy traffic and construction, shall be inaccessible to children in care through a physical barrier and adult supervision. Further, outdoor space shall be partitioned or supervised in such a manner that young children are not endangered by the activities of older children.
- 3) Play areas shall be well drained and safely maintained.
- 4) All pieces of outdoor equipment used by children 5 years of age and younger on the day care premises that is purchased or installed on or after April 1, 2001 shall meet the following standards to guard against entrapment or situations that may cause strangulation.
 - A) Openings in exercise rings shall be smaller than 4½ inches or larger than 9 inches in diameter.
 - B) There shall be no openings in a play structure with a dimension between 3½ inches and 9 inches (except for exercise rings). Side railings, stairs and other locations that a child might slip or climb through shall be checked for appropriate dimensions.
 - C) Distances between vertical slats or poles, where used, must be 3½ inches or less (to prevent head entrapment).
 - D) No opening shall form an angle of less than 55 degrees unless one leg of the angle is horizontal or slopes downward.
 - E) No opening shall be between ¾ inch and one inch in size (to prevent finger entrapment).
- 5) The use of a trampoline by children in care is prohibited.
- 6) In-ground swimming pools located in areas accessible to children shall be fenced. The fence shall be at least 5 feet in height and secured by a locked

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gate. Group day care homes that are licensed or have a permit on April 1, 2001 and are in compliance with the requirement for a 3½ foot fence shall be considered in compliance with the fence requirement.

- 7) All above-ground pools shall have non-climbable sidewalls that are at least 4 feet high or shall be enclosed with a 5 foot fence that is at least 36 inches away from the pool's side wall and secured with a locked gate. When the pool is not in use, steps shall be removed from the pool or otherwise protected to insure the pool cannot be accessed. Group day care homes that are licensed or have a permit on April 1, 2001 and are in compliance with the requirement for a 3½ foot fence shall be considered in compliance with the fence requirement.
 - 8) Portable wading pools shall be emptied daily and disinfected before being air-dried.
 - 9) All hot tubs shall have securely locked covers or otherwise be inaccessible to children.
 - 10) Children shall be closely supervised by the caregiver when public parks or playgrounds are used for play, during play and while traveling to and from the area.
 - 11) Supervision shall be provided during outdoor play by caregivers who meet the requirements of Section 408.45 of this Part.
- | [m\)](#) A caregiver who relies upon outdoor space shared with other residents in a multiple family dwelling shall have a written agreement with the other residents or the owners of the outdoor area authorizing the use of the space by the group day care home and the children cared for.
- | [nn\)](#) Insect and rodent control shall be maintained.
- 1) All outside doors except those with operable self-closing devices, operable windows, and other openings used for ventilation shall be screened.
 - 2) Chemicals for insect and rodent control shall be applied in minimum amounts and shall not be used when children are present. Over-the-counter products may be used only according to package instructions.

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Commercial chemicals, if used, shall be applied by a licensed pest control operator and shall meet all standards of the Department of Public Health (Structural Pest Control Code, 77 Ill. Adm. Code 830). A record of any pesticides used shall be maintained.

- on)** Healthy household pets that present no danger to children are permitted.
- 1) A licensed veterinarian shall certify that the animals are free of diseases that could endanger the children's health and that dogs and cats have been inoculated for rabies.
 - 2) If certification is not available, animals shall be confined at all times in an area inaccessible to children.
 - 3) There shall be careful supervision of children who are permitted to handle and care for the animals.
 - 4) Immediate treatment shall be available to any child who is bitten or scratched by an animal.
 - 5) The presence of monkeys, ferrets, turtles, iguanas, psittacine birds (birds of the parrot family) or any wild or dangerous animal is prohibited in areas accessible to children during the hours the group day care home is in operation. Wild and dangerous animals include, but are not limited to, venomous and constricting snakes, undomesticated cats and dogs, raccoons, and other animals determined to be dangerous by local public health authorities.
- pe)** The Department shall request that the Illinois Department of Public Health or a local health department authorized by it and/or the Office of the State Fire Marshal or the local fire department authorized by it inspect the group day care home and its premises whenever the Department has reason to believe that conditions in the home or its premises pose potential health or safety hazards to the children cared for in the home.
- qp)** There shall be written response plans for fire and tornado~~immediate evacuation in case of~~ emergency. These plans shall be familiar to all caregivers and assistants in the group day care home.

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- 1) The fire evacuation plan shall identify the exits from each area used for child care and shall specify the evacuation route.
 - 2) The fire evacuation plan shall identify a safe assembly area outside of the home. It shall also identify a near-by indoor location for post-evacuation holding if needed.
 - 3) The fire evacuation plan shall require that the home be evacuated before calling the local emergency number 911.
 - 4) Fire drills shall be conducted monthly for the purpose of removing children from the group day care home as quickly as possible during an emergency.
 - 5) Tornado drills shall be conducted monthly for the purpose of getting children accustomed to moving to a position of safety in event of a tornado. ~~Records shall be maintained of the dates and times required drills are conducted.~~ The alphabetic card file required by Section 408.120(a)(2) shall accompany the caregiver during the drills.
 - 6) The written tornado plan shall specify what actions will be taken in the event of tornado or other severe weather warning, including designation of those areas of the group day care home to be used as safe spots.
 - 7) Fire and tornado drills shall be recorded on forms prescribed by the Department and maintained for a period of 3 years.
- rf) In the event of a fire, the group day care home shall be evacuated immediately and the children's safety insured before calling the fire department or attempting to combat the fire.
- sf) *Handguns are prohibited on the premises of the group day care home except in the possession of peace officers or other adults who must possess a handgun as a condition of employment and who reside in the group day care home.*
- ts) *Any firearm, other than a handgun in the possession of a peace officer or other person as provided in subsection (sf), shall be kept in a disassembled state, without ammunition, in locked storage in a closet, cabinet, or other locked storage facility inaccessible to children.*

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- 1) *Ammunition for such firearms shall be kept in locked storage separate from that of the disassembled firearms, inaccessible to children.*
- 2) *The operator of the group home shall notify the parents or guardian of any child accepted for care that firearms and ammunition are stored on the premises. The operator shall also notify the parents or guardian that such firearms and ammunition are in locked storage inaccessible to children (Section 7 of the Act). Such notification need not disclose the location where the firearms and ammunition are stored.*
- u) A group day care home operator relying upon a cooperative or lending arrangement to meet the equipment requirements of this Part shall provide a copy of a written agreement specifying which equipment required by this Part is covered by the agreement. Further, the operator shall demonstrate to the satisfaction of the Department that the equipment covered by the agreement is both available and utilized by the group day care home as required by this Part.
- v) Operation of other business on the premises must not interfere with the care of children.
- w) A group day care home may not house bedridden or chronically ill persons except by permission of the Department. The Department shall grant such permission unless the person has a reportable contagious or communicable disease or requires care that adversely affects the ability of the caregiver to supervise children.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 408.35 General Requirements for Group Day Care Home Family

- a) Each person subject to background checks, as defined in Section 408.5, shall authorize the background check required by 89 Ill. Adm. Code 385 (Background Checks) and be cleared in accordance with the requirements of Part 385.
- b) When notified by the Department that an employee, member of the household or other person in frequent contact with children at the facility is the subject of a formal investigation for child abuse or neglect pursuant to the Abused and Neglected Child Reporting Act [325 ILCS 5], the licensee shall take reasonable action to insure that the employee or other person is restricted from contact with

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children whose care has been entrusted to the facility during the pending investigation. Such reasonable action includes, but is not limited to, barring or removing the person from the facility or assuring that another adult is always present when the subject of the investigation is in contact with children.

- c) The licensee shall be present in the home when children are in attendance unless a qualified substitute caregiver, per Section 408.55, is present.
- d) Licensees and other adult members of the household in contact with group day care children shall be stable, law abiding, responsible, mature individuals.
- e) Members of the household who have contact with the children in care shall treat them with respect, courtesy, and patience.
- f) The caregivers and all members of the household shall provide medical evidence that they are free of communicable disease that may be transmitted while providing child care; and, in the case of caregivers, that they are free of physical or mental conditions that could interfere with child care responsibilities. The medical report for the caregivers shall be valid for 3 years.
- g) Caregivers and members of the household shall have a tuberculin skin test administered by the Mantoux method in accordance with the rules of the Department of Public Health (77 Ill. Adm. Code 690.720).
- h) Should the caregivers or any member of the household be diagnosed as having a communicable disease for which isolation is required by the Department of Public Health (IDPH) or local health department, the group day care home shall not provide child care until notified by the public health agency that the infectious period has elapsed and that child care may resume. Further, if a child care assistant or substitute who does not reside in the group day care home has been diagnosed as having a communicable disease for which isolation is required, that person shall be barred from the home until the presence of such person is authorized by the IDPH or the local health department.
- i) During hours of operation of the group day care home, there shall be at least one person on the premises certified in first aid, the Heimlich maneuver and cardiopulmonary resuscitation (CPR) by the American Red Cross, the American Heart Association or other entity approved by the Illinois Department of Public Health. CPR certification shall be for the age range of children in care. The

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caregivers shall have on file current certificates attesting to the training.

- j) The operators of the group day care home shall carry public liability insurance in the single limit minimum amount of \$100,000 per occurrence.
- k) Persons, including members of the household, counted in the staff-to-child ratio required by Section 408.65 must be present, awake and free from responsibilities other than those directly related to the care and supervision of children when children are present, except as allowed by Section 408.115 for night care. Responsibilities that are directly related to the care and supervision of children ~~These responsibilities~~ may include light housekeeping to maintain the areas wherein child care is provided.
- l) Caregivers, assistants and other persons shall not ~~smoke or~~ consume alcohol in the presence of children. A caregiver or child care assistant who appears to be under the influence of alcohol or other drug shall not have responsibility of the care of children.
- m) If the group day care home receives children for night-time care, the caregiver may sleep while children are present if the caregiver and the children sleep on the same floor (level) of the residence and the children's bedrooms are within hearing distance of the caregiver's bedroom.
- n) No person shall smoke tobacco in the group day care home while services are being provided to children. In addition, no person shall smoke tobacco while providing transportation, in either an open or enclosed motor vehicle, to children who are receiving child care services (see PA 95-17 and 225 ILCS 10/5.5).
- o) The licensee shall successfully complete a Department approved basic course of 6 or more clock hours in providing care to children with disabilities. Refer to Appendix G for basic course requirements. The licensee shall have on file a certificate attesting to the successful completion of the training.
 - 1) Current license holders shall complete this training within 36 months from November 15, 2003.
 - 2) New licensees shall complete this training within 36 months from the issue date of the initial license.

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- 3) A licensee who has completed training prior to November 15, 2003 may have that training approved as meeting the provisions of this Section. A certificate of training completion and a description of the course content must be submitted to the Department for approval.
- e) ~~Caregivers obtaining clock hours in excess of the required 15 clock hours per year may apply up to 5 clock hours to the next year's training requirements.~~
- p) Any children under age 12 living in the home who are receiving home schooling shall be counted in the maximum of 12 children in Section 408.65(a) and (b), unless another parent or caregiver is providing the schooling apart from the day care area and the caregiver has no responsibility for the care or supervision or schooling of the children during the hours home day care is provided.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 408.45 Caregivers

- a) The caregiver is responsible for the day-to-day operation of the group day care home in accordance with the standards prescribed in this Part.
- b) The caregiver or a designated child care assistant meeting the requirements of this Section shall be at the group day care home at all times that the group day care home is in operation, except when transporting children or accompanying them on field trips.
- c) The caregivers in a group day care home shall be at least 21 years of age.
- d) The caregivers shall have a high school diploma or equivalency certificate.
- e) In addition to meeting the requirements of Sections 408.35 and 408.40 the caregiver in a group day home shall have achieved:
- 1) One year (1560 clock hours) child development experience in a licensed day care home, nursery school, kindergarten, or licensed day care center plus 6 semester or equivalent quarter hours in courses related directly to child care and/or child development from an accredited college or university;

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- 2) One year (30 semester hours or 45 quarter hours) of credit from an accredited college or university with 6 semester or equivalent quarter hours related directly to child care and/or child development; or
 - 3) Completion of a credentialing program approved in accordance with Appendix F of this Part.
- f) The caregivers shall complete 15 clock hours of in-service training per calendar year in accordance with the requirements in Appendix G.
- 1) Such training may be derived from programs offered by any of the entities identified in Appendix G.
 - 2) Courses or workshops to meet this requirement include, but are not limited to, those listed in Appendix G.
- g) [Caregivers obtaining clock hours of training in excess of the required 15 clock hours per year may apply up to 5 clock hours to the next year's training requirements.](#)
- hg) The records of the group day care home shall document the continuing education in which the caregiver has participated, and these records shall be available for review by the Department.
- ih) Through interaction with the licensing representative, children, parents or guardian of children in care and operation of the group day care home in accordance with standards prescribed by this Part, caregivers shall exhibit competence in the following specific areas:
- 1) Knowledge of basic hygiene, safety, and nutrition;
 - 2) The ability to relate comfortably with parents and to communicate with them on differences in caregiving methods, values, and goals;
 - 3) The ability to communicate with children;
 - 4) The ability to set realistic controls for children and to enforce these without harshness or physical abuse;

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- 5) Knowledge of the children's need to explore and manipulate and the willingness to provide and maintain a home where children can enjoy living and learning:-
- 6) Using developmentally appropriate behavior management techniques that do not constitute corporal punishment of children.
- ii) The caregivers shall be responsible for the planning and supervision of the program and activities of the children; orienting child care assistants and substitutes to the operation of the group day care home; on-site supervision of child care assistants; and in-service training totaling a minimum of 15 clock hours per year for the child care assistants. Orientation and training may be provided by the primary caregivers or outside resource persons and shall include recognizing and reporting child abuse or neglect, licensing standards prescribed by this Part, first aid, health and sanitation, fire prevention and safety procedures, special health, developmental, or nutritional needs of children cared for in the group day care home.
- kj) The caregivers may not work or be employed outside the home during the hours that child care is being provided. This restriction does not apply to spouses qualifying as caregivers, provided one of them is in the home during the hours that child care is being provided. Outside employment during hours that child care is not being provided shall not interfere with child care.
- lk) The caregiver shall be awake, alert, and able to supervise the children when providing care, except as allowed by Section 408.115 for night care.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 408.60 Admission and Discharge Procedures

- a) No child served in a day care facility shall remain on the premises for more than 12 hours in any 24-hour period unless the parent's employment schedule requires more than 12 hours of day care. Regardless of the parent's ~~employment~~ education, or training schedule, at no time shall children cared for in a day care facility remain on the premises for more than 18 consecutive hours.
- b) Prior to acceptance of a child for care, the caregiver shall require that the parents or guardian accompany the child to the home to become acquainted with the

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caregiver and with the service to be provided.

- c) No child under 6 years of age may be admitted to the group day care home unless the health examination, complete with lead risk assessment if the child resides in an area defined as low risk by the Illinois Department of Public Health, or a screening for lead poisoning if the child resides in an area defined as high risk by the Illinois Department of Public Health (see 77 Ill. Adm. Code 845, Lead Poisoning Prevention Code), has been completed as required by Department of Public Health rules at 77 Ill. Adm. Code 665, Child Health Examination Code.
- d) The caregiver shall require that the parent or guardian provide a certified copy of the child's birth certificate. The caregiver:
- 1) Shall provide a written notice to the parent or guardian of a child to be enrolled for the first time that within 30 days after enrollment the parent or guardian shall provide a certified copy of the child's birth certificate or other reliable proof of identity and age of the child.
 - A) The caregiver shall promptly make a copy of the certified copy and return the original certified copy to the parent or guardian.
 - B) If a certified copy of the birth certificate is not available, the parent or guardian must submit a passport, visa or other governmental documentation as proof of the child's identity and age and an affidavit or notarized letter explaining the inability to produce a certified copy of the birth certificate. [325 ILCS 50/5]
 - C) The notice to parent or guardian shall also indicate that the caregiver is required by law to notify the Illinois State Police or local law enforcement agency if the parent or guardian fails to submit proof of the child's identity within the 30 day time frame.
 - 2) Shall notify the Illinois State Police or local law enforcement agency of the parent's failure to submit a certified copy of the child's birth certificate or other reliable proof of identity. The caregiver shall also notify the parent or guardian in writing that the Illinois State Police or local law enforcement has been notified as required by law and that the parent or guardian has 10 additional days to comply by submitting the required documentation. [325 ILCS 50/5]

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3) *Shall report to the Illinois State Police or local law enforcement agency any affidavit received which appears inaccurate or suspicious in form or content. [325 ILCS 50/5]*

4) *Shall flag the record of a child enrolled at the day care who is reported by the Illinois State Police as a missing person, and shall immediately report to the Illinois State Police any request concerning flagged records or knowledge as to the whereabouts of any missing child. [325 ILCS 50/5]*

ee) The parents or guardian shall be permitted to visit the home, without prior notice, during the hours their children are in care.

fd) The caregivers shall conduct a daily, preadmissions screening to determine if the child has obvious symptoms of illness. If symptoms of illness are present, the caregiver shall determine whether or not to provide care for the child, depending upon the apparent degree of illness, other children present, and facilities available to provide care for the ill child in accordance with the requirements of Section 408.70.

ge) Children with diarrhea and those with rash combined with fever (oral temperature of 100 degrees Fahrenheit or higher) shall not be admitted to the group day care home while these symptoms persist, and shall be removed as soon as possible should these symptoms develop while the child is in care.

hf) A child shall be discharged from the facility only to the child's parents or guardian or to a person designated in writing by the parents or guardian to receive the child.

1)g) The caregiver shall refuse to release a child to any person, whether related or unrelated to the child, who has not been authorized, in writing, by the parents or guardian to receive the child.

2) Persons not known to the caregiver shall be required to provide a driver's license (with photo) or photo identification card issued by the Illinois Secretary of State to establish their identity prior to a child's release to them.

3)h) The facility shall maintain a list of persons designated, in writing, by the parents, or guardian to whom the facility can be expected to discharge the

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child at least once per week. These persons, in addition to the parents or guardian, shall constitute the primary list of persons to whom the child may be released.

- 4) In addition, the facility shall maintain a contingency list of persons designated, in writing, by the parents or guardian to whom the child may be released less frequently than once per week. When the child is released to a person on the contingency list, the facility shall maintain a record of the person to whom the child was released, the date and time that the child was released, and the manner that the child left the facility (whether on foot, by passenger car, by taxicab or other means of transportation).
- i) Other discharge provisions of this Section notwithstanding, a child leaving the group day care home to attend school shall be released in accordance with the written authorization of the parents or guardian. Such authorization shall include the time that the child is to be released and the means of transportation the child is to use.
- j) All group day care homes shall have a written policy that explains the actions the provider will take if a parent or guardian does not retrieve, or arrange to have someone retrieve, his or her child at the designated, agreed upon time. The policy shall consist of the provider's expectations, clearly presented to the parent or guardian in the form of a written agreement that shall be signed by the parent or guardian, and shall include at least the following elements:
- 1) The consequences of not picking up the children on time, including:
 - A) Amount of late fee, if any, and when those fees begin to accrue;
 - B) The degree of diligence the provider will use to reach emergency contacts, e.g., number of attempted phone calls to parents and emergency contacts, requests for police assistance in finding emergency contacts; and
 - C) Length of time the facility will keep the child beyond the pick-up time before contacting outside authorities, such as the child abuse hotline or police.
 - 2) Emphasis on the importance of having up-to-date emergency contact

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numbers on file.

- 3) Acknowledgement of the provider's responsibility for the child's protection and well-being until the parent or outside authorities arrive.
 - 4) A reminder to staff that the child is not responsible for the situation. All discussions regarding these situations shall be with the parent or guardian, never with the child.
- k) The daily list of children in care shall be readily accessible in case of emergency evacuations and fire drills.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 408.85 Program

- a) The caregiver and parent shall discuss the child's health, development, behavior and activities to ensure consistency in planning for the child.
- b) The program shall include opportunities for a child to have free choice of activities to play alone, if desired, or with one or several chosen peers.
- c) The facility shall provide a basic program of activities geared to the age levels and developmental needs of the children served. The daily program shall provide:
 - 1) Informal activities, providing a family atmosphere that promotes the physical and emotional well-being of the individual;
 - 2) Encouragement for children to participate in age appropriate household routines such as preparing food, setting tables, and cleaning up;
 - 3) Regularity of such routines as eating, napping, and toileting with sufficient flexibility to respond to the needs of individual children;
 - 4) A balance of active and quiet activity;
 - 5) Daily indoor and outdoor activities in which children make use of both large and small muscles;

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- 6) Occasional trips and activities away from the facility (frequency to be determined by the caregiver);
 - 7) A supervised nap period for children under six years of age who remain five or more hours. This nap period for the group should not normally exceed two and one-half hours. Children who remain for as long as four consecutive hours shall have a supervised rest period.
- d) The daily program of the facility shall provide experiences which promote the individual child's growth and well-being and the development of self-help and communication skills, social competence, and positive self-identity.
- e) Program planning shall provide the following:
- 1) A variety of activities which takes into consideration individual differences in interest, attention span, and physical and intellectual maturity;
 - 2) Sufficient time for activities and routines, so that the children can manage them and progress at their own developmental rate;
 - 3) Sufficient materials and equipment to avoid excessive competition and long waits;
 - 4) Program planning so that the children are not always required to move from one activity to another as a total group;
 - 5) A program that avoids long waiting periods between activities and prolonged periods during which the children must stand or sit;
 - 6) Provision for privacy through arranging a small, quiet area that is easily accessible to the child who seeks or needs time to be alone; and
 - 7) A variety of chores and activities at the child's developmental level.
- f) Materials and toys shall be kept clean, orderly, attractive, and accessible to the children. The group day care home may not use or have on the premises, ~~on or after July 1, 2000,~~ any unsafe children's product as described in the Children's Product Safety Act and 89 Ill. Adm. Code 386 (Children's Product Safety).

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- g) There shall be stimulating play and learning materials; these may include household items used creatively.
- h) Each child's individuality shall be respected and a sense of self and development of self esteem shall be encouraged.
- i) Children shall not be left unattended and adult supervision shall be provided at all times.
- j) The program shall take into account the stress and fatigue that result from constant pressures and stimulation of long hours in a group living situation.
- k) Activity areas, equipment, and materials shall be arranged so that staff can be easily aware of the children's presence and activity at all times.
- l) Equipment shall be arranged in orderly, clearly defined areas of interest, with sufficient space in each area for the children to see various activities available to them.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 408.115 Night Care

- a) A group day care home receiving children for night care shall comply with the standards prescribed for group day care homes in addition to the special requirements prescribed in this Section.
- b) A child shall be considered to be enrolled in evening and/or night care when a majority of his or her time at the group day care home occurs between 6:00 p.m. and 6:00 a.m.
- c) The child shall be bathed, if needed.
- d) No child under 5 years of age shall be left unattended while in the bathtub.
- e) Each child must have individual sleeping garments that are clean and comfortable.
- f) An individual bed, crib, or cot and individual linen and bedding shall be provided

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for each child except as provided in this subsection (f):

- 1) A double bed shall be the minimum size for sleeping 2 non-enuretic children of the same sex.
 - 2) Rubber sheets or suitable substitutes shall be supplied when necessary.
 - 3) If a crib is used there shall be no more than 1½ inches of space between the mattress and bed frame when the mattress is pushed flush at one corner of the crib.
 - 4) Unrelated children over 4 years of age may not share a bedroom over night with children of the opposite sex.
- g) Caregivers and children receiving night care shall sleep on the same floor (level) of the residence.
- h) If the group day care home receives children for night-time care, the caregiver may sleep while children are present if the caregiver and the children sleep on the same floor (level) of the residence and the children's bedrooms are within hearing distance of the caregiver's bedroom to provide for the needs of the children and to respond immediately in an emergency.
- i) A basement area may be used for sleeping or napping if it has been approved in accordance with Section 408.30(a)([129](#)).
- j) A room above the first floor may be used for sleeping or napping if the room has 2 exits with one exit leading directly to the outside with means to safely reach the ground level.
- k) There shall be a night light or other mechanism to illuminate hallways leading to stairs and/or the restroom.
- l) A child who goes to school from a group day care home providing night care shall be clean and properly dressed according to the weather.
- m) Each child shall have individual toilet articles such as comb, toothbrush, towel, and washcloth.

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- n) Health care routines at bedtime and/or upon rising shall include:
- 1) Brushing teeth at bedtime and upon rising.
 - 2) Brushing or combing the hair upon rising.
 - 3) Establishing a routine for toileting at bedtime and upon rising.
- o) When possible, children shall be left for care and picked up either before or after their normal sleeping period so that there is minimum disturbance of the children during sleep.
- p) The group day care home shall serve meals and snacks that supplement food served at home as prescribed in Section 408.80.
- 1) An evening meal that meets nutritional requirements shall be served at a regular time each evening and shall be available to children who may arrive without having first eaten.
 - 2) A bedtime snack shall be served, unless contraindicated by parents or physician in accordance with Section 408.80.
 - 3) Children who remain overnight and go to school directly from the group day care home shall have breakfast, including juice or fruit, unless they are receiving breakfast at school.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 408.120 Records and Reports

- a) A facility shall maintain a record file on the children enrolled.
- 1) A written application for admission of each child shall be on file with the signature of the parent or guardian.
 - 2) An alphabetic card file or register on each child shall be maintained and shall include:
 - A) Name, date of birth, and sex;

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- B) Date of admission and discharge;
 - C) Scheduled days and hours of care;
 - D) Names of parents or guardians, home address and business address and telephone numbers, marital status, and the working hours of the parents or guardians;
 - E) Name, address and telephone number of child's physician (or other person designated by parents who object to medical treatment on religious grounds);
 - F) Names, addresses and telephone numbers of others authorized to pick up the child; ~~and~~
 - G) Names, addresses, and telephone numbers of others to contact within the immediate area if parents or guardian cannot be contacted in case of emergency; ~~and-~~
 - H) Information regarding the child's personal development, habits, medical needs, and other information critical to the child's well-being.
- 3) There shall be signed consent forms from the parent or guardian including:
- A) Permission for emergency medical care and treatment if the parent is not readily available.
 - B) Permission to administer medication, if applicable.
 - C) Permission for someone other than parent or guardian to pick up child if necessary.
 - D) Visits, trips or excursions off the premises.
 - E) Transportation provided by caregiver.
 - F) Permission to use the facility's swimming pool, if applicable.

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- 4) Accidents or illnesses which have occurred to the child at the facility shall be recorded in the file. When a child is not permitted to attend the facility because of an accident or illness, the date of readmission to the facility shall be recorded.
 - 5) All required health and medical reports as required by Section 408.70.
 - 6) A statement signed by the parents or guardian indicating receipt of a summary of licensing standards and other materials as required by subsection (c) shall be in the child's record file.
- b) A facility shall maintain accurate daily attendance records on all children enrolled. If a child attends on a part-time or irregular basis, this shall be recorded in the attendance record.
 - c) The facility shall distribute a summary of the licensing standards, provided by the Department, to the parents or guardian of each child at the time that the child is accepted for care in the facility. In addition, consumer information materials provided by the Department including, but not limited to, information on reporting and prevention of child abuse and neglect and preventing and reporting communicable disease, shall be distributed to the parents or guardian of each child cared for when designated for such distribution by the Department. Each child's record shall contain a statement signed by the child's parent or guardian, indicating that they have received a summary of licensing standards and other materials designated by the Department for such distribution.
 - d) The group day care home shall enter in the child's record and orally report immediately to the child's parent, guardian, and the Department any serious occurrences involving children. Oral reports shall be confirmed in writing within 2 working days of the occurrence. If the home is unable to contact the parent, guardian or Department immediately, it shall document this fact in the child's record. These occurrences include serious accident or injury requiring extensive medical care or hospitalization; death; arrest; alleged abuse or neglect; major fire or other emergency situations.
 - e) Suspected child abuse or neglect shall be reported immediately to the Child Abuse/Neglect Hotline as required by the Abused and Neglected Child Reporting Act. The telephone number for the reporting hotline is 1-800-252-2873.

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- f) The caregiver shall immediately notify the Department of the death of any child at the facility; a child is missing from the group day care home; any illness or injury of a child resulting in medical treatment or hospitalization, and any known or suspected case or carrier of a reportable contagious, infectious, or communicable disease among children, staff or members of the household.
- g) The caregiver shall immediately notify the Department of any natural disaster or other occurrence resulting in the loss of or damage to physical plant or equipment required to operate the group day care home in accordance with this Part.
- h) Records shall be maintained on all staff and shall contain all pertinent information relative to character, suitability, and qualifications for the position; health; 3 character references verified by the group day care home; history of employment for the previous 5 years; date of employment by the group day care home; and, if applicable, date and reasons for separation from the day care home.
- i) The caregiver shall make available to staff a current and complete copy of the licensing standards in a location readily accessible to staff. Further, the licensee shall maintain a record signed by staff indicating that they have reviewed the licensing standards and any subsequent changes to those standards provided to the licensee by the Department. Records documenting compliance with this requirement shall be maintained by the licensee and available for licensing review.
- j) When the licensed day care home is cited for one or more substantiated violations of licensing standards by the supervising agency, the caregiver shall prominently display in the home the list of violations and the corrective plan, on a form provided by the supervising agency. The caregiver shall keep the form posted until a licensing representative has verified in writing that every violation on that form has been corrected.
- k) Each staff person shall sign a statement prescribed by the Department acknowledging his or her status as a mandated reporter of child abuse or neglect under the Abused and Neglected Child Reporting Act and acknowledging he or she has knowledge and understanding of the reporting requirements under that Act. Such statement shall be signed and dated by the staff person prior to employment, and shall be maintained by the licensee.

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- lk) The facility shall maintain and submit reports on staff to the Department on forms provided by the Department.
- 1) An individual report on each new employee shall be filed with the Department; a copy of this report shall be kept at the facility.
 - 2) All staff changes shall be reported to the Department immediately.
 - 3) Copies of documentation of medical information, verification of educational achievement, and character references of employees shall be provided upon request by the Department.
- ml) The facility shall promptly report any known or suspected case or carrier of communicable disease to local health authorities, and shall comply with the Illinois Department of Public Health's rules for the Control of Communicable Diseases (77 Ill. Adm. Code 690).
- nm) Authorized Department licensing representatives or other Department representatives who have the Director's written authorization which specifies the statutory authority or administrative rule under which the access is granted shall have access to records and reports. All persons who have access to the records and reports shall respect their confidential nature.
- on) A medical record for each child, on forms provided by the Department, shall be maintained at the facility, dated no earlier than 6 months prior to enrollment, and signed by the examining physician, an advance practice nurse who has a written collaborative agreement with a collaborating physician that authorizes the advance practice nurse to perform health examinations, a physician assistant who has been delegated the performance of health examinations by the supervising physician; or the medical record is certified by a recognized health facility.
- pe) The licensee shall notify the supervising agency within one week, in writing, of any changes to the household composition. Changes that require notification include the addition of any new person into the home, the return of any former household member, or the departure of any household member.
- qp) The licensee shall keep a record of dates and hours worked by the substitute caregiver while the licensee is absent from the group day care home, as required in 89 Ill. Adm. Code 408.55(a).

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- r) [The licensee shall maintain records required for fire safety in accordance with Section 408.30. Fire safety records include monthly fire drill reports, monthly fire safety inspections conducted by the licensee, and the log of daily inspections by the licensee to ensure that exit routes are kept clear.](#)

(Source: Amended at 34 Ill. Reg. _____, effective _____)

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Section 408. APPENDIX G Pre-Service and In-Service Training

- a) Entities that may provide pre-service and in-service training to meet the requirements of this PartSection 406.9(e) include, but are not limited to:
- 1) colleges and universities
 - 2) child care resource and referral agencies
 - 3) Illinois Department of Public Health or local health departments
 - 4) Office of the State Fire Marshal or local fire department
 - 5) Illinois Department of Children and Family Services
 - 6) Illinois Department of Human Services
 - 7) state or national child care or child advocacy organizations
 - 8) national, state or local family day care home associations
 - 9) Child and Adult Care Food Program sponsors
 - 10) Healthy Child Care Illinois nurses
 - 11) American Red Cross, American Heart Association and other providers of first aid and CPR training that have been approved by the Illinois Department of Public Health
- b) Topics or courses to meet the in-service training requirements include, but are not limited to:
- 1) child care and child development
 - 2) guidance and discipline
 - 3) first aid and CPR
 - 4) symptoms of common childhood illness

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- 5) food preparation and nutrition
 - 6) health and sanitation
 - 7) small business management
 - 8) child abuse and neglect
 - 9) working with parents and families
 - 10) caring for children with disabilities
 - 11) information about asthma and its management
 - 12) SIDS education
 - 13) service obligations under the federal Americans ~~With~~with Disabilities Act (ADA)
- c) Pre-service and in-service~~In-service~~ training may be acquired through the following:
- 1) attending college or university or vocational school classes (clock hours spent in the classroom are counted)
 - 2) attending conferences or workshops (Certificate or other proof of attendance, clock hours and subject matter is required.)
 - 3) attending state or local child care association meetings when a specific training program is provided by a guest speaker or group member (Documentation of attendance, subject matter and clock hours is required.)
 - 4) in-home training by a Child and Adult Care Food Program sponsor representative, nurse or other trainer (Documentation must include the topic and the clock hours.)
 - 5) self-study materials provided by a child care resource and referral (CCR&R) agency (Certification of clock hours must be secured from the

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CCR&R.)

- 6) internet home study programs if the internet site provides documentation of use and number of clock hours

The training instructor, speaker or president of the child care organization sponsoring the training, may sign the documentation of completion. The child care resource and referral (CCR&R) agency must sign and provide documentation of completion for self-study materials, and the internet site must provide documentation for home study programs.

- d) Licensed providers shall meet the 15 Hrs. clock hour requirements for in-service training per [period of licensing calendar](#) year. Caregivers obtaining clock hours in excess of the required 15 clock hours per year may apply up to 5 clock hours to the next year's training requirements.

- e) ~~For newly licensed providers, required annual in-service training hours are prorated based on the month of the effective date of license.~~

~~For newly licensed providers in 2003 and thereafter~~

Monthly of License	Training Hours Required
January	15 Hrs.
February	13 Hrs. 45 Min.
March	12 Hrs. 30 Min.
April	11 Hrs. 15 Min.
May	10 Hrs
June	8 Hrs. 45 Min.
July	7 Hrs. 30 Min.
August	6 Hrs. 15 Min.
September	5 Hrs
October	3 Hrs 45 Min.
November	1 Hr. 30 Min.
December	1 Hr. 15 Min.

- ef) Courses/training approved by the Department in carrying for children with disabilities must include the following component:

- Introduction to Inclusive Child Care

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- Understanding Child Development in Relation to Disabilities
- Building Relationships with Families
- Preparing for and Including Young Children in the Child Care Setting
- Community Services for Young Children with Disabilities (including Early Intervention services)

(Source: Amended at 34 Ill. Reg. _____, effective _____)

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Section 408. APPENDIX I List of Items for Fire Safety Prevention Inspection

The Department shall notify the Office of the State Fire Marshal (OSFM) ~~local fire prevention authority in the area where the applicant resides~~ of the name and address of a group day care home initial licensure applicant. ~~The~~ Notification about a new applicant shall be on a form prescribed by the Department and shall include a space for comments and recommendations by the local fire prevention authority, the Department's or supervising agency's return address, and the following list of items shall be inspected by OSFM, or by a supervising agency licensing representative trained by OSFM to conduct fire safety inspections for licensure, license renewal or annual monitoring for inspection:

1. The paths of escape, including doors and escape windows from the home, are kept operable and clear from obstruction (see Section 408.30(b)) ~~Number of smoke detectors on each level of the home (see Section 408.30(a)(4))~~
2. Smoke detectors are provided on each level of the home (including basements and second floors even if they are not used for child care) and in any room where children are allowed to nap or sleep (see Section 408.30(a)(4)(A)) ~~Smoke detectors within 15' of each sleeping area (see Section 408.30(a)(4)(A))~~
3. Smoke detectors are functioning (detected by pushing the test button) (see Section 408.30(a)(4)(A)) ~~All smoke detectors are less than 10 years old and functioning properly (see Section 408.30(a)(4)(A))~~
4. Locks and deadbolts to exterior doors are operable without the use of a key, tool or special knowledge to open the door from inside the home to exit to the outside (see Section 408.30(b)(7)) ~~Secondary means of escape provided from all levels utilized for the home (i.e., windows/doors) (see Section 408.30(a)(7)-(9))~~
5. Occupants shall be able to escape the home without having to activate more than 2 releasing devices (e.g., door knobs, deadbolts, thumb-turn lock) on any door to the outside (see Section 408.30(b)(6)) ~~All exits are unobstructed (see Section 408.30(a)(15))~~
6. Bathroom doors shall be able to be opened by staff from outside the room if necessary (see Section 408.30(b)(4)) ~~Emergency contingency plan and properly posted emergency floor plan (see Section 408.30(p))~~

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7. Closet doors shall be able to open from inside the closet without the use of a key (see Section 408.30(b)(5))~~An available operational telephone with proper emergency numbers displayed (see Section 408.30(a)(16))~~
8. Paths of escape from the home have operable lighting (light bulbs are in place and functioning) (see Section 408.30(b)(3))~~Proper all purpose portable fire extinguishers are functional and located in the kitchen (see Section 408.30(a)(2))~~
9. Protective covers for all electrical receptacles are provided in areas occupied by children (see Section 408.30(a)(3))~~First aid kit with prescribed contents (see Section 408.30(a)(1))~~
10. Heating equipment in spaces occupied by children are separated by partitions, screens or other means to protect children from hot surfaces and open flames (see Section 408.30(a)(8))~~Displayed CPR/first aid certificate for group home child care provider and assistant (if applicable) (see Section 408.35(i))~~
11. Carbon monoxide detectors are installed and operable in areas occupied by children (see Section 408.30(a)(5))~~All electrical outlets have protective covers (see Section 408.30(a)(3))~~

Operating Requirements (renewal and subsequent monitoring visits)

12. There is a comprehensive written fire emergency response plan in the home (see Section 408.30(q))~~No exposed or damaged wiring (see Section 408.30(a)(3))~~
13. There are emergency egress and relocation monthly drills conducted by the caregiver with children participation by children (see Section 408.30(q)(4))~~No space heaters used during hours of daycare operation (see Section 408.30(a)(5))~~
14. Monthly basic fire safety inspections of the home are conducted by the caregiver or staff members in the home (see Section 408.30(b)(9))~~Written operations plan for the use of wood burning fireplace (if applicable) (see Section 408.30(a)(6))~~
15. Daily fire safety inspections are done by the caregiver or staff to ensure that escape paths are clear and exit doors and escape windows are operable (see Section 408.30(b)(10))~~All medicines, cleaning supplies and chemicals are contained in a locked cabinet (see Section 408.30(a)(13))~~

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Additional Items for Inspection at Renewal of Licensure

16. Corridors are clear of clothing and personal effects (see Section 408.30(b)(1))~~Fire drills conducted monthly (and properly posted) (see Section 408.30(p))~~
17. Flammable and combustible artwork and teaching materials attached directly to the walls are limited to no more than 20% of the wall area (see Section 408.30(a)(14))~~Tornado drills conducted monthly (see Section 408.30(p))~~
18. Caregiver and staff are awake and alert when children are present in the home (see Section 408.35(k))~~No evidence of smoking during the hours of daycare operation (see Section 408.30(e))~~
19. Number of children licensed for daycare operation is prominently displayed during hours of operation (see Section 408.20(i))
20. Actual number of children present at time of inspection (see Section 408.65).

(Source: Amended at 34 Ill. Reg. _____, effective _____)

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Personal Property Warehouses
- 2) Code Citation: 92 Ill. Adm. Code 1458
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1458.10	New Section
1458.20	New Section
1458.100	New Section
1458.110	New Section
1458.120	New Section
1458.130	New Section
1458.200	New Section
1458.210	New Section
1458.220	New Section
1458.230	New Section
1458.240	New Section
1458.250	New Section
1458.260	New Section
1458.300	New Section
1458.310	New Section
1458.320	New Section
1458.400	New Section
1458.410	New Section
1458.420	New Section
1458.500	New Section
1458.510	New Section
1458.520	New Section
1458.530	New Section
1458.540	New Section
1458.550	New Section
1458.600	New Section
1458.610	New Section
1458.700	New Section
- 4) Statutory Authority: Implementing Sections 15.5 and 15.6 and authorized by Section 16 of the Personal Property Storage Act [240 ILCS 10/15.5, 15.6 and 16]
- 5) A Complete Description of the Subjects and Issues Involved: These rules implement Public Act 96-515 which transfers the regulation of personal property warehouses from

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the Illinois Department of Agriculture to the Illinois Commerce Commission. That regulation will oversee the storage of the public's goods in warehouses located throughout Illinois from the risk of damage due to such things as fire, vermin, insects or water.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this amendment replace any emergency amendments currently in effect? Yes
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed amendment contain incorporations by reference? No
- 10) Are there any other proposed amendments pending on this Part? No
- 11) Statement of Statewide Policy Objectives: 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: Comments should be filed, within 45 days after the date of this issue of the *Illinois Register* with:

Steve Matrisch
Office of Transportation Counsel
Transportation Division
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62701

217/782-6447
smatrisc@icc.illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: Businesses operating personal property warehouses in the State of Illinois may be affected by these proposed rules.

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- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because the transfer of regulatory authority over personal property warehouses to the Commission was signed into Law by Governor Quinn on August 14, 2009.

The full text of the Proposed Rules is identical to the Emergency Rules that can be found on page 17142 of the *Illinois Register*.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Residential Mortgage License Act of 1987
- 2) Code Citation: 38 Ill. Adm. Code 1050
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1050.110	Amend
1050.210	Amend
1050.340	Amend
1050.410	Amend
1050.460	Repeal
1050.490	Amend
1050.610	Amend
1050.660	Amend
1050.920	Amend
1050.1175	Amend
1050.1176	New
1050.1177	New
1050.1335	Amend
1050.1530	Amend
1050.1570	Amend
1050.1580	Amend
1050.2112	Amend
1050.2175	Amend
- 4) Statutory Authority: Implementing and authorized by the Residential Mortgage License Act of 1987 [205 ILCS 635/4-1(g)] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)]
- 5) A Complete Description of the Subjects and Issues Involved: The Division of Banking is proposing amendments to supplement changes in PA 96-112 that implement the Nationwide Mortgage Licensing System (NMLS) pursuant to the federal SAFE Act. The surety bond provision is changed from a \$20,000 coverage amount for all residential mortgage licensees to a sliding scale from \$25,000 to \$150,000 based upon a residential mortgage licensee's volume of activities and including coverage of individual Mortgage Loan Originator employees. Fee payment methods, activity reporting, and loan originator evaluations are revised in connection with PA 96-112 and implementation of the NMLS. The Division of Banking is proposing additional amendments to update, clarify, and enhance other provisions of this rule. These include changes to fees to conform to PA 95-1047, to designate all fees as non-refundable, to add late and returned

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NOTICE OF PROPOSED AMENDMENTS

check fees, and to remove an obsolete examiner's expenses provision. Provides a process for the Director to inquire of certain out-of-state residential mortgage licensee's compliance with full service office requirements. Changes and re-formats current maintenance of records section (1050.1175) to 3 sections on loan logs (1050.1175), record retention (1050.1176) and required loan application file documents (1050.1177) with the changes to create separate new loan logs for servicers and secondary purchasers, and for reverse mortgage products, and to permit all residential mortgage licensees (except servicers) to electronically store records (now only mortgage brokers may do so). Specifies administrative pre-hearing steps relating to status calls and updates Department information.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed amendments pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate under the State Mandates Act [30 ILCS 805].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

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

217/785-0813 Fax: 217/557-4451

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

- 13) Initial Regulatory Flexibility Analysis:

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- A) Types of small businesses, small municipalities and not for profit corporations affected: Some residential mortgage licensees that are small businesses may be affected through increases in bond costs and due in large part to increased coverage of Mortgage Loan Originator activities as provided in the federal SAFE Act.
 - B) Reporting, bookkeeping or other procedures required for compliance: None. The availability to electronically keep records is expanded to additional residential mortgage licensees.
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2009

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 38: FINANCIAL INSTITUTIONS

CHAPTER II: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

PART 1050

RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

SUBPART A: DEFINITIONS

Section

1050.100	High Risk Home Loan Definitions; Applicability
1050.110	Definitions
1050.115	Administrative Decision (Repealed)
1050.120	Assisting (Repealed)
1050.125	Commissioner (Repealed)
1050.130	Control (Repealed)
1050.132	Conviction or Convicted (Repealed)
1050.135	Document (Repealed)
1050.140	Employee (Repealed)
1050.145	First Tier Subsidiary (Repealed)
1050.150	Hearing Officer (Repealed)
1050.155	High Risk Home Loan (Repealed)
1050.157	Licensee (Repealed)
1050.160	Material (Repealed)
1050.165	Other Regulatory Agencies (Repealed)
1050.170	Party (Repealed)
1050.175	Principal Place of Business (Repealed)
1050.180	Repurchase a Loan (Repealed)
1050.185	State (Repealed)
1050.190	Servicer (Repealed)
1050.195	Points and Fees (Repealed)
1050.197	Total Loan Amount (Repealed)
1050.198	Approved Credit Counselor (Repealed)
1050.199	Home Equity Loan (Repealed)

SUBPART B: FEES

Section

1050.210	Fees
1050.220	License Fees (Repealed)

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- 1050.230 Amended License Fees – Corporate Changes (Repealed)
- 1050.240 Duplicate Original License Fees (Repealed)
- 1050.245 Loan Originator Registration Application Fee (Repealed)
- 1050.246 Loan Originator Registration Transfer Fee (Repealed)
- 1050.247 Loan Originator Registration Reactivation Fee (Repealed)
- 1050.248 Duplicate Loan Originator Certificate of Registration or Pocket Card Fee (Repealed)
- 1050.250 Examination Fees (Repealed)
- 1050.255 Direct Expenses of Out-of-State Examinations (Repealed)
- 1050.260 Additional Full-Service Office Fees (Repealed)
- 1050.270 Hearing Fees (Repealed)
- 1050.280 Late Fees (Repealed)
- 1050.290 Manner of Payment (Repealed)

SUBPART C: LICENSING

Section

- 1050.310 Application for an Illinois Residential Mortgage License
- 1050.320 Application for Renewal of an Illinois Residential Mortgage License
- 1050.330 Waiver of License Fee
- 1050.340 Full-Service Office
- 1050.350 Additional Full-Service Office
- 1050.360 Continuing Education Requirements for Certain Employees (Repealed)

SUBPART D: OPERATIONS AND SUPERVISION

Section

- 1050.410 Net Worth
- 1050.420 Line of Credit (Repealed)
- 1050.425 Examination
- 1050.430 Late Audit Reports
- 1050.440 Escrow
- 1050.450 Audit Workpapers
- 1050.460 Selection of Independent Auditor ([Repealed](#))
- 1050.470 Proceedings Affecting a License
- 1050.475 Change in Business Activities
- 1050.480 Change of Ownership, Control or Name or Address of Licensee
- 1050.490 Bonding Requirements

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NOTICE OF PROPOSED AMENDMENTS

SUBPART E: ANNUAL REPORT OF MORTGAGE ACTIVITY, MORTGAGE
BROKERAGE ACTIVITY AND MORTGAGE SERVICING ACTIVITY

Section

1050.610	Filing Requirements
1050.620	Reporting Forms
1050.630	Annual Report of Mortgage Activity
1050.640	Annual Report of Brokerage Activity
1050.650	Annual Report of Servicing Activity
1050.660	Verification

SUBPART F: FORECLOSURE RATE

Section

1050.710	Computation of National Residential Mortgage Foreclosure Rate
1050.720	Computation of Illinois Residential Mortgage Foreclosure Rate
1050.730	Excess Foreclosure Rate
1050.740	Foreclosure Rate Hearing
1050.750	Director's Authority – Unusually High Rate

SUBPART G: SERVICING

Section

1050.810	New Loans
1050.820	Transfer of Servicing
1050.830	Real Property Tax and Hazard Insurance Payments
1050.840	Payment Processing
1050.850	Toll-Free Telephone Arrangement
1050.860	Payoff of Outstanding Mortgage Loan

SUBPART H: ADVERTISING

Section

1050.910	General Prohibition
1050.920	Definition of Advertisement
1050.930	Compliance with Other Laws
1050.940	Requirements
1050.950	Misleading and Deceptive Advertising Prohibition

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SUBPART I: LOAN BROKERAGE PRACTICES

Section

- 1050.1010 Loan Brokerage Agreement
- 1050.1020 Loan Brokerage Disclosure Statement
- 1050.1030 Prohibited Practice

SUBPART J: LOAN APPLICATION PRACTICES

Section

- 1050.1100 High Risk Home Loan Application Practices; Applicability
- 1050.1110 Borrower Information Document
- 1050.1120 Description of Required Documentation
- 1050.1130 Maintenance of Records (Repealed)
- 1050.1140 Loan Application Procedures
- 1050.1150 Copies of Signed Documents
- 1050.1160 Confirmation of Statements
- 1050.1170 Cancellation of Application
- 1050.1175 ~~Loan Log Maintenance of Records~~
- 1050.1176 Record Retention
- 1050.1177 Required Loan Application File Documents
- 1050.1180 Ability to Repay
- 1050.1185 Verification of Ability to Pay Loan
- 1050.1186 Fraudulent or Deceptive Practices
- 1050.1187 Prepayment Penalty

SUBPART K: GENERAL LENDING PRACTICES

Section

- 1050.1200 High Risk Home Loan Lending Practices; Applicability
- 1050.1210 Notice to Joint Borrowers
- 1050.1220 Inaccuracy of Disclosed Information
- 1050.1230 Changes Affecting Loans in Process
- 1050.1240 Prohibition of Unauthorized Lenders
- 1050.1250 Good Faith Requirements
- 1050.1260 Pre-paid Insurance Products and Warranties
- 1050.1270 Refinancing Prohibited in Certain Cases
- 1050.1272 Balloon Payments
- 1050.1275 Financing of Certain Points and Fees

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1050.1276	Payments to Contractors
1050.1277	Negative Amortization
1050.1278	Negative Equity
1050.1280	Counseling Prior to Perfecting Foreclosure Proceedings

SUBPART L: COMMITMENT AND CLOSING PRACTICES

Section

1050.1305	Approval Notice
1050.1310	Inconsistent Conditions Prohibited
1050.1315	Avoidance of Commitment
1050.1320	Charges to Seller
1050.1325	Intentional Delay
1050.1330	No Duplication to Borrower of Seller's Costs
1050.1335	Fees and Charges
1050.1340	Refunds on Failure to Close
1050.1345	Representative at Closing
1050.1350	Compliance with Other Laws
1050.1355	Failure to Close – Disclosure
1050.1360	Escrow Account Agreements at Closing

SUBPART M: EXEMPTION GUIDELINES

Section

1050.1410	General
1050.1420	Interpretative Guidelines

SUBPART N: ADMINISTRATIVE HEARING PROCEDURES

Section

1050.1510	Applicability
1050.1520	Definitions (Repealed)
1050.1530	Filing
1050.1540	Form of Documents
1050.1550	Computation of Time
1050.1560	Appearances
1050.1570	Request for Hearing
1050.1580	Notice of Hearing
1050.1590	Service of the Notice of Hearing

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1050.1595	Bill of Particulars or Motion for More Definite Statement
1050.1600	Motion and Answer
1050.1610	Consolidation and Severance of Matters – Additional Parties
1050.1620	Intervention
1050.1630	Postponement or Continuance of Hearing
1050.1640	Authority of Hearing Officer
1050.1650	Bias or Disqualification of Hearing Officer
1050.1660	Prehearing Conferences
1050.1670	Discovery
1050.1680	Subpoenas
1050.1690	Conduct of Hearing
1050.1700	Default
1050.1710	Evidence
1050.1720	Hostile Witnesses
1050.1730	Record of Proceedings
1050.1740	Briefs
1050.1750	Hearing Officer's Recommendation
1050.1760	Order of the Director
1050.1770	Rehearings and Reopening of Hearings
1050.1790	Costs of Hearing

SUBPART O: MORTGAGE AWARENESS PROGRAM

Section	
1050.1800	Applicability
1050.1810	General
1050.1820	Guidelines
1050.1830	Offer of Mortgage Awareness Program

SUBPART P: DEFAULT AND FORECLOSURE RATES ON CONVENTIONAL LOANS

Section	
1050.1900	Applicability
1050.1910	Report of Default and Foreclosure Rates on Conventional Loans
1050.1920	Director's Review and Analysis

SUBPART Q: THIRD PARTY REVIEW OF HIGH RISK HOME LOANS

Section

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- 1050.2000 Applicability
- 1050.2010 Third Party Review of High Risk Home Loans

SUBPART R: REGISTRATION OF LOAN ORIGINATORS

Section

- 1050.2110 Application for Registration
- 1050.2112 Evaluation of Applications
- 1050.2115 Examination
- 1050.2120 Continuing Education Requirements for Loan Originators
- 1050.2125 Certificate of Registration Issuance
- 1050.2130 Roster of Registered Loan Originators
- 1050.2135 Pocket Card
- 1050.2140 Certificate of Registration Renewal
- 1050.2145 Certificate of Registration Transfer Application or Inactive Notice
- 1050.2150 Inactive Registration Status; Reactivation
- 1050.2155 Temporary Permits
- 1050.2160 Confidential Information
- 1050.2165 Averments
- 1050.2170 Suspension or Revocation of Registration, Refusal to Renew, Fines
- 1050.2175 Loan Originator Hearings; Fees and Costs
- 1050.2180 Criminal Proceedings
- 1050.2185 Violations of Tax Acts
- 1050.2190 Disciplinary Action for Educational Loan Defaults
- 1050.2195 Nonpayment of Child Support

SUBPART S: PROVISIONAL REGISTRATION OF LOAN ORIGINATORS

Section

- 1050.2200 Purpose
- 1050.2210 Definitions
- 1050.2220 Registration Required
- 1050.2230 Exemptions
- 1050.2240 Application for Provisional Certificate of Registration; Contents; Amendment
- 1050.2250 Issuance of Provisional Certificate of Registration; Effective Date; Conditions
- 1050.2260 Loan Origination Practices
- 1050.2270 Enforcement

1050.APPENDIX A Estimated Monthly Income and Expenses Worksheet

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1050.APPENDIX B Mortgage Ratio Worksheet

AUTHORITY: Implementing and authorized by the Residential Mortgage License Act of 1987 [205 ILCS 635/4-1(g)] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Filed January 18, 1974; amended at 2 Ill. Reg. 2, p. 1, effective January 16, 1978; codified at 8 Ill. Reg. 4524; amended at 9 Ill. Reg. 17393, effective October 24, 1985; Part repealed by emergency rule at 12 Ill. Reg. 3041, and new Part adopted by emergency rule at 12 Ill. Reg. 3079, effective January 13, 1988, for a maximum of 150 days; Part repealed at 12 Ill. Reg. 8683, and new Part adopted at 12 Ill. Reg. 8685, effective May 10, 1988; emergency amendment at 12 Ill. Reg. 9721, effective May 18, 1988, for a maximum of 150 days; amended at 13 Ill. Reg. 17056, effective October 20, 1989; amended at 15 Ill. Reg. 8580, effective May 28, 1991; emergency amendment at 16 Ill. Reg. 2915, effective February 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 10463, effective June 23, 1992; emergency amendment at 16 Ill. Reg. 12634, effective August 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 20179, effective December 9, 1992; amended at 17 Ill. Reg. 3513, effective March 2, 1993; transferred from Chapter III, 38 Ill. Adm. Code 450 (Commissioner of Savings and Loan Associations) to Chapter VIII, 38 Ill. Adm. Code 1050 (Commissioner of Savings and Residential Finance) pursuant to Savings Bank Act [205 ILCS 205] at 17 Ill. Reg. 4475; emergency amendment at 19 Ill. Reg. 11080, effective July 13, 1995, for a maximum of 150 days; emergency expired December 11, 1995; amended at 19 Ill. Reg. 15465, effective October 31, 1995; amended at 20 Ill. Reg. 388, effective January 1, 1996; recodified from Chapter VIII, Commissioner of Savings and Residential Finance, to Chapter II, Office of Banks and Real Estate, pursuant to PA 89-508, at 20 Ill. Reg. 12645; amended at 21 Ill. Reg. 10972, effective August 1, 1997; amended at 22 Ill. Reg. 230, effective December 19, 1997; amended at 24 Ill. Reg. 64, effective January 1, 2000; emergency amendment at 24 Ill. Reg. 19322, effective December 15, 2000, for a maximum of 150 days; emergency repealed at 25 Ill. Reg. 3696, effective January 30, 2001 in response to an objection of the Joint Committee on Administrative Rules at 25 Ill. Reg. 1857; amended at 25 Ill. Reg. 6174, effective May 17, 2001; emergency amendment at 27 Ill. Reg. 10783, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; amended at 28 Ill. Reg. 797, effective December 29, 2003; emergency amendment at 28 Ill. Reg. 7137, effective April 30, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 10352, effective June 29, 2004; amended at 28 Ill. Reg. 13351, effective September 21, 2004; amended at 29 Ill. Reg. 14808, effective September 26, 2005; amended at 29 Ill. Reg. 19187, effective November 10, 2005; amended at 34 Ill. Reg. _____, effective _____.

SUBPART A: DEFINITIONS

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Section 1050.110 Definitions

"Act" means the Residential Mortgage License Act of 1987 [205 ILCS 635].

"Administrative decision" means an order or action of the Director, such as assessment of a fine, denial of a license, suspension, or revocation of a license.

"Approved credit counselor" means a credit counselor approved by the Director of the Department of Financial and Professional Regulation-Division of Financial Institutions.

"Assisting" as used in Section 1-4(o) of the Act shall not include the following activities or services when undertaken by a person in an otherwise licensed profession or occupation provided such activities or services are undertaken by such person in pursuit of such persons licensed profession or occupation including, but not limited to insurance producer, attorney at law, certified public accountant, land surveyor, or professional engineer:

Activities or services of, or incidental to, the licensed occupation or profession;

Delivery of surveys, abstracts of title, title commitments, opinions of title, draft deeds, mortgage forms or lender sales material;

Coordinating the activities associated with the borrower's completion or submission of a loan application;

Contracting or conferring with a licensed attorney, title insurance company, insurance producer, or lender as to the status of the loan application, loan commitment, title commitment, fire or extended coverage insurance, or closing requirements.

"Control" means the power to, directly or indirectly, whether acting through one or more persons, effect the voting interest of 10 percent or more of any class of the outstanding voting shares, or partnership interest, of an entity subject to the Act.

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"Conviction" or "convicted" means, with respect to a criminal charge, the final judgment, or the act of receiving final judgment, on a verdict or finding of guilty, a plea of guilty, or a plea of nolo contendere.

"Department" means the Department of Financial and Professional Regulation.

"Director" means the Director of the Department of Financial and Professional Regulation-Division of Banking.

"Division" means the Department of Financial and Professional Regulation-Division of Banking, with the authority delegated by the Secretary.

"Document", for purposes of Section 6-2(2) of the Act, shall include all business and financial documents and all books and records, such as, but not limited to in either type, characteristics, or function, tax returns, signature cards, writings that engage or provide information to accountants, consultants, or other agents, applications, authorizations to do business, licenses or certificates, and submissions for insurance endorsements.

"Employee" and "person employed"

As used in Section 1-4(d)(1.5) of the Act, "employee" means:

any natural person who performs activity subject to licensure or registration under the Act for an exempt entity under Section 1-4(d)(1) of the Act, provided that the exempt entity:

expressly, in a writing submitted to and approved by the Director, assumes full and direct legal responsibility for the activity of the natural person that is performed on behalf of or in the name of the exempt entity or that benefits or is intended to benefit the exempt entity; or

submits to the Director for approval a written opinion of counsel stating that the relationship between the exempt entity and the natural person is one in which the exempt entity assumes full and direct responsibility for the activity of the natural person that is performed on behalf of or in the

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name of the exempt entity or that benefits or is intended to benefit the exempt entity; or

any natural person who performs activity subject to licensure or registration under the Act for an exempt entity under Section 1-4(d)(1) of the Act, provided that the natural person's performance of the activity is otherwise under statute or administrative rule, subject to comprehensive regulation and supervision, regular examination of books and records and activities and administrative agency sanctions for violation of regulatory, supervisory, or examination requirements by the State of Illinois or by a federal depository institution regulator.

As used in Section 1-4(d)(3) of the Act, "person employed" means any natural person who performs activity licensable under the Act exclusively for one licensee under the Act, provided that the licensee, expressly in writing on a form approved by the Director, assumes full and direct legal responsibility for the licensable activity performed on behalf of or in the name of the licensee or that benefits or is intended to benefit the licensee.

"First tier subsidiary", as used in Section 1-4 of the Act, means a subsidiary the stock of which is directly owned by the parent corporation, without any intervening layer of ownership by another corporation.

"Hearing Officer" means an attorney licensed in the State of Illinois, other than an attorney who is a regular employee of the Division, who is the presiding official appointed by the Director to conduct a hearing.

"High risk home loan" means a home equity loan on residential real property in which:

at the time of origination, the APR exceeds by more than 6 percentage points in the case of a first lien mortgage, or by more than 8 percentage points in the case of a junior mortgage, the yield on U.S. Treasury securities having comparable periods of maturity to the loan maturity as of the 15th day of the month immediately preceding the month in which the application for the loan is received by the lender; or

the total points and fees payable by the consumer at or before closing will

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exceed the greater of 5% of the total loan amount or \$800. The \$800 figure shall be adjusted annually on January 1 by the annual percentage change in the Consumer Price Index.

However, this Part shall not apply to a loan that is made primarily for a business purpose unrelated to the residential real property securing the loan or to an open-end credit plan subject to 12 CFR 226 (2000, no subsequent amendments or editions are included).

"Home equity loan" means any loan secured by the borrower's primary residence when the proceeds are not used as purchase money for the residence.

"Licensee" means a person or entity licensed under the Act.

"Material", as used in Section 6-2(2) of the Act, shall include, but not be limited to, a misstatement or omission of fact that, if it had not been misstated or omitted, would have altered the decision, approval, determination, or finding made by the Director or his or her agent in reliance upon the misstatement or omission.

"Material" shall also include a misstatement or omission of fact that, if it had not been misstated or omitted, would have caused the Director or his or her agent to act or consider acting pursuant to any of the powers vested in the Director or his or her agents or in the Department or the Division by the Act or the rules promulgated under the Act.

"Other regulatory agencies", as used in Section 4-2(e) of the Act, shall include the United States Department of Housing and Urban Development, state insurance commissions, any state or Federal agency having jurisdiction over the licensee, state and federal securities regulators, and the United States Department of Labor.

"Party" means any person, including the Director, named on a pleading or affected by an administrative decision.

"Petitioner" means a person affected by an administrative decision of the Division or the Department who files a request for hearing, or the Director when he or she initiates a notice for hearing to a named respondent.

"Principal place of business", as used in Section 1-4(d)(1)(ix) of the Act, shall mean the principal place of business of the subsidiary's parent bank, which must be chartered by the Comptroller of the Currency of the United States.

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"Repurchase a loan":

As used in Section 2-4(w) of the Act, means those instances in which:

the licensee has demanded that another licensee repurchase a loan and the first scheduled loan payment has not been received by the licensee making the demand; or

the licensee has demanded that another licensee repurchase a loan as a result of the determination, after reasonable investigation, by the licensee making the demand, that materially false representations, documentation or information may have been provided to any person in connection with the origination or transfer of the loan.

As used in Section 2-4(x) of the Act, means those instances in which:

the licensee has received a demand that it repurchase a loan and the first scheduled loan payment has not been received by the person making the demand; or

the licensee has received a demand that it repurchase a loan as a result of the determination, after reasonable investigation, by the person making the demand, that materially false representations, documentation or information may have been provided to any person in connection with the origination or transfer of the loan.

"Points and fees" means:

all items required to be disclosed as points and fees under 12 CFR 226.32 (2000, no subsequent amendments or editions included);

the premium of any single premium credit life, credit disability, credit unemployment, or any other life or health insurance that is financed directly or indirectly into the loan;

all compensation paid directly or indirectly to a mortgage broker, including a broker that originates a loan in its own name in a table funded

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transaction, not otherwise included in the points and fees disclosed under 12 CFR 226.32.

"Respondent" means a person who is named in the notice of hearing when the notice is initiated by the Director, or the Director when a petitioner files a request for hearing.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation.

"Servicer" means any entity licensed under the Act who is responsible for the collection or remittance for, or the right or obligation to collect or remit for, any lender, noteowner, or noteholder, or for a licensee's own account, of payments, interest, principal, and trust items such as hazard insurance and taxes on a residential mortgage loan in accordance with the terms of the residential mortgage loan; and includes loan payment follow-up, delinquency loan follow-up, loan analysis and any notifications to the borrower that are necessary to enable the borrower to keep the loan current and in good standing.

"State" means the State of Illinois.

"Total loan amount" is the same as the term used in 12 CFR 226.32, and shall be calculated in accordance with the Federal Reserve Board's Official Staff Commentary to that regulation.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART B: FEES

Section 1050.210 Fees

- a) Method of Payment of Fees
The fees listed in this Section shall be payable to the Department, or to the Nationwide Mortgage Licensing System and Registry for transfer to the Department as approved by the Director. The Director may specify the form of payment to the Department or to the Nationwide Mortgage Licensing System and Registry, which may include certified check, money order, credit card, or other forms authorized by the Director. The Director may specify that fees be paid separately or combined, and may pro-rate fees for implementation of the

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Nationwide Mortgage Licensing System and Registry. The Nationwide Mortgage Licensing System and Registry shall be authorized to collect and process transaction fees or other fees related to licensees or other persons subject to the Act. However, in the case of direct expenses of out-of-state examinations, payments shall be made directly to the examiners, in the manner specified in subsection (d)(2).

b) Residential Mortgage License

- 1) Investigation Fee: The applicant shall pay a non-refundable fee of \$1,135 or such non-refundable amount as authorized by the Director that, when combined with the license fee set forth in subsection (b)(2)(A), totals an amount equal to \$2,043 annually or such amount authorized by Section 2-2 of the Act~~\$1,500.~~
- 2) License Fee:
 - A) Initial Licensure: For each application for an initial Illinois Residential Mortgage License on which the Director has made the findings that a license shall be issued, the applicant shall pay a non-refundable license fee of \$908~~\$1,200~~, plus the investigation fee set forth in subsection (b)(1), or such non-refundable amount as authorized by the Director that, when combined with the investigation fee set forth in subsection (b)(1), totals an amount equal to \$2,043 annually or such amount authorized by Section 2-2 of the Act.
 - B) License Renewal: For each application for an annual renewal of an Illinois Residential Mortgage License ~~on which the Director has made the finding that an annual license shall be issued~~, the applicant shall pay a non-refundable license fee of \$2,043, or the total amount set forth in subsections (b)(1) and (b)(2)(A)~~\$2,700.~~
 - C) Amended License: The licensee shall pay a non-refundable fee of \$500 for each amended license that is required by Subpart D of this Part.
 - D) Notice of Change: The licensee shall pay a non-refundable fee of \$50 with each Notice of Change of Officers or Directors or Change

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of Name or Address or Change of Activity.

- E) Duplicate License: The licensee shall pay a non-refundable fee of \$50 for each duplicate original license issued.
- c) Loan Originator Registration or Mortgage Loan Originator License
- 1) Application Fee: An applicant for Loan Originator registration or Mortgage Loan Originator license shall pay ~~+~~a non-refundable fee of \$125 for each individual registered or licensed on the initial application and \$100 annually for each individual renewal, plus an additional \$50 late fee for any renewal that is received after the expiration date of the preceding registration or license~~registered after the initial application.~~
 - 2) ~~Exemption from Application Fee: Notwithstanding the provisions of subsection (c)(1), each applicant who is also a licensee may request and be granted an exemption from the application fee for no more than two initial Loan Originator registration applications. The request for exemption shall be filed, on an approved form, with the Director at the time of application.~~
 - 3) Registration or License Transfer Fee: There shall be paid by or on behalf of the Loan Originator or Mortgage Loan Originator non-refundable fee of \$35 for each Certificate of Registration or license transferred ~~by mail or \$25 for each Certificate of Registration transferred electronically pursuant to Subpart R of this Part.~~
 - 3)4) Registration or License Reactivation Fee: There shall be paid by or on behalf of the applicant a non-refundable fee of \$100 for reactivating each Certificate of Registration or license on ~~Inoperative~~Inactive Registration Status under Subpart R.
 - 4)5) Duplicate ~~Documents~~Certificate of Registration or Pocket Card: The licensee or registrant shall pay a non-refundable fee of \$50 for each ~~duplicate~~Duplicate document~~Certificate of Registration or pocket card~~ issued for a Loan Originator employed by the licensee.
 - 5) Returned Payment: Any person who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fee of \$50.

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- d) Examination
- 1) Fees: Time expended in the conduct of any examination of the affairs of any licensee or its affiliates pursuant to the provision of Section 4-2 of the Act shall be billed by the Department at a rate of \$510 per examiner day. Fees will be billed following completion of the examination and shall be paid within 30 days after receipt of the billing.
 - 2) Out-of-State Travel: When out-of-state travel occurs in the conduct of any examination, the licensee shall make arrangements to reimburse the Department~~directly to the examiners~~ all charges for services such as travel expenses, including airfare, hotel and per diem incurred by the employee. These expenses are to be in accord with applicable travel regulations published by the Department of Central Management Services and approved by the Governor's Travel Control Board (80 Ill. Adm. Code 2800).~~Direct payment of expenses are to be made on the form and in the manner prescribed by the Director. Payment for expenses billed to licensees under this subsection (d)(2) shall be made by check payable to the examiners and sent to the Springfield office of the Department for forwarding to the examiner. The payment shall be sent by the licensee within five working days after receipt by the licensee of the bill for charges for services.~~
- e) Additional Full-Service Office:
- 1) Initial Fee: The licensee shall pay a non-refundable fee of \$250 for each Notice of Intent to Establish an Additional Full-Service Office required by Subpart C of this Part.
 - 2) Annual Fee: After the notice filed under subsection (e)(1), the licensee shall pay an annual non-refundable Additional Full-Service Office fee of \$250 with the license renewal application fee on the initial license anniversary date.
- f) Hearing Fees: ~~Each~~Except for hearings to which Section 1050.2175 of this Part applies, each party that requests a hearing pursuant to Section 4-1(n) of the Act shall pay a non-refundable fee of \$500, except that a Loan Originator or Mortgage Loan Originator requesting a hearing shall pay a non-refundable fee of \$250,

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unless the fee is waived by the Director. In determining whether to waive the fee, the Director shall consider the financial hardship imposed on the party.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART C: LICENSING

Section 1050.340 Full-Service Office

- a) Each licensee shall maintain a full-service office consistent with the provisions of Sections 3-4 and 1-4(r) of the Act. At a minimum, each licensee shall:
- 1) Maintain a registered agent in Illinois; and
 - 2) Provide a person or persons *reasonably adequate to handle efficiently communications, questions, and other matters relating* (Section 3-4 of the Act) to an application for a loan or existing loan and provide a toll-free telephone arrangement for doing so. In determining whether a licensee handles such matters in a reasonably adequate manner, the Director shall consider consumer complaints received regarding the licensees and information obtained from examinations conducted and reports filed pursuant to the Act. In addition, the Director shall consider whether the licensee has:
 - A) Provided facilities and personnel adequate to accommodate a borrower who wishes to bring all documents applicable to his or her application for or existing home mortgage to the full-service office for examination in conjunction with an inquiry, complaint or concern.
 - B) Maintained a supply of all documents required under Subparts G, H, I, J, K, and L of this Part, where such Subparts apply to the licensee.
- b) If the Director determines that a licensee is not in compliance with ~~Sections~~Section 3-4 and 1-4(r) of the Act, the Director shall notify the licensee, in writing, detailing the requirements for bringing the licensee into compliance. The Director may require a licensee to demonstrate compliance with this Section in instances in which personnel are conducting licensable activities in Illinois

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without adequate facilities and/or licensed offices in Illinois. The Director, at his or her discretion, may require documentation from licensees and hold hearings to take testimony from owners, officers, directors and employees of a licensee, as selected by the Director, and compel attendance of those so selected for the purpose of determining compliance with this Section.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART D: OPERATIONS AND SUPERVISION

Section 1050.410 Net Worth

- a) Amount. Except as provided in subsection (c) of this Section, each licensee shall maintain ~~a minimum~~ net worth of not less than \$150,000~~\$100,000~~.
- b) Calculation. Net worth shall be defined as total assets minus total liabilities, except that total assets shall not include the following:
 - 1) That portion of a licensee's assets pledged to secure obligation of any person or entity other than that of the mortgagee;
 - 2) Any asset (except construction loans receivable, secured by first mortgages from related companies) due from officers or stockholders having an interest;
 - 3) That portion of any marketable security (listed or unlisted) not shown at the lower of cost or market, except for any shares of Federal National Mortgage Association stock required to be held under a servicing agreement, which shall be carried at cost;
 - 4) Any real estate held for sale or investment if development will not start within 2 years from date of acquisition;
 - 5) Any amount in excess of the lower of the cost or market value of mortgages in foreclosure, construction loans, or foreclosed property acquired through foreclosures;
 - 6) Any amount shown on the books for investment in and advances to joint ventures, subsidiaries, affiliates, and selected companies that is greater

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than the value of the assets at equity;

- 7) Goodwill or value placed on insurance renewals or property management contract renewals or other similar intangibles;
 - 8) Organization costs;
 - 9) Any leasehold improvements not being amortized over the lesser of the expected life of the asset or the remaining term of the lease;
 - 10) Commitment fees paid that are not recoverable through the closing or selling of loans;
 - 11) The value of any servicing contracts not determined in accordance with Financial Accounting Standards Board Statement No. 65 and Financial Accounting Standards Board Technical Bulletin 87-3; and
 - 12) Any asset may be excluded from the calculation of the licensee's net worth upon the Director's finding that including the asset undermines or may undermine, in whole or in part, any purpose of the Act, as identified at Section 1-2 of the Act. Any report or finding made under this subsection (b)(12) shall, in writing, identify which of the Act's purposes is or may be undermined and how including the asset results in that effect.
- c) A licensee that engages solely in loan brokering as defined in Section 1-4(o) of the Act is excepted from complying with the net worth requirements of subsection (a) of this Section provided the licensee provides written evidence to the Director of the licensee's conformance with a net worth of ~~\$50,000~~\$35,000, as required by Section 3-5 of the Act. The allowable components of the ~~\$50,000~~\$35,000 net worth shall conform pro rata with the net worth requirements of the United States Department of Housing and Urban Development, as set forth in the Audit Guide for Audits of HUD Approved Nonsupervised Mortgagees for Use by Independent Public Accountants and be subject to subsection (b)(12) of this Section. The audit guide for audits of HUD approved non-supervised mortgagees for use by independent public accountants can be obtained by contacting the U.S. Department of Housing and Urban Development, Office of Inspector General, 451 Seventh Street SW, Washington, D.C. 20410. This handbook was last issued August 25, 1997 (no subsequent dates or editions), under the title: Handbook 2000.04 REV-2, Consolidated Audit Guide for Audits of HUD Programs.

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(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 1050.460 Selection of Independent Auditor (Repealed)

~~The Director shall maintain a county by county registry of all certified public accounting firms that perform professional audits of licensee activities. Appointments of certified public accountants to perform audits of licensees under Section 3-2(e) of the Act shall be made from the list on a rotating basis for the appropriate county.~~

(Source: Repealed at 34 Ill. Reg. _____, effective _____)

Section 1050.490 Bonding Requirements

a) Each licensee shall maintain a bond in conformance with Section 3-1 of the Act in the amount of not less than \$20,000, except that minimum bond amounts shall be determined annually by the Director, according to the scale in subsection (b), upon implementation of the Nationwide Mortgage Licensing System. For the purposes of this Section, the form of the indemnity bond shall be defined as a licensure, surety or any other form of bond that is individually submitted to the Director for consideration as an approved bond.

b) Each Mortgage Loan Originator must be covered by a surety bond through employment with a licensed mortgage broker or mortgage banker. Licensed mortgage brokers and mortgage bankers must file a surety bond that provides coverage for each sponsored Mortgage Loan Originator in an amount that reflects the dollar amount of mortgage loans applied for or originated by its Mortgage Loan Originators during the preceding calendar year. The surety bond amount will be set for each licensed mortgage broker and mortgage banker and adjusted as necessary annually by the Director in accordance with the following scale, based upon residential mortgage loans brokered, funded, originated, serviced or purchased, as the case may be, during the preceding calendar year:

<u>Loans</u>	<u>Bond Amount</u>
<u>\$0 - \$5,000,000</u>	<u>\$25,000</u>
<u>\$5,000,001 - \$20,000,000</u>	<u>\$50,000</u>
<u>\$20,000,001 - \$50,000,000</u>	<u>\$75,000</u>
<u>\$50,000,001 - \$100,000,000</u>	<u>\$100,000</u>

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Over \$100,000,000\$150,000

The Director may require licensed mortgage brokers and mortgage bankers to file reports of mortgage loan volumes with the Director or Nationwide Mortgage Licensing System for purposes of determining the annual minimum bond amount.

c) Each bond required pursuant to Section 3-1 of the Act shall be for a term:

1) concurrent with the term of the license, commencing with licenses issued by the Department with an expiration date of December 31, 2010; and

2) concurrent with the license for new or renewed bonds thereafter.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART E: ANNUAL REPORT OF MORTGAGE ACTIVITY, MORTGAGE
BROKERAGE ACTIVITY AND MORTGAGE SERVICING ACTIVITY

Section 1050.610 Filing Requirements

On or before March 1 of each year, each licensee, except entities engaged solely in loan brokering activities and entities engaged solely in servicing activities, shall file an Annual Report of Mortgage Activity. On or before March 1 of each year, each licensee that brokers loans must file an Annual Report of Mortgage Brokerage Activity. On or before March 1 of each year, each licensee that services residential mortgage loans shall file an Annual Report of Mortgage Servicing Activity. The Director may require reporting by licensees of mortgage, mortgage brokerage, and mortgage servicing activities to the Nationwide Mortgage Licensing System and Registry, upon the dates established by the Nationwide Mortgage Licensing System and Registry.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 1050.660 Verification

A notarized affidavit or oath, affirmation or declaration under penalty of perjury, attesting to the accuracy and truthfulness of the report must accompany each Annual Report of Mortgage Activity, Annual Report of Brokerage Activity and Annual Servicing Report submitted to the Director. This verification must be signed by the owner, if the licensee is a sole proprietorship; by all partners, if the licensee is a partnership; by two officers or all directors, if the licensee is a

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corporation; or by all members, if the licensee is an association.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART H: ADVERTISING

Section 1050.920 Definition of Advertisement

- a) An advertisement is any message, except as provided in subsection (b) of this Section, conveyed in any format, including, but not limited to, the Internet, and attempting to induce, directly or indirectly, any person to enter into a residential mortgage loan or residential mortgage loan brokerage agreement as defined in Section 1-4(w) of the Act.
- b) Small items bearing only the name, address and telephone number of the distributing entity shall not be considered messages intended to induce any person to enter into a residential mortgage loan agreement or residential loan brokerage agreement as defined in the Act and shall not be considered advertisements. Examples of these items are pencils, pens, buttons, pins, pocket calendars, balloons, and business cards.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART J: LOAN APPLICATION PRACTICES

Section 1050.1175 Loan Log~~Maintenance of Records~~

- a) Broker/Origination Loan Log. Each licensee engaged in loan brokerage or loan origination shall maintain a Broker/Origination Loan Log that contains the following for each loan application received, except that a Broker/Origination Log for reverse mortgages shall contain the information in subsection (c)~~loan log that shall be kept current according to the record maintenance procedures of the licensee and shall be produced for examination by the Director. Any report the licensee generates may be substituted for the loan log. At a minimum, the loan log or its substitute shall contain the following with respect to each loan application received during the previous 36 months:~~

- 1) Application date (sort loan log by application date);

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- 2) Borrower ~~name~~names;
 - 3) ~~Borrower employer name~~Property purchaser names;
 - 4) Borrower employer address;
 - 5) Property seller name (indicate NA in the event of a refinance)~~names~~;
 - ~~6)5)~~ Property address;
 - ~~7)6)~~ Loan amount;
 - ~~8)7)~~ ~~Terms (APR)~~; loan program;
 - ~~9)8)~~ Loan originator ~~name~~names and registration numbers;
 - 10) Loan originator license/registration number;
 - ~~11)9)~~ Processor ~~names and license and/or registration numbers~~, if applicable;
 - ~~12)10)~~ Appraiser ~~names and license numbers~~;
 - 11) ~~Corporate or full service office, and license number, where application taken~~;
 - 12) ~~Amount of points and fees charged; and~~
 - 13) Appraiser license number;
 - ~~14)13)~~ Statement of whether the loan application was cancelled, rejected or closed or is pending and, if the loan application was closed, the closing date and name of the owner and servicer of the loan~~;~~;
 - 15) Loan closer's name and employer's name; and
 - 16) Loan closer location.
- b) Servicer Loan Log. Each licensee engaged in loan servicing shall maintain a Servicer Loan Log that contains the following for each loan serviced:

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- 1) Loan number;
 - 2) Note date;
 - 3) Borrower's name;
 - 4) Property address;
 - 5) Loan type;
 - 6) Lien position;
 - 7) Original principal balance;
 - 8) Unpaid principal balance;
 - 9) Total monthly payment;
 - 10) Principal/interest;
 - 11) Property tax; and
 - 12) Hazard insurance.
- c) Reverse Mortgage Loan Log shall include the information in subsection (a) for items 1, 2 (add ages), 6, 8 (add lump sum, monthly payment, line of credit), 9, 10, 11, 12, and add information for new items of appraised value, loan to value, and counseling (yes or no; if yes, add name of agency and HUD approval status).

Loan File Retention.

- 1) ~~With respect to each loan application, each licensee, except as provided in subsection (b)(2) of this Section, shall maintain the following documents on file in hard copy or paper-based form, or electronic or digital form capable of legible hard copy reproduction, for 36 months from the date of closing or other termination of loan processing, as part of its books and records to be examined by the Director:~~

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- ~~A) the Loan Brokerage Agreement and Loan Brokerage Disclosure Statement, if any mortgage loan brokerage services were utilized by the mortgage loan applicant;~~
- ~~B) the Borrower Information Document;~~
- ~~C) all documents signed by the customer, including but not limited to the initial loan application, disclosure documents and closing documents;~~
- ~~D) the appraisal and credit report, as well as all other third party documents relating to the loan; and~~
- ~~E) all other documents in or related to the loan file.~~

- 2) ~~Each licensee shall retain, at a minimum, the documents referenced in subsections (b)(1)(A) and (B). With respect to subsections (b)(1)(C) through (E), a licensee need retain only those documents originated by that licensee's activity in connection with the loan; however, the Director may require the licensee to obtain copies of the remaining documents to produce for examination of its books and records. A mortgage broker licensee may maintain the required documents in hard copy or paper-based form, or in electronic or digital form capable of legible hard copy or paper reproduction. Electronic or digital versions of documents that were originally in hard copy or paper-based form must be clear, complete and legible, and the mortgage broker licensee must accurately and authentically preserve any alterations, erasures, or similar indications of changes on the documents. The mortgage broker licensee must also retain documentation that explains the process used to convert hard copy or paper-based documents to electronic or digital formats and specifies the date of conversion, the method of conversion, and the disposition of the original hard copy or paper-based document. A mortgage banker licensee shall maintain all required original documents in hard copy or paper-based form and shall retain hard copies or paper-based documents for all loans assigned to another mortgage banker licensee or entity.~~

- ~~d)e) Secondary Market Loan Log Information. Each If a licensee that sells, assigns or purchases any loans on the secondary market shall maintain a Secondary Market Loan Log that contains the following for each loan sold, assigned or purchased~~

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~~any servicing of loans, the licensee shall retain the following documents for 36 months from the date of each transaction, as part of its books and records to be examined by the Director:~~

- ~~1) Name of loan seller or assignor; the contract and delivery schedules detailing loans sold, assigned or purchased; and~~
- ~~2) Name of loan buyer or assignee; the contract and delivery schedules detailing servicing sold, assigned or purchased.~~
- ~~3) Date of transaction;~~
- ~~4) Name of borrower for underlying property;~~
- ~~5) Amount financed on underlying loan; and~~
- ~~6) Name of Loan Servicer.~~

- ~~e)d)~~ High Risk Home Loans. If a licensee performs licensable acts with respect to a loan subject to the High Risk Home Loan Act, then the licensee shall maintain a separate High Risk Home Loan Log with the information required in subsection (a) of this Section with respect to each loan application received during the previous 60 months and shall maintain ~~the respective~~ all loan files ~~as required in subsection (b) of this Section~~ for 60 months from the date of closing or other termination of loan processing.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 1050.1176 Record Retention

- a) Record Retention. Pursuant to Section 2-4(c) of the Act, each licensee shall retain all records prepared or received in the course of its residential mortgage business for 36 months.
- 1) For records pertaining to the activities of loan brokering or originating, the 36 month period shall begin on the date of the loan closing or other termination date of the loan process.
 - 2) For records pertaining to buying/selling loans on the secondary market,

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the 36 month period shall begin on the date the loan was sold.

- 3) For records pertaining to the servicing of loans, the 36 month period shall begin on the date the loan was paid off or on the date the servicing rights were sold.
- b) Format of Retention. Records pertaining to the activities of loan brokering, loan originating, or buying/selling loans on the secondary market may be retained for the 36 month period:
 - 1) In hard copy or paper-based form; or
 - 2) In electronic or digital form. The electronic or digital form must be capable of legible hard copy reproduction and the licensee must accurately and authentically preserve any alterations, erasures or similar indications of changes on the documents. The licensee must also retain documentation that explains the process used to convert hard copy or paper-based documents to electronic or digital formats and specifies the date of conversion, the method of conversion, and the disposition of the original hard copy or paper-based document.
- c) Format of Retention – Servicing. Records pertaining to the activity of loan servicing must be retained for the 36 month period in hard copy or paper-based form.

(Source: Added at 34 Ill. Reg. _____, effective _____)

Section 1050.1177 Required Loan Application File Documents

For licensees engaged in loan brokering or originating, each licensee shall maintain a loan application file for each loan application. Each loan application file shall include:

- a) the Loan Brokerage Agreement and Loan Brokerage Disclosure Statement, if any mortgage loan brokerage services were utilized by the borrower;
- b) the Borrower Information Document;
- c) all documents signed by the borrower, including, but not limited to, the initial loan application, disclosure documents and closing documents;

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- d) the appraisal and credit report, as well as other third-party documents relating to the loan; and
- e) all other documents in or related to the loan file.

(Source: Added at 34 Ill. Reg. _____, effective _____)

SUBPART L: COMMITMENT AND CLOSING PRACTICES

Section 1050.1335 Fees and Charges

- a) Except as prohibited by federal statute or regulation, a licensee shall not require a borrower to pay any fees or charges prior to the loan closing, except charges to be incurred by the licensee on behalf of the borrower for services from third parties necessary to process the application, such as for credit reports and appraisals, and:
 - 1) Loan Fees
 - A) Loan fees, such as origination or commitment fees, including fees detailed in the Loan Brokerage Agreement, may be charged prior to closing only if a licensee is able to demonstrate either that:
 - i) The loan commitment is provided in writing by the funding entity and accepted in writing by the borrower; or
 - ii) The loan commitment provided in writing is consistent with a Loan Brokerage Agreement provided to the borrower pursuant to Section 1050.1010 of this Part and signed by the borrower.
 - B) The loan fee, including fees detailed in the Loan Brokerage Agreement, collected prior to closing shall be deposited in escrow by the licensee in accordance with the requirements of Section 1050.440 of this Part.
 - C) If the loan commitment provided by the funding entity pursuant to subsection (a)(1) is subject to any condition or conditions, and any condition is not met due to an action or lack of action on the part of

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the borrower, the licensee may retain the loan fee. In all other cases, if the loan does not close as agreed by the licensee and the borrower, the licensee shall refund the loan fee to the borrower.

- D) A loan fee, including fees detailed in the Loan Brokerage Agreement, may be collected by a licensee even if a loan does not close if:
- i) Either the fee was provided for in the loan commitment accepted in writing by the borrower or the fee was disclosed in the Loan Brokerage Agreement provided to a borrower pursuant to Section 1050.1010 of this Part and signed by the borrower, and a loan commitment was obtained by the licensee consistent with the Loan Brokerage Agreement; and
 - ii) The borrower withdraws the loan application; or the borrower has made a material misrepresentation on the loan application; or the borrower has failed to provide documentation necessary to the processing or closing of the loan.
- 2) Rate-Lock Fee
- A) A Rate-Lock Fee Agreement shall be in writing and signed by both the licensee and prospective borrower and provided to prospective borrowers regardless of whether a fee is collected or the interest rate is locked or floating.
 - B) The Rate-Lock Fee Agreement shall state all of the following:
 - i) The expiration date of the Rate-Lock Fee Agreement;
 - ii) The amount of the loan;
 - iii) The maximum interest rate of the loan;
 - iv) The term of the loan; ~~and~~

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- v) The maximum discount (points) to be paid; ~~and-~~
 - vi) That the interest rate is locked or the interest rate is floating.
- C) The licensee shall be able to demonstrate to the Director that:
- i) The licensee is able to perform under the terms of the Rate-Lock Fee Agreement;
 - ii) Subject to verification, the information submitted by the borrower indicates that the loan will be approved in accordance with the Rate-Lock Fee Agreement; and
 - iii) The Rate-Lock Fee will be credited to the borrower at closing.
- D) The Rate-Lock Fee shall be deposited in escrow by the licensee in accordance with the requirements of Section 1050.440 of this Part.
- E) A Rate-Lock fee may be collected by a licensee even if a loan does not close if:
- i) The fee was disclosed in the Rate-Lock Fee Agreement provided to a borrower and signed by the borrower; and
 - ii) A Rate-Lock was obtained by the licensee consistent with the Rate-Lock Fee Agreement and the borrower withdraws the loan application; or the borrower has made a material misrepresentation on the loan application; or the borrower has failed to provide documentation necessary to the processing or closing of the loan.
- 3) Assumption Fee
- A licensee may charge a borrower an Assumption Fee for a Federal Housing Administration (FHA) or Department of Veterans Affairs (VA) loan assumption that, by regulation, requires full credit approval prior to closing, subject to the following requirements:

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- A) The applicant must qualify for the extension of credit as required under:
 - i) The terms and conditions of mortgages given on property in Illinois that are insured by the Federal Housing Administration and dated on or after December 15, 1989 requiring prior credit approval of the Secretary of Housing and Urban Development.
 - ii) The terms and conditions of mortgages given on property located in Illinois that are guaranteed by the U.S. Department of Veterans Affairs (VA) dated on or after March 1, 1988 and requiring approval of VA or its authorized agent.
- B) An Assumption Fee may be collected by a licensee even if a loan does not close if:
 - i) The fee was disclosed in an Assumption Fee Agreement provided to a borrower and signed by the borrower; and
 - ii) An Assumption Fee Agreement was obtained by the licensee consistent with the Assumption Fee Agreement and the borrower withdraws the loan application; or the borrower has made a material misrepresentation on the loan application; or the borrower has failed to provide documentation necessary to the processing or closing of the loan.
- b) Nothing in this Section shall be interpreted to limit the right of a licensee to recover from a borrower any fee that the borrower has agreed to pay pursuant to a Loan Brokerage Agreement, a loan commitment or other written agreement entered into between the borrower and the licensee. This subsection shall not abridge Section 1050.1010(g) so as to permit an agreement or agreements in addition to the Rate-Lock Fee Agreement or the Loan Brokerage Agreement.
- c) For each violation of this Section, the Director may fine a licensee up to \$500 in addition to all other actions authorized under the Act and this Part.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART N: ADMINISTRATIVE HEARING PROCEDURES

Section 1050.1530 Filing

- a) Documents and requests permitted or required to be filed with the Agency in connection with a hearing shall be addressed to and mailed to or filed with the Department of Financial and Professional Regulation-Division of Banking, 320 West Washington Street, 6th Floor~~500 East Monroe Street/Suite 800~~, Springfield, Illinois 6278662701-1509, in triplicate.
- b) The office of the Division is open for filing and inspection and copying of public documents from 8:30 a.m. to 5:00 p.m., Monday through Friday, except on national and State legal holidays.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 1050.1570 Request for Hearing

Any person affected by an order or action of the Director may file a request for hearing with the Director. The request for hearing shall be filed within 10 days after receipt of an administrative decision and shall:

- a) Clearly state the name of the petitioner;
- b) Include a verified complaint identifying the administrative decision with respect to which a hearing is requested, including an explicit admission, denial or appropriate response to each allegation or issue contained in the administrative decision. Each separate cause of action upon which a separate recovery can be had shall be separately pleaded into separate paragraphs, each containing separate allegations. The verified complaint shall contain a prayer for relief for each count, as applicable.
- c) Be typewritten on 8½" x 11" white paper;
- d) Be signed by the petitioner or the petitioner's attorney and shall contain the address and telephone number of the individual signing the document;~~and~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

e) Be sent by certified mail, return receipt requested, to the Director at the Department of Financial and Professional Regulation-Division of Banking, 320 West Washington Street, 6th Floor~~500 East Monroe Street/Suite 800~~, Springfield, Illinois 62786; and 62701-1509.

f) Include the hearing fee required by Section 1050.210(f).

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 1050.1580 Notice of Hearing

a) The Director shall issue a notice of hearing or status call prior to hearing:

1) Upon the Director's initiative pursuant to Section 4-1(n) of the Act; or

2) In response to a request for hearing, in which case the notice of hearing or status call shall be issued within 10 days after receipt of the request for hearing or by order of the hearing officer at the next available status call or hearing date. ~~The notice shall be issued within days after receipt of the request for hearing.~~

b) The notice of hearing or status call shall set the date and location of the hearing or status call, state the name ~~and address~~ of the hearing officer and identify the matter of the hearing or status call.

c) The hearing or status call shall be held within 30 days after service of the notice of hearing or status call as the case may be.

d) The hearing request will be denied when the Director makes a finding that:

1) The requested relief is not authorized by statute or regulation; ~~or~~

2) the requesting party fails to show that it has been harmed by the Director's order or action; or

3) the requesting party fails to comply with all requirements of Section 1050.1570

(Source: Amended at 34 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

SUBPART R: REGISTRATION OF LOAN ORIGINATORS

Section 1050.2112 Evaluation of Applications

- a) Evaluations of Applications – Criminal History
- 1) Criminal history record information is defined as information collected by criminal justice agencies as defined in the Illinois Uniform Conviction Information Act [20 ILCS 2635] regarding individuals, consisting of identifiable descriptions and notation of arrests, detention, indictments, information, or other formal criminal charges, and any disposition arising therefrom, sentencing, correctional supervision and release. The individual records must contain both information sufficient to identify the subject of the record and notations regarding any formal criminal justice transaction involving the identified individual.
 - 2) In determining whether an applicant for a Loan Originator Certificate of Registration is fit for registration because of criminal history record information, the Division shall consider the following standards:
 - A) Whether the crime was a felony;
 - B) An applicant shall not be considered fit for registration if the applicant has been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign or military court at any time preceding the date of application, if the felony involved an act of~~Whether the crime was financial in nature or involved monies, including but not limited to fraud, dishonesty or a breach of trust, embezzlement, forgery, or counterfeiting, money laundering, and theft;~~
 - C) For felonies not subject to subsection (a)(2)(B), an applicant shall not be considered fit for registration if the applicant has been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign or military court during the 7-year period preceding the date of the application for registration~~Whether the crime was one of moral turpitude, breach of trust, or misfeasance or malfeasance, including but not limited to drug offenses under~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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~~the Illinois Controlled Substances Act [720 ILCS 570] and Federal Drug Enforcement Laws [21 USC 801], sex offenses listed in Article 11 of the Criminal Code of 1961 [720 ILCS 5/Art. 11], dishonesty, false statement or some other element of deceit, untruthfulness or falsification, and perjury or inducement to perjury;~~

~~D) Whether in the case of a felony more than 10 years have elapsed since the date of completion of imposed sentence;~~

DE) Whether, in the case of a misdemeanor related to finances or moral turpitude, more than 5 years have elapsed since the date of completion of imposed sentence;

EF) Whether the conviction was from a city ordinance violation or conviction for which a jail sentence was not imposed; and

EG) For crimes not subject to subsection (a)(2)(B) or (C), ~~whether~~ Whether the applicant has been sufficiently rehabilitated to warrant public trust. The Division shall consider the following factors in considering whether an applicant has been presumed to be rehabilitated:

- i) Completion of probation;
- ii) Completion of parole supervision;
- iii) In the case of a felony not subject to parole supervision, if more than 10 years have elapsed after final discharge or release from any term of imprisonment without any subsequent conviction; or
- iv) In the case of a misdemeanor related to finances and moral turpitude, if more than 5 years have elapsed after final discharge or release from any term of imprisonment without any subsequent conviction.

3) For crimes not subject to subsection (a)(2)(B) or (C), any ~~Any~~ one of the following factors may outweigh the presumption of rehabilitation:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- A) Lack of compliance with terms of punishment (i.e., failure to pay fines or make restitution, violation of the terms of probation or parole);
 - B) Unwillingness to undergo, or lack of cooperation in, medical or psychiatric treatment/counseling;
 - C) Falsification of an application for registration with the Division; and
 - D) Failure to furnish to the Division additional information or failure to appear for a conference with the Division in relation to the applicant's application for registration.
- 4) The following criminal history records shall not be considered in connection with an application for registration:
- A) Juvenile adjudications;
 - B) Records of arrest not followed by a conviction;
 - C) Convictions overturned by a higher court; and
 - D) Convictions that have been the subject of a pardon or expungement.
- b) Evaluation of Applications – Civil Judgment and Credit History
In determining whether an applicant for a Loan Originator Certificate of Registration is fit for registration because of civil judgments identified in the applicant's credit history or otherwise that involve finances, breach of trust, moral turpitude, or misfeasance or malfeasance, the Division shall consider the totality of the circumstances of any outstanding and unpaid civil judgments against the applicant and any civil judgments where satisfaction of the judgment has occurred 5 years or less before the date of application.
- c) Evaluation of Applications – Disciplinary Actions taken by Regulatory Agencies

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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In determining whether an applicant for a Loan Originator Certificate of Registration is fit for registration because of a disciplinary action taken by a regulatory agency, the Division shall consider the following standards:

- 1) An applicant shall not be considered fit for registration if the applicant has ever had a Mortgage Loan Originator license, or an equivalent Loan Originator registration, revoked in any governmental jurisdiction, except that a subsequent formal vacation of a revocation shall not be deemed a revocation.
 - 2) Whether a professional license or registration held by the applicant that is financially related, including but not limited to residential mortgage, banking, securities, insurance, real estate, and appraisal, has been disciplined by a state or Federal regulator.
 - ~~3)2)~~ Whether the applicant has been barred, removed, and/or prohibited by the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the U.S. Department of Housing and Urban Development or the Illinois Department of Financial and Professional Regulation, or appears on a list maintained by the Office of Foreign Asset Control of the United States Department of the Treasury.
- d) Determination and Hearing
The applicant/registrant may be given an opportunity to appear at a Division conference regarding the matter. If the applicant is afforded an opportunity to appear at a Division conference, the applicant/registrant will be notified in writing by the Division. Failure to appear at the conference shall result in denial or refusal to issue or renew an applicant's/registrant's Loan Originator Certificate of Registration. If the applicant chooses not to attend the conference or was not afforded the opportunity of a conference, he/she may request a formal hearing regarding such determination prior to final action by the Division in accordance with 38 Ill. Adm. Code 1050.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 1050.2175 Loan Originator Hearings; Fees and Costs

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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- a) A hearing can be requested and will be conducted by the procedure described in Subpart N.
- b) The Director shall receive and there shall be paid to the Director a fee of \$250 for each party that requests a hearing pursuant to this Subpart R, unless waived by the Director. In determining whether to waive the fee, the Director shall consider the financial hardship imposed on the party.
- ~~c)b~~) In addition to filing fees set forth in subsection ~~(b)(a)~~, each party to the hearing shall be required to pay its pro rata share of expenses, including, but not limited to, hearing officer expenses, witness and mileage fees, transcript costs and such other incidental costs as may be authorized by the hearing officer or by the Director, unless waived by the Director. In determining whether to waive the costs or a portion of the costs, the Director shall consider the financial hardship on the party.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

DEPARTMENT OF MILITARY AFFAIRS

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Illinois Military Family Relief Fund Act
- 2) Code Citation: 95 Ill. Adm. Code 200
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
200.5	Amended
200.10	Amended
200.20	Amended
200.30	Amended
200.40	Amended
200.41	New
200.50	Amended
200.60	Amended
200.70	Amended
200.71	New
200.80	Amended
- 4) Statutory Authority: Implementing and authorized by the Illinois Military Code [20 ILCS 1805/22-9] as amended by PA 96-822
- 5) A Complete Description of the Subjects and Issues Involved: These changes implement the increase of the Casualty Grant from \$2000 to \$5000 per separate incident/injury; amend the Casualty Based Grant to include Illinois residents who are active duty Service Members injured due to hostile action while supporting operations associated with the response to the terrorist attacks of September 11, 2001; and increase the minimum period of duty to which ordered from 30 days to 60 days for each grant.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? Yes
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No

DEPARTMENT OF MILITARY AFFAIRS

NOTICE OF PROPOSED AMENDMENTS

- 11) Statement of Statewide Policy Objectives: This proposal does not affect local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comment on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Jack E. Pascoe, Jr., Military Program Supervisor
Illinois Department of Military Affairs
1301 North MacArthur
Boulevard, Springfield, IL 62702-2399

217/761-3452
jack.pascoe@us.army.mil
- 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: This rulemaking was not included on the most recent regulatory agenda because: Public Act 96-822 was not passed until November 23, 2009.

The proposed amendments are identical to those of the Emergency Amendments for this rulemaking, and begins in this issue of the *Illinois Register* on page 17161.

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: The Administration and Operation of the Teachers' Retirement System
- 2) Code Citation: 80 Ill. Adm. Code 1650
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
1650.511	New
1650.512	New
1650.910	Repeal
1650.920	Repeal
1650.930	Amend
1650.940	Repeal
1650.950	Repeal
1650.960	Repeal
1650.970	Repeal
1650.980	Amend
1650.990	Amend
1650.995	Amend
- 4) Statutory Authority: Implementing and authorized by Article 16 of the Illinois Pension Code [40 ILCS 5/Art. 16]
- 5) A Complete Description of the Subjects and Issues Involved: New rule 1650.511 sets forth the test to ensure that a TRS annuitant has separated from service, pursuant to IRS section 401(a). New rule 1650.512 explains the System's method for verifying that TRS annuitants are complying with post-retirement employment limitations.

The rules, 1650.910 – 1650.995, found in Subpart K: Public Record Requests, are being updated to comply with PA 96-542, effective 1/1/10. Existing rules being repealed are either in conflict with the new law or are no longer needed because the new law provides detailed procedures as to how public bodies should handle public record requests. Section 1650.930 is being amended to inform the public where to submit requests and what the request should contain. Section 1650.980 is being amended to explain the procedure for personal inspection of public records at the System's office. Section 1650.990 is being amended to comply with the new law's requirements regarding fees that public bodies may charge for copies. Section 1650.995 has been re-written to inform the public of the many categories of information immediately available to the public on the TRS web site.

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate under the State Mandates Act [30 ILCS 805].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed amendment may be submitted in writing for a period of 45 days following publication of this Notice to:
- Cynthia M. Fain
Sr. Asst.General Counsel
Teachers' Retirement System
2815 West Washington,
P. O. Box 19253
Springfield, Illinois 62794-9253
- 217/753-0375
- 13) Initial Regulatory Flexibility Analysis: This rulemaking will not affect small businesses.
- 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: This rulemaking was not summarized on a previous Regulatory Agenda.

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

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

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE D: RETIREMENT SYSTEMS

CHAPTER III: TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

PART 1650

THE ADMINISTRATION AND OPERATION OF THE
TEACHERS' RETIREMENT SYSTEM

SUBPART A: REPORTS BY BOARD OF TRUSTEES

Section

1650.10 Annual Financial Report (Repealed)

SUBPART B: BASIC RECORDS AND ACCOUNTS

Section

1650.110 Membership Records
1650.120 Claims Records (Repealed)
1650.130 Individual Accounts (Repealed)
1650.140 Ledger and Accounts Books (Repealed)
1650.150 Statistics (Repealed)
1650.160 Confidentiality of Records
1650.180 Filing and Payment Requirements
1650.181 Early Retirement Incentive Payment Requirements (Repealed)
1650.182 Waiver of Additional Amounts Due
1650.183 Definition of Employer's Normal Cost

SUBPART C: FILING OF CLAIMS

Section

1650.201 Disability Benefits – Application Procedure; Effective Date
1650.202 Disability Benefits – Definitions
1650.203 Disability Retirement Annuity – Definitions
1650.204 Gainful Employment – Consequences
1650.205 Medical Examinations and Investigation of Disability Claims
1650.206 Physician Certificates
1650.207 Disability Due to Pregnancy
1650.208 Disability Payments
1650.209 Computation of Annual Salary When Member Has Different Semester Salary

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

	Rates (Repealed)
1650.210	Claim Applications
1650.211	Disability Recipient Eligible to Receive an Age or Disability Retirement Annuity
1650.220	Reclassification of Disability Claim (Repealed)
1650.221	When Member Becomes Annuitant
1650.222	Death Out of Service
1650.230	Medical Examinations and Investigations of Claims (Repealed)
1650.240	Refunds; Canceled Service; Repayment
1650.250	Death Benefits
1650.260	Evidence of Age
1650.270	Reversionary Annuity – Evidence of Dependency
1650.271	Evidence of Parentage
1650.272	Eligible Child Dependent By Reason of a Physical or Mental Disability
1650.280	Evidence of Marriage
1650.290	Offsets

SUBPART D: MEMBERSHIP AND SERVICE CREDITS

Section	
1650.301	Early Retirement Without Discount – Return to Teaching from a Break in Service
1650.310	Effective Date of Membership
1650.315	Verifying Service Credit
1650.320	Method of Calculating Service Credits
1650.325	Method of Calculating Service Credit for Recipients of a Disability Benefit or Occupational Disability Benefit
1650.330	Duplicate Service Credit
1650.335	Unreported Regular Service Credit and Earnings
1650.340	Service Credit for Leaves of Absence
1650.341	Service Credit for Involuntary Layoffs
1650.345	Service Credit for Periods Away From Teaching Due to Pregnancy
1650.346	Service Credit for Periods Away From Teaching Due to Adoption
1650.350	Service Credit for Unused Accumulated Sick Leave Upon Retirement
1650.351	Employer Contribution for Excess Sick Leave
1650.355	Purchase of Optional Service – Required Minimum Payment
1650.356	Payroll Deduction Program (Repealed)
1650.357	Employer Payment of Member's Optional Service and/or Upgrade Contribution Balance (Repealed)
1650.360	Settlement Agreements and Judgments
1650.370	Calculation of Average Salary (Renumbered)

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

- 1650.380 Definition of Actuarial Equivalent (Repealed)
- 1650.390 Independent Contractors
- 1650.391 Optional 2.2 Upgrade of Earned and Credited Service
- 1650.392 2.2 Upgrade of Optional Service Not Credited at Initial Upgrade

SUBPART E: CONTRIBUTION CREDITS AND PAYMENTS

Section

- 1650.410 Return of Contributions for Duplicate or Excess Service
- 1650.415 Return of Optional Increase in Retirement Annuity Contributions
- 1650.416 Optional Increase in Retirement Annuity – 1% Contribution Reduction
- 1650.417 Mandatory Distributions Pursuant to Section 401(a)(9) of the Internal Revenue Code
- 1650.420 Interest on Deficiencies (Repealed)
- 1650.430 Installment Payments (Repealed)
- 1650.440 Small Deficiencies, Credits or Death Benefit Payments (Repealed)
- 1650.450 Compensation Recognized As "Salary"
- 1650.451 Reporting of Conditional Payments
- 1650.460 Calculation of Average Salary
- 1650.470 Rollover Distributions
- 1650.480 Rollovers to the System
- 1650.481 Employer Contribution Required for Salary Increases in Excess of 6%
- 1650.482 Contracts and Collective Bargaining Agreements – Loss of Exemption from Employer Contributions
- 1650.483 Employer Contributions for Salary Increases in Excess of 6% and Excess Sick Leave Exemption from Contributions
- 1650.484 Members Not Covered by Collective Bargaining Agreements or Employment Contracts
- 1650.485 Employer Contributions for Salary Increases in Excess of 6% – Receipt of Bill

SUBPART F: ANNUITANTS AND BENEFICIARIES

Section

- 1650.505 Beneficiary (Repealed)
- 1650.510 Re-entry Into Service (Repealed)
- 1650.511 Separation from Service
- 1650.512 Verification of Compliance with Post-Retirement Employment Limitations
- 1650.520 Suspension of Benefits
- 1650.530 Power of Attorney

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

1650.540	Conservators/Guardians
1650.550	Presumption of Death
1650.560	Benefits Payable on Death
1650.561	Valid Beneficiary Designations
1650.570	Survivors' Benefits
1650.571	Payment of Monthly Survivor Benefits to a Trust
1650.575	Full-time Student – Receipt of Survivors Benefits Until Age 22
1650.580	Evidence of Eligibility
1650.590	Comptroller Offset
1650.595	Overpayments

SUBPART G: ATTORNEY GENERALS' OPINION

Section	
1650.605	Policy of the Board Concerning Attorney Generals' Opinion (Repealed)

SUBPART H: ADMINISTRATIVE REVIEW

Section	
1650.610	Staff Responsibility
1650.620	Right of Appeal
1650.630	Form of Written Request
1650.635	Presiding Hearing Officer – Duties and Responsibilities
1650.640	Prehearing Procedure
1650.641	Claims Hearing Committee Hearing Packet
1650.650	Hearing Procedure
1650.660	Rules of Evidence (Repealed)

SUBPART I: AMENDMENTS TO BYLAWS AND RULES

Section	
1650.710	Amendments

SUBPART J: RULES OF ORDER

Section	
1650.810	Parliamentary Procedure

SUBPART K: PUBLIC RECORD~~FREEDOM OF INFORMATION ACT~~ REQUESTS

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

Section

- 1650.910 Summary and Purpose ([Repealed](#))
- 1650.920 Definitions ([Repealed](#))
- 1650.930 Submission of Requests
- 1650.940 Form and Content of FOIA Requests ([Repealed](#))
- 1650.950 Appeal of a Denial ([Repealed](#))
- 1650.960 Executive Director's Response to Appeal ([Repealed](#))
- 1650.970 Response to FOIA Requests ([Repealed](#))
- 1650.980 Inspection of Records at System Office
- 1650.990 Copies of Public Records
- 1650.995 Materials [Immediately Available](#) ~~Under Section 4 of FOIA~~

SUBPART L: BOARD ELECTION PROCEDURES

Section

- 1650.1000 Nomination of Candidates
- 1650.1001 Elections Date/Election Day – Defined
- 1650.1010 Petitions
- 1650.1020 Eligible Voters
- 1650.1030 Election Materials
- 1650.1040 Marking of Ballots
- 1650.1050 Return of Ballots
- 1650.1060 Observation of Ballot Counting
- 1650.1070 Certification of Ballot Counting
- 1650.1080 Challenges to Ballot Counting
- 1650.1090 Special Election to Fill Un-Expired Term of Elected Trustee

SUBPART M: QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDERS

Section

- 1650.1110 Definitions
- 1650.1111 Requirements for a Valid Qualified Illinois Domestic Relations Order
- 1650.1112 Requirements for a Valid QILDRO Calculation Order
- 1650.1113 Required Forms
- 1650.1114 Filing a QILDRO or a Calculation Order with the System
- 1650.1115 Benefits Affected by a QILDRO
- 1650.1116 Effect of a Valid QILDRO
- 1650.1117 QILDROs Against Persons Who Became Members Prior to July 1, 1999

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

1650.1118	Alternate Payee's Address
1650.1119	Electing Form of Payment
1650.1120	Automatic Annual Increases
1650.1121	Reciprocal Systems QILDRO Policy Statement (Repealed)
1650.1122	Providing Benefit Information for Divorce Purposes
1650.1123	Suspension and Expiration of a QILDRO
1650.1124	Income Tax Reporting
1650.1125	Lump-Sum Death Benefit Allocation to Alternate Payee

SUBPART N: PAYROLL DEDUCTION PROGRAM

Section

1650.1200	Payroll Deduction Program Guidelines
1650.1201	Employer Responsibility Under the Payroll Deduction Program
1650.1202	Payroll Deduction Agreements – Suspensions and Terminations
1650.1203	Payroll Deduction Program – Full Time Employment Defined
1650.1204	Payroll Deduction Program – Disability Defined
1650.1205	Employer Payment of Member's Optional Service, Refund and/or Upgrade Contribution Balance

SUBPART O: RETIREMENT BENEFITS

Section

1650.2900	Excess Benefit Arrangement
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AUTHORITY: Implementing and authorized by Articles 1 and 16 of the Illinois Pension Code [40 ILCS 5/Arts. 1 and 16]; Freedom of Information Act [5 ILCS 140]; Internal Revenue Code (26 USC 1 et seq.); Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

SOURCE: Filed June 20, 1958; emergency rules adopted at 2 Ill. Reg. 49, p. 249, effective November 29, 1978, for a maximum of 150 days; adopted at 3 Ill. Reg. 9, p. 1, effective March 3, 1979; codified at 8 Ill. Reg. 16350; amended at 9 Ill. Reg. 20885, effective December 17, 1985; amended at 12 Ill. Reg. 16896, effective October 3, 1988; amended at 14 Ill. Reg. 18305, effective October 29, 1990; amended at 15 Ill. Reg. 16731, effective November 5, 1991; amended at 17 Ill. Reg. 1631, effective January 22, 1993; amended at 18 Ill. Reg. 6349, effective April 15, 1994; emergency amendment at 18 Ill. Reg. 8949, effective May 24, 1994, for a maximum of 150 days; emergency modified at 18 Ill. Reg. 12880; amended at 18 Ill. Reg. 15154, effective September 27, 1994; amended at 20 Ill. Reg. 3118, effective February 5, 1996; emergency amendment at 21 Ill. Reg. 483, effective January 1, 1997, for a maximum of 150

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

days; amended at 21 Ill. Reg. 2422, effective January 31, 1997; amended at 21 Ill. Reg. 4844, effective March 27, 1997; emergency amendment at 21 Ill. Reg. 17159, effective December 9, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 7243, effective April 9, 1998; emergency amendment at 22 Ill. Reg. 7314, effective April 9, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 9374, effective May 14, 1998, for a maximum of 150 days; emergency rule modified in response to JCAR Objection at 22 Ill. Reg. 11640; emergency amendment at 22 Ill. Reg. 13151, effective June 29, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 15620, effective August 17, 1998; amended at 22 Ill. Reg. 19079, effective October 1, 1998; amended at 22 Ill. Reg. 22090, effective December 1, 1998; amended at 23 Ill. Reg. 3079, effective February 23, 1999; amended at 24 Ill. Reg. 2440, effective January 27, 2000; amended at 24 Ill. Reg. 10300, effective June 26, 2000; amended at 25 Ill. Reg. 203, effective December 22, 2000; amended at 26 Ill. Reg. 2758, effective February 11, 2002; amended at 26 Ill. Reg. 11476, effective July 11, 2002; amended at 27 Ill. Reg. 1668, effective January 17, 2003; amended at 27 Ill. Reg. 9209, effective May 28, 2003; amended at 28 Ill. Reg. 10055, effective June 29, 2004; amended at 29 Ill. Reg. 1546, effective January 14, 2005; amended at 29 Ill. Reg. 13244, effective August 9, 2005; amended at 30 Ill. Reg. 194, effective December 23, 2005; amended at 30 Ill. Reg. 472, effective December 21, 2005; amended at 30 Ill. Reg. 11728, effective June 23, 2006; amended at 30 Ill. Reg. 17525, effective October 18, 2006; amended at 31 Ill. Reg. 10688, effective July 13, 2007; amended at 32 Ill. Reg. 4073, effective February 28, 2008; amended at 32 Ill. Reg. 7979, effective May 6, 2008; amended at 32 Ill. Reg. 13534, effective August 6, 2008; amended at 33 Ill. Reg. 4401, effective March 3, 2009; amended at 33 Ill. Reg. 15863, effective November 2, 2009; amended at 34 Ill. Reg. _____, effective _____.

SUBPART F: ANNUITANTS AND BENEFICIARIES

Section 1650.511 Separation from Service

- a) Under the provisions of section 401(a) of the Internal Revenue Code (26 USC 401(a)), a member must "separate from service" to be eligible to receive a retirement benefit from the System.
- b) To meet the "separation from service" requirement of the Internal Revenue Code, an annuitant cannot return to work with his or her last employer in the same position unless:
 - 1) reemployment was not discussed nor arranged until 30 days after the annuitant's date of retirement.

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- 2) The annuitant is not employed by the annuitant's former employer prior to 30 days after the annuitant's retirement and until the next school year after retirement.
- 3) The annuitant is only employed by his or her last employer in the annuitant's last position no more than the limit provided in Section 16-118(a)(2) of the Pension Code [40 ILCS 5/16-118(a)(2)] in the school year following the school year of retirement.
- 4) The annuitant's employer must fill the annuitant's former position with a new employee after the above 120 day or 600 hour employment period has elapsed.
- c) This Section shall apply whether or not the position requires certification or the member can fill the position post-retirement without certification.
- d) A change in job title is not sufficient to demonstrate "separation from service".
- e) Failure to "separate from service" shall nullify an annuitant's retirement and constitute a return to service under Section 16-150(d) of the Pension Code.
- f) Return to part-time non-tenured or substitute teaching with the annuitant's last employer shall not be a return to the same position.

(Source: Added at 34 Ill. Reg. _____, effective _____)

Section 1650.512 Verification of Compliance with Post-Retirement Employment Limitations

- _____ a) Section 16-118 of the Pension Code [40 ILCS 5/16-118] sets forth the amount of time an annuitant is allowed to be employed as a teacher by employers specified in 40 ILCS 5/16-106.
- _____ b) To ensure compliance with the post-retirement employment limitations established in Section 16-118, upon demand of the System, annuitants are required to furnish the following:
- _____ 1) A certification signed by the annuitant verifying that post-retirement employment limitations were not exceeded and acknowledging

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that the filing of a false certification is a Class 3 felony under Section 1-135 of the Pension Code.

2) Copies of the annuitant's federal income tax returns.

3) Other substantiating documentation, such as employment records, timesheets, etc.

(Source: Added at 34 Ill. Reg. _____, effective _____)

SUBPART K: ~~PUBLIC RECORD FREEDOM OF INFORMATION ACT~~ REQUESTS**Section 1650.910 Summary and Purpose (Repealed)**

- a) ~~These rules are established to implement the provisions of the Freedom of Information Act [5 ILCS 140]. The purpose of these rules is to provide public access to public records in the possession of the System while at the same time protect legitimate privacy interests of the System's members and staff and maintain administrative efficiency of the System.~~
- b) ~~These rules create a procedure by which the public may request and obtain public records from the System. Therefore, they are being filed in accordance with Section 5-15 of the Illinois Administrative Procedures Act [5 ILCS 100/5-15].~~

(Source: Repealed at 34 Ill. Reg. _____, effective _____)

Section 1650.920 Definitions (Repealed)

- a) ~~Terms used in these rules shall have the same meaning as in the Freedom of Information Act.~~
- b) ~~"FOIA" means the Freedom of Information Act.~~
- c) ~~"Requestor" means a person who submits a request for public records in accordance with this Subpart.~~

(Source: Repealed at 34 Ill. Reg. _____, effective _____)

Section 1650.930 Submission of Requests

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- a) ~~Public record~~FOIA requests made in accordance with the Freedom of Information Act (FOIA) [5 ILCS 140]~~shall~~ should be submitted to: ~~Office of the General Counsel's Office~~Counsel, ATTN: FOIA Officer, Illinois Teachers' Retirement System of the State of Illinois, P.O. Box 19253, 2815 West Washington, Springfield, Illinois 62794-9253, or may be sent via electronic mail to: FOIAofficer@trs.illinois.gov.
- b) ~~The public record request is deemed received on the date it is received in the System's General Counsel's Office. An envelope containing a FOIA request shall be plainly marked "FOIA REQUEST." Failure to so mark the envelope may delay processing.~~
- c) The request must be in writing and include the following information:
- 1) The requestor's name, mailing address that accepts U.S. certified mail, telephone number, and email address, if any.
 - 2) A specific description of the public records requested.
 - 3) Whether the requestor seeks copies or personal inspection of the public records.
 - 4) Whether the public record is being obtained for a commercial purpose.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 1650.940 Form and Content of FOIA Requests (Repealed)

- a) ~~FOIA requests shall be made in writing.~~
- b) ~~The requestor shall provide the following information:~~
- 1) ~~The requestor's name, address and telephone number;~~
 - 2) ~~A specific description of the public records requested; and~~
 - 3) ~~Whether the request is for inspection of public records, copies of public records, or both.~~

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- e) ~~A request for copies of public records may also include a request that the records be certified.~~
- d) ~~Oral requests for public records will be handled expeditiously. However, the provisions contained in FOIA and these rules do not apply to oral requests.~~
- e) ~~A request not meeting the requirements of these rules may be returned as improperly submitted.~~

(Source: Repealed at 34 Ill. Reg. _____, effective _____)

Section 1650.950 Appeal of a Denial (Repealed)

- a) ~~A requestor whose FOIA request has been denied may appeal the denial to the Executive Director of the System. The notice of appeal shall be made in writing and sent to: Office of the Executive Director, Illinois Teachers' Retirement System, P.O. Box 19253, 2815 West Washington, Springfield, Illinois 62794-9253.~~
- b) ~~The notice of appeal shall include a copy of the original FOIA request, a copy of the denial received by the requestor, and a statement of the reasons why the appeal should be granted.~~
- e) ~~An appeal not meeting the requirements of this Section may be returned to the person making the appeal as improperly filed.~~
- d) ~~Upon approval of a FOIA request, the System may either provide the materials immediately, give notice that the materials shall be made available upon payment of reproduction costs or give notice of the time and place for inspection of records.~~
- e) ~~A denial of a FOIA request shall be made in writing. It shall state the reasons for the denial and the names and titles of individuals responsible for the decision. It shall also give notice of the requestor's right to appeal to the Executive Director of the System.~~
- f) ~~Categorical requests creating an undue burden upon the System shall be denied only after extending to the requestor an opportunity to confer in an attempt to~~

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~~reduce the request to manageable proportions in accordance with Section 3(f) of FOIA [5 ILCS 140/3(f)].~~

- g) ~~Failure to respond to a written request within seven working days may be considered by the requestor to be denial of the request.~~

(Source: Repealed at 34 Ill. Reg. _____, effective _____)

Section 1650.960 Executive Director's Response to Appeal (Repealed)

~~The Executive Director shall respond to an appeal within seven working days after receiving notice thereof. The Executive Director shall either affirm the denial or provide access to the requested public records. Failure to respond within seven (7) working days may be considered by the requestor to be an affirmation of the denial.~~

(Source: Repealed at 34 Ill. Reg. _____, effective _____)

Section 1650.970 Response to FOIA Requests (Repealed)

- a) ~~The System shall respond to a FOIA request within seven working days after the receipt of such request.~~
- b) ~~The System may give notice of an extension of time to respond which does not exceed an additional seven working days. Such an extension is allowable only if written notice is provided within the original seven working day time limit and only for the reasons provided in Section 3(d) of FOIA [5 ILCS 140/3(d)]. Such notice of extension shall state the reasons why the extension is necessary.~~
- e) ~~The System shall respond to a FOIA request in one of three ways:~~
- ~~1) Approve the request.~~
 - ~~2) Approve in part and deny in part.~~
 - ~~3) Deny the request.~~

(Source: Repealed at 34 Ill. Reg. _____, effective _____)

Section 1650.980 Inspection of Records at System Office

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- a) Public records ~~which are not FOIA-exempt~~ from disclosure under FOIA may be inspected at the System's Springfield Office. ~~The person making the request will be notified by the System of the time and place where the records will be available for inspection.~~ Records may be inspected ~~from 8:30 a.m. to 4:30 p.m. on normal working days~~ during normal business hours through prior arrangement with the System's General Counsel's Office.
- b) Documents ~~which~~ the requestor wishes to have copied shall be segregated during the course of the inspection. All copying shall be done by System employees, except that, if work load requires, the System may refer the copying to an outside printer or copy service.
- c) An employee of the System may be present throughout the inspection. A requestor may be prohibited from bringing bags, briefcases or other containers into the inspection room.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 1650.990 Copies of Public Records

- a) Copies of public records ~~not exempt from disclosure under FOIA~~ will be provided unless the requestor makes arrangements to personally inspect the public records as provided in Section 1650.980. The first 50 pages are provided free of charge. The System reserves the right to charge fees to reimburse its actual cost for reproducing public records exceeding 50 pages, as allowed by FOIA, shall be provided as set forth in Section 1650.950(d).
- b) If the System incurs extraordinary shipping expenses for sending copies of public records to the requestor, the System reserves the right to seek reimbursement of those actual shipping expenses from the requestor. ~~Any copying costs shall be assessed as set forth in subsection (d) below.~~
- c) ~~Charges shall be waived if the requestor is a State agency, a constitutional officer or a member of the General Assembly.~~ Charges may be reduced or waived for requests in the public interest, as allowed by FOIA, in any other case where the System, pursuant to Section 6(b) of the FOIA [5 ILCS 140/6(b)], determines that the waiver serves the public interest.

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- d) ~~The following fees shall be assessed for copying costs:~~
- 1) ~~Cost of copying documents at the System on the System's copying equipment is—.25 per page;~~
 - 2) ~~In the event the System must refer the task to an outside printer or copy service, the fee shall be the actual vender charges;~~
 - 3) ~~Cost of certifying documents is \$1.00 per certification.~~

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 1650.995 Materials Immediately Available ~~Under Section 4 of FOIA~~

~~Detailed information about the System is publicly and immediately available at the TRS web site: www.trs.illinois.gov. The TRS web site provides contact information, a description of purpose, membership, key statutory provisions, benefits, funding, administrative structure and budget, the most recent Comprehensive Annual Financial Report (CAFR), member brochures and publications, employer services, legislative matters, investments, board of trustees, board and committee meeting minutes and audiotapes, administrative review decisions, administrative rules, an online pressroom, and vendor information. The System shall make available to the public for inspection and copying at no charge and shall send through the mail if requested the following materials:~~

- a) ~~A brief description of the organizational structure and budget of the System; and~~
- b) ~~A brief description of the means for making a FOIA request, including the fee schedule set forth in Section 1650.990(d).~~

(Source: Amended at 34 Ill. Reg. _____, effective _____)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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- 1) Heading of the Part: Medical Assistance Programs
- 2) Code Citation: 89 Ill. Adm. Code 120
- 3) Section Number: 120.374 Adopted Action:
New Section
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendment: December 2, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: June 26, 2009; 33 Ill. Reg. 8808
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences Between Proposal and Final Version: No substantive changes
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this amendment replace emergency amendments currently in effect? No
- 14) Are there any other amendments pending on this Part? Yes

Section:
120.310

Proposed Action:
Amendment

Illinois Register Citation:
33 Ill. Reg. 5994; April 24, 2009

- 15) Summary and Purpose of Amendment: The US Census Bureau recruits thousands of temporary employees once every 10 years and has asked all states to exempt income earned by temporary census workers from consideration when determining eligibility for Medicaid. Federal guidelines permit states to exempt earning from temporary

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employment with the US Census Bureau for medical eligibility under Titles XIX and XXI of the Social Security Act; Illinois did this for the 2000 census, as will.

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

Jeanette Badrov
General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/782-1233

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

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NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 120

MEDICAL ASSISTANCE PROGRAMS

SUBPART A: GENERAL PROVISIONS

Section

120.1 Incorporation by Reference

SUBPART B: ASSISTANCE STANDARDS

Section

- 120.10 Eligibility For Medical Assistance
- 120.11 MANG(P) Eligibility
- 120.12 Healthy Start – Medicaid Presumptive Eligibility Program For Pregnant Women
- 120.14 Presumptive Eligibility for Children
- 120.20 MANG(AABD) Income Standard
- 120.30 MANG(C) Income Standard
- 120.31 MANG(P) Income Standard
- 120.32 FamilyCare Assist
- 120.34 FamilyCare Share and FamilyCare Premium Level 1
- 120.40 Exceptions To Use Of MANG Income Standard
- 120.50 AMI Income Standard (Repealed)

SUBPART C: FINANCIAL ELIGIBILITY DETERMINATION

Section

- 120.60 Cases Other Than Long Term Care, Pregnant Women and Certain Children
- 120.61 Cases in Intermediate Care, Skilled Nursing Care and DMHDD – MANG(AABD) and All Other Licensed Medical Facilities
- 120.62 Department of Mental Health and Developmental Disabilities (DMHDD) Approved Home and Community Based Residential Settings Under 89 Ill. Adm. Code 140.643
- 120.63 Department of Mental Health and Developmental Disabilities (DMHDD) Approved Home and Community Based Residential Settings
- 120.64 MANG(P) Cases

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120.65 Department of Mental Health and Developmental Disabilities (DMHDD)
Licensed Community – Integrated Living Arrangements

SUBPART D: MEDICARE PREMIUMS

Section

120.70 Supplementary Medical Insurance Benefits (SMIB) Buy-In Program
120.72 Eligibility for Medicare Cost Sharing as a Qualified Medicare Beneficiary (QMB)
120.73 Eligibility for Medicaid Payment of Medicare Part B Premiums as a Specified
Low-Income Medicare Beneficiary (SLIB)
120.74 Qualified Medicare Beneficiary (QMB) Income Standard
120.75 Specified Low-Income Medicare Beneficiary (SLIB) Income Standards
120.76 Hospital Insurance Benefits (HIB)

SUBPART E: RECIPIENT RESTRICTION PROGRAM

Section

120.80 Recipient Restriction Program

SUBPART F: MIGRANT MEDICAL PROGRAM

Section

120.90 Migrant Medical Program (Repealed)
120.91 Income Standards (Repealed)

SUBPART G: AID TO THE MEDICALLY INDIGENT

Section

120.200 Elimination Of Aid To The Medically Indigent
120.208 Client Cooperation (Repealed)
120.210 Citizenship (Repealed)
120.211 Residence (Repealed)
120.212 Age (Repealed)
120.215 Relationship (Repealed)
120.216 Living Arrangement (Repealed)
120.217 Supplemental Payments (Repealed)
120.218 Institutional Status (Repealed)
120.224 Foster Care Program (Repealed)
120.225 Social Security Numbers (Repealed)

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120.230	Unearned Income (Repealed)
120.235	Exempt Unearned Income (Repealed)
120.236	Education Benefits (Repealed)
120.240	Unearned Income In-Kind (Repealed)
120.245	Earmarked Income (Repealed)
120.250	Lump Sum Payments and Income Tax Refunds (Repealed)
120.255	Protected Income (Repealed)
120.260	Earned Income (Repealed)
120.261	Budgeting Earned Income (Repealed)
120.262	Exempt Earned Income (Repealed)
120.270	Recognized Employment Expenses (Repealed)
120.271	Income From Work/Study/Training Program (Repealed)
120.272	Earned Income From Self-Employment (Repealed)
120.273	Earned Income From Roomer and Boarder (Repealed)
120.275	Earned Income In-Kind (Repealed)
120.276	Payments from the Illinois Department of Children and Family Services (Repealed)
120.280	Assets (Repealed)
120.281	Exempt Assets (Repealed)
120.282	Asset Disregards (Repealed)
120.283	Deferral of Consideration of Assets (Repealed)
120.284	Spend-down of Assets (AMI) (Repealed)
120.285	Property Transfers (Repealed)
120.290	Persons Who May Be Included in the Assistance Unit (Repealed)
120.295	Payment Levels for AMI (Repealed)

SUBPART H: MEDICAL ASSISTANCE – NO GRANT

Section	
120.308	Client Cooperation
120.309	Caretaker Relative
120.310	Citizenship
120.311	Residence
120.312	Age
120.313	Blind
120.314	Disabled
120.315	Relationship
120.316	Living Arrangements
120.317	Supplemental Payments

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120.318	Institutional Status
120.319	Assignment of Rights to Medical Support and Collection of Payment
120.320	Cooperation in Establishing Paternity and Obtaining Medical Support
120.321	Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining Medical Support
120.322	Proof of Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining Medical Support
120.323	Suspension of Paternity Establishment and Obtaining Medical Support Upon Finding Good Cause
120.324	Health Insurance Premium Payment (HIPP) Program
120.325	Health Insurance Premium Payment (HIPP) Pilot Program
120.326	Foster Care Program
120.327	Social Security Numbers
120.328	Compliance with Employment and Work Activity Requirements (Suspended; Repealed)
120.329	Compliance with Non-Economic Eligibility Requirements of Article IV (Suspended; Repealed)
120.330	Unearned Income
120.332	Budgeting Unearned Income
120.335	Exempt Unearned Income
120.336	Education Benefits
120.338	Incentive Allowance
120.340	Unearned Income In-Kind
120.342	Child Support and Spousal Maintenance Payments
120.345	Earmarked Income
120.346	Medicaid Qualifying Trusts
120.347	Treatment of Trusts
120.350	Lump Sum Payments and Income Tax Refunds
120.355	Protected Income
120.360	Earned Income
120.361	Budgeting Earned Income
120.362	Exempt Earned Income
120.363	Earned Income Disregard – MANG(C)
120.364	Earned Income Exemption
120.366	Exclusion From Earned Income Exemption
120.370	Recognized Employment Expenses
120.371	Income From Work/Study/Training Programs
120.372	Earned Income From Self-Employment
120.373	Earned Income From Roomer and Boarder

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120.374	Earned Income from Temporary Employment with the Census Bureau
120.375	Earned Income In-Kind
120.376	Payments from the Illinois Department of Children and Family Services
120.379	Provisions for the Prevention of Spousal Impoverishment
120.380	Assets
120.381	Exempt Assets
120.382	Asset Disregard
120.383	Deferral of Consideration of Assets
120.384	Spend-down of Assets (AABD MANG)
120.385	Property Transfers for Applications Filed Prior to October 1, 1989 (Repealed)
120.386	Property Transfers Occurring On or Before August 10, 1993
120.387	Property Transfers Occurring On or After August 11, 1993
120.390	Persons Who May Be Included In the Assistance Unit
120.391	Individuals Under Age 18 Who Do Not Qualify For AFDC/AFDC-MANG And Children Born October 1, 1983, or Later
120.392	Pregnant Women Who Would Not Be Eligible For AFDC/AFDC-MANG If The Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
120.393	Pregnant Women And Children Under Age Eight Years Who Do Not Qualify As Mandatory Categorically Needy Demonstration Project
120.395	Payment Levels for MANG (Repealed)
120.399	Redetermination of Eligibility
120.400	Twelve Month Eligibility for Persons under Age 19

SUBPART I: SPECIAL PROGRAMS

Section	
120.500	Health Benefits for Persons with Breast or Cervical Cancer
120.510	Health Benefits for Workers with Disabilities
120.520	SeniorCare (Repealed)
120.530	Home and Community Based Services Waivers for Medically Fragile, Technology Dependent, Disabled Persons Under Age 21
120.540	Illinois Healthy Women Program
120.550	Asylum Applicants and Torture Victims
120.TABLE A	Value of a Life Estate and Remainder Interest
120.TABLE B	Life Expectancy

AUTHORITY: Implementing Articles III, IV, V and VI and authorized by Section 12-13 of the

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Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142,

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effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 6082; amended at 7 Ill. Reg. 8256, effective July 1, 1983; amended at 7 Ill. Reg. 8264, effective July 5, 1983; amended (by adding Section being codified with no substantive change) at 7 Ill. Reg. 14747; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 16108; amended at 8 Ill. Reg. 5253, effective April 9, 1984; amended at 8 Ill. Reg. 6770, effective April 27, 1984; amended at 8 Ill. Reg. 13328, effective July 16, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17897; amended at 8 Ill. Reg. 18903, effective September 26, 1984; peremptory amendment at 8 Ill. Reg. 20706, effective October 3, 1984; amended at 8 Ill. Reg. 25053, effective December 12, 1984; emergency amendment at 9 Ill. Reg. 830, effective January 3, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 4515, effective March 25, 1985; amended at 9 Ill. Reg. 5346, effective April 11, 1985; amended at 9 Ill. Reg. 7153, effective May 6, 1985; amended at 9 Ill. Reg. 11346, effective July 8, 1985; amended at 9 Ill. Reg. 12298, effective July 25, 1985; amended at 9 Ill. Reg. 12823, effective August 9, 1985; amended at 9 Ill. Reg. 15903, effective October 4, 1985; amended at 9 Ill. Reg. 16300, effective October 10, 1985; amended at 9 Ill. Reg. 16906, effective October 18, 1985; amended at 10 Ill. Reg. 1192, effective January 10, 1986; amended at 10 Ill. Reg. 3033, effective January 23, 1986; amended at 10 Ill. Reg. 4907, effective March 7, 1986; amended at 10 Ill. Reg. 6966, effective April 16, 1986; amended at 10 Ill. Reg. 10688, effective June 3, 1986; amended at 10 Ill. Reg. 12672, effective July 14, 1986; amended at 10 Ill. Reg. 15649, effective September 19, 1986; amended at 11 Ill. Reg. 3992, effective February 23, 1987; amended at 11 Ill. Reg. 7652, effective April 15, 1987; amended at 11 Ill. Reg. 8735, effective April 20, 1987; emergency amendment at 11 Ill. Reg. 12458, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 14034, effective August 14, 1987; amended at 11 Ill. Reg. 14763, effective August 26, 1987; amended at 11 Ill. Reg. 20142, effective January 1, 1988; amended at 11 Ill. Reg. 20898, effective December 14, 1987; amended at 12 Ill. Reg. 904, effective January 1, 1988; amended at 12 Ill. Reg. 3516, effective January 22, 1988; amended at 12 Ill. Reg. 6234, effective March 22, 1988; amended at 12 Ill. Reg. 8672, effective May 13, 1988; amended at 12 Ill. Reg. 9132, effective May 20, 1988; amended at 12 Ill. Reg. 11483, effective June 30, 1988; emergency amendment at 12 Ill. Reg. 11632, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 11839, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12835, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 13243, effective July 29, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 17867, effective October 30, 1988; amended at 12 Ill. Reg. 19704, effective November 15, 1988; amended at 12 Ill. Reg. 20188, effective November 23, 1988; amended at 13 Ill. Reg. 116, effective January 1, 1989; amended at 13 Ill. Reg. 2081, effective February 3, 1989; amended at

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13 Ill. Reg. 3908, effective March 10, 1989; emergency amendment at 13 Ill. Reg. 11929, effective June 27, 1989, for a maximum of 150 days; emergency expired November 25, 1989; emergency amendment at 13 Ill. Reg. 12137, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 15404, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16586, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 13 Ill. Reg. 17483, effective October 31, 1989; amended at 13 Ill. Reg. 17838, effective November 8, 1989; amended at 13 Ill. Reg. 18872, effective November 17, 1989; amended at 14 Ill. Reg. 760, effective January 1, 1990; emergency amendment at 14 Ill. Reg. 1494, effective January 2, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 4233, effective March 5, 1990; emergency amendment at 14 Ill. Reg. 5839, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 6372, effective April 16, 1990; amended at 14 Ill. Reg. 7637, effective May 10, 1990; amended at 14 Ill. Reg. 10396, effective June 20, 1990; amended at 14 Ill. Reg. 13227, effective August 6, 1990; amended at 14 Ill. Reg. 14814, effective September 3, 1990; amended at 14 Ill. Reg. 17004, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 348, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 5302, effective April 1, 1991; amended at 15 Ill. Reg. 10101, effective June 24, 1991; amended at 15 Ill. Reg. 11973, effective August 12, 1991; amended at 15 Ill. Reg. 12747, effective August 16, 1991; amended at 15 Ill. Reg. 14105, effective September 11, 1991; amended at 15 Ill. Reg. 14240, effective September 23, 1991; amended at 16 Ill. Reg. 139, effective December 24, 1991; amended at 16 Ill. Reg. 1862, effective January 20, 1992; amended at 16 Ill. Reg. 10034, effective June 15, 1992; amended at 16 Ill. Reg. 11582, effective July 15, 1992; amended at 16 Ill. Reg. 17290, effective November 3, 1992; amended at 17 Ill. Reg. 1102, effective January 15, 1993; amended at 17 Ill. Reg. 6827, effective April 21, 1993; amended at 17 Ill. Reg. 10402, effective June 28, 1993; amended at 18 Ill. Reg. 2051, effective January 21, 1994; amended at 18 Ill. Reg. 5934, effective April 1, 1994; amended at 18 Ill. Reg. 8718, effective June 1, 1994; amended at 18 Ill. Reg. 11231, effective July 1, 1994; amended at 19 Ill. Reg. 2905, effective February 27, 1995; emergency amendment at 19 Ill. Reg. 9280, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 11931, effective August 11, 1995; amended at 19 Ill. Reg. 15079, effective October 17, 1995; amended at 20 Ill. Reg. 5068, effective March 20, 1996; amended at 20 Ill. Reg. 15993, effective December 9, 1996; emergency amendment at 21 Ill. Reg. 692, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 7423, effective May 31, 1997; amended at 21 Ill. Reg. 7748, effective June 9, 1997; amended at 21 Ill. Reg. 11555, effective August 1, 1997; amended at 21 Ill. Reg. 13638, effective October 1, 1997; emergency amendment at 22 Ill. Reg. 1576, effective January 5, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 7003, effective April 1, 1998; amended at 22 Ill. Reg. 8503, effective May 1, 1998; amended at 22 Ill. Reg. 16291, effective August 28, 1998; emergency amendment at 22 Ill. Reg. 16640, effective September 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19875, effective October 30, 1998; amended at 23 Ill. Reg. 2381, effective January 22, 1999; amended at 23 Ill.

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Reg. 11301, effective August 27, 1999; amended at 24 Ill. Reg. 7361, effective May 1, 2000; emergency amendment at 24 Ill. Reg. 10425, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15075, effective October 1, 2000; amended at 24 Ill. Reg. 18309, effective December 1, 2000; amended at 25 Ill. Reg. 8783, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 10533, effective August 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 16098, effective December 1, 2001; amended at 26 Ill. Reg. 409, effective December 28, 2001; emergency amendment at 26 Ill. Reg. 8583, effective June 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 9843, effective June 26, 2002; emergency amendment at 26 Ill. Reg. 11029, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 15051, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16288, effective October 25, 2002; amended at 27 Ill. Reg. 4708, effective February 25, 2003; emergency amendment at 27 Ill. Reg. 10793, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18609, effective November 26, 2003; amended at 28 Ill. Reg. 4701, effective March 3, 2004; amended at 28 Ill. Reg. 6139, effective April 1, 2004; emergency amendment at 28 Ill. Reg. 6610, effective April 19, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 7152, effective May 3, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11149, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12921, effective September 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13621, effective September 28, 2004; amended at 28 Ill. Reg. 13760, effective October 1, 2004; amended at 28 Ill. Reg. 14541, effective November 1, 2004; amended at 29 Ill. Reg. 820, effective January 1, 2005; amended at 29 Ill. Reg. 10195, effective June 30, 2005; amended at 29 Ill. Reg. 14939, effective September 30, 2005; emergency amendment at 30 Ill. Reg. 521, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 10314, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 15029, effective September 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 2629, effective January 28, 2007; emergency amendment at 31 Ill. Reg. 7323, effective May 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 11667, effective August 1, 2007; amended at 31 Ill. Reg. 12756, effective August 27, 2007; emergency amendment at 31 Ill. Reg. 15854, effective November 7, 2007, for a maximum of 150 days; emergency rule suspended at 31 Ill. Reg. 16060, effective November 13, 2007; emergency rule repealed, effective May 10, 2008; preemptory amendment at 32 Ill. Reg. 7212, effective April 21, 2008; preemptory amendment suspended at 32 Ill. Reg. 8450, effective May 21, 2008; preemptory amendment repealed under Section 5-125 of the Illinois Administrative Procedure Act, effective November 16, 2008; amended at 32 Ill. Reg. 17428, effective November 1, 2008; preemptory amendment at 32 Ill. Reg. 18889, effective November 18, 2008; preemptory amendment suspended at 32 Ill. Reg. 18906, effective November 19, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 33 Ill. Reg. 6551, effective April 28, 2009; preemptory amendment repealed by emergency rulemaking at 33 Ill. Reg. 6712, effective April 28, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 1681, effective February 1, 2009; amended at 33 Ill. Reg. 2289, effective March 1,

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2009; emergency amendment at 33 Ill. Reg. 5802, effective April 2, 2009, for a maximum of 150 days; emergency expired August 29, 2009; emergency amendment at 33 Ill. Reg. 10785, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 12703, effective September 7, 2009; amended at 33 Ill. Reg. 15707, effective November 2, 2009; amended at 33 Ill. Reg. 17070, effective December 2, 2009.

SUBPART H: MEDICAL ASSISTANCE – NO GRANT

Section 120.374 Earned Income from Temporary Employment with the Census Bureau

Earned income from temporary employment with the U.S. Census Bureau related to decennial census activities is exempt.

(Source: Added at 33 Ill. Reg. 17070, effective December 2, 2009)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Veterans' Health Insurance Program
- 2) Code Citation: 89 Ill. Adm. Code 128
- 3) Section Number: 128.230 Adopted Action:
Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendment: December 2, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: June 26, 2009; 33 Ill. Reg. 8820
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences Between Proposal and Final Version: The statutory citation was revised in the authority note.
- 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 rulemakings currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: The U.S. Census Bureau recruits thousands of temporary employees once every 10 years and has asked all states to exempt income earned by temporary census workers from consideration when determining eligibility for Medicaid. Federal guidelines permit states to exempt earnings from temporary employment with the U.S. Census Bureau for medical eligibility under Titles XIX and XXI of the Social Security Act. This rulemaking change ensures income earned by

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veterans who temporarily work for the U.S. Census Bureau will be exempt when determining eligibility for the Veterans' Health Insurance Program.

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

Jeanette Badrov
General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/782-1233

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 128

VETERANS' HEALTH INSURANCE PROGRAM

SUBPART A: GENERAL PROVISIONS

Section

128.100 General Description

128.110 Definitions

SUBPART B: GENERAL ELIGIBILITY AND ENROLLMENT

Section

128.200 Eligibility

128.210 Eligibility Exclusions and Terminations

128.220 Application Process

128.230 Determination of Monthly Countable Income

128.240 Eligibility Determination and Enrollment Process

128.250 Appeals

128.260 Renewals of Eligibility

128.300 Covered Services

128.310 Service Exclusions

128.320 Co-payments and Cost Sharing

128.330 Premium Requirements

128.340 Non-payment of Premium

128.350 Provider Reimbursement

AUTHORITY: The Veterans' Health Insurance Program Act [330 ILCS 126].

SOURCE: Emergency rule adopted at 30 Ill. Reg. 15044, effective September 1, 2006, for a maximum of 150 days; adopted at 31 Ill. Reg. 2643, effective January 28, 2007; amended at 33 Ill. Reg. 12724, effective September 7, 2009; amended at 33 Ill. Reg. 17072, effective December 2, 2009.

SUBPART B: GENERAL ELIGIBILITY AND ENROLLMENT

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

Section 128.230 Determination of Monthly Countable Income

- a) The earned and unearned income of the following persons shall be counted when determining eligibility, except as specified in subsections (b) and (c) of this Section.
- 1) Income of the veteran;
 - 2) Income of the veteran's spouse;
 - 3) Unearned income of a dependent child under the age of 18 years who is included in the income standard as set forth at 89 Ill. Adm. Code 120.20 because it is to the advantage of the veteran.
- b) Monthly unearned income shall be counted as described at 89 Ill. Adm. Code 120.330 through 120.345 and Sections 120.350, 120.355, 120.371 and 120.376. However, 89 Ill. Adm. Code 120.335(a) shall not apply.
- c) Monthly earned income shall be considered as described at 89 Ill. Adm. Code 120.360, 120.361; ~~and 120.371 through, 120.372, 120.373 and~~ 120.375.

(Source: Amended at 33 Ill. Reg. 17072, effective December 2, 2009)

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- 1) Heading of the Part: Procedures of the Department of Human Rights
- 2) Code Citation: 56 Ill. Adm. Code 2520
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
2520.810	New Section
2520.820	New Section
- 4) Statutory Authority: Implementing Articles 1 through 7B of the Illinois Human Rights Act [775 ILCS 5/Arts. 1 through 7B] and the Intergovernmental Cooperation Act [5 ILCS 220], and authorized by Sections 7-101(A) and 7-105(A) of the Illinois Human Rights Act [775 ILCS 5/7-101(A) and 7-105(A)]
- 5) Effective Date of Amendments: December 4, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: September 4, 2009; 33 Ill. Reg. 12314
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: In Section 2520.810(a), the Department changed the word "institution" in the first sentence to "institutions" and deleted the sentence "Initial posting must be in place by October 30, 2009.". In Section 250.810(a)(3), after the word "review", the Department added the words "of those policies" and after "to the", added the word "student's". In Section 2520.820(a), after the words "that an institution", the Department added the word "has" and changed the word "fails" to "has failed". In Section 2520.820(b), the Department changed "to dispute" to "dispute" and changed "it" to "the institution". In Section 2520.820(c), the Department changed "post" to "conform to the posting provisions of the Act" and changed "may" to "shall consider an institution's reason for its failure to comply when determining whether to".

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- 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 rulemakings currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The amendments describe the procedures for institutions of higher education to post sexual harassment laws and their policies and consequences for their failure to post.
- 16) Information and questions regarding these adopted amendments shall be directed to:

David T. Rothal
Staff Attorney
Illinois Department of Human Rights – Legal Division
100 W. Randolph St., Ste. 10-100
Chicago, IL 60601

312/814-6257 or 217/785-5125 (TTY)

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

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER II: DEPARTMENT OF HUMAN RIGHTS

PART 2520

PROCEDURES OF THE DEPARTMENT OF HUMAN RIGHTS

SUBPART A: INTERPRETATIONS

Section	
2520.10	Definition of Terms
2520.20	Computation of Time
2520.30	Service of Documents
2520.40	Filing with the Department
2520.50	Separability
2520.110	Preservation of Records by Employers, Labor Organizations, Employment Agencies and Respondents

SUBPART B: CHARGE

Section	
2520.310	Time of Filing (Repealed)
2520.320	Form (Repealed)
2520.330	Contents
2520.340	Requirements for Charge (Repealed)
2520.350	Unperfected Charge
2520.360	Amendment
2520.370	Substitution and Addition of Parties (Repealed)
2520.380	Withdrawal of Charge

SUBPART C: PROCEDURE UPON CHARGE

Section	
2520.405	Verified Response to Charge
2520.410	Docketing and Service of Charge (Repealed)
2520.420	Maintenance of Records (Repealed)
2520.430	Investigation
2520.440	Fact-Finding Conference
2520.450	Administrative Closure (Repealed)
2520.460	Determination After Investigation (Repealed)

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- 2520.470 Conciliation (Repealed)
- 2520.480 Complaint (Repealed)

SUBPART D: SETTLEMENTS

Section

- 2520.510 Settlement
- 2520.520 Non-Disclosure (Repealed)
- 2520.530 Dismissal for Refusal to Accept Settlement Offer (Repealed)
- 2520.540 Non-Compliance with Settlement Terms (Repealed)

SUBPART E: ADMINISTRATIVE CLOSURE, DISMISSAL AND DEFAULT

Section

- 2520.550 Administrative Closure
- 2520.560 Dismissal
- 2520.570 Default

SUBPART F: REQUESTS FOR REVIEW

Section

- 2520.573 Filing with Chief Legal Counsel
- 2520.575 Contents of Request for Review
- 2520.577 Notice by the Chief Legal Counsel
- 2520.580 Extensions of Time
- 2520.583 Reply to Request for Review and Surreply
- 2520.585 Additional Investigation
- 2520.587 Decision

SUBPART G: RELATIONS WITH LOCAL HUMAN RIGHTS AGENCIES

Section

- 2520.610 Scope and Purpose (Repealed)
- 2520.620 Definitions (Repealed)
- 2520.630 Cooperative Agreements
- 2520.640 Nature of Cooperative Agreements
- 2520.650 Training and Technical Assistance
- 2520.660 Promotion of Communication and Goodwill

DEPARTMENT OF HUMAN RIGHTS

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SUBPART H: EQUAL EMPLOYMENT OPPORTUNITY AND
AFFIRMATIVE ACTION BY STATE EXECUTIVE AGENCIES

Section	
2520.700	Definitions
2520.710	Scope and Purpose
2520.720	Affirmative Action Groups
2520.730	Consideration of Additional Groups
2520.740	Definitions (Renumbered)
2520.750	Nondiscrimination (Repealed)
2520.760	Plans
2520.770	Reporting and Record-Keeping
2520.780	Equal Employment Opportunity Officers
2520.790	Complaint Process
2520.795	EEO/AA Performance Reviews
2520.797	Sanctions for Noncompliance

SUBPART I: SEXUAL HARASSMENT IN HIGHER EDUCATION POLICIES

<u>Section</u>	
<u>2520.810</u>	<u>Posting of Sexual Harassment Policies</u>
<u>2520.820</u>	<u>Notice to Show Cause</u>

2520.APPENDIX A	Contents of Affirmative Action Plans
2520.APPENDIX B	Value Weight Assignment Chart
2520.APPENDIX C	Contents of Layoff Reports
2520.APPENDIX D	Illinois Counties by Region

AUTHORITY: Implementing Articles 1 through 7B of the Illinois Human Rights Act [775 ILCS 5/Arts. 1 through 7B] and the Intergovernmental Cooperation Act [5 ILCS 220], and authorized by Sections 7-101(A) and 7-105(A) of the Illinois Human Rights Act [775 ILCS 5/7-101(A) and 7-105(A)].

SOURCE: Adopted November 20, 1972 by the Fair Employment Practices Commission; transferred to the Department of Human Rights by P.A. 81-1216, effective July 1, 1980; emergency amendments at 4 Ill. Reg. 39, p. 335, effective September 17, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 1627, effective February 9, 1981; amended at 6 Ill. Reg. 2125, effective February 8, 1982; amended at 6 Ill. Reg. 3076, effective March 15, 1982; amended at 6 Ill. Reg. 8090, effective July 1, 1982; codified at 8 Ill. Reg. 17884; amended at 17

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Ill. Reg. 15556, effective September 13, 1993; amended at 18 Ill. Reg. 16829, effective November 4, 1994; emergency amendment at 20 Ill. Reg. 445, effective January 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 5084, effective March 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6291, effective April 18, 1996; amended at 20 Ill. Reg. 10631, effective July 24, 1996; amended at 21 Ill. Reg. 14081, effective October 10, 1997; amended at 26 Ill. Reg. 17217, effective November 18, 2002; amended at 29 Ill. Reg. 804, effective December 28, 2004; amended at 30 Ill. Reg. 1343, effective January 13, 2006; amended at 30 Ill. Reg. 13403, effective July 31, 2006; amended at 30 Ill. Reg. 18715, effective November 20, 2006; amended at 31 Ill. Reg. 12319, effective August 8, 2007; amended at 31 Ill. Reg. 14815, effective October 19, 2007; amended at 32 Ill. Reg. 13482, effective August 1, 2008; amended at 33 Ill. Reg. 11311, effective July 20, 2009; amended at 33 Ill. Reg. 17086, effective December 4, 2009.

SUBPART I: SEXUAL HARASSMENT IN HIGHER EDUCATION POLICIESSection 2520.810 Posting of Sexual Harassment Policies

- a) Section 5A-101.1 of the Act requires institutions of higher education to post, in a prominent and accessible location, a poster stating sexual harassment laws and policies. The institution is given three posting options. The posting documents are to be provided by the Department on its website.
- 1) If an institution of higher education chooses option (i) as specified in the Act, the institution must post in accessible common areas its sexual harassment policies and ensure the posting continues to be prominent and accessible to students.
 - 2) If an institution of higher education chooses option (ii) as specified in the Act, the institution must prominently post its sexual harassment policies and send an electronic copy to each student each time registration materials are sent.
 - 3) If an institution of higher education chooses option (iii) as specified in the Act, the institution must send each student an electronic copy of sexual harassment policies and require each student to acknowledge review of those policies prior to the student's completion of online registration for each academic term.

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- b) Any person may notify the Department that an institution of higher education allegedly has failed to comply with **posting requirements of Section 5A-101.1 of the Act** by writing to Director, Department of Human Rights, 100 West Randolph Street, Suite 10-100, Chicago, Illinois, 60601, along with a description of how the institution allegedly failed to comply with the Act. **The name, address and telephone number of the person making the allegation must be included.** The written notice must also state that the person making the allegation is available to testify as a witness to the alleged incident.

(Source: Added at 33 Ill. Reg. 17086, effective December 4, 2009)

Section 2520.820 Notice to Show Cause

- a) If the Department receives allegations that an institution of higher education has failed to comply with Section 5A-101.1 of the Act and the Department's preliminary investigation pursuant to Section 5A-101.1(C) of the Act reveals that the institution **has failed to post its sexual harassment policy in accordance with the Act**, the Department may issue to the institution a Notice to Show Cause. The Notice to Show Cause shall specify the provisions of the Act with which the institution **has failed to comply** and shall state what steps the institution must take to comply with the Act.
- b) The institution shall have 30 days to respond to the Notice to Show Cause. In its response, the institution shall describe the modifications to policies and practices it **will take to conform to the provisions of the Act and/or dispute the Department's determination that the institution has failed to comply with the Act.**
- c) If, upon review of the institution's response to the Notice to Show Cause, the Department determines that the institution has not corrected its failure to **conform to the posting provisions of the Act**, the Department shall consider an institution's **reason for its failure to comply when determining whether to file a charge of civil rights violation against the institution.**

(Source: Added at 33 Ill. Reg. 17086, effective December 4, 2009)

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: School Bus Driver Permit
- 2) Code Citation: 92 Ill. Adm. Code 1035
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1035.10	Amendment
1035.15	Amendment
1035.20	Amendment
1035.25	Amendment
1035.30	Amendment
1035.32	New Section
1035.35	Amendment
1035.40	Amendment
1035.45	Amendment
1035.50	Amendment
- 4) Statutory Authority: 625 ILCS 5/6-106.1; 625 ILCS 5/2-104; 625 ILCS 5/6-521
- 5) Effective Date of Amendments: December 1, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted rulemaking, 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: 33 Ill. Reg.11257; July 31, 2009
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: Technical, non-substantive changes were made as suggested by JCAR.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No

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NOTICE OF ADOPTED AMENDMENTS

- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: Part 1035 sets forth Secretary of State regulations regarding the issuance, renewal, cancellation, and suspension of school bus permits. To ensure that rule is consistent with changes made to the School Bus Permit statute, 625 ILCS 5/6-106.1, the Secretary of State undertook a review of this entire Part. These amendments make changes consistent with the statute, clarify existing rules and make technical and grammatical changes.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Arlene J. Pulley
Office of the Secretary of State
Driver Services Department
2701 South Dirksen Parkway
Springfield, Illinois 62723

217-557-4462

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

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATEPART 1035
SCHOOL BUS DRIVER PERMIT

Section

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AUTHORITY: Implementing Section 6-106.1 and authorized by Section 6-521 of the Illinois Vehicle Code [625 ILCS 5/6-521].

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Section 1035.10 Definitions

For purposes of this Part, the following definitions shall apply:

["Adulterated Specimen"](#) – a urine specimen that contains a substance not expected to be present in human urine, or contains a substance expected to be present, but is at a concentration so high that it is not consistent with human urine (see 49 CFR 40.3 (2008)).

"Cancellation" – the cancellation of a school bus driver permit – the annulment or termination by formal action of the Secretary of State of a person's school bus driver permit because of some error or defect in the permit, because the permit

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holder is no longer entitled to ~~thesueh~~ permit, refusal or neglect of the person to submit to an alcohol and drug evaluation or submit to or ~~fail~~failure to successfully complete the examination, in accordance with IVC Sections 1-110, 6-106.1 and 6-207 ~~of the Illinois Vehicle Code [625 ILCS 5/1-110, 6-106.1 and 6-207]~~.

"Chain of Custody" – a procedure used to document the handling of the urine specimen from the time the employee gives the specimen to the collector until the specimen is destroyed. This procedure uses the Federal Drug Testing Custody and Control Form (see 49 CFR 40 (2008)).

"Chain of Custody Form" or "CCF" – an employer copy of the Federal Drug Testing Custody and Control Form used to notify the employer that the applicant has taken a split specimen test and the results of that test.

"Collector" – a person who instructs and assists employees at a collection site, who receives and makes an initial inspection of the specimen provided by those employees and who initiates and completes the CCF.

"Conviction" – an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law, by a court of original jurisdiction or by an authorized administrative tribunal; an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court; a plea of guilty or nolo contendere accepted by the court; the payment of a fine or court cost, regardless of whether the imposition of sentence is deferred and ultimately a judgment dismissing the underlying charge is entered; or a violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended or probated pursuant to IVC Section 6-500(8). ~~a final adjudication of guilty by a court of competent jurisdiction after a bench trial, trial by jury, plea of guilty, order of forfeiture, or default.~~

"Denial" – to prohibit or disallow the privilege to obtain a school bus driver permit and/or the privilege to operate a school bus in accordance with IVC Section 6-106.1 ~~of the Illinois Vehicle Code [625 ILCS 5/6-106.1]~~.

"Dilute Specimen" – a urine specimen with creatinine and specific gravity values that are lower than expected for human urine pursuant to 49 CFR 40.3.

"Disqualification" – a withdrawal of the privilege to drive a commercial motor vehicle [625 ILCS 5/1-115.3].

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"Driver" – every person who drives or is in actual physical control of a vehicle [625 ILCS 5/1-116].

"Employer" – any public or private school district, individual, corporation, partnership or association who employs school bus drivers licensed pursuant to IVC Section 6-106.1 ~~of the Illinois Vehicle Code [625 ILCS 5/6-106.1].~~

"Employer Certification/Notification" – a form ~~as~~ prescribed by the Secretary of State and submitted by the employer ~~that~~which certifies ~~that~~ an applicant has met all pre-employment conditions and all conditions for reapplication, or that a driver who is no longer eligible for a school bus driver permit has been removed from service.

"Fingerprint Process" – a method by which a person's fingerprints are taken for the purpose of certification of a criminal background investigation for a school bus driver permit and submitted to the Illinois Department of State Police and the Federal Bureau of Investigation (FBI).

"Hearing" – a hearing conducted by the Secretary of State, pursuant to IVC Sections 2-118 and 6-106.1, upon written request of the driver or applicant.

"Home State" – the States of Indiana, Michigan, Wisconsin, Iowa, Missouri and Kentucky, when they~~which~~ have issued a valid and properly classified driver's license.

"Illinois Vehicle Code" or "Vehicle Code" or "IVC" – 625 ILCS 5.

"Initial Training" – an initial training class, including first aid procedures, in school bus safety administered by the Illinois State Board of Education through the Regional Office of Education and approved by the Secretary of State pursuant to IVC Section 6-106.1. Initial training will provide sufficient practical behind-the-wheel instruction.

"Lapse" – a period of time following the expiration of a driver's license or school bus driver permit in which the driver can renew or reapply without penalty.

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"Medical Examination" – a physical examination by a medical examiner that includes tests for drug and alcohol use and the medical qualifications needed to drive a school bus.

"Medical Examiner" – a person who is a licensed physician, an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes him or her to perform medical examinations, or a physician assistant who has been delegated the performance of medical examinations by his or her supervising physician.

"Medical Examiner's Certificate" ~~Physical Examination and Certificate for Illinois School Bus Driver~~ – a form, developed by the Secretary of State, upon which a ~~licensed~~ medical examiner records the results of a physical examination and certifies whether a person is qualified to apply for a school bus driver permit.

"Medical Review Officer" or "MRO" – a person who is a licensed physician and is responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results (see 49 CFR 40.3 (2008)).

"Miscellaneous Suspension" – a safety and family financial responsibility suspension, unsatisfied judgment suspension, auto emissions suspensions, ~~penalty for parking~~ ticket suspension~~violation~~, failure to appear suspension, failure to pay toll suspension, nighttime driving restriction suspension~~(Type Action 07, Reason Code 03)~~, and all suspensions that are rescinded and are no longer in effect.

"Pre-Employment Conditions" – an applicant must have been~~be~~ interviewed by the prospective employer; ~~completed~~complete a school bus driver permit application and prescribed medical report form; successfully passed~~pass~~ a physical examination; successfully ~~completed~~complete a fingerprint-based~~fingerprint-based~~ Illinois specific background check with fingerprints forwarded to the FBI for a national background check; and received~~receive~~ the required initial~~specialized~~ training.

"Provisional Status" – the temporary privilege to operate a school bus pending the completion of the Federal Bureau of Investigation (FBI) criminal background check.

"Random Testing" – a drug and/or alcohol test having no specific time pattern.

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"Refresher Course" – a classroom course in school bus safety approved by the Secretary of State. Refresher training courses shall be a minimum of 2 hours in length, part of which must be first aid training, taught by an instructor certified by the Illinois State Board of Education under 23 Ill. Adm. Code 1.515.

"Repeatedly ~~Convicted~~convicted of ~~Offenses~~offenses against ~~Laws~~laws and ~~Ordinances Regulating~~ordinances regulating the ~~Movement~~movement of ~~Traffic~~traffic" – a driver for whom which an order has been entered to suspend or revoke ~~the~~ license or permit under ~~IVC~~the discretionary authority of Section 6-206(a)(3) of the Illinois Vehicle Code [625 ILCS 5/6-206(a)(3)].

"Repeatedly ~~Involved~~involved as a ~~Driver~~driver in ~~Motor Vehicle Collisions~~motor vehicle collisions" – a driver for whom which an order has been entered to suspend or revoke ~~the~~ license or permit under ~~IVC~~the discretionary authority of Section 6-206(a)(34) of the Illinois Vehicle Code [625 ILCS 5/6-206(a)(4)].

"Rescind Order" – a removal by formal action of an order canceling, suspending or denying issuance of a school bus permit to a person.

"Review of Driving ~~Records~~Habits" – a review of the applicant's driving record maintained by ~~the Office of~~ the Secretary of State or documentation from another licensing jurisdiction, which has been certified within 30 days prior to the date of application, to insure that the requirements of ~~IVC Sections pursuant to Section~~ 6-106(1), (2), (3), (9), (10), (11), (12), ~~and~~ (13) and (14) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-106(1), (2), (3), (9), (10), (11), (12) and (13)] have been met.

"School Bus" – every motor vehicle, except as provided in this definition, owned or operated by or for any of the following entities for the transportation of persons regularly enrolled as students in grade 12 or below in connection with any activity of the entity:

Any public or private primary or secondary school;

Any primary or secondary school operated by a religious institution; or

Any public, private or religious nursery school.

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This definition shall not include the following:

A bus operated by a public utility, municipal corporation or common carrier authorized to conduct local or interurban transportation of passengers when the bus is not traveling a specific school bus route but is:

On a regularly scheduled route for the transportation of other fare paying passengers;

Furnishing charter service for the transportation of groups on field trips or other special trips or in connection with other special events; or

Being used for shuttle service between attendance centers or other education facilities.

A motor vehicle of the first division.

A motor vehicle designed for the transportation of not fewer than seven nor more than 16 persons that is operated by or for a public or private primary or secondary school, including any primary or secondary school operated by a religious institution, for the purpose of transporting not more than 15 students to and from interscholastic athletic or other interscholastic or school sponsored activities. [615 ILCS 5/1-182]

~~"School Bus"—every motor vehicle, except as provided in this definition, owned or operated by or for a school operated by a religious institution or a public or private child care facility, pre-school, primary or secondary school for the transportation of persons regularly enrolled in any such entity as students in Grade 12 or below in connection with any activity or entity. This definition does not include the following:~~

~~A bus operated by a public utility, municipal corporation or common carrier authorized to conduct local or interurban transportation of passengers when the bus is on a regularly scheduled route for the transportation of other fare paying passengers or furnishing charter service for the transportation of groups on field trips or other special trips or in connection with special events or for shuttle service between attendance centers or other educational facilities and not over a regular or customary~~

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~~school bus route.~~

~~A religious organization bus as defined in Section 1-182 of the Illinois Vehicle Code [625 ILCS 5/1-182].~~

~~A motor vehicle designed for carrying not more than nine passengers which is not registered as a school bus under Section 3-808 of the Illinois Vehicle Code [625 ILCS 5/3-808].~~

"School Bus Driver Permit" – permit issued for a period of one year to school bus drivers by the Office of the Secretary of State pursuant to IVC Section 6-106.1 ~~of the Illinois Vehicle Code [625 ILCS 5/6-106.1].~~

"School Bus Driver Permit Application" – the form or document prescribed by the Secretary of State upon which a request for a school bus driver permit is made.

"Secretary of State" – the Secretary of State of Illinois [625 ILCS 5/1-184].

"Serious Traffic Violation" – notwithstanding convictions that in and of themselves result in the immediate suspension or revocation of a driver's license and privilege, the following offenses or a similar violation of a law or local ordinance of any state relating to motor vehicle traffic control, other than a parking violation, shall be considered a serious traffic violation:

A conviction, when operating a motor vehicle, for a violation of or relating to:

IVC Section 11-402(a) – a motor vehicle accident involving damage to a vehicle;

IVC Section 11-403 – failure to stop and exchange information after a motor vehicle collision, property damage only;

IVC Section 11-502(a) – illegal transportation, possession or carrying of alcoholic liquor within the passenger area of any vehicle;

IVC Section 6-101 – operating a motor vehicle without a valid license or permit;

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IVC Section 11-403 – failure to stop and exchange information or give aid after a motor vehicle collision involving personal injury or death;

Excessive speeding – a single speeding charge of 15 miles per hour or more above the legal speed limit;

IVC Section 11-503 – Reckless driving;

IVC Section 11-707(d) – passing in a no-passing zone; or IVC Section 11-1414 – passing a stopped school bus;

IVC Section 11-1402(b) – limitations on backing upon a controlled access highway;

IVC Section 11-707(b) – driving on the left side of a roadway in a no-passing zone;

IVC Section 11-1002(e) – failure to yield the right-of-way to a pedestrian at an intersection;

IVC Section 11-1008 – failure to yield to a pedestrian on a sidewalk;

IVC Sections 11-1201 and 11-1202 – failure to stop for an approaching railroad train or signal;

Any State law or local ordinance relating to motor vehicle traffic control, other than parking violations, arising in connection with a fatal traffic accident;

IVC Section 6-501 – having multiple driver's licenses;

IVC Section 6-507(a) – the requirement to have a valid CDL;

Improper or erratic traffic lane changes;

Following another vehicle too closely;

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IVC Section 6-104(d) – possession of a valid school bus permit;

IVC Section 11-605 – school speed zones;

Any other similar violation of a law or local ordinance of any state relating to motor vehicle traffic control, other than parking violations, that the Secretary of State determines by administrative rule to be serious.

~~"Serious Traffic Violation"—notwithstanding convictions, which in and of themselves result in the immediate suspension or revocation of a driver's license and privilege, the following offenses or a similar violation of a law or local ordinance of any state relating to motor vehicle traffic control shall be considered a serious traffic violation: a violation relating to excessive speeding, involving a single speeding charge of 15 miles per hour or more above the legal speed limit; or a violation of any State Law or local ordinance relating to motor vehicle traffic control (other than parking violations) arising in connection with a fatal traffic accident; or a violation of Section 6-104(d) of the Illinois Vehicle Code [625 ILCS 5/6-104(d)] relating to the possession of a valid school bus driver permit; or a violation of the speed limit in a school zone as defined in Section 11-605 of the Illinois Vehicle Code [625 ILCS 5/11-605]; or a violation of passing a stopped school bus as defined in Section 11-1414 of the Illinois Vehicle Code [625 ILCS 5/11-1414]; or failure to stop at railroad crossing as defined in Section 11-1202 of the Illinois Vehicle Code [625 ILCS 5/11-1202]; or a violation relating to improper or erratic lane changes; or a violation relating to following another vehicle too closely; or any other similar violation of a law or local ordinance of any state relating to motor vehicle traffic control, other than a parking violation, which the Secretary of State determines pursuant to 92 Ill. Adm. Code 1040.20.~~

"Specimen Bottle" – the bottle that, after being sealed and labeled according to the procedures in this Part, is used to hold the urine specimen during transportation to the laboratory (see 49 CFR 40.3 (2008)).

"Split Specimen" – in drug testing, a part of the urine specimen sent to a first laboratory and retained unopened, and that is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result (see 49 CFR 40.3 (2008)).

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"State" – a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico or a province of the Dominion of Canada [625 ILCS 5/1-195].

"Substituted Specimen" – a specimen with creatinine and specific gravity values so diminished that they are not consistent with human urine.

"Suspension of ~~Driver's~~ Driver License" – the temporary withdrawal by formal action of the Secretary of State of a person's license or privilege to operate a motor vehicle on the public highways, for a period specifically designated by the Secretary of State ~~as defined in Section 1-204 of the Illinois Vehicle Code~~ [625 ILCS 5/1-204].

"Suspension of School Bus Driver Permit" – the temporary withdrawal, by formal action by the Secretary of State, of a person's permit that grants and specifies limited privileges to operate a school bus on the public highways, for a period specifically designated by the Secretary of State.

"Waiver" – an exemption allowed under certain conditions rendering an ineligible applicant eligible.

(Source: Amended at 33 Ill. Reg. 17093, effective December 1, 2009)

Section 1035.15 Requirements of Applicants for a School Bus Driver Permit

In order for the Secretary of State to issue a school bus driver permit, all applicants must:

- a) ~~be~~ Be 21 years of age or older;
- b) ~~possess~~ Possess a valid and properly classified driver's license issued by the Secretary of State or a valid license issued in the applicant's home state;
- c) ~~possess~~ Possess a valid driver's license ~~that, for 3 years immediately prior to the date of application, which~~ has not been revoked, suspended, canceled or disqualified for 3 years immediately prior to the date of application, and shall not have had his or her commercial motor vehicle driving privileges disqualified within the 3 years immediately prior to the date of application, except for miscellaneous suspensions, as defined in (see IVC Section 1-115.3) ~~625 ILCS 5/1-~~

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- ~~115.3, during this period for any action except those defined as miscellaneous suspension by rule.~~ A lapse in the renewal of the driver's license of 30 days or less shall not render the applicant ineligible. The Secretary of State may, in his or her discretion, grant a waiver for a lapse in the renewal of the driver's license in excess of 30 days;
- d) ~~pass written examinations administered by the Secretary of State~~Pass a written test on school bus operation, school bus safety, and special traffic laws relating to school buses and submit to a review of the applicant's driving habits by the Secretary of State at the time the written ~~examination~~test is given;
- e) ~~demonstrate~~Demonstrate the ability to exercise reasonable care in the operation of ~~the school bus~~buses in accordance with the requirements of 92 Ill. Adm. Code 1030.85;
- f) ~~be~~Be physically able to safely operate a school bus. An applicant for a school bus driver permit must demonstrate physical fitness to operate ~~a school bus~~buses by undergoing a medical examination in accordance with ~~the provisions of~~ Section 1035.20 ~~of this Part~~;
- g) ~~affirm~~Affirm under penalty of perjury that he or she has not made a false statement or knowingly concealed a material fact in any application for a permit;
- h) ~~complete initial training~~Have completed an initial classroom course, including first aid procedures, in school bus driver safety in a program approved by the Secretary of State. After satisfactory completion of ~~said initial training~~course, an annual refresher course will be required. ~~Refresher~~Such courses and the agency or organization conducting ~~those~~such courses shall be approved by the Secretary of State. Failure to complete the annual refresher course shall result in cancellation of the permit until ~~the~~such course is completed, ~~in accordance with provisions of Section 1035.30 of this Part~~;
- i) ~~At the time of application,~~ not have been convicted of 2 or more serious traffic offenses, ~~as defined by Section 1035.10,~~ within one year prior to the date of application~~the previous 12-month period,~~ ~~nor be convicted of 2 or more serious traffic offenses during any 12-month period while holding a school bus driver permit~~ that may endanger the life and safety of any of the driver's passengers within the duration of the permit period;

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- j) ~~not~~ have been convicted, within 3 years prior to the date of application, of reckless driving, ~~pursuant to (see IVC Section 11-503) of the Illinois Vehicle Code [625 ILCS 5/11-503]~~, driving under the influence of alcohol and/or other drugs, ~~pursuant to (see IVC Section 11-501) or of the Illinois Vehicle Code [625 ILCS 5/11-501]~~, reckless homicide, ~~pursuant to (see Section 9-3 of the Criminal Code of 1961 [720 ILCS 5/9-3])~~ resulting from the operation of a motor vehicle ~~within 3 years of the date of the application~~;
- k) ~~not~~ have been convicted of committing or attempting to commit any one or more of the following offenses:
- 1) those offenses defined in Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, 9-3.3, 10-1, 10-2, 10-3.1, 10-4, 10-5, 10-6, 10-7, 11-6, 11-9, 11-9.1, 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1, 11-19.2, 11-20, 11-20.1, 11-21, 11-22, 12-3.1, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-6, 12-6.2, 12-7.1, 12-7.3, 12-7.4, 12-11, 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-16.2, 12-21.5, 12-21.6, 12-33, 18-1, 18-2, 18-3, 18-4, 18-5, 20-1, 20-1.1, 20-2, 24-1, 24-1.1, 24-1.2, 24-3.3, 31A-1, 31A-1.1 and 33A-2, and in Section 12-4(a) and (b)(1) of the Criminal Code of 1961 [720 ILCS 5/12-4(a) and (b)(1)];
 - 2) those offenses defined in the Cannabis Control Act, except those ~~offenses~~ offense defined in Section 4(a) and (b) and Section 5(a) of the Cannabis Control Act [720 ILCS 550/4(a) and (b) and 5(a)];
 - 3) those offenses defined in the Illinois Controlled Substances Act [720 ILCS 570];
 - 4) those offenses defined in Section 10 of the Methamphetamine Control and Community Protection Act [720 ILCS 646/10];
 - 54) any offense committed or attempted in any other state or against the laws of the United States that, which if committed or attempted in this State, could be punishable as one or more of the ~~foregoing~~ offenses listed in this subsection (k);
 - 65) the offenses defined in Sections 4.1 and 5.1 of the Wrongs to Children Act [720 ILCS 150/4.1 and 5.1]; and

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- 76) those offenses defined in Section 6-16 of the Liquor Control Act of 1934 [234 ILCS 5/6-16];
- l) ~~not~~Not have been repeatedly involved as a driver in motor vehicle collisions or been repeatedly convicted of offenses against laws and ordinances regulating the movement of traffic, to a degree ~~that~~which indicates lack of ability to exercise ordinary and reasonable care in the safe operation of a motor vehicle or disrespect for the traffic laws and the safety of other persons upon the highway in accordance with 92 Ill. Adm. Code 1040.40;
- m) ~~not~~Not have, through the unlawful operation of a motor vehicle, caused an accident resulting in the death of any person;
- n) ~~not~~Not have, within the last 5 years, been adjudged to be afflicted with or suffering from any mental disability or disease.

(Source: Amended at 33 Ill. Reg. 17093, effective December 1, 2009)

Section 1035.20 Annual Medical Examination and Certificate

- a) All applicants for a school bus driver permit must demonstrate physical fitness to operate ~~a school bus~~school buses by undergoing a medical examination, including tests for drug and alcohol use, conducted by a ~~medical examiner~~licensed physician within 90 days prior to the date of application for ~~the~~such permit.
- b) An applicant who, within 90 days prior to the date of application, has undergone a medical examination complying with ~~subpart~~Subpart E of ~~49 CFR 391.41 (2008)~~49 CFR 391 (1989)~~(no later amendments are incorporated herein) and/or drug tests complying with 49 CFR 40 (54 Fed. Reg. 49854, effective January 2, 1990) (no later amendments are incorporated herein)~~ shall be exempt from the corresponding requirements of this Section, provided that the applicant submits to the Secretary of State a copy of the federal "medical examiner's certificate" (49 CFR 391.43) and/or a copy of the ~~CCF~~"drug testing custody and control" form ~~(49 CFR 40.23(a))~~ signed by the ~~medical examiner~~responsible physician.
- c) Except as provided in subsection (b) of this Section, the medical examination for all applicants shall be performed in accordance with the provisions of this Section and 49 CFR 391.43(f). A form conforming to these requirements, as well as the medical examiner's certificate described in subsection ~~(k)~~(kj) of this Section, can be

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obtained from the Secretary of State for the use of the medical examiner~~examining physician~~.

- d) Each applicant to be tested for drugs shall consent in writing to provide a split urine specimen for this purpose as part of the applicant's annual medical examination and shall authorize the release of the results of ~~thesueh~~ tests to the medical examiner~~examining physician~~. Those persons responsible for collection of the specimen shall ensure that the split specimen is not substituted, adulterated, or diluted by the applicant during the collection procedure. The split specimen ~~bottle~~container shall be labeled to identify its source and shall be delivered to the testing laboratory by U.S. mail, personal delivery by the medical examiner~~physician's~~ staff, a professional messenger service, or ~~by~~ other means ~~that~~which preclude tampering with the split specimen. Those persons responsible for collecting, processing, and testing the specimen shall maintain and be able to document a chain of custody for the split specimen ~~that~~which ensures its integrity.

e) Drug Test Results

- 1) A person shall be deemed to have failed to obtain a negative result on a drug test if he/she:
- A) Fails to appear for any test within 24 hours after being directed to do so by the employer;
 - B) Fails to remain at the testing site until the testing process is complete, as determined by the collector;
 - C) Fails to provide a urine specimen;
 - D) If applicable, fails to permit the observation or monitoring of his/her provision of a specimen;
 - E) Fails to provide sufficient amount of urine when directed and it has been determined, through a required medical evaluation, as set forth in 49 CFR 40.193, that there was no adequate medical explanation for the failure;
 - F) Fails or declines to take a second test as directed by the employer or collector;

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- G) is reported by the MRO as having a verified adulterated or substituted test result;
- H) Fails to cooperate with any part of the testing process (e.g., refuses to empty pockets when so directed by the collector or behaves in a confrontational way that disrupts the collection process);
- I) Is reported by the MRO as having a positive drug test result.
- 2) These standards apply only to drug tests that are not required by 49 CFR 382, but are required as part of the school bus driver permit program (see IVC Section 106.1) or the school bus driver endorsement program (see IVC Section 6-508).
- fe) The split specimen shall be tested for marijuana metabolites, cocaine metabolites (Benzoyllecgonin), opiates metabolites, amphetamines and phencyclidine (PCP) using the tests and standards for positive test results specified in 49 CFR 40.8549 CFR 40.29(e) and (f). Testing shall be conducted by a laboratory certified by either the Illinois Department of State PolicePublic Health pursuant to 20 Ill. Adm. Code 128677 Ill. Adm. Code 510 or the U.S. Department of Transportation pursuant to 49 CFR 40.
- gf) The laboratory shall report the test results only to the medical examinerexamining physician. The medical examinerphysician shall review confirmed positive test results in order to determine whether there is a legitimate medical explanation of legal drug use for each positive test result. The medical examinerphysician may, at his or her discretion, consult with any other medical examinerphysician whose expertise in the area of substance abuse may, in the examining physician's judgment, be helpful in reviewing test results. The medical examinerphysician shall record his or her findings on the applicant's medical examiner's certificatehealth certificate form. If the medical examinerphysician determines that there is no legitimate medical explanation for a positive test result for one or more of the tested drugs, the applicant shall be ineligible to receive a school bus driver permit.
- hg) Each applicant, as part of the annual medical examination, shall also be tested to assist the medical examinerphysician in determining whether the applicant has a current clinical diagnosis of alcoholism. The medical examinerphysician shall

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record on the ~~Physical Examination and Certificate for Illinois School Bus Driver examination~~ form those tests ~~that~~ which were administered, as well as the ~~medical examiner's~~ ~~physician's~~ findings as to whether the applicant has a current clinical diagnosis of alcoholism. An applicant with a current clinical diagnosis of alcoholism shall be ineligible for a school bus driver permit.

- ~~ih)~~ Each initial applicant, as a part of the medical examination for a school bus driver permit, shall be tested for tuberculosis as outlined in subsection ~~(ji)(13) of this Section~~. Reapplicants will not be required to be retested for tuberculosis as part of the annual medical examination unless, in the judgement of the ~~medical examiner~~ ~~examining physician~~, the test should be performed in order to determine if the applicant is physically qualified to operate a school bus. Any applicant who allows his ~~or~~ her school bus permit to expire for more than 30 days is, pursuant to Section 1035.25(j) ~~of this Part~~, considered a new applicant and, as such, shall be required to be retested for tuberculosis.
- ~~ji)~~ An applicant shall be considered physically qualified to operate a school bus only if he or she:
- 1) has no loss or impairment of a hand, finger, arm, foot, or leg ~~that~~ which would interfere with the safe operation of a school bus or has had such loss or impairment compensated for in a manner satisfactory to the ~~medical examiner~~ ~~examining physician~~;
 - 2) has no established medical history or clinical diagnosis of diabetes ~~mellitus~~ ~~mellitis~~ currently requiring insulin for control ~~that~~ which is likely to interfere with the ability to ~~safely~~ control and drive a school bus ~~safely~~;
 - 3) has no current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse, or congestive cardiac failure;
 - 4) has no established history or clinical diagnosis of a respiratory dysfunction likely to interfere with the ability to ~~safely~~ control and drive a school bus ~~safely~~;
 - 5) has no current clinical diagnosis of high blood pressure likely to interfere with the ability to ~~safely~~ control and drive a school bus ~~safely~~;

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- 6) has no established medical history or clinical diagnosis of rheumatic, arthritic, orthopedic, muscular, neuromuscular, or vascular disease likely to interfere with the ability to safely control and drive a school bus ~~safely~~;
- 7) has no established medical history or clinical diagnosis of epilepsy or any other condition ~~that~~which is likely to cause loss of consciousness or any loss of ability to safely control and drive a school bus ~~safely~~;
- 8) has no mental, nervous, organic or functional disease or psychiatric disorder likely to interfere with the ability to safely control and drive a school bus ~~safely~~;
- 9) has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses, or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in each eye with or without corrective lenses, field of vision of at least 70 degrees in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, amber and green (i.e., no monocular individual may be considered qualified);
- 10) first perceives a forced whispered voice in the better ear at not less than 5 feet with or without a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500Hz, 1,000Hz and 2,000Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard Z24.5-1951;
- 11) does not use amphetamines, cocaine, marijuana, opiates, phencyclidine, or any other mind altering drug or substance, or any prescribed drug that may interfere with the ability to safely operate a school bus ~~safely~~;
- 12) has no current clinical diagnosis of alcoholism; and
- 13) has a negative reading/test result on a tuberculosis test or has a positive result on a tuberculosis skin test and either:
 - A) is receiving prophylactic treatment; ~~s~~ or

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B) has inactive tuberculosis as diagnosed by X-ray.

kj) The medical examiner's~~examining physician's~~ conclusion as to whether the person he or /she examined is qualified to drive a school bus shall be recorded on a medical examiner's certificate with the following form:

School Bus Driver Permit
Medical Examiner's Certificate

Medical Examiner's Preliminary Certification:

NOTE: Medical examiner shall provide one completed and signed copy of this certificate to the applicant. The original copy of the completed certificate is to be forwarded by the medical examiner to the employing agency or organization of the applicant; one copy is to be retained by the medical examiner.

I certify that I have completed Part A of the school bus examination of _____ on _____ in accordance with the provisions of 92 Ill. Adm. Code 1035.20 and based upon the examination, find he/she is:

- Qualified under the regulations
- Qualified only when wearing corrective lenses
- Qualified only when wearing a hearing aid
- Not qualified under the regulations

Name of Medical Examiner

Professional License Number
of Medical Examiner

Phone Number of
Medical Examiner

Signature of Medical Examiner

Fax Number of
Medical Examiner

Date of Certification (Part A)

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NOTE: COMPLETION OF PART A ONLY DOES NOT QUALIFY APPLICANT. TEST RESULTS MUST BE CERTIFIED BELOW BEFORE APPLICANT CAN BE CONSIDERED QUALIFIED.

Final Medical Examiner's Certification:

Date of TB Results: _____

Date of Drug Test Results: _____

I certify that I have completed my examination, including my readings of the drug and TB test results, for _____ on _____ in accordance with the provisions of 92 Ill. Adm. Code 1035.20. Based upon the results of drug and TB testing required in Section 1035.20(i) and (j)(13) and having no positive test results for infectious disease, or having determined that he/she is not contagious when performing the normal duties of a school bus driver, I find that he/she is:

- Qualified under the regulations
- Not qualified due to positive drug test
- Not qualified due to positive tuberculosis test

Name of Medical Examiner

Professional License Number of Medical Examiner

Phone Number of Medical Examiner

Signature of Medical Examiner

Fax Number of Medical Examiner

Date of Certification (Date the medical examiner has received all test results)

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~~PHYSICAL EXAMINATION AND CERTIFICATE FOR ILLINOIS SCHOOL BUS DRIVER~~

~~I certify that I have examined (driver's name (print)) in accordance with the provisions of 92, Illinois Administrative Code 1035.20 (Pupil Transportation) and based upon the results of this examination, including the results of tests for alcohol and drug use required in Section 1035.20, I find that he/she is:~~

- ~~_____ Qualified under the regulations~~
- ~~_____ Qualified only when wearing corrective lenses~~
- ~~_____ Qualified only when wearing a hearing aid~~
- ~~_____ Not qualified under the regulations~~
- ~~_____ Not qualified due to positive drug test~~

~~A completed examination form for this person is on file in my office at _____ (address)~~

~~_____ Date of Examination _____ Federal Expiration Date~~

~~_____ Name of Examining Doctor _____ Tel. No. of Examining Doctor~~

~~_____ Signature of Examining Doctor~~

~~_____ Registration No. of Examining Doctor~~

~~_____ Signature of Driver~~

~~_____ Address of Driver~~

lk) One copy of the completed physical examination and medical certificate is to be forwarded by the medical examiner~~examining physician~~ to the employing agency

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or organization of the applicant; one copy is to be retained by the applicant; and one copy is to be retained by the medical examiner~~examining physician~~.

(Source: Amended at 33 Ill. Reg. 17093, effective December 1, 2009)

Section 1035.25 Permit Application Process

- a) Each applicant for a school bus driver permit must first successfully complete a pre-employment interview with the prospective employer to determine the acceptability of the applicant in terms of the requirements of this Part and those outlined in IVC Section 6-106.1 ~~of the Illinois Vehicle Code [625 ILCS 5/6-106.1]~~.
- b) The applicant seeking employment as a school bus driver must complete an Application for Illinois School Bus Driver Permit obtained from the prospective employer and then complete the following~~desiring employment as a school bus driver must then obtain from the prospective employer and complete the following~~:
 - 1) Application for Illinois School Bus Driver Permit;
 - 2) Physical examination, obtaining the medical examiner's certificate~~Examination and Certificate for Illinois School Bus Driver~~, in accordance with Section 1035.20 ~~of this Part~~;
 - 23) Fingerprint process;-
 - 3) initial training.
- c) The employer shall certify in writing to the Secretary of State on a form prepared or approved by the Secretary of State that all the required pre-employment conditions have been successfully completed.
- d) The applicant shall then submit the employer certification, the school bus driver permit application, and a fee of \$4.00 to the Secretary of State.
- e) The Secretary of State shall review the applicant's driving history to determine if it is acceptable under the provisions of this Part and IVC Section 6-106.1 ~~of the Illinois Vehicle Code [625 ILCS 5/6-106.1]~~.

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- 1) The applicant must:
 - A1) ~~must~~ pass ~~a~~ written ~~examination~~~~examination~~ administered by the Secretary of State's Office in accordance with 92 Ill. Adm. Code 1030.80~~;~~
 - B2) ~~must~~ successfully complete a road test administered by the Secretary of State's Office or a licensed third-party tester in the class of vehicle to be used~~,~~ in accordance with 92 Ill. Adm. Code 1030.85.
- 2) Written examinations must be successfully completed prior to the road test. Each examination must be completed in no more than 3 attempts and within 90 days after the date of certification by the employer under subsection (c) in order for the current physical examination date to be used. Examinations taken 90 days after the certification date will require a new physical examination. The written examinations are valid for one year upon completion. After 3 failed attempts on any examination, the applicant must wait 30 days to again test. These tests must be successfully completed in 3 attempts and within 90 days from the date of certification by the employer.
- f) Upon successful completion of all pre-employment conditions and examination requirements for the school bus driver permit, the Secretary of State shall issue a school bus driver permit with a provisional status. Upon successfully passing the ~~FBI~~~~Federal Bureau of Investigation's~~ criminal background investigation~~,~~ the Secretary of State shall remove the school bus driver permit from provisional status. The permit shall expire one year from the issuance date.
- g) Current Permit Holders:
 - 1) ~~All valid school bus driver permits issued under Section 6-106.1 of the Illinois Vehicle Code [625 ILCS 5/6-106.1] prior to July 1, 1995 shall remain valid until their expiration date unless otherwise invalidated.~~
 - 12) Individuals who~~,~~ as of July 1, 1995, ~~possessed~~~~possess~~ a valid school bus driver permit that was previously issued by the appropriate regional superintendent are not subject to the fingerprinting provisions as long as

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the permit remains valid and does not lapse. If an applicant re-applies for a school bus driver permit 30 days or less after the date of expiration of the current permit, it shall not constitute a lapse.

~~23)~~ Current school bus drivers ~~also~~ need not be retested by the Secretary of State at the Secretary of State's Driver Services Facility except when a change in license classification is required.

~~4)~~ ~~A re-applicant who has held a valid Illinois school bus driver permit issued prior to July 1, 1995, shall be required to submit an employer certification, verifying the completion of a yearly physical and refresher training, along with a fee of \$4.00.~~

h) A re-applicant for a school bus driver permit shall be required to submit an employer certification verifying completion of a yearly physical and refresher training, as well as a \$4.00 re-application fee. Re-applications will not be accepted more than 60 days prior to the expiration date of the current permit. ~~Re-Applicants~~

~~1)~~ ~~All re-applicants for a school bus driver permit shall be required to submit an employer certification, verifying the completion of a yearly physical and refresher training.~~

~~2)~~ ~~All re-applicants for a school bus driver permit shall be required to submit the appropriate fee along with their renewal certification. Re-applications will not be accepted more than 60 days prior to the expiration date of the current permit.~~

i) The fee for a school bus driver permit shall be as follows:

1) Original school bus driver permit.....\$4.00

2) Re-application for school bus driver permit.....\$4.00

3) Duplicate or corrected school bus driver permit.....\$4.00

j) Any individual who allows his/her school bus driver permit to expire for more than 30 days shall be required to submit to all the requirements set forth for a new applicant.

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- k) Substitute Drivers: Any individual who drives when a regular school bus driver is not available must have a permit. Athletic coaches, teachers, and other school employees who occasionally drive school buses that transport students to and from school or school-related activities must be qualified and have a school bus ~~driver~~ driver's permit.
- l) Out-of-State Applicants: ~~Any person~~ Persons residing in a state other than Illinois who ~~seeks~~ desire employment as a school bus ~~driver~~ drivers must possess a properly classified license from ~~his or her~~ their home state. ~~The~~ In addition, the applicant must follow the procedure outlined ~~in this Part~~ for new resident applicants.
- m) New Resident Applicants: ~~Any person who has~~ Persons who have relocated to the State of Illinois who ~~seeks~~ desire employment as a school bus ~~driver~~ drivers must provide documentation from ~~his or her~~ the former state of residence, prior to application, that the requirements of ~~IVC Sections~~ Section 6-106.1(a)(3), (9) and (10) ~~of the Illinois Vehicle Code [625 ILCS 5/6-106.1(a)(3), (9) and (10)]~~ have been met. This documentation must be attached to the school bus driver application form prior to ~~appearing at a proceeding in the~~ Secretary of State's Driver Services Facility. ~~The~~ Such documentation must have been issued within 90 days prior to the date of application. The applicant must follow the procedure outlined for new applicants as set forth in this ~~Part~~ Section.
- n) An applicant for a school bus driver permit must have a 3 year continuous driving history. This requirement may be met by a combination of in-state and out-of-state driving records. An exception may be allowed under the following criteria:
- 1) a written request for an exemption must be submitted, with the reason for the break in the 3 year driving history;
 - 2) a break of 30 days or less in the 3 year driving history may be waived by the Secretary of State;
 - 3) a break of more than 30 days, but less than 6 months, in the driving history may be approved by the Secretary of State if the record is clear or if listed convictions do not affect driving.

(Source: Amended at 33 Ill. Reg. 17093, effective December 1, 2009)

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Section 1035.30 Training

~~a) Initial training as well as annual refresher training for school bus drivers is required by Section 6-106.1(a)(8) of the Illinois Vehicle Code [625 ILCS 5/6-106.1(a)(8)]. b) Each new applicant shall complete an initial classroom course in school bus driver safety, including the first aid portion, offered by the State Board of Education in a program approved by the Secretary of State. This course must be completed prior to the issuance of a school bus driver permit. c) Prior to obtaining a school bus driver permit, the employer shall certify to the Secretary of State that the applicant has successfully completed the initial classroom course in school bus driver safety, including first aid procedures, and that the applicant has been provided sufficient practical behind-the-wheel instruction to ensure that the applicant has exhibited proficiency in the safe and proper operation of a school bus. d) The initial course and annual refresher training courses are required for each school bus driver permit holder and shall consist of the following minimum requirements:~~

- ~~a1) The Secretary of State shall be responsible for approving the refreshers ~~such~~ courses and the agency or organization conducting the course;~~
- ~~b2) Initial and refresher training must be taught by an instructor certified by the Illinois State Board of Education; ~~Refresher training courses shall be a minimum of two hours in length, part of which must include first aid training;~~~~
- ~~c3) Refresher training courses shall be a minimum of 2 hours in length, part of which must include first aid training. ~~Refresher training must be taught by an instructor certified by the Illinois State Board of Education.~~~~

(Source: Amended at 33 Ill. Reg. 17093, effective December 1, 2009)

Section 1035.32 Random Drug Testing for Alcohol and Controlled Substances

School bus driver permit holders who also hold a CDL are subject to random testing for alcohol and controlled substances. This testing must conform to 49 CFR **382.305 (2008)**.

(Source: Added at 33 Ill. Reg. 17093, effective December 1, 2009)

Section 1035.35 Denial, Cancellation, or Suspension of a School Bus Driver Permit

- a) The Secretary of State shall deny or cancel a school bus driver permit of an

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applicant:

- 1) ~~whose~~Whose criminal background investigation discloses that he ~~or~~ /she is not in compliance with any of the provisions of IVC Section 6-106.1(a) ~~of the Illinois Vehicle Code [625 ILCS 5/6-106.1(a)]~~;
 - 2) ~~upon~~Upon receiving notice that the permit holder fails to comply with any provision of this Part;
 - 3) ~~upon~~Upon receiving notice that the permit holder's restricted commercial driving permit or commercial driving privileges are withdrawn or otherwise invalidated;-
 - 4) upon receiving notice that the permit holder has been convicted of 2 serious violations during the duration of the permit.
- b) The Secretary of State shall suspend a school bus driver permit for a period of 3 years upon receiving notice that the holder has failed to obtain a negative result on a drug test as required ~~by~~pursuant to IVC Section 6-106.1 ~~of the Illinois Vehicle Code [625 ILCS 5/6-106.1]~~ or under 49 CFR 382.303, 382.305, 382.307 and 382.309 (2008) federal law.
 - c) The Secretary of State shall deny an applicant for a school bus driver permit for a period of 3 years who fails to obtain a negative result on a drug test as required by IVC Section 6-106.1 ~~of the Illinois Vehicle Code [625 ILCS 5/6-106.1]~~ or under 49 CFR 382.301 (2008) federal law.
 - d) The Secretary of State shall deny an applicant or re-applicant for a school bus driver permit upon an indication on a driving record that he ~~or~~ /she has failed to pay any fines, costs or fees ~~that~~which deny the renewal or reissuance of a driver's license or any other indication on a driving record ~~that~~which denies the renewal or reissuance of a driver's license.
 - e) A cancellation of a school bus driver permit shall remain in effect pending the outcome of a hearing pursuant to IVC Section 2-118 ~~of the Illinois Vehicle Code [625 ILCS 5/2-118]~~.
 - f) An order may be rescinded provided the cause is removed and the ~~applicant~~driver continues to meet the requirements ~~as~~ outlined in IVC Section 6-106.1(a) ~~of the~~

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~~Illinois Vehicle Code [625 ILCS 5/6-106.1(a)].~~

(Source: Amended at 33 Ill. Reg. 17093, effective December 1, 2009)

Section 1035.40 Notice

- a) The Secretary of State shall immediately notify in writing the State Superintendent of Education and the permit holder's prospective or current employer that the applicant:
- 1a) has failed ana FBI criminal background investigation; or
- 2b) is no longer eligible for a school bus driver permit;~~;- or~~
- be) The Secretary shall also notify the State Superintendent of any related cancellations, suspensions~~;~~ or denials of the applicant's school bus driver permit.

(Source: Amended at 33 Ill. Reg. 17093, effective December 1, 2009)

Section 1035.45 Employer Responsibility

It shall be the responsibility of a prospective or current employer of an applicant or holder of a school bus driver permit to:

- a) ~~conduct~~Conduct a pre-employment interview with the prospective school bus driver ~~applicant;~~candidates.
- b) ~~distribute~~Distribute school bus driver permit applications and medical forms;~~;-~~
- c) ~~insure~~Insure that applicants submit to a fingerprint~~-~~based criminal background investigation;~~;-~~
- d) ~~certify~~Certify in writing to the Secretary of State that an applicant has successfully completed all pre-employment conditions;~~;-~~
- e) ~~notify~~Notify in writing the Secretary of State in writing that the employer has certified the removal from service of a school bus driver ~~from service~~ whose permit has been canceled or suspended by the Secretary of State, prior to the start of that school bus driver's next work shift;~~;-~~

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- f) ~~upon receipt of notification from an MRO that an employee has had a positive drug test or refused to be tested, immediately notify the Secretary of State of that result. Notification to the Secretary of State shall include a copy of the CCF form, medical examiner's certificate, positive drug results or notation of failure to complete testing. This information shall be privileged and maintained for use by the Secretary of State;~~ Immediately, upon receipt of a positive drug test, notify in writing the Secretary of State of such result. This information shall be privileged and maintained for the use of the Office of the Secretary of State.
- g) ~~notify~~ Notify in writing the Secretary of State in writing, within 10 working days, of the employment or termination of a ~~permitted~~ school bus driver permit holder;
- h) ~~notify~~ Notify the Secretary of State as soon as possible, but not later than within one ~~(1)~~ business day, whenever a school bus is involved in an accident and the driver is required to submit to the post-accident testing requirements ~~as~~ set forth in 349 CFR 382.303; 49 C.F.R. 391.113.
- i) ~~maintain~~ Maintain records of certifications for a period of two (2) years; ~~these records, which~~ shall be available for inspection by the Secretary of State.

(Source: Amended at 33 Ill. Reg. 17093, effective December 1, 2009)

Section 1035.50 Hearings

- a) The Secretary of State shall conduct a hearing pursuant to IVC Section 2-118 ~~of the Illinois Vehicle Code [625 ILCS 5/2-118]~~ upon the request of an applicant or holder whose school bus driver/driving permit has been denied, canceled or suspended.
- b) The petition requesting a hearing shall be in writing and shall contain the reason the individual believes/feels he or /she is entitled to a school bus driver permit.
- c) The scope of the hearing shall be limited to the issuance criteria contained in IVC Section 6-106.1(a) ~~of the Illinois Vehicle Code [625 ILCS 5/6-106.1(a)]~~.

(Source: Amended at 33 Ill. Reg. 17093, effective December 1, 2009)

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- 1) Heading of the Part: Voluntary Registration and Recognition of Nonpublic Schools
- 2) Code Citation: 23 Ill. Adm. Code 425
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
425.10	New Section
425.20	New Section
425.30	New Section
425.40	New Section
425.50	New Section
425.60	New Section
425.70	New Section
425.80	New Section
- 4) Statutory Authority: 105 ILCS 5/2-3.6 and 2-3.51.5
- 5) Effective Date of Rulemaking: December 7, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted 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: June 12, 2009; 33 Ill. Reg. 7819
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between proposal and final version:

Section 425.20 was amended to clarify that annual renewals of a school's registration shall be performed electronically.

Sections 425.20(b)(6) and 425.30(a)(1)(C) were revised to require that nonpublic schools comply with "applicable" nondiscrimination laws related to expenditure of block grant funding for secular purposes.

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Section 425.30(c)(2) was revised to indicate that an x-ray was performed, rather than made, by a physician licensed in Illinois.

Section 425.30(c)(3) was amended to restrict biennial formal reviews of employees in non-public schools to those employees providing or assisting with instruction or having other instructional responsibilities.

Section 425.30(c)(5) and Section 425.30(c)(6) were revised to clarify that the bachelor's degree requirement for individuals first assigned to positions at or after the beginning of the 2011-2012 school year will pertain only to individuals holding full-time teaching or administrative positions.

Section 425.30(d)(3) was amended to cite the Public Law authorizing the Child Nutrition and WIC Reauthorization Act of 2004.

In Section 425.40(a)(1)(D), engineers licensed to practice in Illinois under the Structural Engineering Practice Act of 1989 were added to the definition of "design professionals".

Various technical corrections were made for the sake of consistency in language usage, format, and style.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other proposed rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: These new rules respond to a portion of the FY 2008 Budget Implementation Act (P.A. 95-707), in particular the revisions to Section 2-3.51.5 of the School Code contained in the Act, which make recognized nonpublic schools eligible for the school safety and educational improvement block grant. With eligibility for some portion of public funding connected to recognition, the State Board needs administrative rules for nonpublic schools, rather than guidelines, to establish the basis for recognition. These rules set forth the process and timelines for registration first (following agency practice not to recognize a school unless it has already been registered for at least one full year) and then for recognition. The four categories for recognition encompass administrative requirements, the educational program, personnel requirements, and health and safety. Within each category requirements are sorted as to

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whether they arise out of education-related laws that apply to the nonpublic schools or are established by the State Board as additional conditions for recognition.

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

Patrick Murphy
Educator and School Development Division
Illinois State Board of Education
100 North First Street, E-310
Springfield, Illinois 62777-0001

217/782-2948

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

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TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER I: NONPUBLIC ELEMENTARY AND SECONDARY SCHOOLS

PART 425

VOLUNTARY REGISTRATION AND RECOGNITION OF NONPUBLIC SCHOOLS

Section

425.10	Purpose and Applicability
425.20	Requirements for Registration
425.30	Requirements for Recognition
425.40	Process for Initial Recognition
425.50	Renewal of Recognition
425.60	Changes in Recognition Status
425.70	Appeals
425.80	Block Grant Funds

AUTHORITY: Implementing Sections 2-3.25o and 2-3.51.5 and authorized by Sections 2-3.6 and 2-3.51.5 of the School Code [105 ILCS 5/2-3.25o, 2-3.51.5, and 2-3.6].

SOURCE: Adopted at 33 Ill. Reg. 17123, effective December 7, 2009.

Section 425.10 Purpose and Applicability

Section 2-3.25o of the School Code [105 ILCS 5/2-3.25o] requires the State Board of Education to provide for the voluntary registration and recognition of nonpublic elementary and secondary schools, as defined in that Section. Further, Section 2-3.51.5 of the School Code [105 ILCS 5/2-3.51.5] makes State-recognized, nonpublic schools eligible to receive funds under the School Safety and Educational Improvement Block Grant Program under certain circumstances.

- a) The purpose of this Part is to set forth:
 - 1) the requirements and procedures for nonpublic schools' voluntary registration;
 - 2) the requirements and procedures for nonpublic schools' voluntary recognition; and

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- 3) the requirements and procedures for nonpublic schools' receipt of funding under Section 2-3.51.5 of the School Code.
- b) This Part shall not apply to special education facilities under Section 14-7.02 of the School Code [105 ILCS 5/14-7.02] (see 23 Ill. Adm. Code 401).
- c) Nothing in this Part shall be construed as relieving a nonpublic school from the duty to comply with any other applicable State or federal law or regulatory requirement.

Section 425.20 Requirements for Registration

The State Superintendent of Education shall make available a form to be used for nonpublic schools' voluntary registration. A school's initial registration may occur at any time from October 1 through June 30 of the relevant school year. The application for renewal of a school's registration in any subsequent year must be submitted no sooner than October 1 and no later than December 31 of that school year. Initial registration of a school shall occur by means of a paper submission, while annual renewal of a school's registration shall be performed electronically. Each paper registration form shall bear the signature of the school's chief administrative officer. The required electronic format shall be submitted only by the authorized administrator.

- a) Descriptive information that must be submitted shall include:
 - 1) the name of the school, its location and telephone number, its affiliation, and the name of the chief administrator;
 - 2) data on the students enrolled, by race, ethnicity, and grade level; and
 - 3) data on the staff employed in various capacities.
- b) The chief administrator of each school shall provide assurances that:
 - 1) the school offers an academic term of at least 176 days of pupil attendance annually, with at least five clock hours of instruction daily or at least 880 clock hours of instruction annually;
 - 2) the school *provides instruction in English*, except as otherwise permitted pursuant to Section 27-2 of the School Code [105 ILCS 5/27-2], *in the branches of education taught to children of corresponding age and grade*

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in the public schools (Section 26-1 of the School Code [105 ILCS 5/26-1]), including the language arts, mathematics, the biological, physical and social sciences, the fine arts, and physical development and health (Section 27-1 of the School Code [105 ILCS 5/27-1]);

- 3) the school requires the students who are enrolled to attend daily during the entire regular school term;
 - 4) the physical facilities occupied by the school comply with the applicable local building code and fire safety requirements;
 - 5) the school will require evidence that, and will furnish to the State Superintendent of Education the required reports regarding the extent to which, students have complied with the requirements of Section 27-8.1 of the School Code [105 ILCS 5/27-8.1] and the rules of the Illinois Department of Public Health at 77 Ill. Adm. Code 665 with respect to health examinations, immunizations, eye examinations, and dental examinations; and will cooperate in the implementation of the Child Vision and Hearing Test Act [410 ILCS 205] and the rules of the Illinois Department of Public Health at 77 Ill. Adm. Code 675 and 685 regarding hearing and vision screenings, respectively; and
 - 6) the school complies with applicable federal and State laws prohibiting discrimination, including, but not limited to, Title IX of the Education Amendments of 1972 (20 USC 1681 et seq.), the Individuals with Disabilities Education Improvement Act (20 USC 1400 et seq.), the Age Discrimination in Employment Act of 1967 (29 USC 621 et seq.), Titles VI and VII of the Civil Rights Act of 1964 (42 USC 2000d et seq., 2000e et seq.), the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.), the Illinois School Code [105 ILCS 5], and relevant case law, including Plyler v. Doe, 457 U.S. 202, 102 S. Ct. 2382 (1982).
- c) Upon receipt of complete information for initial registration, including the required assurances, the State Superintendent shall assign a unique identifying number to the school. This number shall be evidence of completed registration and shall permit the school's chief administrator to apply for a user account affording access to the Illinois Web Application Security (IWAS) System, which the school may then use to exchange information with the State Superintendent of Education as relevant to its situation.

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Section 425.30 Requirements for Recognition

No nonpublic school shall apply for recognition until it has been registered for at least one full calendar year and unless it is registered for the current year, except that a school whose educational program is delivered via correspondence may seek recognition without registration, in acknowledgment of the fact that students participating in a school of this type do not gather in a physical location and thus the school does not provide assurances about their compliance with requirements for health examinations, as required for registration under Section 2-3.25o(b) of the School Code. Recognition shall be granted only to schools that meet the requirements of this Section.

a) Administrative Requirements

- 1) Each school's recognition shall be contingent upon evidence of compliance with the administrative requirements that are made applicable to nonpublic schools by relevant statutes.
 - A) The school shall offer an academic term of at least 176 days of pupil attendance annually, with at least five clock hours of instruction daily or at least 880 clock hours of instruction annually.
 - B) The school shall require the students who are enrolled to attend daily during the entire regular school term.
 - C) The school shall comply with applicable federal and State laws prohibiting discrimination, including, but not limited to, Title IX of the Education Amendments of 1972 (20 USC 1681 et seq.), the Individuals with Disabilities Education Improvement Act (20 USC 1400 et seq.), the Age Discrimination in Employment Act of 1967 (29 USC 621 et seq.), Titles VI and VII of the Civil Rights Act of 1964 (42 USC 2000d et seq., 2000e et seq.), the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.), the Illinois School Code [105 ILCS 5], and relevant case law, including Plyler v. Doe, 457 U.S. 202, 102 S. Ct. 2382 (1982).
 - D) The school shall comply with the requirements of Section 4 of the Abused and Neglected Child Reporting Act [325 ILCS 5/4], Section 5 of the Missing Children Records Act [325 ILCS 50/5],

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Section 5 of the Missing Children Registration Law [325 ILCS 55/5], and the rules of the State Board of Education promulgated pursuant to Section 2-3.13a of the School Code [105 ILCS 5/2-3.13a] (see 23 Ill. Adm. Code 375.75, Public and Nonpublic Schools: Transmission of Records for Transfer Students).

- E) The school shall comply with the requirements of the School Reporting of Drug Violations Act [105 ILCS 127].
 - F) The school shall comply with the requirements of Sections 10-27.1A and 10-27.1B of the School Code [105 ILCS 5/27.1A and 27.1B] regarding firearms and drug-related incidents in schools.
 - G) The school shall comply with the requirements of Section 10-21.7 of the School Code [105 ILCS 5/10-21.7] regarding the reporting of attacks on school personnel.
- 2) Recognition shall also be contingent upon evidence of compliance with the additional administrative requirements of this subsection (a)(2).
- A) The school shall maintain written descriptions of its governance structure and its policy-making procedure, shall maintain its policies in written form, and shall make its policies routinely available to parents of the students enrolled and to school staff, as well as to other individuals upon request.
 - B) The school shall maintain a written description of its methods for complying with the nondiscrimination requirements identified in subsection (a)(1)(C) of this Section.
- b) Educational Program
- Each school's recognition shall be contingent upon evidence of compliance with the programmatic requirements that are made applicable to nonpublic schools by relevant statutes.
- 1) *Instruction shall be provided in English, except as otherwise permitted pursuant to Section 27-2 of the School Code [105 ILCS 5/27-2], in the branches of education taught to children of corresponding age and grade in the public schools (Section 26-1 of the School Code), including the*

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language arts, mathematics, the biological, physical and social sciences, the fine arts, and physical development and health (Section 27-1 of the School Code).

- 2) *Each school... shall provide instruction in American patriotism, the principles of representative government, as enunciated in the American Declaration of Independence, the Constitution of the United States of America and the Constitution of the State of Illinois, and the proper use and display of the American flag, and shall require pupils to recite the Pledge of Allegiance daily. (Sections 27-3 and 27-4 of the School Code [105 ILCS 5/27-3 and 27-4]) Not less than one hour per week, or the equivalent, shall be devoted to the study of this subject matter in the seventh and eighth grades or their equivalent and in all high school grades. No student shall receive a certificate of graduation from the eighth grade or from high school without passing an examination on these subjects. No student shall be graduated from the eighth grade unless he or she has received instruction in the history of the United States and has given evidence of a comprehensive knowledge of the subject. (Section 27-21 of the School Code [105 ILCS 5/27-21])*
 - 3) The school shall provide health education as required by the Critical Health Problems and Comprehensive Health Education Act [105 ILCS 110].
- c) Personnel Requirements
- 1) Each school's recognition shall be contingent upon evidence of compliance with the requirements of subsection (c-5) of Section 2-3.25o of the School Code .
 - 2) Each school shall require of each new employee evidence of freedom from communicable disease, including tuberculosis. This evidence shall consist of a tuberculin skin test and, if appropriate, an x-ray, performed by a physician licensed in Illinois or any other state to practice medicine in all its branches, an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes the nurse to perform health examinations, or a physician assistant who has been delegated the authority to perform health examinations by his or her

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supervising physician, not more than 90 days preceding the date on which the report of the test results is presented to the school's chief administrator.

- 3) Each school's personnel policies shall require:
 - A) monitoring the performance of each employee who provides or assists with instruction or has other instructional responsibilities (e.g., teachers, teacher aides, administrators, department chairs); and
 - B) and formal evaluation at least every two years in terms of proficiency and competency.
 - 4) Students' needs for support services such as counseling and social work shall be evaluated when school staff believe consideration is needed, such as when there are changes in the student body or stresses within the surrounding community, and the school's staffing configuration shall reflect decision-making about how those needs should be addressed.
 - 5) Each individual first assigned to a full-time teaching or administrative position at or after the beginning of the 2011-12 school year shall hold a bachelor's or higher degree.
 - 6) Each individual first assigned to a full-time teaching or administrative position prior to the beginning of the 2011-12 school year who does not hold a bachelor's or higher degree shall participate annually in professional development that is demonstrably designed to strengthen his or her knowledge and skills in areas directly related to job duties (e.g., content-area knowledge or pedagogy for teaching staff, and administration, supervision, evaluation, or school management for administrators).
 - 7) Each individual employed in a field requiring licensure shall hold and practice within the scope of the relevant license.
- d) Health and Safety
Each school's recognition shall be contingent upon evidence of compliance with the health and safety requirements that are made applicable to nonpublic schools by the following relevant statutes.

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- 1) The physical facilities occupied by the school shall comply with the applicable local building code and fire safety requirements.
- 2) If the school provides food service, the nutrition program and the facilities used shall comply with the Richard B. Russell National School Lunch Act (42 USC 1751 et seq.), the Child Nutrition Act of 1966 (42 USC 1771 et seq.), and the School Breakfast and Lunch Program Act [105 ILCS 125].
- 3) The school shall have a wellness policy on file that complies with the requirements of the Child Nutrition and WIC Reauthorization Act of 2004 (section 204 of Public Law 108-265; 42 USC 1751 note).
- 4) The school shall require evidence that, and shall furnish to the State Superintendent of Education the required reports regarding the extent to which, students have complied with the requirements of Section 27-8.1 of the School Code [105 ILCS 5/27-8.1] and the rules of the Illinois Department of Public Health at 77 Ill. Adm. Code 665 with respect to health examinations, immunizations, eye examinations, and dental examinations; and shall cooperate in the implementation of the Child Vision and Hearing Test Act [410 ILCS 205] and the rules of the Illinois Department of Public Health at 77 Ill. Adm. Code 675 and 685 regarding hearing and vision screenings, respectively.
- 5) The school shall comply with the requirements of the School Safety Drill Act [105 ILCS 128].
- 6) The school shall comply with the requirements of the Eye Protection in School Act [105 ILCS 115].
- 7) The school shall comply with the requirements of the Toxic Art Supplies in Schools Act [105 ILCS 135].
- 8) The school shall comply with the applicable requirements of the Asbestos Abatement Act [105 ILCS 105].

Section 425.40 Process for Initial Recognition

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A nonpublic school may choose whether to seek recognition under subsection (a) or subsection (b) of this Section. An application for initial recognition may be submitted at any time.

a) Direct Recognition

- 1) The chief administrator of a registered nonpublic school shall submit an application for recognition, using a format specified by the State Superintendent of Education. The application shall include summary information about the school, including but not limited to its educational program and its intended calendar for the upcoming school year, as well as a report of the most recent fire inspection conducted by or on behalf of the relevant local authority.
 - A) For each school whose geographic location falls within the jurisdiction of a code authority, a copy of a certificate of occupancy issued by that authority and valid for the upcoming school year shall be included with the application.
 - B) For each school not located within the jurisdiction of any code authority, the application shall include a letter provided by a design professional, indicating that that individual has evaluated the facility and found no condition that would constitute a threat to the health and safety of the occupants and no condition that would constitute an obvious violation of the building code incorporated at 23 Ill. Adm. Code 180.60.
 - C) For each school whose most recent fire inspection report is more than one year old, the application shall include a letter provided by either a design professional or an individual who meets the requirements of the rules of the Office of the State Fire Marshal at 41 Ill. Adm. Code 111.30 (General Requirements for a Qualified Fire Official), indicating that that individual has evaluated the facility and found no condition that would constitute a fire hazard.
 - D) A "design professional" is an architect licensed to practice in Illinois under the Illinois Architecture Practice Act of 1989 [225 ILCS 305] and the administrative rules of the Department of Financial and Professional Regulation implementing that Act (68 Ill. Adm. Code 1150), an engineer licensed to practice in Illinois

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under the Illinois Professional Engineering Practice Act of 1989 [225 ILCS 325] and the applicable administrative rules of the Department of Financial and Professional Regulation (68 Ill. Adm. Code 1380) or an engineer licensed to practice in Illinois under the Structural Engineering Practice Act of 1989 [225 ILCS 340] and the applicable rules of the Department of Financial and Professional Regulation (68 Ill. Adm. Code 1480).

- 2) Upon receipt of a complete application, the State Superintendent shall schedule a recognition visit and empanel a review team, whose members shall include at least a representative of the State Superintendent, a representative of a public educational entity such as a school district or regional office of education, and either a representative of a nonpublic school, other than the school whose recognition is being considered, or another individual who is familiar with the nonpublic educational milieu. The team shall visit the school to verify its compliance with the requirements of this Part. The chief administrator shall be notified in advance of the visit regarding the documentation that must be presented relative to each requirement of Section 425.30 of this Part.
 - 3) The team shall observe the operations of the school, review the required documentation, and prepare a report of its findings, including a recommendation regarding recognition of the school, for the consideration of the State Superintendent.
 - 4) Upon consideration of the evidence presented and the recommendations of the review team and relevant staff members, the State Superintendent shall recognize the school if it meets the requirements of Section 425.30 of this Part. If recognition is not granted, the State Superintendent's notice to the chief administrative officer shall identify the deficiencies leading to that determination and Section 425.70 of this Part shall apply.
- b) Recognition via External Accrediting Organizations
- 1) The State Superintendent of Education shall review the processes used by various accrediting organizations to identify those entities whose approval, recognition, or accreditation of schools is granted on the basis of compliance with at least the requirements of Section 425.30 of this Part. A nonpublic school shall receive State recognition upon presentation of

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evidence that it has received approval, recognition, or accreditation from any of these entities. Probationary recognition shall be assigned if the accrediting body has assigned a comparable status to the school.

- 2) The State Superintendent shall maintain on the agency's web site a list of all entities whose determinations are accepted pursuant to subsection (b)(1) of this Section.
- c) Each school that is recognized shall receive a Certificate of Nonpublic School Recognition reflecting that status.
- d) Recognition shall be valid for one school year and shall be subject to renewal as provided in Section 425.50 of this Part.
- e) Recognition that is granted pursuant to this Part shall not be extended to any additional campus, site, or school, nor shall it affect students who are not in attendance at the site to which recognition was specifically granted.

Section 425.50 Renewal of Recognition

- a) Cycle for On-Site Review
 - 1) Each school recognized pursuant to Section 425.40(a) of this Part shall be visited by a review team in preparation for every seventh year for which continued recognition is sought. On those occasions, the team shall observe the school's operations, confirm compliance with applicable requirements and prepare a report as provided in Section 425.40 of this Part. When the school's application for renewal of its recognition is received, the State Superintendent shall consider the evidence presented and proceed as discussed in subsection (c) of this Section.
 - 2) Each school recognized pursuant to Section 425.40(b) of this Part shall be visited in keeping with the review cycle of the relevant accrediting organization. When the school's application for renewal of its recognition is received, the State Superintendent shall:
 - A) renew the school's recognition, if the accrediting organization has renewed the school's accreditation; or

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- B) assign another status as provided in subsection (c) of this Section, if the accrediting organization has not renewed the school's accreditation.
- b) Renewal in Intervening Years
- 1) For each school year between on-site reviews, the chief administrator of a school recognized pursuant to Section 425.40(a) of this Part shall apply for renewal of the school's recognition by submitting, in an electronic format specified by the State Superintendent of Education, assurances that the school continues to comply with the requirements of this Part and that no significant changes have been made in its operations, its facilities, or its programs. If annual professional development is required for any staff member pursuant to Section 425.30(c)(6) of this Part, the school's chief administrator shall also submit a written plan for ensuring that the affected individuals complete relevant activities.
 - 2) For each school year between on-site reviews, the chief administrator of a school recognized pursuant to Section 425.40(b) of this Part shall apply for renewal of the school's recognition by submitting evidence that the school's accreditation from the relevant organization is in effect for that school year.
- c) Upon consideration of the application materials and the report, and recommendation of the review team if a visit was conducted, the State Superintendent shall assign a recognition status to the school.
- 1) A school shall be fully recognized if it meets the requirements of this Part, including each school whose accreditation by the relevant organization is in effect for the school year in question.
 - 2) A school shall be recognized pending further review if it exhibits areas of noncompliance that:
 - A) are not serious enough to warrant probation as delineated in subsection (c)(3) of this Section; and
 - B) can be corrected prior to the end of the school year following the school year in which they are identified.

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- 3) A school shall be placed on probation if it:
 - A) exhibits deficiencies that present a health hazard or a danger to students or staff;
 - B) fails to offer required coursework;
 - C) employs personnel who lack the required qualifications;
 - D) fails or refuses to serve students according to relevant legal requirements; and/or
 - E) prolongs or repeats instances of noncompliance to a degree that indicates an intention not to comply with relevant requirements.
- d) When a school is recognized pending further review, the chief administrator may, within 30 days after receipt of notification to this effect, request a conference at which representatives of the school will have an opportunity to discuss compliance issues with representatives of the State Board of Education.
- e) When a school is placed on probation, the State Superintendent shall schedule a conference at which representatives of the school will discuss compliance issues with representatives of the State Board of Education, unless the chief administrator has appealed the school's status as provided in Section 425.70 of this Part. Within 60 days following a conference under this subsection (e), the school's chief administrator shall submit to the State Superintendent a plan for corrective action that conforms to the requirements of subsection (f) of this Section.
- f) The State Superintendent of Education shall respond to the submission of a plan within 15 days after receiving it. The State Superintendent shall approve a plan if it:
 - 1) specifies steps to be taken that are directly related to the areas of noncompliance cited;

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- 2) provides evidence that the school has the resources and the ability to take the steps described without giving rise to other issues of compliance that would lead to probationary status; and
 - 3) specifies a timeline for correction of the cited deficiencies that is demonstrably linked to the factors leading to noncompliance and is no longer than needed to correct the identified problems.
- g) If a school's plan is not approvable under subsection (f) of this Section, the State Superintendent shall notify the chief administrator to this effect. If no plan is submitted, or if no approvable plan is received within 60 days after the conference with representatives of the State Board, the school's recognition shall be withdrawn, subject to appeal under Section 425.70 of this Part.
- h) If, at any time while a plan for corrective action is in effect, the State Superintendent determines that the agreed-upon actions are not being implemented in accordance with the plan or the underlying areas of noncompliance are not being remedied, the State Superintendent shall withdraw the school's recognition, subject to appeal under Section 425.70 of this Part.

Section 425.60 Changes in Recognition Status

A school's recognition status may be changed by the State Superintendent of Education at any time to reflect information confirmed during compliance monitoring or by any other means, subject to the provisions of Section 425.70 of this Part. No school shall be nonrecognized without first having been placed on probation.

Section 425.70 Appeals

A chief administrator who wishes to appeal a school's placement on probation or nonrecognition shall submit to the State Superintendent of Education a written statement of appeal within 14 days after receiving notification of the recommended status.

- a) Within 30 days after receipt of the appeal, the State Superintendent or a designee shall convene a hearing to review all pertinent information, including the procedures that led to the recommended recognition status. Representatives of the affected school shall have an opportunity to present evidence demonstrating that the school complies with the requirements of this Part.

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- b) No later than 30 days after the conclusion of the hearing, the State Superintendent shall inform the chief school administrator of the school's recognition status. The decision of the State Superintendent of Education shall be a final administrative decision, subject to the Administrative Review Law [735 ILCS 5/Art. III].

Section 425.80 Block Grant Funds

Only schools recognized pursuant to this Part shall be eligible to receive school safety and educational improvement block grant funding under Section 2-3.51.5 of the School Code.

- a) In order to receive its proportionate share of these funds for a given school year, a school shall be required to submit, at the conclusion of the school year and in a format specified by the State Superintendent of Education:
 - 1) a final calendar demonstrating that the length of the school term conformed to the requirements of Section 425.30 of this Part; and
 - 2) month-by-month attendance information.
- b) The State Superintendent shall annually establish and publicize the timelines for the submission of this information.
- c) Each school shall maintain attendance records in an auditable format, i.e., one that shows that attendance was taken daily and supports the information transmitted to the State Superintendent.
- d) Each school shall prepare an annual expenditure report, in a format specified by the State Superintendent, relating to its use of block grant funds and make this report available to the State Superintendent upon request. Payments to a school whose use of block grant funds in a prior year is found not to have complied with the requirements of Section 2-3.51.5(1) of the School Code shall be reduced to reflect amounts expended for purposes not allowed under that Section, and the school shall be subject to potential additional consequences for noncompliance as set forth in Section 425.50 of this Part.
- e) Any school that, for two years in a row and in any combination, either fails to deliver the report required by Section 27-8.1 of the School Code to the State Superintendent of Education by November 15 or delivers a report that does not demonstrate that at least 90 percent of the pupils enrolled in the school have

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complied with the requirements of that Section regarding immunizations and health examinations (other than dental and eye examinations) shall be issued a Notice of Non-Compliance. Unless, within seven school days after mailing of the notice, the school presents written evidence to the State Superintendent that it has delivered the report required by Section 27-8.1 and the report demonstrates compliance with that Section, the State Superintendent shall reduce by 10 percent the next payment of block grant funds under this Section, provided that all amounts withheld shall be restored to the school after compliance is documented.

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- 1) Heading of the Part: Personal Property Warehouses
- 2) Code Citation: 92 Ill. Adm. Code 1458
- 3)

<u>Section Numbers:</u>	<u>Emergency Action:</u>
1458.10	New Section
1458.20	New Section
1458.100	New Section
1458.110	New Section
1458.120	New Section
1458.130	New Section
1458.200	New Section
1458.210	New Section
1458.220	New Section
1458.230	New Section
1458.240	New Section
1458.250	New Section
1458.260	New Section
1458.300	New Section
1458.310	New Section
1458.320	New Section
1458.400	New Section
1458.410	New Section
1458.420	New Section
1458.500	New Section
1458.510	New Section
1458.520	New Section
1458.530	New Section
1458.540	New Section
1458.550	New Section
1458.600	New Section
1458.610	New Section
1458.700	New Section
- 4) Statutory Authority: Implementing Sections 15.5 and 15.6 and authorized by Section 16 of the Personal Property Storage Act [240 ILCS 10/15.5, 15.6 and 16]
- 5) Effective Date of Emergency Rulemaking: December 10, 2009

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- 6) If this emergency rules is to expire before the end of the 150-day period, please specify the date on which it is to expire: These emergency rules will expire at the end of the 150-day period, or upon adoption of permanent rules, whichever occurs first.
- 7) Date filed with the Index Department: December 1, 2009
- 8) A copy of the emergency rules, including any material incorporated by reference, is on file in the Illinois Commerce Commission's principal office and is available for public inspection.
- 9) Reason for Emergency: On August 14, 2009, Public Act 96-515 was signed into law transferring regulatory authority over personal property warehouses from the Illinois Department of Agriculture to the Illinois Commerce Commission. As part of this legislation, the Commission is mandated to establish by administrative rule the minimum bond or legal liability insurance policy amounts required by each personal property warehouse in the State. In addition, Public Act 96-515 creates licensure and inspection processes that must be satisfied before the issuance of a personal property warehouse license. The effective date for the Commission to assume regulatory responsibility over these warehouses is January 1, 2010.
- 10) A Complete Description of the Subjects and Issues Involved: These rules implement Public Act 96-515 which transfers the regulation of personal property warehouses from the Department of Agriculture to the Illinois Commerce Commission. That regulation will oversee the storage of the public's goods in warehouses located throughout Illinois from the risk of damage due to such things as fire, vermin, insects or water.
- 11) Are there proposed amendments pending on this Part? Yes
- 12) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.
- 13) Information and questions regarding this emergency rulemaking shall be directed to:

Steve Matrisch
Office of Transportation Counsel
Transportation Division
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62701

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217/782-6447

smatrisc@icc.state.il.us

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

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TITLE 92: TRANSPORTATION
CHAPTER III: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER a: COMMERCIAL TRANSPORTATION GENERALLYPART 1458
PERSONAL PROPERTY WAREHOUSES

SUBPART A: MISCELLANEOUS PROVISIONS

Section

1458.10 Definitions

EMERGENCY

1458.20 Classification of Personal Property Warehouses

EMERGENCY

SUBPART B: LICENSES

Section

1458.100 Application for License

EMERGENCY

1458.110 Annual Renewal of License

EMERGENCY

1458.120 Suspension and Revocation of License

EMERGENCY

1458.130 Reinstatement of License

EMERGENCY

SUBPART C: WAREHOUSE OPERATIONS

Section

1458.200 Warehouse Facilities and Operation

EMERGENCY

1458.210 Placement of Goods into a Self-Storage Facility

EMERGENCY

1458.220 Inspection of Warehouse Facilities

EMERGENCY

1458.230 Posting of Personal Property Warehouse Sign

EMERGENCY

1458.240 Advertising

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EMERGENCY

1458.250 Standards for Forms of Payment

EMERGENCY

1458.260 Notification to Customers of Revocation

EMERGENCY

SUBPART D: INSURANCE OR BOND COVERAGE

Section

1458.300 Licenses Conditioned upon Compliance with Insurance Requirements

EMERGENCY

1458.310 Minimum Insurance Amounts Required

EMERGENCY

1458.320 Proof of Insurance or Bond Coverage

EMERGENCY

SUBPART E: NOTICES AND WAREHOUSE RECEIPTS

Section

1458.400 Notice of Liability Limits

EMERGENCY

1458.410 Warehouse Receipts

EMERGENCY

1458.420 Form of Warehouse Receipt; Essential Terms; Optional Terms

EMERGENCY

SUBPART F: ENFORCEMENT

Section

1458.500 Imposition of Sanctions

EMERGENCY

1458.510 Informal Settlement in Lieu of Formal Proceeding

EMERGENCY

1458.520 Initiation of Operating Practices Proceeding

EMERGENCY

1458.530 Failure to Appear at Hearing

EMERGENCY

1458.540 Standards for the Assessment of Civil Penalties

EMERGENCY

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1458.550 Payment of Civil Penalties
EMERGENCY

SUBPART G: ACCOUNTING AND FINANCIAL RECORD REQUIREMENTS

Section
1458.600 Audit and Inspection of Books and Records
EMERGENCY
1458.610 Maintenance of Records
EMERGENCY

SUBPART H: FEES

Section
1458.700 Fees
EMERGENCY

AUTHORITY: Implementing Sections 15.5 and 15.6 and authorized by Section 16 of the Personal Property Storage Act [240 ILCS 10/15.5, 15.6 and 16].

SOURCE: Adopted by emergency rulemaking at 33 Ill. Reg. 17142, effective December 10, 2009, for a maximum of 150 days.

SUBPART A: MISCELLANEOUS PROVISIONS

Section 1458.10 Definitions
EMERGENCY

"Act": the Personal Property Storage Act [240 ILCS 10].

"Commission": the Illinois Commerce Commission.

"Governmental fair license": a license issued to a fair or fair association that is engaged in the storage of personal property for compensation.

"License": a personal property warehouse license.

"Personal property warehouse": any location for storage of personal property for

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compensation where access to the goods is controlled by the warehouse operator.

**Section 1458.20 Classification of Personal Property Warehouses
EMERGENCY**

For the purposes of this Part, a personal property warehouse is classified according to the amount of storage space in that warehouse as follows:

- a) Class 1: for less than 20,000 net square feet of floor space or for less than 50,000 net cubic feet of volume devoted to the storage of personal property;
- b) Class 2: for 20,000 and less than 50,000 net square feet of floor space or for 50,000 and less than 100,000 net cubic feet of volume devoted to the storage of personal property;
- c) Class 3: for 50,000 and less than 100,000 net square feet of floor space or for 100,000 and less than 200,000 net cubic feet of volume devoted to the storage of personal property;
- d) Class 4: for 100,000 and less than 200,000 net square feet of floor space or for 200,000 and less than 300,000 net cubic feet of volume devoted to the storage of personal property;
- e) Class 5: for 200,000 and less than 300,000 net square feet of floor space or for 300,000 and less than 400,000 net cubic feet of volume devoted to the storage of personal property;
- f) Class 6: for 300,000 or more net square feet of floor space or for 400,000 or more net cubic feet of volume devoted to the storage of personal property.

SUBPART B: LICENSES

**Section 1458.100 Application for License
EMERGENCY**

- a) Applications for personal property warehouse licenses shall be filed on forms provided by the Commission.

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- b) Incomplete or incorrect applications for licenses may be refused or rejected by the Commission.

**Section 1458.110 Annual Renewal of License
EMERGENCY**

All personal property warehouse licenses shall be renewed annually. All licenses shall expire one year from the day the license was issued by the Commission.

**Section 1458.120 Suspension and Revocation of License
EMERGENCY**

The Commission shall suspend any personal property warehouse license for failure to comply with this Part or the Personal Property Warehouse Act. Continued failure to comply with the Commission's statute and rules relating to personal property warehouses shall result in the revocation of the license.

**Section 1458.130 Reinstatement of License
EMERGENCY**

Subject to payment of the reinstatement fee in Section 1458.700(d) and compliance with Commission statute and rules, a personal property warehouse license may be reinstated within one year of revocation. Licenses revoked for greater than one year shall not be reinstated.

SUBPART C: WAREHOUSE OPERATIONS

**Section 1458.200 Warehouse Facilities and Operation
EMERGENCY**

- a) Each personal property warehouse shall be suitable for the type of storage operations conducted at that warehouse. Warehouses shall be maintained and operated in a manner which will reasonably protect the stored property against loss or damage.
- b) A personal property warehouse is liable for damages for loss of or injury to the goods caused by failure to exercise care in regard to them as a reasonably careful person would exercise under like circumstances.

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- c) Damages may be limited by a conspicuous term in the warehouse receipt or storage agreement limiting the amount of liability in case of loss or damage, and setting forth a specific liability per article or item, or value per unit of weight, beyond which the warehouse shall not be liable; however, such liability may on written request of the owner of the goods at the time of signing such storage agreement or within a reasonable time after receipt of the warehouse receipt be increased on part or all of the goods, in which event increased rates may be charged based on such increased valuation. No such limitation is effective with respect to the warehouse's liability for conversion to the warehouse's own use.
- d) Reasonable provisions as to the time and manner of presenting claims and instituting actions based on the storage of the goods shall be included in the warehouse receipt.

**Section 1458.210 Placement of Goods into a Self-Storage Facility
EMERGENCY**

- a) No person shall place, or arrange to place, another person's goods into a self-storage warehouse facility unless the owner of those goods has possession of the key and access to the warehouse and the owner's name appears on the storage contract.
- b) No personal property storage shall be conducted for compensation on behalf of a customer at any location other than a licensed warehouse location.

**Section 1458.220 Inspection of Warehouse Facilities
EMERGENCY**

A compliance inspection shall be conducted by Commission staff prior to the issuance of a personal property warehouse license. The inspection shall include, but not be limited to, a review of:

- a) physical characteristics of the warehouse including, but not limited to, the size, location and overall condition of the storage facilities;
- b) types of goods stored;
- c) proper storage of goods;

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- d) size of warehouse facility;
- e) method of protection from fire;
- f) method of protection from theft or burglary;
- g) potential damage to stored goods by vermin, insects or water;
- h) business organization records;
- i) proper documentation of storage lots including warehouse receipts;
- j) advertising.

**Section 1458.230 Posting of Personal Property Warehouse Sign
EMERGENCY**

Every personal property warehouse shall keep posted, at the main outside entrance of each warehouse operated, a conspicuous sign which clearly states the name of the warehouse, the license number issued by the Commission and identifies that warehouse as a personal property warehouse.

**Section 1458.240 Advertising
EMERGENCY**

- a) For purposes of this Section, the term "advertisement" means any advertisement, solicitation, or other communication with the public in relation to the offer or sale of Illinois personal property warehouse storage service. The term shall include advertisement by radio, television, internet, computer media or any other medium.
- b) Each personal property warehouse shall include in every advertisement the full name of the warehouse as it appears on its Commission issued license. The advertisement shall also identify the warehouse by showing the license number assigned to the warehouse by the Commission.
- c) Personal property warehouses shall not misrepresent the scope of services offered and made available to the public under authority of the license issued by the Commission.

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- d) No applicant for a personal property warehouse license shall advertise by any means until authority to operate has been issued by the Commission.

**Section 1458.250 Standards for Forms of Payment
EMERGENCY**

- a) Personal property warehouses shall accept payment tendered in the following forms:
 - 1) Cash;
 - 2) Cashier's check; or
 - 3) Money order.
- b) Bartering is not permissible.

**Section 1458.260 Notification to Customers of Revocation
EMERGENCY**

If a personal property warehouse license is revoked by the Commission, the warehouse shall send notification to all persons with goods in storage. The revocation notification shall inform the customer of reasonable business hours when goods may be claimed and shall permit any person with goods in storage to remove those goods. The warehouse shall provide the notification within 3 business days of the revocation from the Commission.

SUBPART D: INSURANCE OR BOND COVERAGE

**Section 1458.300 Licenses Conditioned upon Compliance with Insurance Requirements
EMERGENCY**

A license issued by the Commission to a personal property warehouse has force and effect only while the warehouse is in compliance with requirements for the filing of proof of insurance or bond coverage.

**Section 1458.310 Minimum Insurance Amounts Required
EMERGENCY**

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- a) Each personal property warehouse shall have on file with the Commission evidence of insurance liability coverage in the following amount for each warehouse location:
- 1) For a Class 1 warehouse, \$10,000;
 - 2) For a Class 2 warehouse, \$20,000;
 - 3) For a Class 3 warehouse, \$30,000;
 - 4) For a Class 4 warehouse, \$40,000;
 - 5) For a Class 5 warehouse, \$50,000;
 - 6) For a Class 6 warehouse, \$25,000 plus an additional \$5,000 for each additional 100,000 net square feet, or net cubic feet of volume, or fraction thereof.
- b) The insurance coverage required by this Section shall protect against damage to personal property goods including, but not limited to, damage caused by fire, vermin, insect, water or loss.
- c) A continuous surety bond may be used in lieu of the insurance coverage required in subsection (a) as security against damage to personal property provided that all of the following conditions are satisfied:
- 1) the surety bond is made payable to the Commission for the benefit of owners of stored property or their assignees;
 - 2) the bond is endorsed by a surety company authorized to do business in the State of Illinois;
 - 3) the bond is in a form approved by the Commission containing all of the terms and conditions required by the Commission;
 - 4) the surety bond shall be continuing, and subject to cancellation by the surety company only upon 30 days written notice to the Commission served in person or by certified mail;

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**Section 1458.320 Proof of Insurance or Bond Coverage
EMERGENCY**

A personal property warehouse shall file with the Commission evidence of proof of insurance or bond coverage in the amount shown in Section 1458.310. The conditions of bond or insurance coverage are as follows:

- a) The filing of such proof shall constitute acceptance of the minimum terms required by this Part or by statute and shall bind the insurance company thereto;
- b) the coverage shall remain in effect until a cancellation form is filed with the Commission or the coverage is cancelled by the filing of evidence of a subsequent certificate of insurance or bond;
- c) evidence of the insurance or bond coverage shall be on a form approved by the Commission containing all of the terms and conditions required by the Commission;
- d) the insurance policy or bond shall be continuing, and subject to cancellation or nonrenewal by the insurer only upon 30 days prior written notice to the Commission served in person or by certified mail.

SUBPART E: NOTICES AND WAREHOUSE RECEIPTS

**Section 1458.400 Notice of Liability Limits
EMERGENCY**

Before a personal property warehouse contracts to store noncommercial personal, recreational, family or household goods for any person, the warehouse shall notify that person of any limit on the warehouse's liability for loss or damage to property in storage, and of that person's responsibility to provide additional coverage if desired.

**Section 1458.410 Warehouse Receipts
EMERGENCY**

Whenever a personal property warehouse receives property from any person for storage, the warehouse shall issue to that person a warehouse or storage receipt for that property. The receipt shall clearly identify the property which the warehouse has received from that person, the

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location of the warehouse where the property will be stored, the terms and conditions of storage, and the date on which the receipt is issued.

**Section 1458.420 Form of Warehouse Receipt; Essential Terms; Optional Terms
EMERGENCY**

- a) A warehouse receipt need not be in any particular form.
- b) A warehouse receipt shall be signed by the customer.
- c) Unless a warehouse receipt embodies within its written or printed terms each of the following, the warehouse is liable for damages caused by the omission to a person injured thereby:
 - 1) The location of the warehouse where the goods are stored;
 - 2) The date of issue of the receipt;
 - 3) The consecutive number of the receipt;
 - 4) A statement whether the goods received will be delivered to the bearer, to a specified person, or to a specified person or the specified persons order;
 - 5) The rate of storage and handling charges;
 - 6) A description of the goods or of the packages containing them;
 - 7) The signature of an employee or agent of the warehouse.
- d) A warehouse may insert in its receipt any other terms which are not contrary to the Act or this Part, or its duty of care. Any contrary provisions are ineffective.

SUBPART F: ENFORCEMENT

**Section 1458.500 Imposition of Sanctions
EMERGENCY**

When the Commission has reason to believe that a person has committed an act which is a violation of the Act or this Part it may conduct an operating practices proceeding to impose

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sanctions including, but not limited to, the suspension or revocation of the respondent's license and/or the assessment of civil penalties. In deciding whether to conduct an operating practices proceeding, the Commission will consider, among other factors, the severity of the offense, the probability of guilt, and possible effects of sudden suspension or revocation on the personal property warehouse's customers.

**Section 1458.510 Informal Settlement in Lieu of Formal Proceeding
EMERGENCY**

Prior to the institution of formal enforcement proceedings before the Commission, a respondent shall be given the opportunity to settle, at an informal staff level, any controversy regarding the respondent's alleged illegal activity under the Act.

- a) The Notice of Alleged Violation and Opportunity to Settle (NAVOS) setting forth the alleged violations of the Act or this Part shall be served on the respondent and shall specify the procedure for the respondent to exercise his option to settle. Included will be instructions to telephone or write to the specific Commission staff member assigned to the case to request and schedule a settlement conference if the respondent chooses to exercise the settlement option. The respondent shall have 20 days from the date of service to exercise his option to settle.
- b) Monetary settlements specified in the NAVOS shall be based upon the minimum and maximum amounts as set forth in Section 18c-1704(2) of the Illinois Commercial Transportation Law (ICTL) [625 ILCS 5/18c-1704(2)].
- c) An amount less than the minimum established in the NAVOS may be agreed upon between the staff of the Commission and the respondent during informal settlement discussions. This lesser amount shall be incorporated in a stipulated settlement agreement which shall be presented to the Commission for approval or rejection pursuant to the provisions of Section 18c-1705 of the ICTL.
- d) Settlement amounts shall be determined upon consideration of the respondent's past compliance history, his/her cooperation with authorities in the resolution of the dispute, his/her willingness to comply with the Act and this Part, the type of violation, the amount of revenue realized from the unlawful activities, and the number of violations.
- e) If a settlement agreement is not reached, the matter will be set for hearing before a Commission Hearing Examiner (see 83 Ill. Adm. Code 200).

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- f) The respondent's right to a hearing and his position at hearing will not be prejudiced in any way if settlement is not reached.

**Section 1458.520 Initiation of Operating Practices Proceeding
EMERGENCY**

- a) An enforcement proceeding shall be initiated by the issuance of a Complaint which shall set forth the alleged violations of the Act. The Complaint shall be served on the respondent by certified mail, return receipt requested, at the last address known to the Commission, or by personal service if the respondent is not licensed by the Commission and service by mail cannot be accomplished.
- b) The respondent shall have 20 days from the date of service of the Complaint to file a responsive pleading with the Commission. Failure to respond within the specified time shall result in the matter being set for hearing. Notice of the time, date and place for the hearing shall be mailed to the respondent.
- c) All matters set for hearing as a result of this Section shall be conducted in accordance with 83 Ill. Adm. Code 200 (Rules of Practice) and with the provisions of Section 18c-1704 of the ICTL.
- d) Respondent's failure to appear at a hearing or otherwise respond to a complaint shall constitute a waiver of the respondent's right to contest the alleged violations. Commission staff shall present evidence in support of its allegations and the Commission is authorized, without further notice or hearing, to make findings and may forthwith order the imposition of any applicable sanction.

**Section 1458.530 Failure to Appear at Hearing
EMERGENCY**

Respondent's failure to appear at the hearing set for the violations in issue, may constitute a waiver of respondent's right to appear to contest the alleged violations. Commission staff shall testify in support of its allegations and the Commission is authorized without further notice to find the facts to be as alleged in the order and may forthwith order the imposition of any applicable sanction.

**Section 1458.540 Standards for the Assessment of Civil Penalties
EMERGENCY**

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- a) In determining whether to assess civil penalties the Commission shall consider the following factors:
 - 1) the lack of mitigating circumstances including:
 - A) whether the violation's occurrence was attributable to causes beyond the respondent's control rather than to respondent's fault or intent; and
 - B) whether the violation's occurrence was attributable to action by the Commission which precluded compliance;
 - 2) the lack of good faith or intent including:
 - A) the past compliance history of the respondent; and
 - B) whether a violation is the result of willful conduct or comes about through mistake, inadvertence, or negligence;
 - 3) the financial ability of the respondent to pay the penalties assessed;
 - 4) the degree to which the violative conduct was harmful to the public; and
 - 5) the financial benefit accruing to the respondent as a result of its illegal activities.
- b) The Commission's consideration shall be limited to only those violations for which evidence exists. It shall be the burden of the respondent to establish a compelling reason why the civil penalty should be mitigated.

**Section 1458.550 Payment of Civil Penalties
EMERGENCY**

Whenever the Commission assesses a civil penalty under this Part:

- a) Payment of the civil penalty shall be made by certified or cashier's check, money order, or in installments by the foregoing means after execution of a promissory note containing an agreement for judgment;

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- b) All remittances shall be made payable to the Illinois Commerce Commission and sent to Transportation Regulatory Fund, Illinois Commerce Commission, 527 East Capitol Avenue, Springfield, Illinois 62701.

SUBPART G: ACCOUNTING AND FINANCIAL RECORD REQUIREMENTS

**Section 1458.600 Audit and Inspection of Books and Records
EMERGENCY**

Each personal property warehouse shall permit Commission staff to inspect or audit its books and records, on request, at any time when the warehouse is open to the public.

**Section 1458.610 Maintenance of Records
EMERGENCY**

A personal property warehouse shall keep a record of all property received for storage, and of all warehouse or storage receipts issued for three years after the goods were removed from storage. Records shall include the warehouse or storage receipt number, a description of the property received for storage, the date on which the property was received for storage, and the date on which the property was withdrawn from storage. Persons holding an interest in stored property may, at any reasonable time, inspect the warehouse's records related to that property.

SUBPART H: FEES

**Section 1458.700 Fees
EMERGENCY**

The following fees shall apply:

- | | | |
|----|--|-------|
| a) | Initial application fee for personal property warehouse license | \$250 |
| b) | Annual renewal fee for personal property warehouse license | \$150 |
| c) | Annual fee for each additional personal property warehouse operated by applicant | \$150 |

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- | | | |
|----|---|-------|
| d) | Personal property warehouse license reinstatement Fee | \$100 |
| e) | Special governmental fairs annual license | \$50 |

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- 1) Heading of the Part: Illinois Military Family Relief Fund Act
- 2) Code Citation: 95 Ill. Adm. Code 200
- 3)

<u>Section Numbers</u> :	<u>Emergency Action</u> :
200.5	Amended
200.10	Amended
200.20	Amended
200.30	Amended
200.40	Amended
200.41	New
200.50	Amended
200.60	Amended
200.70	Amended
200.71	New
200.80	Amended
- 4) Statutory Authority: Implementing and authorized by the Illinois Military Code [20 ILCS 1805/22-9] as amended by PA 96-822
- 5) Effective Date of Amendments: December 9, 2009
- 6) If these emergency amendments are to expire before the end of the 150-day period, please specify the date on which they are to expire: The emergency amendments will not expire prior to the 150 days.
- 7) Date Filed with the Index Department: December 4, 2009
- 8) A copy of the emergency amendments and associated legislation is on file with the Illinois Department of Military Affairs, IMFRF Program Office, and is available by contacting the agency POC in item 13 below.
- 9) Reason for Emergency: Implementation of PA 96-822/SB 2148, as amended and signed by Governor Quinn on November 21, 2009, effective November 23, 2009.
- 10) A complete Description of the Subjects and Issues Involved: These changes implement the increase of the Casualty Grant from \$2000 to \$5000 per separate incident/injury; amend the Casualty Based Grant to include Illinois residents who are active duty Service Members injured due to hostile action while supporting operations associated with the

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response to the terrorist attacks of September 11, 2001; and increase the minimum period of duty to which ordered from 30 days to 60 days for each grant.

- 11) Are there any proposed amendments to this Part pending? No
- 12) Statement of Statewide Policy Objectives: This proposal does not affect local government.
- 13) Information and questions regarding these emergency amendments shall be directed to:

Jack E. Pascoe, Jr., Military Program Supervisor
Illinois Department of Military Affairs
1301 North MacArthur
Boulevard, Springfield, IL 62702-2399

217/761-3452
jack.pascoe@us.army.mil

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

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TITLE 95: VETERANS AND MILITARY AFFAIRS
CHAPTER II: DEPARTMENT OF MILITARY AFFAIRS

PART 200
ILLINOIS MILITARY FAMILY RELIEF FUND ACT

SUBPART A: DEFINITIONS

Section

200.5 General Purpose

EMERGENCY

200.10 Definition of Terms Used

EMERGENCY

SUBPART B: ELIGIBILITY

Section

200.20 Determination of Eligibility for Family Need Based Grants

EMERGENCY

200.30 Determination of Eligibility for Status Based Grants

EMERGENCY

200.40 Determination of Eligibility for Casualty Based Grants – National Guard and Reserve Service Members

EMERGENCY

200.41 Determination of Eligibility for Casualty Based Grants – Active Duty Service Members

EMERGENCY

SUBPART C: GRANTS

Section

200.50 Family Need Based Grant Levels and Limits

EMERGENCY

200.60 Status Based Grant Levels and Limits

EMERGENCY

200.70 Casualty Based Grant Levels and Limits – National Guard and Reserve Service Members

EMERGENCY

200.71 Casualty Based Grant Levels and Limits – Active Duty Service Members

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200.80 Documentation, Application, Payment and Denial

EMERGENCY

SUBPART D: REPORTING

Section

200.90 Reporting Requirements

AUTHORITY: Implementing and authorized by Section 22-9 of the Illinois Military Code [20 ILCS 1805/22-9].

SOURCE: Emergency rule adopted at 27 Ill. Reg. 8468, effective May 6, 2003, for a maximum of 150 days; emergency expired October 2, 2003; adopted at 27 Ill. Reg. 16436, effective October 15, 2003; emergency amendment at 28 Ill. Reg. 16355, effective December 7, 2004, for a maximum of 150 days; emergency expired May 5, 2005; amended at 29 Ill. Reg. 21033, effective December 16, 2005; amended at 31 Ill. Reg. 15834, effective January 1, 2008; emergency amendment at 33 Ill. Reg. 17161, effective December 9, 2009, for a maximum of 150 days.

SUBPART A: DEFINITIONS

Section 200.5 General PurposeEMERGENCY

The intent of Section 22-9 of the Illinois Military Code and this Part is to provide an opportunity on standard individual income tax forms to allow taxpayers to contribute to the Illinois Military Family Relief Fund, ~~and to provide the Illinois Department of Military Affairs the power to make grants from the Fund to members or families of the Illinois National Guard or other Reserve components (including National Guard members of other states) who are Illinois residents and were called to active military service as a result of the September 11, 2001 terrorist attacks. The grants shall be in the form of three types of payments:~~

- a) To provide the Illinois Department of Military Affairs the power to make grants from the Fund to:
 - 1) Illinois residents who are members of the Active Duty Armed Forces (effective November 23, 2009) who are/were called to active military service as a result of the September 11, 2001 terrorist attacks.

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- 2) Illinois National Guard members who are/were called to active military service as a result of the September 11, 2001 terrorist attacks.
 - 3) Illinois residents who are members of other Reserve Components of the Armed Forces (including National Guard members of other states) who are/were called to active military service as a result of the September 11, 2001 terrorist attacks.
 - 4) Family members of the service members described in subsections (a) through (c).
- b) The grants shall be in the form of three types of payments:
- 1)a) payments based on need, as determined under Section 200.20;
 - 2)b) payments based on the member's status, as determined under Section 200.30; and
 - 3)e) payments based on the member's casualty status, as determined under ~~Sections~~Section 200.40 and 200.41.

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 17161, effective December 9, 2009, for a maximum of 150 days)

Section 200.10 Definition of Terms Used**EMERGENCY**

"Active duty" means: Military service performed under Title 32 USC or Title 10 USC.

"Duty as a result of the September 11, 2001 terrorist attacks" means: Active duty military service of a minimum of ~~60~~30 consecutive days (effective November 23, 2009; previously 30 days), directly related to the ~~Presidential~~President's Partial Mobilization Authority in response to the attacks.

"Family of members" means: A husband, wife, or child, ~~mother, father, brother, sister, or other person~~ who has been approved as a dependent and is enrolled in the Defense Enrollment Eligibility Reporting System (DEERS) in accordance

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with applicable military regulations. ~~The service member's mother, father, brother, sister or other representative~~~~A custodial parent or guardian of a member's dependent~~ may apply for a grant on behalf of ~~the service member if that dependent provided~~ a copy of a ~~custodial agreement or~~ Power of Attorney is included with the application.

"Fund" means: The Illinois Military Family Relief Fund.

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 17161, effective December 9, 2009, for a maximum of 150 days)

SUBPART B: ELIGIBILITY

Section 200.20 Determination of Eligibility for Family Need Based Grants**EMERGENCY**

- a) The grant applicant must show proof of the following:
 - 1) He or she is, at the time of entry on mobilization, a member of the Illinois National Guard or an Illinois resident who is a member of another U.S. Armed Forces Reserve component applying on behalf of his or her family, or is a family member of the service member. Proof of residency for military members will consist of information obtained from the supporting documents provided; Department of Defense Form 214 (DD 214) (Certificate of Release or Discharge from Active Duty), item 7b; or orders and military pay statement, along with the individual's certification on the application. Proof of a familial relationship will consist of information obtained from Defense Enrollment Eligibility Reporting System (DEERS).
 - 2) The Illinois National Guard or Reserve component member was on active military duty for at least ~~60~~~~30~~ consecutive days (effective November 23, 2009; previously 30 days) as a result of the September 11, 2001 terrorist attacks. Proof of active duty will consist of a DD 214, Department of Defense Form 220 (Report of Active Duty), or copy of the orders issued by an authorized headquarters ordering the member to such duty and a military pay statement reflecting duty performance.
 - 3) A copy of a payroll record from the member's civilian employer that indicates member's monthly salary, a copy of a recent Inactive Duty

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Training (IDT) Leave and Earnings Statement (LES) within 90 days prior to mobilization reflecting four IDT periods of pay, plus a copy of a military payroll record that indicates the member's monthly military salary. W2s and completed income tax returns may serve as supporting documentation.

- 4) Proof that the military salary (including Basic Allowance for Housing) of the member has decreased by 30% or greater from his or her civilian salary and part time (Inactive Duty Training) military pay. With the implementation of the Department of Defense (DOD) Reserve Income Replacement Program, applicants requesting the Family Needs Based Grant must report if they have applied for, or are receiving, payments under this program and that amount will be included in total military income.
 - 5) The Illinois National Guard or Reserve component member holds a pay grade no higher than O-3, if an officer, or W-3, if a warrant officer, or E8 (effective November 23, 2009; previously E9s were eligible) if an enlisted member. Individuals or families will be eligible for the grant based upon rank at the time the period of service for which applying begins. Proof of pay grades will consist of information obtained from supporting documents, DEERS or Re-Enlistment Eligibility Data Display (REDD) from the Defense Manpower Data Center (DMDC) Database.
 - 6) If a custodial parent or guardian is applying for a grant on behalf of a service member's dependent, then the custodial parent or guardian must provide proof of guardianship of a member's dependent currently enrolled in DEERS or a Power of Attorney that authorizes such transactions.
- b) The following members are ineligible to receive grants:
- 1) All officers, ~~and~~ warrant officers, and enlisted members with pay grades of O-4 ~~and~~ W-4, or higher and E9 (effective November 23, 2009; previously E9s were eligible);
 - 2) Personnel serving in Active Guard/Reserve (AGR) or similar full-time unit support programs unless called to Title 10 service for duty as prescribed in subsection (a)(2);

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- 3) Members who have no dependent family members enrolled in DEERS;
- 4) Members who, at any time prior to the approval of a grant application under this Section, receive a punitive discharge, or an administrative discharge with service characterized as Under Other Than Honorable Conditions or a lower characterized discharge;
- 5) Service members who were unemployed upon entry into current mobilization.

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 17161, effective December 9, 2009, for a maximum of 150 days)

Section 200.30 Determination of Eligibility for Status Based Grants**EMERGENCY**

- a) The grant applicant must show proof of the following:
 - 1) He or she is, at the time of entry on mobilization, a member of the Illinois National Guard or an Illinois resident who is a member of another U.S. Armed Forces Reserve component or is a family member of the service member. Proof of residency for military members will consist of information obtained from the supporting documents provided; DD 214, item 7b; or orders and military pay statement, along with the individual's certification on the application. Proof of a familial relationship will consist of information obtained from DEERS.
 - 2) The Illinois National Guard or Reserve component member was on active military duty for at least ~~6030~~ consecutive days (effective November 23, 2009; previously 30 days) as a result of the September 11, 2001 terrorist attacks. Proof of active duty will consist of a DD 214, DD 220, or copy of the orders issued by an authorized headquarters ordering the member to such duty and a military pay statement reflecting duty performance.
 - 3) The Illinois National Guard or Reserve component member holds a pay grade no higher than O-3, if an officer, ~~or~~ W-3, if a warrant officer, or E8 (effective November 23, 2009; previously E9), if an enlisted member. Individuals or families will be eligible for the grant based upon rank at the time the period of service for which applying begins. Proof of pay grades

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will consist of information obtained from supporting documents, DEERS or REDD.

- 4) Service members deployed for a consecutive (not cumulative) period of duty of more than six months will become eligible for additional status based grants for each consecutive six month period. After the beginning of the seventh, thirteenth, etc, months, applicants may reapply. The subsequent application must include sufficient documentation to validate that the continuous duty was performed in support of operations as defined in Section 200.10. (This subsection (a)(4) is effective January 1, 2008. Members on active duty on January 1, 2008 will become eligible once they have completed six months on or after January 1, 2008.)
 - 5) If a custodial parent or guardian is applying for a grant on behalf of a service member's dependent, then the custodial parent or guardian must provide proof of guardianship of a member's dependent currently enrolled in DEERS or a Power of Attorney that authorizes such transactions.
- b) The following members are ineligible to receive grants:
- 1) All officers and warrant officers with pay grades of O-4 ~~or~~ W-4, or higher ~~and E9 (effective November 23, 2009; previously E9s were eligible);~~
 - 2) Personnel serving in Active Guard/Reserve (AGR) or similar full-time unit support programs unless called to Title 10 service for duty as prescribed in subsection (a)(2);
 - 3) Members who, at any time prior to approval of a grant application under this Section, receive a punitive discharge or an administrative discharge with service characterized as Under Other Than Honorable Conditions or a lower characterized discharge.

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 17161, effective December 9, 2009, for a maximum of 150 days)

**Section 200.40 Determination of Eligibility for Casualty Based Grants – National Guard and Reserve Service Members
EMERGENCY**

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- a) The grant applicant must show proof of the following:
- 1) He or she is, at the time of entry on mobilization, a member of the Illinois National Guard or an Illinois resident who is a member of another U.S. Armed Forces Reserve component or is a family member of the service member. Proof of residency for military members will consist of information obtained from the supporting documents provided; DD 214, item 7b; or orders and military pay statement, along with the individual's certification on the application. Proof of a familial relationship will consist of information obtained from DEERS.
 - 2) The Illinois National Guard or Reserve component member was on active military duty for at least ~~6030~~ consecutive days (effective November 23, 2009; previously 30 days) as a result of the September 11, 2001 terrorist attacks. Proof of active duty will consist of a DD 214, DD 220, or copy of the orders issued by an authorized headquarters ordering the member to such duty and a military pay statement reflecting duty performance.
 - 3) The Adjutant General is authorized to waive the ~~6030~~-day (effective November 23, 2009; previously 30 days) requirement in subsection (a)(2) upon a written request indicating the circumstances justifying such a waiver. The Adjutant General may use discretion in granting or denying such requests.
 - 4) The Department of Military Affairs will verify the member's casualty status with official documents provided by the service member or official message from the U.S. Department of Defense including, but not limited to: Line of Duty Investigations, DOD Casualty Reports, Incident Reports, and intake medical reports/medical assessments. Documentation will include proof~~Proof~~ that the service member sustained an injury as a result of terrorist activity; sustained an injury in combat, or related to combat, as a direct result of hostile action; or sustained an injury going to or returning from a combat mission, provided that the incident leading to the injury was directly related to hostile action. This includes injuries to service members who are wounded mistakenly or accidentally by friendly fire directed at a hostile force or what is thought to be a hostile force. This rule is retroactive, but does not apply to applications for casualty based

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grants that were disbursed prior to December 7, 2004. No payments shall be made without such verification.

- 5) If a custodial parent or guardian is applying for a grant on behalf of a service member's dependent, then the custodial parent or guardian must provide proof of guardianship of a member's dependent currently enrolled in DEERS or a Power of Attorney that authorizes such transactions.
- 6) There are no grade limitations to eligibility for the casualty based grant.
- b) Casualty grant applications received on the same day as status or needs applications will be processed first~~Applications submitted under this Section shall take precedence over all other applications.~~
- c) The following members are ineligible to receive grants under this Section:
 - 1) Members who, at any time prior to the approval of a grant application under this Section, receive a punitive discharge, or an administrative discharge with service characterized as Under Other Than Honorable Conditions or a lower characterized discharge;
 - 2) Members whose casualty status is the result of a self-inflicted wound or other misconduct or willful negligence by the member, or if the casualty occurs when the member is in an AWOL, deserter, or dropped-from-rolls status;
 - 3) Personnel serving in Active Guard/Reserve (AGR) or similar full-time unit support programs unless called to Title 10 service for duty as prescribed in subsection (a)(2);
 - 4) Deceased members, as other compensations are paid by the State of Illinois.

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 17161, effective December 9, 2009, for a maximum of 150 days)

Section 200.41 Determination of Eligibility for Casualty Based Grants – Active Duty Service Members
EMERGENCY

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- a) The grant applicant must show proof of the following:
- 1) He or she, at least 60 days prior to the date of injury, was a resident of Illinois and a member of the active duty armed forces. Proof of residency for military members will consist of information obtained from the supporting documents provided: DD Form 214, orders, Leave and Earnings Statement (LES), and/or a copy of the service member's Illinois State income tax return from the previous calendar year and the individual's certification on the application.
 - 2) The service member identified in subsection (a)(1) is/was on active military duty for at least 60 consecutive days as a result of the September 11, 2001 terrorist attacks. Proof of duty will consist of the individual deployment orders clearly indicating the purpose and period of duty and an LES reflecting Hazardous Duty Pay, Combat Pay, or Combat Zone Tax Exclusion.
 - 3) The Adjutant General is authorized to waive the 60 day requirement in subsection (a)(2) upon written request indicating the circumstances justifying such a waiver. The Adjutant General may use discretion in granting or denying such requests.
 - 4) The Department of Military Affairs will verify the member's casualty status with official documents provided by the service member or official message from the U.S. Department of Defense including but not limited to: Line of Duty Investigations, DOD Casualty Reports, Incident Reports and intake medical reports/medical assessments. Documentation will include proof that the service member sustained an injury on or after November 23, 2009, as a result of terrorist activity; sustained an injury in combat, or related to combat, as a direct result of hostile action; or sustained an injury going to or returning from a combat mission, provided that the incident leading to the injury was directly related to hostile action. This includes injuries to service members who are wounded mistakenly or accidentally by friendly fire directed at a hostile force or what is thought to be a hostile force. No payments can be made without sufficient documentation.

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- 5) If a family member or other person not listed in DEERS signs the application, the applicant must provide a Power of Attorney authorizing such transactions on behalf of the service member.
- 6) There are no grade limitations to eligibility for the casualty based grant.
- b) Casualty grant applications received on the same day as status or needs applications will be processed first.
- c) The following members are ineligible to receive grants under this Section:
 - 1) Members who, at any time prior to the approval of a grant application under this Section, receive a punitive discharge, or an administrative discharge with service characterized as Under Other Than Honorable Conditions or a lower characterized discharge;
 - 2) Members whose casualty status is the result of a self-inflicted wound or other misconduct or willful negligence by the member, or if the casualty occurs when the member is in an Absent Without Leave (AWOL), deserter or dropped-from-rolls status;
 - 3) Deceased members, as other compensations may be paid by the State of Illinois or Department of Defense.

(Source: Added by emergency rulemaking at 33 Ill. Reg. 17161, effective December 9, 2009, for a maximum of 150 days)

SUBPART C: GRANTS

Section 200.50 Family Need Based Grant Levels and Limits**EMERGENCY**

- a) Payments to an Illinois National Guard or Reserve component member's family shall be a flat rate of \$2,000.
- b) A member or a member's family may apply for and receive a \$2,000 grant each six month period of continuous deployment. Applications will not be approved unless at least six months have elapsed from the date of receipt of the previous application. (This subsection (b) is effective January 1, 2008. Members on active

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duty on January 1, 2008 will become eligible once they have completed six months on or after January 1, 2008.) Each six month grant eligibility period requires a minimum of 60 days (effective November 23, 2009; previously 30 days) duty.

- c) For periods of deployment of less than six months, a member or a member's family may apply for each new deployment period as long as six months have elapsed from the beginning date of each deployment. Applications will not be approved unless at least six months have elapsed from the date of receipt of the previous application.

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 17161, effective December 9, 2009, for a maximum of 150 days)

Section 200.60 Status Based Grant Levels and Limits**EMERGENCY**

- a) All grants will be a flat rate of \$500.
- b) There is no limit on the number of grants payable.
- c) Each six month grant eligibility period requires a minimum of 60 days (effective November 23, 2009; previously 30 days) duty.

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 17161, effective December 9, 2009, for a maximum of 150 days)

Section 200.70 Casualty Based Grant Levels and Limits – National Guard and Reserve Service Members**EMERGENCY**

- a) All grants will be a flat rate of \$5,000 (effective November 23, 2009; previously \$2000)2,000.
- b) Illinois National Guard or Reserve component members, or their family members, may receive only one casualty based grant for injuries received during, or arising out of, the same engagement or incident.

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(Source: Amended by emergency rulemaking at 33 Ill. Reg. 17161, effective December 9, 2009, for a maximum of 150 days)

Section 200.71 Casualty Based Grant Levels and Limits – Active Duty Service Members
EMERGENCY

- a) All grants will be a flat rate of \$5,000.
- b) Service members qualify for only one casualty based grant for injuries received during or arising out of the same engagement or incident.

(Source: Added by emergency rulemaking at 33 Ill. Reg. 17161, effective December 9, 2009, for a maximum of 150 days)

Section 200.80 Documentation, Application, Payment and Denial
EMERGENCY

- a) Application and Documentation. The rules governing the acceptance of applications are as follows:
 - 1) To receive consideration for a grant, applicants must request and submit a signed~~an~~ application provided by the Illinois Department of Military Affairs.
 - 2) All necessary documentation, as stated in Section 200.20, 200.30~~, or~~ 200.40 or 200.41, must be included with the application, unless otherwise provided under DEERS, REDD or other systems, and the applicant shall authorize access to any systems or records as may be necessary to grant the request for purposes of verification.
 - 3) Applications and supporting~~Supporting~~ documents can be submitted via facsimile, email or regular mail~~but the original signed application must be submitted before any grant payments can be authorized.~~
 - 4) Incomplete applications will be retained by the program manager. The program manager will send a letter identifying the missing requirements within 30 days after receipt of application.

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- 5) The Department of Military Affairs, upon receipt of a complete ~~original~~ application with all necessary supporting documents, will process the application within 30 days, subject to availability of funds as indicated in subsections (b)(2) and (b)(3).
- b) Payments.
- 1) Payment will be made to the applicant who has met all eligibility requirements under Section 200.20, 200.30, ~~or~~ 200.40 or 200.41. Payments will not be made to creditors and payments will not be subject to garnishment, wage levy, forfeiture or other remedy, unless the denial of that remedy is inconsistent with the requirements of any other State or federal law~~applicable deductions~~.
 - 2) The timeliness of payment will be determined by the amount of funds available at the time of application.
 - 3) If adequate funds are not available, the application will be held in a queue until funds are available.
 - 4) Applications for casualty based grants shall take precedence over all others.
- c) Denials.
- 1) Grant applications from those not meeting eligibility requirements will be denied.
 - 2) A letter explaining the denial will be sent to the applicant within 30 days after receipt of the application.
- d) Exceptions.
The Adjutant General is authorized to grant a waiver of any portion of this Part should extenuating circumstances exist that a delay in payment due to rule restrictions would cause the service member or the service member's family undue financial hardship.

(Source: Amended by emergency rulemaking at 33 Ill. Reg. 17161, effective December 9, 2009, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of December 1, 2009 through December 7, 2009 and have been scheduled for review by the Committee at its January 12, 2010 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
1/17/10	<u>Department of Children and Family Services, Licensing Standards for Day Care Centers (89 Ill. Adm. Code 407)</u>	4/17/09 33 Ill. Reg. 5614	1/12/10
1/17/10	<u>Department of Public Health, Children's Community-Based Health Care Center Program Code (77 Ill. Adm. Code 260)</u>	9/4/09 33 Ill. Reg. 12362	1/12/10
1/20/10	<u>Environmental Protection Agency, Procurement (Repealer) (44 Ill. Adm. Code 550)</u>	7/31/09 33 Ill. Reg. 11148	1/12/10
1/20/09	<u>Secretary of State, General Rules, Definitions (92 Ill. Adm. Code 1000)</u>	10/16/09 33 Ill. Reg. 14296	1/12/10

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LISTING OF DERIVED WATER QUALITY CRITERIA

Pursuant to 35 Ill. Adm. Code 302.595 and 302.669, the following water quality criteria have been derived as listed. This listing updates revisions to existing criteria for the period July 1, 2009 through September 30, 2009.

A cumulative listing of criteria as of July 31, 1993 was published in 17 Ill. Reg. 18904, October 29, 1993. Listings of waterbodies for which water quality criteria were used during subsequent three month periods were published in 18 Ill. Reg. 318, January 7, 1994; 18 Ill. Reg. 4457, March 18, 1994; 18 Ill. Reg. 8734, June 10, 1994; 18 Ill. Reg. 14166, September 9, 1994; 18 Ill. Reg. 17770, December 9, 1994; 19 Ill. Reg. 3563, March 17, 1995; 19 Ill. Reg. 7270, May 26, 1995; 19 Ill. Reg. 12527, September 1, 1995; 20 Ill. Reg. 649, January 5, 1996; 20 Ill. Reg. 4829, March 22, 1996; 20 Ill. Reg. 7549, May 30, 1996; 20 Ill. Reg. 12278, September 6, 1996; 20 Ill. Reg. 15619, December 6, 1996; 21 Ill. Reg. 3761, March 21, 1997; 21 Ill. Reg. 7554, June 13, 1997; 21 Ill. Reg. 12695, September 12, 1997; 21 Ill. Reg. 16193, December 12, 1997; 22 Ill. Reg. 5131, March 13, 1998; 22 Ill. Reg. 10689, June 12, 1998; 22 Ill. Reg. 16376, September 11, 1998; 22 Ill. Reg. 22423, December 28, 1998; 23 Ill. Reg. 3102, March 12, 1999; 23 Ill. Reg. 6979, June 11, 1999; 23 Ill. Reg. 11774, September 24, 1999; 23 Ill. Reg. 14772, December 27, 1999; 24 Ill. Reg. 4251, March 17, 2000; 24 Ill. Reg. 8146, June 9, 2000; 24 Ill. Reg. 14428, September 29, 2000; 25 Ill. Reg. 270, January 5, 2001; 25 Ill. Reg. 4049, March 16, 2001; 25 Ill. Reg. 7367, June 8, 2001; 25 Ill. Reg. 12186, September 21, 2001; 25 Ill. Reg. 16175, December 14, 2001; 26 Ill. Reg. 4974, March 29, 2002; 26 Ill. Reg. 13370, September 6, 2002; 27 Ill. Reg. 1736, January 31, 2003; 27 Ill. Reg. 7350, April 18, 2003; 27 Ill. Reg. 17128, November 7, 2003; 28 Ill. Reg. 5038, March 19, 2004; 28 Ill. Reg. 8363, June 11, 2004; 28 Ill. Reg. 12943, September 17, 2004; 29 Ill. Reg. 1449, January 21, 2005; 29 Ill. Reg. 7239, May 20, 2005; 29 Ill. Reg. 12672, August 12, 2005; 29 Ill. Reg. 18963, November 18, 2005; 30 Ill. Reg. 5458, March 17, 2006; 30 Ill. Reg. 9195, May 12, 2006 and 30 Ill. Reg. 14377, September 1, 2006; 31 Ill. Reg. 4941, March 23, 2007; 31 Ill. Reg. 7477, May 25, 2007; 31 Ill. Reg. 13233, September 14, 2007; 31 Ill. Reg. 15875, November 26, 2007; 32 Ill. Reg. 4271, March 21, 2008; 32 Ill. Reg. 8454, June 6, 2008; 32 Ill. Reg. 13595, August 15, 2008; 32 Ill. Reg. 19961, December 19, 2008; 33 Ill. Reg. 3683, February 27, 2009; 33 Ill. Reg. 9191, June 26, 2009 and 33 Ill. Reg. 13526, September 25, 2009.

Aquatic life and human health criteria for General Use (35 Ill. Adm. Code 303.201) and Lake Michigan Basin (35 Ill. Adm. Code 303.443) waters are listed below. General Use human health criteria are derived for protection of primary contact waters, criteria derived for waters not supportive of primary contact recreation are specified, where applicable. General Use and Lake Michigan Basin waters used as Public and Food Processing Water Supplies (35 Ill. Adm. Code 303.202) are subject to more stringent human health criteria as specified in their respective derivation procedures (35 Ill. Adm. Code 302.648 and 302.657 and 35 Ill. Adm. Code 302.585

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LISTING OF DERIVED WATER QUALITY CRITERIA

and 302.590, respectively). Newly derived criteria or criteria used in NPDES permitting this quarter are highlighted in bold print.

General Use Criteria

Chemical: Acenaphthene	CAS #83-32-9
Acute criterion: 120 ug/l	Chronic criterion: 62 ug/l
Date criteria derived: November 14, 1991; revised February 1999	
Applicable waterbodies: Not used during this period.	
Chemical: Acenaphthylene	CAS # 208-96-8
Acute criterion: 190 ug/L	Chronic criterion: 15 ug/L
Date criteria derived: March 1, 1998	
Applicable waterbodies: Not used during this period.	
Chemical: Acetochlor	CAS #34256-82-1
Acute criterion: 150 ug/l	Chronic criterion: 12 ug/l
Date criteria derived: September 26, 2007	
Applicable waterbodies: Not used during this period.	
Chemical: Acetone	CAS #67-64-1
Acute criterion: 1,500 mg/l	Chronic criterion: 120 mg/l
Date criteria derived: May 25, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: Acetonitrile	CAS #75-05-8
Acute criterion: 380 mg/l	Chronic criterion: 30 mg/l
Human health criterion (HTC): non-primary contact, 20 mg/L	
Date criteria derived: December 7, 1993; revised January 23, 2007	
Applicable waterbodies: Not used during this period.	
Chemical: Acrolein	CAS #107-02-8
Acute criterion: 2.7 µg/l	Chronic criterion: 0.22 µg/l
Date criteria calculated: February 1999; reviewed January 2008	
Applicable waterbodies: Not used during this period.	
Chemical: Acrylonitrile	CAS #107-13-4
Acute criterion: 910 ug/l	Chronic criterion: 73 ug/l
Human health criterion (HNC): 0.21 ug/l	
Date criteria derived: November 13, 1991	

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Applicable waterbodies: Not used during this period.	
Chemical: Aniline	CAS #62-53-3
Acute criterion: 120 µg/l	Chronic criterion: 15 µg/l
Date criteria calculated: July 24, 1998; reviewed April 15, 2009	
Applicable waterbodies: Not used during this period.	
Chemical: Anthracene	CAS #120-12-7
Acute criterion: 0.66 ug/L	Chronic Criterion: 0.53 ug/L
Human health criterion (HTC): 35 mg/l	
Date criteria derived: August 18, 1993, revised May 30, 2007	
Applicable waterbodies: Not used during this period.	
Chemical: Antimony	CAS #7440-36-0
Acute criterion: 1,200 ug/L	Chronic Criterion: 320 ug/L
Human health criterion (HTC): 12,000 ug/l	
Non-primary contact: 1,200 ug/l	
Public and food processing water supply: 6 ug/l	
Date criteria derived: September 29, 2008	
Applicable waterbodies: Not used during this period.	
Chemical: Atrazine	CAS #1912-24-9
Acute criterion: 82 ug/l	Chronic criterion: 9.0 ug/L
Date criteria derived: May 2, 2005	
Applicable waterbodies: Not used during this period.	
Chemical: Benzo(a)anthracene	CAS #56-55-3
Human health criterion (HNC): 0.16 ug/l	
Date criteria derived: August 10, 1993; revised February 1999	
Applicable waterbodies: Not used during this period.	
Chemical: Benzo(a)pyrene	CAS #50-32-8
Human health criterion (HNC): 0.016 ug/l	
Date criteria derived: August 10, 1993; revised February 1999	
Applicable waterbodies: Not used during this period.	
Chemical: Benzo(b)fluoranthene	CAS # 205-99-2
Human health criterion (HNC): 0.16 ug/l	
Date criteria derived: August 10, 1993; revised February 1999	
Applicable waterbodies: Not used during this period.	
Chemical: Benzo(k)fluoranthene	CAS #207-08-9
Human health criterion (HNC): 1.6 ug/l	
Date criteria derived: August 10, 1993; revised February 1999	

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LISTING OF DERIVED WATER QUALITY CRITERIA

Applicable waterbodies: Not used during this period.
Chemical: Bis(2-ethylhexyl)phthalate CAS #117-81-7 Human health criterion (HNC): 1.9 ug/l
Date criteria derived: February, 1999; reviewed: June 2009 Applicable waterbodies: Not used during this period.
Chemical: Carbon tetrachloride CAS #56-23-5 Acute criterion: 3,500 ug/l Chronic criterion: 280 ug/l Human health criterion (HNC): 1.4 ug/l Date criteria derived: June 18, 1993 Applicable waterbodies: Not used during this period.
Chemical: 2-Chloroaniline CAS #95-51-2 Acute criterion: 75 ug/l Chronic criterion: 6 ug/l Date criteria derived: June 21, 1996; reviewed April 15, 2009 Applicable waterbodies: Not used during this period.
Chemical: 4-Chloroaniline CAS #106-47-8 Acute criterion: 2.4 ug/l Date criteria derived: February 26, 1992; reviewed April 15, 2009 Applicable waterbodies: Not used during this period.
Chemical: Chlorobenzene CAS #108-90-7 Acute criterion: 990 ug/l Chronic criterion: 79 ug/l Date criteria derived: December 11, 1991 Applicable waterbodies: Not used during this period.
Chemical: Chloroethane CAS #75-00-3 Acute criterion: 13 mg/l Chronic criterion: 1 mg/l Date criteria derived: December 11, 1991 Applicable waterbodies: Not used during this period.
Chemical: Chloromethane CAS #74-87-3 Acute criterion: 16 mg/l Chronic criterion: 1.3 mg/l Date criteria derived: December 11, 1991 Applicable waterbodies: Not used during this period.
Chemical: Chloroform CAS #67-66-3 Acute criterion: 1,900 ug/l Chronic criterion: 150 ug/l Human health criterion (HNC): 130 ug/l Date criteria derived: October 26, 1992 Applicable waterbodies: Not used during this period.

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<p>Chemical: Chrysene CAS #218-01-9 Human health criterion (HNC): 16 ug/l Date criteria derived: August 10, 1993; revised February 1999 Applicable waterbodies: Not used during this period.</p>
<p>Chemical: 2,4-D CAS #94-75-7 Acute criterion: 100 ug/l Chronic criterion: 8 ug/l Date criteria derived: July 1, 1993; reviewed April 15, 2009 Applicable waterbodies: Not used during this period.</p>
<p>Chemical: Dibenz(a,h)anthracene CAS #53-70-3 Human health criterion (HNC): 0.016 ug/l Date criteria derived : February, 1999, reviewed June 2007 Applicable waterbodies: Not used during this period.</p>
<p>Chemical: 1,2-dichlorobenzene CAS #95-50-1 Acute criterion: 210 ug/l Chronic criterion: 17 ug/l Date criteria derived: December 1, 1993 Applicable waterbodies: Not used during this period.</p>
<p>Chemical: 1,3-dichlorobenzene CAS #541-73-1 Acute criterion: 500 ug/l Chronic criterion: 200 ug/l Date criteria derived: July 31, 1991 Applicable waterbodies: Not used during this period.</p>
<p>Chemical: 1,1-dichloroethane CAS #75-34-3 Acute criterion: 20 mg/l Chronic criterion: 2 mg/l Date criteria derived: July 31, 1991 Applicable waterbodies: Not used during this period.</p>
<p>Chemical: 1,2-dichloroethane CAS #107-06-2 Acute criterion: 25 mg/l Chronic criterion: 4.5 mg/l Human health criterion (HNC): 23 ug/l Date criteria derived: March 19, 1992 Applicable waterbodies: Not used during this period.</p>
<p>Chemical: 1,1-dichloroethylene CAS #75-35-4 Acute criterion: 3,000 ug/l Chronic criterion: 240 ug/l Human health criterion (HTC): 110 ug/l Non-primary contact: 120 ug/l Public and food processing water supply: 6.6 ug/l Date criteria derived: March 20, 1992; revised May 04, 2009 Applicable waterbodies: Not used during this period.</p>

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LISTING OF DERIVED WATER QUALITY CRITERIA

Chemical: 1,2-dichloroethylene	CAS #540-59-0
Acute criterion: 14 mg/l	Chronic criterion: 1.1 mg/l
Date criteria derived: November 18, 2008	
Applicable waterbodies: Not used during this period.	
Chemical: 2,4-dichlorophenol	CAS #120-83-2
Acute criterion: 630 ug/l	Chronic criterion: 83 ug/l
Date criteria derived: November 14, 1991	
Applicable waterbodies: Not used during this period.	
Chemical: 1,2-dichloropropane	CAS #78-87-5
Acute criterion: 4,800 ug/l	Chronic criterion: 380 ug/l
Date criteria derived: December 7, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: 1,3-dichloropropylene	CAS #542-75-6
Acute criterion: 99 ug/l	Chronic criterion: 7.9 ug/l
Date criteria derived: November 13, 1991	
Applicable waterbodies: Not used during this period.	
Chemical: 2,4-dimethyl phenol	CAS #105-67-9
Acute criterion: 740 ug/l	Chronic criterion: 220 ug/l
Date criteria derived: October 26, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: 4,6-dinitro-o-cresol = 2-methyl-4,6-dinitrophenol	CAS #534-52-1
Acute criterion: 29 ug/l	Chronic criterion: 2.3 ug/l
Date criteria derived: November 14, 1991	
Applicable waterbodies: Not used during this period.	
Chemical: 2,4-dinitrophenol	CAS #51-28-5
Acute criterion: 85 ug/l	Chronic criterion: 4.1 ug/l
Date criteria derived: December 1, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: 2,6-dinitrotoluene	CAS #606-20-2
Acute criterion: 1,900 ug/l	Chronic criterion: 150 ug/l
Date criteria derived: February 14, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: Diquat	CAS #85-00-7
Acute criterion: 990 ug/l	Chronic criterion: 80 ug/l
Date criteria derived: January 30, 1996	
Applicable waterbodies: Not used during this period.	

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LISTING OF DERIVED WATER QUALITY CRITERIA

Chemical: Ethyl mercaptan (ethanethiol)	CAS #75-08-1
Acute criterion: 17 ug/l	Chronic criterion: 2 ug/l
Date criteria derived: April 8, 2002	
Applicable waterbodies: Not used during this period.	
Chemical: Fluoranthene	CAS #206-44-0
Acute criterion: 4.3 ug/L	Chronic Criterion: 1.8 ug/L
Human health criterion (HTC): 120 ug/l	
Date criteria derived: August 10, 1993; revised June 6, 2007 (Acute/Chronic)	
Applicable waterbodies: Not used during this period.	
Chemical: Fluorene	CAS #86-73-7
Acute criterion: 59 ug/L	Chronic Criterion: 16 ug/L
Date criteria derived: June 6, 2007	
Applicable waterbodies: Not used during this period.	
Chemical: Formaldehyde	CAS #50-00-0
Acute criterion: 4.9 mg/l	Chronic criterion: 0.39 mg/l
Date criteria derived: January 19, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: Hexachlorobenzene	CAS #118-74-1
Human health criterion (HNC): 0.00025 ug/l	
Date criteria derived: November 15, 1991	
Applicable waterbodies: Not used during this period.	
Chemical: Hexachlorobutadiene	CAS #87-68-3
Acute criterion: 35 ug/l	Chronic criterion: 2.8 ug/l
Date criteria derived: March 23, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: Hexachloroethane	CAS #67-72-1
Acute criterion: 380 ug/l	Chronic criterion: 31 ug/l
Human health criterion (HNC): 2.9 ug/l	
Date criteria derived: November 15, 1991	
Applicable waterbodies: Not used during this period.	
Chemical: n-Hexane	CAS #110-54-3
Acute criterion: 250 ug/l	Chronic criterion: 20 ug/l
Date criteria derived: April 8, 2002	
Applicable waterbodies: Not used during this period.	
Chemical: Indeno(1,2,3-cd)pyrene	CAS #193-39-5
Human health criterion (HNC): 0.16 ug/l	

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Date criteria calculated: February, 1992, reviewed June 2007	
Applicable waterbodies: Not used during this period.	
Chemical: Isobutyl alcohol = 2-methyl-1-propanol	CAS #78-83-1
Acute criterion: 430 mg/l	Chronic criterion: 35 mg/l
Date criteria derived: December 1, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: Methylene chloride	CAS #75-09-2
Acute criterion: 17 mg/l	Chronic criterion: 1.4 mg/l
Human health criterion (HNC): 330 ug/l	Non-primary contact: 490 ug/l
	Public and food processing water supply: 4.6 ug/l
Date criteria derived: January 21, 1992; revised November 25, 2008	
Applicable waterbodies: Not used during this period.	
Chemical: Methylethylketone	CAS #78-93-3
Acute criterion: 320 mg/l	Chronic criterion: 26 mg/l
Date criteria derived: July 1, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: 4-methyl-2-pentanone	CAS #108-10-1
Acute criterion: 46 mg/l	Chronic criterion: 1.4 mg/l
Date criteria derived: January 13, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: 2-methyl phenol	CAS #95-48-7
Acute criterion: 4.7 mg/l	Chronic criterion: 0.37 mg/l
Date criteria derived: November 8, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: 4-methyl phenol	CAS #106-44-5
Acute criterion: 670 ug/l	Chronic criterion: 120 ug/l
Date criteria derived: January 13, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: Methyl tert-butyl ether (MTBE)	CAS #134-04-4
Acute criterion: 67 mg/l	Chronic criterion: 5.4 mg/l
Date criteria derived: September 18, 1997	
Applicable waterbodies: Not used during this period.	
Chemical: Metolachlor	CAS #51218-45-2
Acute criterion: 380 ug/l	Chronic criterion: 30.4 ug/l
Date criteria derived: February 25, 1992; revised October 1, 2007	

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LISTING OF DERIVED WATER QUALITY CRITERIA

Applicable waterbodies: Not used during this period.	
Chemical: Naphthalene	CAS #91-20-3
Acute criterion: 510 ug/l	Chronic criterion: 68 ug/l
Date criteria derived: November 7, 1991; revised February 1999	
Applicable waterbodies: Not used during this period.	
Chemical: 4-nitroaniline	CAS #100-01-6
Acute criterion: 1.5 mg/l	Chronic criterion: 0.12 mg/l
Date criteria derived: May 5, 1996	
Applicable waterbodies: Not used during this period.	
Chemical: Nitrobenzene	CAS #98-95-3
Acute criterion: 15 mg/l	Chronic criterion: 8.0 mg/l
Human health criterion (HTC): 0.52 mg/l	
Date criteria derived: February 14, 1992; revised February 1999	
Applicable waterbodies: Not used during this period.	
Chemical: Pentachlorophenol	
Acute criterion: 20 ug/l	Chronic criterion: 13 ug/l
Date criteria derived: national criterion at pH of 7.8, September 1986	
Applicable waterbodies: Not used during this period.	
Chemical: Phenanthrene	CAS #85-01-8
Acute criterion: 46 ug/l	Chronic criterion: 3.7 ug/l
Date criteria derived: October 26, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: Propylene	CAS #115-07-1
Acute criterion: 4.0 mg/l	Chronic criterion 0.40 mg/l
Date criteria derived: April 8, 2002	
Applicable waterbodies: Not used during this period.	
Chemical: Pyrene	CAS #120-00-0
Human health criterion (HTC): 3.5 mg/l	
Date criteria derived: December 22, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: Styrene	CAS #120-42-5
Acute criterion: 2.5 mg/L	Chronic criterion: 0.2 mg/L
Date criteria derived: October 26, 1992; reviewed May 4, 2009	
Applicable waterbodies: Not used during this period.	
Chemical: Tetrachloroethylene	CAS #127-18-4
Acute criterion: 1,200 ug/l	Chronic criterion: 150 ug/l

ENVIRONMENTAL PROTECTION AGENCY

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LISTING OF DERIVED WATER QUALITY CRITERIA

Date criteria derived: March 23, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: Tetrahydrofuran	CAS #109-99-9
Acute criterion: 220 mg/l	Chronic criterion: 17 mg/l
Date criteria derived: March 16, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: Thallium	CAS #7440-28-0
Acute criterion: 86 ug/l	Chronic criterion: 11 ug/l
Human health criterion (HTC): 3.0 ug/l	Non-primary contact: 3.0 ug/l
	Public and food processing water supply: 1.2 ug/l
Date criteria derived: October 22, 2007; revised November 18, 2008	
Applicable waterbodies: Not used during this period.	
Chemical: 1,2,4-trichlorobenzene	CAS #120-82-1
Acute criterion: 370 ug/l	Chronic criterion: 72 ug/l
Date criteria derived: December 14, 1993; revised February 1999	
Applicable waterbodies: Not used during this period.	
Chemical: 1,1,1-trichloroethane	CAS #71-55-6
Acute criterion: 4,900 ug/l	Chronic criterion: 390 ug/l
Date criteria derived: October 26, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: 1,1,2-trichloroethane	CAS #79-00-5
Acute criterion: 19 mg/l	Chronic criterion: 4.4 mg/l
Human health criterion (HNC): 12 ug/l	
Date criteria derived: December 13, 1993; revised February 1999	
Applicable waterbodies: Not used during this period.	
Chemical: Trichloroethylene	CAS #79-01-6
Acute criterion: 12,000 ug/l	Chronic criterion: 940 ug/l
Human health criterion (HNC): 25 ug/l	Non-primary contact: 26 ug/l
	Public and food processing water supply: 2.5 ug/l
Date criteria derived: October 23, 1992; revised November 18, 2008	
Applicable waterbodies: Not used during this period.	
Chemical: Vinyl chloride	CAS #75-01-4
Acute criterion: 22 mg/l	Chronic criterion: 1.7 mg/l
Human health criterion (HNC): 1.5 ug/l	

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

<p>Non-primary contact: 2 ug/l Public and food processing water supply: 0.025 ug/l Date criteria derived: October 23, 1992; revised January 23, 2007; revised November 17, 2008 Applicable waterbodies: Not used during this period.</p>

Lake Michigan Basin Criteria

<p>Chemical: Antimony CAS #7440-36-0 Aquatic Life Criteria: Acute criterion: 470 ug/l Chronic criterion: 120 ug/l Date criteria derived: September 29, 2008 Applicable waterbodies: Not used during this period.</p>
<p>Chemical: Bis(2-ethylhexyl)phthalate CAS #117-81-7 Aquatic Life Criteria: Acute criterion: 76 ug/l Chronic criterion: 17 ug/l Human Health Non-threshold Criteria: Public and food processing water supply: 2.8 ug/l Non-drinking water: 3.2 ug/l Date criteria derived: June 20, 2006 Applicable waterbodies: Not used during this period.</p>
<p>Chemical: 1,2-dichloroethylene CAS #540-59-0 Aquatic Life Criteria: Acute criterion: 8.8 mg/l Chronic criterion: 0.98 mg/l Date criteria derived: November 18, 2008 Applicable waterbodies: Not used during this period.</p>
<p>Chemical: Methylene Chloride CAS #75-09-2 Aquatic Life Criteria: Acute criterion: 10,803 ug/l Chronic criterion: 1,200 ug/l Human Health Non-threshold Criteria: Public and food processing water supply: 47 ug/l Non-drinking water: 2,600 ug/l Date criteria derived: June 20, 2006</p>

ENVIRONMENTAL PROTECTION AGENCY

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LISTING OF DERIVED WATER QUALITY CRITERIA

Applicable waterbodies: Not used during this period.	
Chemical: Thallium	CAS #7440-28-0
Aquatic Life Criteria:	
Acute criterion: 54 ug/l	Chronic criterion: 15 ug/l
Human Health Threshold Criteria:	
Public and food processing water supply: 1.3 ug/l	
Non-drinking water: 3.7 ug/l	
Date criteria derived: June 20, 2006; revised November 18, 2008	
Applicable waterbodies: Not used during this period.	
Chemical: Vinyl Chloride	CAS #75-01-4
Aquatic Life Criteria:	
Acute criterion: 8,380 ug/l	Chronic criterion: 931 ug/l
Human Health Non-threshold Criteria:	
Public and food processing water supply: 0.25 ug/l	
Non-drinking water: 14.4 ug/l	
Date criteria derived: June 20, 2006	
Applicable waterbodies: Not used during this period.	

For additional information concerning these criteria or the derivation process used in generating them, please contact:

Brian Koch
Illinois Environmental Protection Agency
Division of Water Pollution Control
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276
217-558-2012

PROCLAMATIONS

2009-337**National GIS Day**

WHEREAS, geographic information system (GIS) technology is a growing industry around the world; and

WHEREAS, GIS is used to help solve problems in areas such as environmental protection, pollution, health care, land use, natural resources, conservation, business efficiency, education, and social inequities; and

WHEREAS, GIS also helps police officers map crime activity, allowing them to be more efficient, and making our communities safer; and

WHEREAS, as part of Geography Awareness Week, which is November 16-20 this year, November 18 has been designated as National Geographic Information System (GIS) Day; and

WHEREAS, Geography Awareness Week promotes GIS and geographic literacy in schools and GIS is an important part of geography awareness; and

WHEREAS, since 1999, more than 10,000 organizations have participated in GIS Day. On this day, these organizations will host events such as open houses, hands-on workshops, community expos, career fairs, school-wide assemblies, and mapping projects that share the importance of GIS with others:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim November 18, 2009, as **NATIONAL GIS DAY** in Illinois, and urge all citizens to participate in GIS Day activities.

Issued by the Governor November 18, 2009

Filed by the Secretary of State December 4, 2009

2009-338**Employee Learning Week**

WHEREAS, the State of Illinois recognizes that its employees are its most important resource; and

WHEREAS, in order to grow and stay competitive in today's global economy, organizations must have a highly-skilled and knowledgeable workforce; and

PROCLAMATIONS

WHEREAS, the American Society for Training and Development is the largest international organization dedicated to workplace learning and performance professionals; and

WHEREAS, the members of the American Society for Training and Development are workplace learning and performance professionals committed to developing the skills of individual employees and the workforce as a whole; and

WHEREAS, this year the American Society for Training and Development has designated December 7-11 as Employee Training Week to provide an opportunity for companies to demonstrate their commitment to workforce development by introducing new employee learning opportunities:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim December 7-11, 2009 as **EMPLOYEE LEARNING WEEK** in Illinois, to celebrate and promote workplace learning and development in our state.

Issued by the Governor November 20, 2009

Filed by the Secretary of State December 4, 2009

2009-339**Herb Kent Day**

WHEREAS, native son and legendary radio personality Herbert Rogers "The Cool Gent" Kent's career in radio began in 1944 and has spanned 65 years at 11 different radio stations in Illinois, including 17 years at WVON; and

WHEREAS, in 1995 Herb Kent became the first African American deejay inducted into the Museum of Broadcast Communications Radio Hall of Fame; and

WHEREAS, on Saturdays from 8:00 a.m. to noon and Sundays from noon to 7:00 p.m. on WVAZ/V-103 Radio, Herb Kent still hosts the top-rated music shows in Chicago area radio; and

WHEREAS, for the past five years Herb Kent has taught radio broadcasting to students at Chicago State University; and

WHEREAS, on December 5, 2009, Herb Kent will be inducted into the Guinness Book of World Records for having the longest career by a deejay in the history of radio; and

PROCLAMATIONS

WHEREAS, on this day Real Men Cook Charities will honor Herb Kent with a 65th Radio Anniversary Celebration at South Shore Cultural Center, at which time Guinness representatives will present him with his World Record:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim December 5, 2009, as **HERB KENT DAY** in Illinois, in honor of his 65-year career in radio.

Issued by the Governor November 20, 2009

Filed by the Secretary of State December 4, 2009

2009-340**National Black Nurses Day**

WHEREAS, the depth and extensiveness of the nursing profession meets the diverse, and emerging health care needs of the American population in a wide range of settings; and

WHEREAS, professional nursing has been demonstrated to be an indispensable component in the safety and quality care of hospitalized patients; and

WHEREAS, currently, there is a nursing shortage in the State of Illinois, as well as across the United States, and therefore it is important that we work to encourage people to take up this noble line of work; and

WHEREAS, nurses are critical to helping doctors in Illinois. Doctors are seeing more patients than they would normally see because of the loss of their peers, and nurses provide the necessary support needed to keep their offices functioning and running smoothly; and

WHEREAS, in 1988, Congress declared the first Friday of February as National Black Nurses Day to acknowledge all African-American nurses for their contributions to healthcare; and

WHEREAS, this year, the City of Chicago's four African-American nursing associations: Chicago Chapter National Black Nurses' Association, Beta Mu Chapter of Lambda Pi Alpha Sorority, Alpha Eta Chapter of Chi Eta Phi Nursing Sorority, and Provident Hospital Nurses' Alumni Association are joining hands to celebrate the day, which falls on February 5:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim February 5, 2010 as **NATIONAL BLACK NURSES DAY** in Illinois, to promote the nursing profession and

PROCLAMATIONS

in recognition of African-American nurses for their commitment and dedication to the medical profession and to the well-being of patients.

Issued by the Governor November 20, 2009

Filed by the Secretary of State December 4, 2009

2009-341**National Foreign Language Week**

WHEREAS, Illinois' greatest strength is its diversity of people and, as home to a thriving multicultural population, it is important for today's students to have opportunities to become bilingual or multilingual; and

WHEREAS, the observance of National Foreign Language Week highlights the benefits of foreign language programs and encourages all American youth to broaden their horizons and scope of worldly knowledge by learning a second language so they can better understand and communicate with people of other nationalities and nations; and

WHEREAS, more than ever, the individuals who make up our workforce need stronger language skills in order to interact with the rest of the world in commerce, diplomacy, science and cultural exchanges, and since the State of Illinois has an ever expanding role in the global marketplace, the business community needs employees who are proficient in languages other than English; and

WHEREAS, learning one or more languages, in addition to English, is a core part of a strong educational program that helps prepare students for living in a multicultural, multi-lingual world, and reinforces learning in other subject areas; and

WHEREAS, beginning language study early provides the best opportunities for students to achieve meaningful proficiency and success in learning another language; and

WHEREAS, the foreign language classroom is the venue where language and culture are intertwined and students gain new levels of appreciation and awareness of the worldwide community, enabling them to communicate and build successful relationships with people from other cultures and countries; and

WHEREAS, the State of Illinois is proud to join teachers of foreign languages and students who embark on this great global adventure, and furthermore acknowledge those who promote school language programs so that today's youth can increase their

PROCLAMATIONS

future potential through the ability to speak, understand, read and write in other languages:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim March 1-7, 2010 as **NATIONAL FOREIGN LANGUAGE WEEK** in Illinois.

Issued by the Governor November 20, 2009

Filed by the Secretary of State December 4, 2009

2009-342**Poison Prevention Month**

WHEREAS, all citizens should be made aware of the ever-present dangers posed by potentially poisonous household substances; and

WHEREAS, children too often have access to commonly used drugs and medicines and to potentially toxic household products such as cleaners, polishes, paint solvents and antifreeze; and

WHEREAS, over the past 47 years, the nation has been observing National Poison Prevention Week to call attention to these hazards and how proper handling and disposal of these substances and correct use of safety packaging can help eliminate poisonings; and

WHEREAS, the Illinois Poison Center is a mainstay in the emergency medical care system of the state of Illinois and is recognized nationally for its contributions to poison treatment and prevention; and

WHEREAS, more than 50 percent of the more than 100,000 poisonings reported last year to the Illinois Poison Center involved children less than six years of age and could have been prevented:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim March 2010 as **POISON PREVENTION MONTH** in Illinois, and encourage all citizens to learn more about the Illinois Poison Center's prevention programs that alert citizens on the continuous problem of accidental poisonings and steps that can be taken to ensure healthy and safe home, play and work environments.

Issued by the Governor November 20, 2009

Filed by the Secretary of State December 4, 2009

PROCLAMATIONS

2009-343**Career and Technical Education Month**

- WHEREAS, a commitment to career and technical education helps to ensure that Illinois has a strong, well-trained workforce that enhances productivity in business and industry, and solidifies the state's leadership in the national and international marketplaces; and
- WHEREAS, providing citizens with career and technical education can stimulate the growth and vitality of businesses and industries by preparing workers for the occupations forecasted to experience the largest and fastest growth in the next decade; and
- WHEREAS, individual citizens benefit from a career and technical education because it enables them to find satisfying careers suited to their own skills and interests, provides technical skills that allow them to excel in their chosen careers and teaches leadership skills that serve them on the job, at home and in the community; and
- WHEREAS, for over 60 years, the Illinois Association for Career and Technical Education (IACTE), the only association in Illinois dedicated to the support and service of career and technical educators, has been committed to the betterment of the profession, and to providing visibility and assistance for vocational and technical education; and
- WHEREAS, each year, the IACTE celebrates Career and Technical Education Month to promote the advancement of the career and technical education profession in this state. The theme for this year's month is "CTE: Invest in Your Future":

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim February 2010 as **CAREER AND TECHNICAL EDUCATION MONTH** in Illinois, and encourage all citizens to become familiar with the services and benefits offered by career and technical education programs in our state, and to support and participate in these programs to enhance individual work skills and productivity.

Issued by the Governor November 20, 2009

Filed by the Secretary of State December 4, 2009

2009-344**American Lung Association Christmas Seals Month**

PROCLAMATIONS

WHEREAS, for over a century Christmas Seals have helped raise funding for and awareness of the mission of the American Lung Association in Illinois, to save lives by preventing lung disease and promoting lung health; and

WHEREAS, each year, millions of Americans make generous financial gifts to the American Lung Association Christmas Seals Campaign and send cards and packages with the organization's decorative holiday seal; and

WHEREAS, the Christmas Seals tradition began in 1907 to combat tuberculosis, and continues in 2009 to fight against lung cancer, childhood asthma, secondhand smoke, air pollution and influenza; and

WHEREAS, the thousands of American Lung Association volunteers in Illinois work every day to support healthy lungs and healthy air in Illinois; and

WHEREAS, the State of Illinois is approaching the second anniversary on January 1, 2010, of having the strongest and most comprehensive Smoke Free law in the country:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim December 2009 as **AMERICAN LUNG ASSOCIATION CHRISTMAS SEALS MONTH** in Illinois, and encourage the people of Illinois to support the American Lung Association's life saving work through the Christmas Seals Campaign.

Issued by the Governor November 20, 2009

Filed by the Secretary of State December 4, 2009

2009-345**World Kidney Day**

WHEREAS, of the estimated 20 million people, or one in nine adults with chronic kidney disease, another 20 million are at risk for developing chronic kidney disease; and

WHEREAS, diabetes and high blood pressure are the leading causes of Chronic Kidney Disease, and all patients with diabetes and hypertension are encouraged to receive regular screenings; and

WHEREAS, by calling attention to the importance of education and patient self-empowerment with regard to chronic kidney disease within our state, we hope to improve the quality and availability of such information and services; and

PROCLAMATIONS

WHEREAS, if detected early, Chronic Kidney Diseases can be treated – thereby reducing other complications and dramatically reducing the growing numbers of deaths and disability from chronic renal and cardiovascular disease; and

WHEREAS, our future depends on the quality of care and services; education, advocacy, and awareness of chronic kidney disease represent a worthy commitment to current and future patients; and

WHEREAS, on March 11, 2010, World Kidney Day will be observed across the globe by organizations interested in spreading awareness about the significance of our kidneys to our health and to heightening the understanding of the impact of kidney disease and its related health problems:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim March 11, 2010 as **WORLD KIDNEY DAY** in Illinois, to raise awareness of Chronic Kidney Disease and Living Kidney Donations.

Issued by the Governor November 20, 2009

Filed by the Secretary of State December 4, 2009

2009-346**Silver Star Service Banner Day**

WHEREAS, the State of Illinois has always honored the sacrifice of the men and women in the Armed Forces; and

WHEREAS, The Silver Star Families of America was formed to make sure we remember the blood sacrifice of our wounded by designing and manufacturing a Silver Star Service Banner and Flag; and

WHEREAS, to date, The Silver Star Families of America has freely given out hundreds of Silver Star Service Banners to the wounded and their families; and

WHEREAS, the members of The Silver Star Families of America have worked tirelessly to provide the wounded of this State and Country with Silver Star Service Banners, Flags, and care packages; and

WHEREAS, The Silver Star Families of America's sole mission is that every time someone sees a Silver Star Service Banner in a window or a Silver Star Flag flying, that people remember the sacrifice made by so many for this State and Nation; and

PROCLAMATIONS

WHEREAS, the State of Illinois joins The Silver Star Families of America in their commitment to make sure that the sacrifice of so many in our Armed Forces never be forgotten:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 1, 2010 as **SILVER STAR SERVICE BANNER DAY** in Illinois, and encourage all citizens to join in the mission of The Silver Star Families of America and honor all of our wounded Armed Service members.

Issued by the Governor November 20, 2009

Filed by the Secretary of State December 4, 2009

2009-347**Firefighter Terrance D. Freeman**

WHEREAS, on Sunday, November 22, 2009, Firefighter Terrance D. Freeman of the Rockford Fire Department collapsed four hours after completing his shift in which he responded to several emergency calls; and

WHEREAS, Mr. Freeman was unable to be resuscitated; the preliminary findings indicate that Terrance's death is cardiac-related; and

WHEREAS, the Rockford Fire Department strictly adheres to the national standard protocols for firefighter line of duty deaths; as such, the Rockford Fire Department considers the circumstances of Terrance's death to be in the line of duty; and

WHEREAS, Terrance D. Freeman was a resident of Westmont, Illinois; and

WHEREAS, a funeral will be held on Saturday, November 28 for Firefighter Terrance D. Freeman:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby order all State facilities to fly their flags at half-staff from sunrise on November 26, 2009 until sunset on November 28, 2009 in honor and remembrance of Terrance D. Freeman, whose selfless service and sacrifice is an inspiration to us all.

Issued by the Governor November 25, 2009

Filed by the Secretary of State December 4, 2009

2009-348**Sergeant Jason A. McLeod**

PROCLAMATIONS

WHEREAS, on Monday, November 23, Sergeant Jason A. McLeod of Crystal Lake died at age 22 of injuries sustained when his forward operating base received mortar fire in Afghanistan, where Sergeant McLeod was serving in support of Operation Enduring Freedom; and

WHEREAS, Sergeant McLeod was assigned to E Company, 704th Brigade Support Battalion, 4th Infantry Division based at Fort Carson, Colorado; and

WHEREAS, Sergeant McLeod, a football and hockey enthusiast, graduated from Crystal Lake Central High School in 2006; and

WHEREAS, Sergeant McLeod joined the Army in July 2006 and received numerous awards during his service, including the Army Commendation Medal, Army Service Ribbon and Global War on Terrorism Service Medal; and

WHEREAS, a funeral will be held on Friday, December 4 for Sergeant McLeod, who is survived by his wife and a daughter:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby order all State facilities to fly their flags at half-staff from sunrise on December 2, 2009 until sunset on December 4, 2009 in honor and remembrance of Sergeant McLeod, whose selfless service and sacrifice is an inspiration to us all.

Issued by the Governor November 30, 2009

Filed by the Secretary of State December 4, 2009

2009-349**World AIDS Day**

WHEREAS, preventing the transmission of HIV infection and stopping the spread of AIDS requires a worldwide effort to increase communication, education and action; and

WHEREAS, estimates from the Joint United Nations Programme on HIV/AIDS' 2008 Report on the global AIDS epidemic show that around 30.8 million adults and 2 million children were living with HIV at the end of 2007; and

WHEREAS, according to the Illinois Department of Public Health, Illinois has the sixth highest number of AIDS cases in the nation, with 40,521 reported cases of AIDS since 1981. Of those diagnosed with the disease, about 19,996 have died; and

PROCLAMATIONS

WHEREAS, the World Health Organization has designated December 1 of each year as World AIDS Day, a day to expand and strengthen the worldwide effort to stop the spread of HIV and AIDS; and

WHEREAS, this year marks the 21st anniversary of World AIDS Day. While we have come a long way since 1988, there is still much more to be done; and

WHEREAS, the theme for World AIDS Day 2009 is "Universal Access and Human Rights." Global leaders have pledged to work towards universal access to HIV and AIDS treatment, prevention and care, recognizing these as fundamental human rights. Valuable progress has been made in increasing access to HIV and AIDS services, yet greater commitment is needed around the world if the goal of universal access is to be achieved; and

WHEREAS, the campaign calls on all sectors of society such as families, communities and civil society organizations, as well as governments, to take the initiative and provide leadership on AIDS; and

WHEREAS, this day in Illinois is commemorated by a number of events across the state, including the dimming of the lights atop the Illinois State Capitol dome and at the James R. Thompson Center in Chicago during the evening hours to coincide with the dimming of the lights at the White House in tribute to those infected with and affected by HIV and AIDS:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim December 1, 2009 as **WORLD AIDS DAY** in Illinois, and encourage all residents to take part in activities and observances designed to increase awareness and understanding of AIDS, to take part in AIDS prevention activities and programs, and to join in the efforts to prevent transmission of HIV and further spread of AIDS.

Issued by the Governor December 1, 2009

Filed by the Secretary of State December 4, 2009

2009-350**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

PROCLAMATIONS

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 its 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

WHEREAS, on May 7, 1945 Germany surrendered, which was soon 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 eight 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 68th anniversary of the attack on Pearl Harbor and the 64th 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, Pat Quinn, Governor of the State of Illinois, do hereby proclaim December 7, 2009 as **PEARL HARBOR REMEMBRANCE DAY** in Illinois, and order all State facilities to fly their flags at half-staff on from sunrise until sunset on this day in memory of all the heroes who died in the attack on Pearl Harbor, and in tribute to all the men and women whose sacrifices made the world safer for liberty and freedom.

Issued by the Governor December 1, 2009

Filed by the Secretary of State December 4, 2009

ILLINOIS ADMINISTRATIVE CODE
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