

2011

ILLINOIS

REGISTER

RULES
OF GOVERNMENTAL
AGENCIES



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TABLE OF CONTENTS

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PROPOSED RULES

FINANCIAL AND PROFESSIONAL REGULATION, DEPARTMENT OF
Illinois Architecture Practice Act of 1989
68 Ill. Adm. Code 1150.....4453

INSURANCE, DEPARTMENT OF
Modified Guaranteed Annuity (MGA) Contracts
50 Ill. Adm. Code 1410.....4491

STATE UNIVERSITIES RETIREMENT SYSTEM
Universities Retirement
80 Ill. Adm. Code 1600.....4498

ADOPTED RULES

HEALTHCARE AND FAMILY SERVICES, DEPARTMENT OF
Child Support Services
89 Ill. Adm. Code 160.....4513

POLLUTION CONTROL BOARD
Organization, Public Information, and Types of Proceedings
2 Ill. Adm. Code 2175.....4549

PUBLIC HEALTH, DEPARTMENT OF
Hospital Licensing Requirements
77 Ill. Adm. Code 250.....4556

Podiatric Scholarship and Residency Programs Code
77 Ill. Adm. Code 593.....4591

Nursing Education Scholarships
77 Ill. Adm. Code 597.....4609

SECRETARY OF STATE
Secretary of State Standard Procurement
44 Ill. Adm. Code 2000.....4629

Issuance of Licenses
92 Ill. Adm. Code 1030.....4692

NOTICE OF PUBLIC HEARING ON PROPOSED RULES

SECRETARY OF STATE
Lobbyist Registration and Reports
2 Ill. Adm. Code 560.....4703

SECOND NOTICES RECEIVED

JOINT COMMITTEE ON ADMINISTRATIVE RULES
Second Notices Received.....4705

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENTS

PUBLIC HEALTH, DEPARTMENT OF
Lead Poisoning Prevention Code
77 Ill. Adm. Code 845.....4706

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 2011

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
1	December 20, 2010	January 3, 2011
2	December 27, 2010	January 7, 2011
3	January 3, 2011	January 14, 2011
4	January 10, 2011	January 21, 2011
5	January 18, 2011	January 28, 2011
6	January 24, 2011	February 4, 2011
7	January 31, 2011	February 14, 2011
8	February 7, 2011	February 18, 2011
9	February 15, 2011	February 25, 2011
10	February 22, 2011	March 4, 2011
11	February 28, 2011	March 11, 2011
12	March 7, 2011	March 18, 2011
13	March 14, 2011	March 25, 2011
14	March 21, 2011	April 1, 2011
15	March 28, 2011	April 8, 2011
16	April 4, 2011	April 15, 2011
17	April 11, 2011	April 22, 2011
18	April 18, 2011	April 29, 2011
19	April 25, 2011	May 6, 2011
20	May 2, 2011	May 13, 2011
21	May 9, 2011	May 20, 2011
22	May 16, 2011	May 27, 2011
23	May 23, 2011	June 3, 2011

24	May 31, 2011	June 10, 2011
25	June 6, 2011	June 17, 2011
26	June 13, 2011	June 24, 2011
27	June 20, 2011	July 1, 2011
28	June 27, 2011	July 8, 2011
29	July 5, 2011	July 15, 2011
30	July 11, 2011	July 22, 2011
31	July 18, 2011	July 29, 2011
32	July 25, 2011	August 5, 2011
33	August 1, 2011	August 12, 2011
34	August 8, 2011	August 19, 2011
35	August 15, 2011	August 26, 2011
36	August 22, 2011	September 2, 2011
37	August 29, 2011	September 9, 2011
38	September 6, 2011	September 16, 2011
39	September 12, 2011	September 23, 2011
40	September 19, 2011	September 30, 2011
41	September 26, 2011	October 7, 2011
42	October 3, 2011	October 14, 2011
43	October 11, 2011	October 21, 2011
44	October 17, 2011	October 28, 2011
45	October 24, 2011	November 4, 2011
46	October 31, 2011	November 14, 2011
47	November 7, 2011	November 18, 2011
48	November 14, 2011	November 28, 2011
49	November 21, 2011	December 2, 2011
50	November 28, 2011	December 9, 2011
51	December 5, 2011	December 16, 2011
52	December 12, 2011	December 27, 2011
53	December 19, 2011	December 30, 2011

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Illinois Architecture Practice Act of 1989
- 2) Code Citation: 68 Ill. Adm. Code 1150
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1150.10	Amendment
1150.30	Amendment
1150.40	Amendment
1150.50	Amendment
1150.60	Amendment
1150.75	Amendment
1150.105	Amendment
1150.APPENDIX B	Amendment
1150.APPENDIX C	Amendment
1150.ILLUSTRATION A	Amendment
- 4) Statutory Authority: Implementing the Illinois Architecture Practice Act of 1989 [225 ILCS 305] 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 purpose of this rulemaking is to update the language in the Part to meet current National Council of Architectural Registration Boards (NCARB) requirements. Updates include: changing the term "Training Units" or "TUs" to "Training Hours", new Architect Registration Exam (A.R.E.) divisions, closure of previously approved exams (2014), and clarification of the January 1, 2014 requirement for a National Architectural Accrediting Board (NAAB) professional degree.
- 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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 11) Statement of Statewide Policy Objectives: This rulemaking has no impact on local governments.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

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

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

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Those employing licensed architects
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: Architectural education and training is required for licensure.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2011

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1150

ILLINOIS ARCHITECTURE PRACTICE ACT OF 1989

Section

1150.10	Education Requirements and Diversified Professional Training Requirements
1150.20	Category II – Education Requirements and Diversified Professional Training Requirements for Individuals Whose Education Was Initiated Prior to January 1, 1990 (Repealed)
1150.30	Application for Licensure by Examination/Acceptance of Examination
1150.40	Examination
1150.50	Approved Architecture Programs
1150.60	Licensure by Endorsement
1150.65	Inactive Status
1150.70	Restoration
1150.75	Fees
1150.80	Professional Design Firm
1150.85	Acts Constituting the Practice of Architecture Pursuant to Section 5 of the Act
1150.90	Standards of Professional Conduct
1150.95	Architecture Complaint Committee
1150.100	Renewals
1150.105	Continuing Education Requirements
1150.110	Granting Variances
1150.APPENDIX A	Categories of Diversified Professional Training (Repealed)
1150.APPENDIX B	Historical Summary of Minimum Requirements to Qualify for Examination for Licensure as an Architect in Illinois
1150.APPENDIX C	Historical Summary of Examination Requirements
1150.ILLUSTRATION A	Architect Seal Requirements

AUTHORITY: Implementing the Illinois Architecture Practice Act of 1989 [225 ILCS 305] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Rules and Regulations Promulgated for the Administration of the Illinois Architecture Act, effective May 29, 1975; amended May 12, 1977; codified at 5 Ill. Reg. 11019; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days;

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

amended at 6 Ill. Reg. 7448, effective June 15, 1982; amended at 7 Ill. Reg. 7658, effective June 15, 1983; amended at 9 Ill. Reg. 5691, effective April 16, 1985; amended at 11 Ill. Reg. 14077, effective August 5, 1987; transferred from Chapter I, 68 Ill. Adm. Code 150 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1150 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2933; amended at 16 Ill. Reg. 3143, effective February 14, 1992; amended at 17 Ill. Reg. 1554, effective January 25, 1993; amended at 18 Ill. Reg. 10736, effective June 27, 1994; amended at 19 Ill. Reg. 16066, effective November 17, 1995; amended at 20 Ill. Reg. 7873, effective May 30, 1996; amended at 21 Ill. Reg. 5928, effective April 24, 1997; amended at 22 Ill. Reg. 15324, effective August 10, 1998; amended at 24 Ill. Reg. 559, effective December 31, 1999; amended at 24 Ill. Reg. 13710, effective August 28, 2000; amended at 25 Ill. Reg. 1754, effective January 8, 2001; amended at 26 Ill. Reg. 4667, effective March 11, 2002; amended at 26 Ill. Reg. 16954, effective November 12, 2002; amended at 27 Ill. Reg. 15468, effective September 19, 2003; amended at 28 Ill. Reg. 14424, effective October 20, 2004; amended at 33 Ill. Reg. 11477, effective July 22, 2009; amended at 35 Ill. Reg. _____, effective _____.

Section 1150.10 Education Requirements and Diversified Professional Training Requirements

The education and diversified professional training required for licensure under the Illinois Architecture Practice Act [of 1989](#) [225 ILCS 305] (the Act) are set forth in this Section. Applicants shall meet the requirements set forth in this Section.

a) Education Requirements

- 1) Applicants with a professional degree from a program accredited by the National Architectural Accrediting Board (NAAB) or the Canadian Architectural Certification Board (CACB) not later than 2 years after termination of an applicant's enrollment, or with a professional degree in architecture from a Canadian university certified as accredited by CACB:
 - ~~A) Bachelor of Architecture degree; or~~
 - ~~B) Master of Architecture degree.~~
- 2) Until January 1, 2014, applicants with a degree from a program not accredited by the NAAB or CACB:
 - A) A pre-professional 4 year baccalaureate degree program in

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

architecture approved by the Board in accordance with Section 1150.50 of this Part, which is accepted for direct entry into a professional ~~Master of Architecture~~ degree program accredited by the NAAB or the CACB; or

- B) Completion of the education requirements as specified in the National Council of Architectural Registration Boards (NCARB) Education Standard. This includes the requirement that applicants with a degree from a program not accredited by the NAAB or the CACB must obtain an EESA-NCARB Evaluation Report prepared by the Education Evaluation Services for Architects (EESA), which is administered by NAAB. Applicants may request the report from the National Architectural Accrediting Board, 1735 New York Avenue, NW, 3rd Floor, Washington ~~DC, D.C.~~ 20006; phone (202) 783-2007; or www.naab.org.

b) Diversified Professional Training Requirements

- 1) An applicant must complete the Intern Development Program (IDP) of the National Council of Architectural Registration Boards (NCARB), 1801 K Street, NW, Suite ~~700K1100~~, Washington ~~DC, D.C.~~ 20006-1310, as set forth in the NCARB IDP Guidelines (~~20102009~~, no later additions or amendments included). (A copy of these Guidelines is available from NCARB.)
- 2) To satisfy diversified professional training requirements, each applicant must acquire a minimum number of ~~Training Hours~~~~training units (TUs)~~ based on the education requirements set forth in subsection (b)(3). ~~One TU equals 8 hours of acceptable activity.~~ Acceptable activities and conditions affecting training are set forth in the IDP Guidelines.
- 3) ~~Training Hours~~~~TUs~~ shall be acquired in prescribed categories and areas and under requirements set forth in the NCARB IDP Training Requirements included in the IDP Guidelines. The required number of ~~Training Hours~~~~TUs~~ will vary according to the following educational requirements:
- A) Applicants who meet the educational requirements set forth in subsections (a)(1) and (a)(2)(B) shall complete ~~5600 Training~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

~~Hours700-TUs~~ pursuant to the IDP Training Requirement.

- B) Until January 1, 2014, applicants with a pre-professional 4 year baccalaureate degree set forth in subsection (a)(2)(A) shall complete ~~9360 Training Hours1170-TUs~~ pursuant to the IDP Training Requirements; twice the listed minimum ~~Training HoursTUs~~ required for each training category and area shall be acquired.
- 4) The required minimums in IDP Training Categories A, B, C and D total ~~3720 Training Hours465-TUs~~ for the education requirements set forth in subsections (a)(1) and (a)(2)(B) and ~~7440 Training Hours930-TUs~~ for the education requirements set forth in subsection (a)(2)(A), allowing for the additional ~~Training HoursTUs~~ to be acquired in any of the listed categories.
- 5) To satisfy the Illinois Diversified Professional Training requirements, an applicant must have satisfied the training requirements in accordance with the NCARB IDP Training Requirements and subsection (b)(3)(A) or (B). An applicant who has satisfied the training requirements is expected to have been exposed to the comprehensive practice of architecture. Accordingly, each applicant must demonstrate that his or her training has been sufficiently diversified as to include exposure to each of the training areas set forth in the IDP Training Requirement. (An applicant with the required number of ~~Training HoursTUs~~ may nonetheless be denied approval of training if that training is not diversified.)
- 6) The training settings in which ~~Training HoursTUs~~ may be acquired, and the maximum ~~Training HoursTUs~~ allowed to be acquired in each training setting, are set forth in the NCARB IDP Guidelines and shall apply to all applicants.
- 7) Program Requirements
- A) No ~~Training HoursTUs~~ may be earned prior to ~~satisfactory completion of:~~
- i) ~~EnrollmentThree-years~~ in an ~~NAAB/CACBNAAB-~~ accredited professional degree program; or

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- ii) ~~Enrollment in The third year of a 4-year~~ pre-professional architecture degree program at a school that offers an NAAB/CACB in architecture accepted for direct entry to an NAAB-accredited professional master's degree program; or
- iii) Employment under the direct supervision of a licensed architect, when the organization's practice:
- is in the charge of a person practicing as a principal; and
 - encompasses the comprehensive practice of architecture, including each of the training areas found in the IDP Training Requirements after obtaining a U.S. high school diploma or General Education Degree (GED) equivalent, or comparable foreign degree. One year in an NAAB-accredited professional master's degree program following receipt of a non-professional undergraduate degree; or
- iv) ~~96 semester credit hours as evaluated by Education Evaluation Services for Architects (EESA) in accordance with NCARB Education Standard, of which no more than 60 hours can be in the general education category.~~
- B) No experience used to meet education requirements described in subsection (a) ~~of this Section~~ may be used to earn Training HoursTUs.
- C) To earn Training HoursTUs in IDP Training Settings A, B, C, D and E, an applicant must work at least ~~3235~~ hours per week for a minimum period of ~~840~~ consecutive weeks or at least ~~1520~~ hours per week for a minimum period of ~~86~~ consecutive weeksmmonths.
- D) To earn Training HoursTUs in IDP Training Setting F, the applicant must be employed on a full-time basis.
- E) A "licensed architect" is a person licensed to practice architecture

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

in the jurisdiction in which he or she practices.

- F) A person practices as a "principal" by being:
 - i) A licensed architect; and
 - ii) The person in charge of the organization's architectural practice, either alone or with other licensed architects.
- G) A person who has completed the education requirements, is actively participating in the diversified professional training and maintains in good standing a training record as required by this Section may use the title "architectural intern", but may not engage in the practice of architecture.

8) Explanation of Requirements

- A) Training HoursTUs may be acquired only if the applicant meets the time requirements of Section 1150.10(b)(7)(C). Full Training Hours areTU credit is earned for acceptable full-time and part-time employment in the training settings described in Section 1150.10(b)(5).
- B) No Training HoursTUs may be acquired prior to meeting the requirements of Section 1150.10(b)(7)(A).
- C) Applicants with a post-professional degree in architecture may qualify for Training HoursTU credit as set forth in the IDP Guidelines.
- D) An applicant may earn Training HoursTUs by completing Board-approved supplementary education programs. Supplementary education cannot be used to satisfy the minimum Training HoursTU requirements. No Training HoursTUs may be earned for supplementary education unless the applicant is employed in a recognized training setting (refer to IDP Guidelines). Credit for supplementary education activities may not exceed 1800 Training Hours235 TUs.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- E) To satisfy Category A of the IDP Training Requirements, Training HoursTUs (including Training HoursTUs earned from supplementary education) in those categories must be acquired when employed in the training settings described in Section 1150.10(b)(6). A minimum of 1800 Training Hours235 TUs must be acquired in Training Setting A.
 - F) For a detailed description of the IDP training categories, settings and conditions and supplementary education requirements, see IDP Guidelines.
- c) All applicants shall utilize NCARB to collect, evaluate and certify all training data and records required for compliance with this Part.
 - d) The verification of training shall be submitted to the Department of Financial and Professional Regulation-Division of Professional Regulation (Division) at the time of application.
 - e) If the accuracy of any submitted documentation or the relevance or sufficiency of the training is questioned by the Division or the Architecture Licensing Board (the Board) because of discrepancies or conflicts in information, a need for additional information or clarification, the applicant will be requested to provide such information as is necessary.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 1150.30 Application for Licensure by Examination/Acceptance of Examination

An applicant for licensure as an architect shall file an application on forms supplied by the Division. The application shall include:

- a) Proof of successful completion of the examination set forth in Section 1150.40;
 - b) Proof of having completed the necessary education and training, as required by Section 1150.10.
- 1) The proof shall be in the form of official transcriptscertifications-of education completed by the school, college or university attended, and certification of completion of the training requirements.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 2) Applicants who received their education in a foreign country shall have the education comprehensively evaluated, at their expense. Applicants shall obtain an EESA-NCARB Evaluation Report prepared by the Education Evaluation Services for Architects (EESA), which is administered by NAAB. Applicants may request the report from the National Architectural Accrediting Board, 1735 New York Avenue, NW, 3rd Floor, Washington ~~DC, D.C.~~ 20006; phone (202) 783-2007; or www.naab.org. The Board will review all transcripts and the comprehensive evaluation submitted to the Division to determine if the education meets the requirements set forth in Sections 1150.10 and 1150.20;
- c) Certification from the jurisdiction of original licensure and certification from the jurisdiction of predominant active practice including the following, if the applicant has ever been licensed in another jurisdiction:
 - 1) The date of issuance of the applicant's license and the current status of the license;
 - 2) Whether the records of the licensing authority contain any record of disciplinary action taken against the applicant;
- d) A signed and dated affidavit attesting the applicant has read and understands the Act and this Part;
- e) The required fee; and
- f) Proof of passage of the Test of English as a Foreign Language Internet Based Test (TOEFL-iBT) with a minimum score of 26 on the speaking module and a total minimum integrated score of 88 or the Test of English as a Foreign Language (TOEFL) with a minimum score of 550 or 213 for the computer-based test and the Test of Spoken English (TSE) with a minimum score of 50, for applicants who apply after January 1, 1997, who graduated from an architectural program outside the United States or its territories and whose first language is not English. In order to determine applicants whose first language is English, the applicant shall submit verification from the school that the architectural program from which the applicant graduated was taught in English.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 1150.40 Examination

- a) The examination for licensure as an architect is a computer based examination prepared by the National Council of Architectural Registration Boards (NCARB).
 - 1) An applicant who has an NAAB accredited professional degree may begin taking the NCARB Architecture Registration Exams (ARE) after successful completion of the professional degree and with concurrent enrollment in the IDP.
 - 2) An applicant who has a pre-professional degree will not be approved to take the ARE prior to completion of the required Training Hourstraining units of the IDP as stated in Section 1150.10(b)(3)(B).
- b) The examination shall consist of the following divisions for ARE 3.1:
 - 1) Pre-Design;
 - 2) Site Planning;
 - 3) Building Planning;
 - 4) Building Technology;
 - 5) General Structures;
 - 6) Lateral Forces;
 - 7) Mechanical and Electrical Systems;
 - 8) Building Design/Materials and Methods; and
 - 9) Construction Documents and Services.
- c) As of July 1, 2008, the ARE 4.0 examination shall consist of the following divisions:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Programming Planning and Practice;
- 2) Site Planning and Design;
- 3) Building Planning and Construction Systems;
- 4) Schematic Design;
- 5) Structural Systems;
- 6) Building Systems; and
- 7) Construction Documents and Services

d) ~~Site Planning, Building Planning and Building Technology are graphic design problems, with all other divisions being a multiple choice format.~~ All divisions are graded with a score of pass or fail. To pass the examination, the applicant must achieve a passing grade on each division of the examination.

ed) An applicant failing a division may repeat that division test 6 months after his or her unsuccessful attempt.

fe) All applicants who are in the process of taking the examination formerly administered by the Division shall receive credit for previous NCARB examinations passed with transfer credit to the Architect Registration Examination (ARE) divisions in Appendix C.

gf) If an applicant fails to pass an examination for licensure under the Act within 3 years after filing an application, the application shall expire and be denied. The applicant may, however, make a new application for examination accompanied by the required fee, and must furnish proof of meeting the qualifications for examination in effect at the time of new application.

h) Scores from divisions of the examination already passed under a previous application shall be carried over and applied to subsequent applications. After January 1, 2006, the ~~Division~~Department will hold scores of examinations passed as valid for a period of 5 years in compliance with the NCARB "5-year Rolling Clock". ~~After January 1, 2011, all~~ scores of ~~previous~~previously passed examinations ~~passed after~~prior to January 1, 2006 must meet the 5-year Rolling

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Clock requirements. Any division passed prior to January 1, 2006 shall no longer remain valid if all remaining divisions have not been passed by July 1, 2014 will be valid permanently.

- ig) Applicants who fail to achieve the required passing score in any division of the examination will be afforded unlimited opportunities to repeat the failed parts of the examination subject to the Act and NCARB requirements.
- jh) The provisions of this Section shall be waived for an applicant for licensure as an architect who makes application in form and substance satisfactory to the Division pursuant to the standards set forth in Section 1150.30 and causes to be filed with the Division, in addition to his/her application, proof of successful completion of the NCARB examination administered pursuant to the standards outlined above in another jurisdiction. The proof of successful completion must be forwarded directly to the Division from the jurisdiction in which the examination was taken.
- ki) Divisions of the examination passed in another jurisdiction will be accepted toward licensure in this State if the division was not subsequently failed.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 1150.50 Approved Architecture Programs

- a) An architecture program, upon recommendation of the Board, shall be approved by the Division if it meets the following minimum criteria:
- 1) The educational institution is legally recognized and authorized by the academic jurisdiction in which it is located to confer any of the degrees required for licensure in accordance with Section 1150.20(a).
 - 2) Has a faculty that comprises a sufficient number of full-time instructors to make certain that the educational obligations to the student are fulfilled. The faculty must have demonstrated competence in their area of teaching as evidenced by appropriate degrees from reputable professional colleges or institutions; and
 - 3) Maintains permanent student records that summarize the credentials for admission, attendance, grades and other records of performance.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 4) Has a curriculum:
- A) That confers a first professional degree in architecture and is accredited by the NAAB;
 - B) That, until December 31, 2013, confers a pre-professional 4 year degree accepted for direct entry into a professional master of architecture degree program; or
 - C) That, until ~~Until~~ January 1, 1996, for applicants who have completed their education prior to January 1, 1990, ~~that~~ is at least 4 academic years and provides educational experience directed toward the development of the ability to apply knowledge to the identification and solution of practical problems and that encompasses the following:
 - i) Basic sciences including physics, chemistry and subjects from the other areas of life and earth sciences;
 - ii) Architectural science courses in building technology that assist the student to develop capabilities for recognition of problems through to formulation of creative solutions;
 - iii) Architectural design courses that foster the development of critical awareness and responsibility to protect the public health, safety and welfare;
 - iv) Appropriate studio and laboratory experience as determined by the college or institution shall be included in the program of each student; and
 - v) The overall curriculum shall include a minimum of 120 semester hours or the equivalent and shall include at least the following subjects:

Advanced Mathematics – including calculus and analytical geometry – 8 hours

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Basic Sciences – 8 hours

Architectural Sciences – 16 hours

Architectural Design – 18 hours – which may include up to 6 hours of art or freehand drawing

Humanities/Social Studies – 12 hours

History of Architecture – 12 hours

- b) In determining whether a program should be approved, the Division shall take into consideration but not be bound by accreditation by the National Architectural Accrediting Board (NAAB).
- c) All architecture programs accredited by the NAAB as of January 1, 1991 meet the minimum criteria set forth in subsection (a) for an approved architecture program and are, therefore, approved.
- d) Each architectural program, other than a program referred to in subsection (c) from which graduates have been issued permanent licensure in Illinois since July 1, 1975, is deemed an approved architectural program for purposes of meeting the minimum criteria set forth in subsection (a) retrospectively and until such time as the Division, upon the recommendation of the Board, determines that the program should be considered disapproved.
- e) Reevaluation
 - 1) Any program disapproved for failure to satisfy the minimum requirements set forth in subsection (a) may be reevaluated by the Board upon the request of an applicant for a period of time previously evaluated only for good cause shown. In determining the existence of good cause, the Board shall consider whether the applicant raised an issue as to whether incorrect or insufficient information was provided during the original evaluation. If the program was disapproved based on the fact that the Board has not received sufficient information concerning the program, it shall be reevaluated upon the request of any applicant who can present evidence that sufficient information for evaluation is now available.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 2) The applicant for whom a reevaluation is conducted shall be required to submit documentation deemed necessary to substantiate that program's assertions. In addition, the Board may request clarification or amplification of any documentation so submitted when additional clarification will aid in the reevaluation decision. Unless the Board at its discretion grants an extension of time on its own motion or at the request of the applicant, it shall, no later than 6 months from the date of the request for reevaluation, either approve the program, disapprove the program for failure to satisfy the minimum requirements of subsection (a), or disapprove the program based on the fact that the Board has not received sufficient information concerning the program. An extension of time will be granted when an extension is necessary in order to effect a fair, equitable and complete evaluation.
- f) The Board shall maintain a list of all programs approved as of July 1 of that year.
- g) Reevaluation of An Approved Program
 - 1) Notwithstanding any other provision of this Section, the Board may reevaluate any approved architectural program at any time if it has reason to believe that the program has failed to continue to satisfy the minimum requirements of subsection (a) or that its decision was based upon false, deceptive or incomplete information.
 - 2) If the Board has reason to believe there has been any fraud or dishonesty in the furnishing of any documentation for the evaluation of a program, it shall refer the matter to appropriate Division personnel for any disciplinary action that might be appropriate under the Act.
 - 3) An architectural program whose approval is being reevaluated by the Division shall be given at least 15 days written notice prior to any recommendation by the Board and may either submit written comments or request a hearing before the Board in accordance with 68 Ill. Adm. Code 1110.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 1150.60 Licensure by Endorsement

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- a) An applicant who holds an active license or registration to practice architecture under the laws of another state or territory and who desires to become licensed by endorsement shall file an application with the Division together with:
- 1) Either:
 - A) Council Certification, issued by and forwarded directly to the Division by the NCARB; or
 - B) Other Proof of Qualifications and Licensure
 - i) Proof that the applicant has met requirements substantially equivalent to those in force in this State at the time of original or subsequent licensure by written examination in the other state or territory, including official transcript certification of education, and affidavits of training;
 - ii) A certification by the state or territory of original licensure and any other jurisdiction in which the applicant is or has ever been licensed, including the date of issuance of the applicant's license and the current status of each license; the basis of licensure and a description of all examinations by which the applicant was licensed in that state or territory and the date of passage of any such examinations; and whether the records of the licensing authority contain any record of disciplinary action taken against the applicant;
 - iii) ~~A complete work history since graduation from an architecture program;~~
 - 2) The required fee as set forth in Section 1150.75;
 - 3) A signed and dated affidavit attesting the applicant has read and understands the Act and this Part.
- b) Applicants filing an application under subsection (a)(1)(B) are subject to the following requirements and provisions:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Applicants who received their education in a foreign country shall have the education comprehensively evaluated, at their expense. Applicants shall obtain an EESA-NCARB Evaluation Report prepared by the Education Evaluation Services for Architects (EESA), which is administered by NAAB. Applicants may request the report from the National Architectural Accrediting Board, 1735 New York Avenue, NW, 3rd Floor, Washington ~~DC, D.C.~~ 20006; phone (202) 783-2007; or www.naab.org. The Board will review all transcripts and the evaluation submitted to the Division to determine if the education meets the requirements set forth in Sections 1150.10 and 1150.20; and
- 2) Proof of passage of the Test of English as a Foreign Language Internet Based Test (TOEFL-iBT) with a minimum score of 26 on the speaking module and a total minimum integrated score of 88 or the Test of English as a Foreign Language (TOEFL) with a minimum score of 550 or 213 for the computer-based test and the Test of Spoken English (TSE) with a minimum score of 50, for applicants who apply after January 1, 1997, who graduated from an architectural program outside the United States or its territories and whose first language is not English. In order to determine applicants whose first language is English, the applicant shall submit verification from the school that the architectural program from which the applicant graduated was taught in English.
- 3) The Division shall examine each endorsement application to determine whether the requirements in the state or territory of original or subsequent licensure were substantially equivalent to the requirements then in force in this State. The Division shall either issue a license by endorsement to the applicant or notify the applicant in writing of the reason for the denial of the application.
- 4) The Division shall, in individual cases, upon recommendation of the Board, waive passage of one or more parts of the examination upon proof that the applicant has been lawfully engaged in the practice of architecture in another jurisdiction for a minimum of 5 years and has provided evidence demonstrating competence in the area or areas of the examination being considered for waiver (i.e., architectural education, training and experience). If an applicant has previously failed to pass a part or parts of the examination, the applicant shall not be granted a waiver for that part or parts pursuant to this provision.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- c) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Division or the Board because of a lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant shall be requested to:
- 1) Provide information as may be necessary; and/or
 - 2) Appear for an interview before the Board to explain the relevance or sufficiency, clarify information, or clear up any discrepancies or conflicts in information.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 1150.75 Fees

The following fees shall be paid to the Division and are not refundable:

- a) Application Fees-
- 1) The fee for application for a license as an architect is \$100. In addition, applicants for an examination shall be required to pay, either to the Division or to the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Division or the designated testing service, shall result in the forfeiture of the examination fee.
 - 2) The application fee for a certificate of registration as a professional design firm is \$75.
- b) Renewal Fees-
- 1) The fee for the renewal of a license shall be calculated at the rate of \$30 per year.
 - 2) The fee for renewal of a certificate of registration as a professional design firm is \$75 for the renewal period (see Section 1150.100(c)).

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

c) General Fees-

- 1) The fee for the restoration of a license other than from inactive status is ~~\$50~~\$20 plus payment of all lapsed renewal fees.
- 2) The fee for the issuance of a duplicate license, for the issuance of a replacement license for a license that has been lost or destroyed, or for the issuance of a license with a change of name or address, other than during the renewal period, is \$20. No fee is required for name and address changes on Division records when no duplicate license is issued.
- 3) The fee for a certification of a licensee's record for any purpose is \$20.
- 4) The fee to have the scoring of an examination administered by the Division reviewed and verified is \$20 plus any fee charge by the testing service.
- 5) The fee for a wall certificate showing licensure shall be the actual cost of producing the certificate.
- 6) The fee for a roster of persons licensed as architects in this State shall be the actual cost of producing the roster.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 1150.105 Continuing Education Requirements

The continuing education required as a condition for license renewal under the Architecture Practice Act is set forth in this Section. All architects shall meet these requirements.

- a) Beginning with the November 30, 2004 renewal (for the period from December 1, 2002 through November 30, 2004) and every renewal thereafter, in addition to other requirements, an architect must have acquired continuing education for each 24-month period since the architect's last renewal of licensure, or be exempt from the continuing education requirements, as provided in subsection (h). Failure to comply with these requirements may result in non-renewal of the architect's license or other disciplinary action, or both.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- b) **Renewal Period:** Within any 24-month biennial renewal period during which 24 contact hours must be acquired, at least 16 contact hours must be public protection subjects, which are relevant to safeguarding public health, safety and welfare, and acquired in structured educational activities. A maximum of 8 contact hours may be in related practice subjects acquired either in structured educational activities or individually planned educational activities. Hours acquired in any 24-month period may not be carried over to a subsequent 24-month period. Continuing education hours need not be acquired within this jurisdiction, but may be acquired at any location.
- c) **Restored Licensees:** In addition to other requirements as set forth in Sections 16 and 17 of the Act and Sections 1150.65 and 1150.70 of this Part, a licensee who has placed his or her license on inactive status or has allowed a license to lapse for reasons other than active duty in the military service of the United States, as set forth in Section 16 of the Act, and desires to have the license restored shall evidence completion of all continuing education hours that would have been required in order to maintain the license in an active status, not to exceed 24 contact hours.
- d) **Reporting and Record Keeping**
- 1) Each renewal applicant shall certify, on the renewal application, to full compliance with the continuing education requirements set forth in this Section.
 - 2) The Division may require evidence demonstrating compliance with the continuing education requirements. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance. The evidence shall be retained for at least 4 years following the renewal period for which the continuing education was taken. The evidence may include, but not be limited to the following:
 - A) Certificate of attendance;
 - B) Signed attendance receipts;
 - C) Sponsor's list of attendees (signed by a person in responsible charge of the activity);

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- D) Records showing activity claimed, sponsoring organization, location, duration, etc.;
 - E) A log of learning that may consist of diaries, summary of activities, photographs, public or organization records, receipts, etc.; or
 - F) Transcripts or records of continuing education credits maintained by an acceptable provider of continuing education as defined by subsection (f).
- 3) The Division may conduct random audits to verify compliance with continuing education requirements.
 - 4) If the Division disallows any continuing education hours, unless the Division finds, following notice and hearing, that the licensee willfully disregarded these requirements, then the licensee shall have 6 months from notice of the disallowance to make up the deficiency by acquiring the required number of contact hours. Those contact hours shall not be used again for the next renewal.
 - 5) When it is determined by the Division that the licensee has willfully disregarded these requirements, the licensee may be subject to discipline as set forth in Section 22 of the Act.
- e) Acceptable Activities
- 1) The following types of activities may qualify to fulfill the requirement for a minimum of 16 contact hours to be acquired in structured educational activities (all 24 hours may be acquired in these activities):
 - A) Contact hours in attendance at short courses or seminars, dealing with architectural subjects and sponsored by colleges or universities.
 - B) Contact hours in attendance at presentations on architectural subjects that are held in conjunction with meetings, conferences or conventions of architect professional organizations recognized by the Division to the extent that contact hours are credited only to

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

that portion of the meeting, conference or convention that comprises the educational program.

- C) Contact hours in attendance at short courses or seminars, relating to professional practice or new technology and offered by colleges, universities, professional organizations or system suppliers.
 - D) Teaching or instructing an architectural course, seminar, lecture, presentation or workshop shall constitute 3 contact hours for each hour spent in the actual presentation. Teaching credit shall be valid for the initial presentation only. Teaching credit shall not apply to faculty teaching regularly scheduled curriculum courses at a college, university or other educational institution.
 - E) Contact hours spent in architectural research that is published or is formally presented to the profession or public.
 - F) Successfully completing structured architectural self-study courses, presented by correspondence, Internet, television, video or audio, ending with examination or other verification processes. The contact hours acquired for this activity shall be as recommended by the program sponsor.
 - G) College or university credit courses dealing with architectural subjects or business practice. Each semester hour shall equal 15 contact hours. A quarter hour shall equal 10 contact hours.
 - H) Contact hours spent in educational tours of architecturally significant projects, when the tour is sponsored by a college, university or professional organization.
 - I) Authoring published papers, articles or books. A maximum of 12 contact hours may be acquired in this activity.
- 2) The following types of activities may qualify for the maximum of 8 contact hours allowed to be acquired in individually planned educational activities that are self-directed:
- A) Contact hours spent in professional service to the public that draws

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

upon the licensee's professional expertise on boards and commissions, such as: serving on planning commissions, building code advisory boards, urban renewal boards, code study committees or regulatory boards.

- B) Contact hours for serving as a mentor or supervisor for the Intern Development Program (IDP) required to satisfy the diversified professional training requirements pursuant to Section 1150.10. This service to an intern, or interns, shall be consistent with the responsibilities set forth in the current edition of the NCARB IDP Guidelines for an intern's mentor and supervisor.
 - C) Contact hours spent in planned activities, such as business and practice efficiency, business development, personal improvement, new skills and general education related to the practice of architecture.
 - D) Contact hours spent in unstructured self-study tours of architecturally significant projects when there is a clear objective to maintain and strengthen competency in a design or technical field.
 - E) Actively participating in a technical or professional society or organization shall be the equivalent of 2 contact hours. An individual shall serve as an officer or actively participate in a committee of the organization to receive credit for this activity. Contact hours shall be limited to 2 per organization and shall not be acquired until the completion of each year of service.
- 3) The content of public protection subjects acceptable for purposes of continuing education under subsection (e)(1) shall be limited to:
- A) Codes, statutes and administrative regulations governing the practice of architecture.
 - B) Environmental issues.
 - C) Professional ethics.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- D) State licensing law.
 - E) Design proficiency.
 - F) Interface with other design disciplines (e.g., planners, consultants, specialists and financiers) other than through normal day-to-day contact.
 - G) Legal aspects of contracts, documents, insurance, bonds, project administration, etc.
 - H) Specialization in preservation, adaptive reuse or building types.
 - I) Construction documents and services.
 - J) Materials and methods.
 - K) Mechanical, plumbing, electrical and life safety.
 - L) Structural technology.
 - M) Energy efficiency.
 - N) Project Administration.
 - O) Accessibility issues.
 - P) New technical/professional skills.
- f) Acceptable providers for structured educational activities shall include, but not be limited to:
- 1) American Institute of Architects (AIA).
 - 2) National Council of Architectural Registration Boards (NCARB).
 - 3) Construction Specifications Institute (CSI).
 - 4) Association of Licensed Architects (ALA).

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 5) Colleges, universities or other educational institutions.
- 6) Other technical or professional societies or organizations.
- g) The Division will not pre-approve individual courses or programs.
- h) Exemptions: A licensee may be exempt from the foregoing continuing education requirements if one of the following situations occurs. If an exemption is claimed, it is required that the renewal fee and any documentation needed to support the exemption be submitted for renewal of a license.
 - 1) A licensee shall not be required to report continuing education hours during the first biennial renewal period in which the licensee obtained initial licensure in Illinois, but shall be subject to the continuing education requirements for all subsequent biennial renewal periods.
 - 2) A licensee who is on full-time active duty in the military service of the United States, or is a licensee who is called to temporary active duty in the military service or Armed Forces of the United States for a period of time exceeding 120 consecutive days during the renewal period, when that activity restricts participation in a continuing education program.
 - 3) A licensee who demonstrates to the satisfaction of the Division that meeting these requirements would work an undue hardship by reason of disability, illness or other clearly mitigating circumstances. The supporting documentation shall be in the form of a sworn statement by the licensee, a statement from a physician, or medical records that show that the disability, illness, or circumstance prevented the licensee's participation in the continuing education program during a substantial part of the renewal period. If the Division finds from the evidence that good cause has been shown for non-compliance, the Division shall waive enforcement, extend the time within which the applicant shall comply, or establish a particular program or schedule of continuing education for the renewal period in which the undue hardship existed.
- i) Definitions
 - 1) "Contact Hour" means one 60 minute clock hour of an educational activity

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

with no less than 50 minutes of instructional content within the hour. Credit shall be granted in half-hour increments. A qualifying activity of 30 to 49 minutes would be reported as 0.5 contact hours and an activity of 50 to 60 minutes would be reported as 1.0 contact hour.

- 2) "Individually Planned Educational Activities" means educational activities in which the teaching methodology primarily consists of the architect himself or herself addressing public protection subjects or related practice subjects that are not systematically presented by others, including the study of such related subjects, rendering service to the public and advancing the profession's and public's understanding of the practice of architecture.
- 3) "Structured Educational Activities" means educational activities in which the teaching methodology consists primarily of the systematic presentation of public protection subjects by qualified individuals or organizations, including monographs, course of study taught in person or by correspondence, organized lectures, presentations or workshops and other means through which identifiable technical and professional subjects are presented in a planned manner. To qualify as a Structured Educational Activity, continuing education credit shall be awarded by the sponsor upon completion of the activity.

j) There is no restriction on the amount of continuing education that can be completed through on-line or self-administered courses, provided that the courses meet the requirements of this Section.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section 1150.APPENDIX B Historical Summary of Minimum Requirements to Qualify for Examination for Licensure as an Architect in Illinois

(For specific details refer to the Rules for the Administration of the Illinois Architecture Practice Act of 1989 that were in effect for the appropriate time period specified in this Appendix B)

- a) July 1, 1897 through June 30, 1919: Applicants who are 21 years old and have made payment of \$15 fee to take examination. Any person who is shown by affidavit to have been engaged in the practice of architecture on July 1, 1897 shall be entitled to a license without examination; provided that the application is made within 6 months after passage of the Act.
- b) July 1, 1919 through July 10, 1957: 21 years old; citizen of U.S. Applicants who are graduates of a high school or secondary school approved by the Department of Registration and Education and 3 years of experience in the office of a reputable architect.
- c) July 11, 1957 through September 30, 1977: 21 years old; citizen of U.S. Applicants who are graduates of a high school or secondary school approved by the Department of Registration and Education and 8 years of experience in the office of a registered architect. Applicants with up to 5 years of architectural study in an approved school of architecture and additional years experience in the office of a registered architect that total 8 years of experience and study.
- d) October 1, 1977 through December 31, 1984: 21 years old; citizen of U.S. Applicant with a professional degree from an accredited school of architecture were eligible to take Phase I and upon completion of 3 years practical experience could take Phase II. Applicants who are graduates of an approved high school and 8 years of experience.
- e) January 1, 1985 through December 31, 1995: The following education and architectural experience under the direct supervision of a U.S. licensed architect qualified for examination/licensure:
 - 1) Applicants with a professional degree from a program accredited by NAAB:
 - A) 6-year professional degree (M/Arch) and 2 years of architectural experience;

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- B) 5-year professional degree (B/Arch) and 3 years of architectural experience;
- 2) Applicants with a degree in architecture from a Board-approved program not accredited by NAAB:
- A) Master's degree and 4 years of architectural experience;
 - B) 5-year bachelor's degree and 4.5 years of architectural experience;
 - C) 4-year bachelor's degree and 5 years of architectural experience;
 - D) 4-year degree in architecture-related field or program as listed below and 6 years of architectural experience:
 - landscape architecture;
 - interior design;
 - building technology;
 - construction management;
 - urban and regional planning;
 - historic preservation;
 - architectural, civil, mechanical, structural, general or electrical engineering;
 - E) 4-year or more degree in any field and 7 years of architectural experience.
- f) January 1, 1996 through August 9, 1998: The following education and architectural experience under the direct supervision of a U.S. licensed architect qualified for examination/licensure:
- 1) 6-year professional degree (M/Arch) in architecture from a program

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

accredited by NAAB and 2 years (or 465 Intern Development Program Training Units (IDP TU's)) of architectural experience;

- 2) 5-year professional degree (B/Arch) in architecture from a program accredited by NAAB and 3 years (or 700 IDP TU's) of architectural experience;
 - 3) Pre-professional 4-year baccalaureate degree in architecture from a program acceptable for direct entry into a first professional master of architecture degree program accredited by NAAB and 5 years (or 1170 IDP TU's) of architectural experience.
- g) August 10 through December 31, 1998: An NCARB IDP Record certifying to the completion of the following education and indicated minimum number of acceptable TU's is required for examination/licensure:
- 1) 6-year professional degree (M/Arch) in architecture from a program accredited by NAAB and 465 TU's;
 - 2) 5-year professional degree (B/Arch) in architecture from a program accredited by NAAB and 700 TU's;
 - 3) Pre-professional 4-year baccalaureate degree in architecture from a program acceptable for direct entry into a first professional master of architecture degree program accredited by NAAB and 1170 TU's.
- h) After December 31, 1998: An NCARB IDP Record certifying to the completion of the following education and indicated minimum number of acceptable TU's is required for examination/licensure:
- 1) 6-year professional degree (M/Arch) in architecture from a program accredited by NAAB and 700 TU's;
 - 2) 5-year professional degree (B/Arch) in architecture from a program accredited by NAAB and 700 TU's;
 - 3) Pre-professional 4-year baccalaureate degree in architecture from a program acceptable for direct entry into a first professional master of architecture degree program accredited by NAAB and 1170 TU's.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- i) January 1, 2000: Section 16.5 of the Act required continuing education. November 12, 2002, Section 1150.105 of the Administrative Rules was approved, requiring the CE for the 2002-2004 renewal and all renewals thereafter.
- j) September 2002: Illinois became a "Direct Registration Program" participant with NCARB. Subsequent to that date, all applicants applied directly through NCARB for IDP and approval to take the ARE. Applicants who were previously approved for testing through Continental Testing Services, Inc. before that date continued testing through CTS. Applicants who completed the IDP and ARE through NCARB then were required to submit an application for "Acceptance of Exam" to the Division.
- k) October 20, 2004: Section 1150.60 was amended to allow licensure by endorsement based upon the NCARB Council Record.
- l) Pursuant to Public Act 94-0543, effective July 1, 2005, the Act changed. The Division will no longer accept pre-professional degrees for licensure after January 1, 2014.
- m) January 1, 2006: NCARB "5-year Rolling Clock" for ARE was accepted. All scores prior to January 1, 2006 will be kept indefinitely. After January 1, 2006, all portions of the ARE must be completed within 5 years. If all exams are not passed within the 5-year period, the earliest score is voided and the exam must be retaken.
- n) As of January 1, 2011, any division passed prior to January 1, 2006 shall no longer remain valid if all remaining divisions have not been passed by January 1, 2014. Scores prior to January 1, 2006 will cease to be valid as of January 1, 2014. All scores must meet the NCARB "5-year Rolling Clock" requirements.
- o) In 2010 NCARB changed the requirements for IDP 2.0 from IDP Training Units to IDP Training Hours. One Training Unit equals 8 hours of acceptable activity. One Training Hour is one hour of acceptable activity.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section 1150.APPENDIX C Historical Summary of Examination Requirements

- a) Pre-Design is satisfied by one of the following:
 - 1) Examination Syllabus C (1954-1973)
 - 2) Equivalency Examination I (1973-1977, or Qualifying Test – Section A (1977-1978), and Professional Examination – Parts I and II (1973-1978), or Professional Examination – Section B, Parts I and II (1979-1982) – see subsection (h)
 - 3) Division A of the ARE (1983-1996)
 - 4) Pre-Design (PD) of the ARE 3.1 (1996-2009)
 - 5) Programming, Planning & Practice (PP) of the ARE 4.0 (2008-)

- b) Site Planning is satisfied by one of the following:
 - 1) Examination Syllabus D (1954-1973)
 - 2) Equivalency Examination III (1973-1977)
 - 3) Qualifying Test – Sections E, F (1977-1978)
 - 4) Professional Examination – Section A (1979-1982)
 - 5) Division B of the ARE (1983-1987)
 - 6) Division B (Written and Graphic of the ARE (1988-1996))
 - 7) Site Planning (SP) of the ARE 3.1 (1996-2009)
 - 8) Programming, Planning & Practice (PP) and Site Planning & Practice (SPD) of the ARE 4.0 (2008-)

- c) Building Planning and Building Technology are satisfied by one of the following:
 - 1) Examination Syllabus E (1954-1973)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 2) Equivalency Examination III (1973-1977)
 - 3) Qualifying Test – Sections E, F (1977-1978)
 - 4) Professional Examination – Section A (1979-1982)
 - 5) Division C of the ARE (1983-1996)
 - 6) Building Planning (BP) & Building Technology (BT) of the ARE 3.1 (1996-2009)
 - 7) Schematic Design (SD), Building Design & Construction Systems (BD), Building Systems (BS), Construction Documents & Service (CDS), and Structural Systems (SS) of the ARE 4.0 (2008-)
- d) General Structures is satisfied by one of the following:
- 1) Examination Syllabus G (1954-1973)
 - 2) Equivalency Examination II (1973-1977) – see subsection (i)
 - 3) Qualifying Test – Section B (1977-1982) – see subsection (i)
 - 4) Professional Examination Part III (1973-1978) – see subsection (i)
 - 5) Professional Examination – Section B, Part III (1979-1982) – see subsection (i)
 - 6) Divisions D and F of the ARE (1983-1996)
 - 7) Divisions D/F of the ARE (1988-1996)
 - 8) General Structures (GS) of the ARE 3.1 (1996-2009)
 - 9) Structural Systems (SS) of the ARE 4.0 (2008-)
- e) Lateral Forces is satisfied by one of the following:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Examination Syllabus G (1954-1973)
 - 2) Equivalency Examination II (1973-1977) – see subsection (i)
 - 3) Qualifying Test – Section B (1977-1982) – see subsection (i)
 - 4) Professional Examination Part III (1973-1978) – see subsection (i)
 - 5) Professional Examination – Section B, Part III (1979-1982) – see subsection (i)
 - 6) Division E of the ARE (1983-1996)
 - 7) Lateral Forces (LF) of the ARE 3.1 (1996-2009)
 - 8) Structural Systems (SS) of the ARE 4.0 (2008-)
- f) Mechanical & Electrical Systems is satisfied by one of the following:
- 1) Examination Syllabus I (1954-1973)
 - 2) Equivalency Examination II (1973-1977) – see subsection (i)
 - 3) Qualifying Test – Section D (1977-1982) – see subsection (i)
 - 4) Professional Examination Part III (1973-1978) – see subsection (i)
 - 5) Professional Examination – Section B, Part III (1979-1982) – see subsection (i)
 - 6) Division G of the ARE (1983-1996)
 - 7) Mechanical & Electrical Systems (ME) of the ARE 3.1 (1996-2009)
 - 8) Building Systems (BS) of the ARE 4.0 (2008-)
- g) Materials & Methods is satisfied by one of the following:
- 1) Examination Syllabus F (1954-1973)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 2) Equivalency Examination II (1973-1977) – see subsection (i)
 - 3) Qualifying Test – Section C (1977-1982) – see subsection (i)
 - 4) Professional Examination Part III (1973-1978) - see subsection (i)
 - 5) Professional Examination – Section B, Part III (1979-1982) – see subsection (i)
 - 6) Division H of the ARE (1983-1996)
 - 7) Materials & Methods (MM) of the ARE 3.1 (1996-2009)
 - 8) Building Design & Construction Systems (BD) of the ARE 4.0 (2008-)
- h) Construction Documents & Services is satisfied by one of the following:
- 1) Examination Syllabus H (1954-1973)
 - 2) Professional Examination Part IV (1973-1977)
 - 3) Professional Examination – Section B, Part IV (1978-1982)
 - 4) Division I of the ARE (1983-1996)
 - 5) Construction Documents & Services (CD) of the ARE 3.1 (1996-2009)
 - 6) Construction Documents & Services (CDS) of the ARE 4.0 (2008-)
- i) Since the history and theory of architecture are incorporated into all Divisions of the ARE, no credit will be given for only having passed the Qualifying Test – Section A, History.
- j) In order to be eligible for transfer credits for any part of the Professional Examination-Section B, the candidate must have passed three parts of the examination in one sitting, on or after December 1980.
- k) Applicants shall, in all cases, pass the Pre-Design Division of the ARE if they

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

have not passed the Equivalency Examination I or Section A of the Qualifying Test even though the applicant may have passed the Professional Examination-Section B, Parts I and II.

- l) Applicants without an NAAB-accredited degree must, in all cases, pass the General Structures, Lateral Forces, Mechanical & Electrical Systems and Materials & Methods divisions of the ARE if they have not passed the Equivalency Examination II or equivalent portions of the Qualifying Test, even though the applicant may have passed the Professional Examination-Section B, Part III.
- m) After January 1, 2006, the Division will hold scores of examinations passed as valid for a period of 5 years reflecting the NCARB "5-year Rolling Clock". All scores of previously passed examinations prior to January 1, 2006 will be valid permanently.
- n) As of January 1, 2014, any division passed prior to January 1, 2006 shall no longer remain valid if all remaining divisions have not been passed by July 1, 2014. Scores prior to January 1, 2006 will cease to be valid as of January 1, 2014. All scores must meet the NCARB "5-year Rolling Clock" requirements.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section 1150.ILLUSTRATION A Architect Seal Requirements

- a) Every licensed architect shall have a reproducible seal, or facsimile, the print of which shall contain the name of the architect, the license number, and words "Licensed Architect, State of Illinois". The licensed architect shall affix the signature, current date, date of license expiration and seal to the first sheet of any bound set or loose sheets of technical submissions utilized as contract documents between the parties to the contract or contracts or prepared for the review and approval of any governmental or public authority having jurisdiction by that licensed architect or under that licensed architect's responsible control. The seal and dates may be electronically affixed. The signature generated by computer or reproduced by other means shall not be permitted on these documents. The sheet of technical submissions on which the seal is affixed shall indicate those documents or parts thereof for which the seal shall apply (Section 14 of the Act).
- b) Partnerships may utilize a reproducible seal or facsimile that contains all partners names and license numbers, provided that the partner responsible for the technical submissions for the building shall sign and seal in the manner prescribed in subsection (a). All construction documents issued by an architectural firm, corporation, limited liability company or partnership are required to bear the corporate or assumed business name and design firm registration number, in addition to the seal requirements.
- c) The following is a suggested facsimile of the design and lettering of the seal:



DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

signature

date

expires 11-30-_____

(Source: Amended at 35 Ill. Reg. _____, effective _____)

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Modified Guaranteed Annuity (MGA) Contracts
- 2) Code Citation: 50 Ill. Adm. Code 1410
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
1410.10	Amendment
1410.20	Amendment
1410.30	Amendment
1410.50	Amendment
1410.60	Amendment
- 4) Statutory Authority: Implementing Article XIV and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/Art. XIV and 401]
- 5) A Complete Description of the Subjects and Issues Involved: Modified Guaranteed Annuity (MGA) contracts are currently required to provide nonforfeiture values, or the amounts a policyholder is allowed to retain upon surrender of the contract, pursuant to Section 229.4a of the Illinois Insurance Code [215 ILCS 5/229.4a] and 50 Ill. Adm. Code 1410. However, Part 1410 contains language that has led to conflicting interpretations of the nonforfeiture requirements. The proposed changes would clarify the intent of the rule so that MGA contracts can be written to comply with the statute. Specifically, the changes would enable compliance with the prospective test required by the Standard Nonforfeiture Law for Individual Deferred Annuities [215 ILCS 5/229.4a(6)] on a pre-Market Value Adjustment (MVA) basis while requiring the retrospective test [215 ILCS 5/229.4a(4)] to be met on a post-MVA basis.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

- 11) Statement of Statewide Policy Objectives: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Eve Blackwell-Lewis
Staff Attorney
Department of Insurance
320 West Washington , 4th Floor
Springfield, Illinois 62767-0001

or

Susan Anders
Rules Coordinator
Department of Insurance
320 West Washington, 4th Floor
Springfield, Illinois 62767-0001

217/782-2867
217/524-9033 (fax)

217/785-8220

- 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: Actuarial
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2010

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

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE
 CHAPTER I: DEPARTMENT OF INSURANCE
 SUBCHAPTER s: LEGAL RESERVE LIFE INSURANCE

PART 1410
 MODIFIED GUARANTEED ANNUITY (MGA) CONTRACTS

Section

1410.10	Purpose
1410.20	Applicability
1410.30	Definitions
1410.40	Authority of Insurers
1410.50	Filing of Contracts
1410.60	Modified Guaranteed Annuity (MGA) Contract Requirements
1410.70	Reserve Liabilities
1410.80	Reports to Policyholders

AUTHORITY: Implementing Article XIV and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/Art. XIV and 401].

SOURCE: Adopted at 21 Ill. Reg. 933, effective January 3, 1997; amended at 25 Ill. Reg. 7466, effective June 4, 2001; amended at 35 Ill. Reg. _____, effective _____.

Section 1410.10 Purpose

The purpose of this Part is to establish the required contract provisions for ~~Modified~~~~modified~~ ~~Guaranteed~~~~guaranteed~~ ~~Annuity~~~~annuity~~ contracts.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 1410.20 Applicability

This Part shall apply to insurance producers who sell ~~Modified~~~~modified~~ ~~Guaranteed~~~~guaranteed~~ ~~Annuity~~~~annuity~~ contracts and insurers who issue ~~those~~~~such~~ contracts in this State.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 1410.30 Definitions

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

~~Adjusted Minimum Nonforfeiture Amount means the minimum nonforfeiture amount as defined in Section 229.4 of the Illinois Insurance Code [215 ILCS 5/229.4] adjusted by the Market Value Adjustment.~~

Appointed Actuary means any individual who is appointed or retained in accordance with the requirements set forth in 50 Ill. Adm. Code 1408.40(c) to provide the actuarial opinion and supporting memorandum as required by Section 223(1a) of the Illinois Insurance Code [215 ILCS 5/223(1a)].

Code means the Illinois Insurance Code [215 ILCS 5].

Director means the Director of the Department of Insurance.

Insurance Producer means an individual licensed pursuant to Article XXXI of the Code [215 ILCS 5/Art. XXXI] who solicits, negotiates, effects, procures, renews, continues or binds modified guaranteed annuity contracts in this State.

Insurer means any insurance company which has delivered or issued for delivery in this State a modified guaranteed annuity contract.

Interest Credit means all interest that is credited to the contract.

Market Value Adjustment ~~or (MVA)~~ means a formula specified in the contract which adjusts the cash value of the contract. It reflects changes in prevailing interest rates and the time remaining until the date on which the cash surrender value is available without adjustment.

Minimum Nonforfeiture Amount means the minimum nonforfeiture amount as defined in Section 229.4 of the Code [215 ILCS 5/229.4a].

Modified Guaranteed Annuity ~~or (MGA)~~ means a fixed annuity, or a fixed portion of a combination annuity, that is funded through the general account and provides for guaranteed values on specified dates or specified ages and with interim nonforfeiture values that are adjusted in accordance with an MVA.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 1410.50 Filing of Contracts

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

The filing requirements applicable to MGA contracts shall be made pursuant to Section 143 of the Code [215 ILCS 5/143] and 50 Ill. Adm. Code 916. Filings shall include a demonstration that the nonforfeiture provisions of the contract comply with Section 229.4a of the Code [215 ILCS 5/229.4a] ~~and Section 1410.60(b) of this Part.~~ Compliance with 215 ILCS 5/229.4a(6) may be demonstrated prior to any MVA.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 1410.60 Modified Guaranteed Annuity (MGA) Contract Requirements

- a) **Mandatory Contract Benefit and Design Requirements:**
- 1) Any MGA contract delivered or issued for delivery in this State shall contain a statement of the procedures to be followed by the insurer in determining the dollar amount of nonforfeiture benefits.
 - 2) No MGA contract calling for the payment of periodic stipulated payments shall be delivered or issued for delivery in this State unless it contains the following provisions:
 - A) A provision that there shall be a grace period of 30 days or one month following the premium due date during which the contract shall remain in force and, within which any payment due to the insurer, other than the first, may be made. The contract may include a statement of the basis for determining the date as of which any such payment received during the grace period shall be applied to produce the values under the contract.
 - B) A provision that, at any time within one year from the date of default, the contract may be reinstated upon payment to the insurer of such overdue payments as required by contract, and of all indebtedness to the insurer on the contract, including interest. Reinstatement may not occur if the cash value has been paid. The contract may include a statement of the basis for determining the date as of which the amount to cover such overdue payments and indebtedness shall be applied to produce the values under the contract.
 - 3) The MVA formula, used in determining nonforfeiture benefits, must be

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

stated in the contract and must be applicable for both upward and downward adjustments. When a contract is filed, it must be accompanied by an actuarial certification by a qualified actuary indicating the basis for the MVA formula and that the formula provides reasonable equity to both the contractholder and the insurer.

b) ~~Nonforfeiture Benefits:~~

- ~~1) This subsection (b) shall not apply to any of the contracts excluded in Section 229.4(11) of the Code [215 ILCS 5/229.4(11)].~~
- ~~2) Any paid-up annuity benefit available under an MGA contract shall be such that its present value on the annuity commencement date is at least equal to the Adjusted Minimum Nonforfeiture Amount on that date. Such present value shall be computed using the mortality table, if any, and the guaranteed or assumed interest rates used in calculating the annuity payments.~~
- ~~3) For MGA contracts which provide cash surrender benefits, the cash surrender benefit at any time prior to the annuity commencement date shall not be less than the Adjusted Minimum Nonforfeiture Amount next computed after the request for surrender is received by the insurer. The death benefit under such contracts shall be at least equal to the cash surrender benefit. The contract may provide that the insurer may defer payment of such cash surrender benefit for a period of 6 months after demand.~~
- ~~4) Any MGA contract which does not provide cash surrender benefits or does not provide death benefits at least equal to the Adjusted Minimum Nonforfeiture Amount prior to the annuity commencement date shall include a statement in a prominent place in the contract that such benefits are not provided.~~
- ~~5) For any MGA contract which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits (without regard to any surrender charges) or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the Adjusted Minimum Nonforfeiture Amount for the~~

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

~~annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract.~~

- b)e) The Application:
The application for an MGA shall prominently set forth language stating that amounts payable under the contract are subject to a ~~Market~~market ~~Value~~value ~~Adjustment~~adjustment prior to a date or dates specified in the contract. The statement shall be placed immediately above the signature line on the application.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Universities Retirement
- 2) Code Citation: 80 Ill. Adm. Code 1600
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1600.700	New Section
1600.705	New Section
1600.710	New Section
1600.715	New Section
1600.720	New Section
1600.725	New Section
1600.730	New Section
1600.735	New Section
1600.740	New Section
1600.745	New Section
1600.750	New Section
- 4) Statutory Authority: 40 ILCS 5/15-177
- 5) A Complete Description of the Subjects and Issues Involved: Prior to PA 96-6, all members of the SURS Board were appointed by the Governor. These proposed rules establish the procedures for holding a Trustee election. Previous emergency rules expired subsequent to the May 2009 Trustee Election.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENTS

- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Michael B. Weinstein, General Counsel
State Universities Retirement System
1901 Fox Drive
Champaign, IL 61820

217/378-8825

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of Professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2011

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

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE D: RETIREMENT SYSTEMS
CHAPTER II: STATE UNIVERSITIES RETIREMENT SYSTEM

PART 1600
UNIVERSITIES RETIREMENT

SUBPART A: GENERAL

- Section
- 1600.100 Definitions
- 1600.110 Freedom of Information Act
- 1600.120 Open Meetings Act
- 1600.130 Procurement

SUBPART B: CONTRIBUTIONS AND SERVICE CREDIT

- Section
- 1600.202 Return to Employment
- 1600.203 Independent Contractors
- 1600.205 Compensation Subject to Withholding
- 1600.210 Crediting Interest on Participant Contributions and Other Reserves
- 1600.220 Election to Make Contributions Covering Leave of Absence at Less Than 50% Pay
- 1600.230 Election to Pay Contributions Based upon Employment that Preceded Certification as a Participant
- 1600.240 Election to Make Contributions Covering Periods of Military Leave Protected under USERRA
- 1600.250 Sick Leave Accrual Schedule
- 1600.260 Part-time/Concurrent Service Adjustment
- 1600.270 Employer Contributions for Benefit Increases Resulting from Earnings Increases Exceeding 6%

SUBPART C: CLAIMS PROCEDURE AND EVIDENTIARY REQUIREMENTS

- Section
- 1600.300 Effective Beneficiary Designations
- 1600.305 Full-Time Student Survivors Insurance Beneficiaries
- 1600.310 Dependency of Beneficiaries
- 1600.320 Disability Claims Procedure

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENTS

SUBPART D: BENEFIT CALCULATION AND PAYMENT

- Section
- 1600.400 Determination of Final Rate of Earnings Period
- 1600.410 Twenty Percent Limitation on Final Rate of Earnings Increases
- 1600.420 Making Preliminary Estimated Payments
- 1600.430 Excess Benefit Arrangement
- 1600.431 Indirect Payments to Minors and Legally Disabled Persons
- 1600.432 Indirect Payments to Child Survivors Through the Surviving Spouse
- 1600.440 Voluntary Deductions from Annuity Payments
- 1600.450 Overpayment Recovery

SUBPART E: ADMINISTRATIVE REVIEW

- Section
- 1600.500 Rules of Practice – Nature and Requirements of Formal Hearings

SUBPART F: QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDERS

- Section
- 1600.600 Definitions
- 1600.605 Requirements for a Valid Qualified Illinois Domestic Relations Order
- 1600.610 Invalid Orders
- 1600.615 Filing a QILDRO with the System
- 1600.620 Modified QILDROs
- 1600.625 Benefits Affected by a QILDRO
- 1600.630 Effect of a Valid QILDRO
- 1600.635 QILDROs Against Persons Who Became Members Prior to July 1, 1999
- 1600.640 Alternate Payee's Address
- 1600.645 Electing Form of Payment
- 1600.650 Automatic Annual Increases
- 1600.655 Expiration of a QILDRO
- 1600.660 Reciprocal Systems QILDRO Policy Statement
- 1600.665 Providing Benefit Information for Divorce Purposes

SUBPART G: BOARD TRUSTEE ELECTION

Section

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENTS

1600.700	Nomination of Candidates
1600.705	Election Date/Election Day – Defined
1600.710	Petitions
1600.715	Eligible Voters
1600.720	Election Materials
1600.725	Marking of Ballots
1600.730	Return of Ballots and Ballot Counting Process
1600.735	Certification of Ballot Counting
1600.740	Challenges to Election Results
1600.745	Candidate Informational Communication
1600.750	Filling a Vacancy in the Term of an Elected Trustee

AUTHORITY: Implementing and authorized by Section 15-177 of the Illinois Pension Code [40 ILCS 5/15-177].

SOURCE: Amended September 2, 1977; amended at 2 Ill. Reg. 31, p.53, effective July 30, 1978; amended at 7 Ill. Reg. 8139, effective June 29, 1983; codified at 8 Ill. Reg. 19683; amended at 11 Ill. Reg. 15656, effective September 9, 1987; amended at 13 Ill. Reg. 18939, effective November 21, 1989; amended at 14 Ill. Reg. 6789, effective April 20, 1990; emergency amendment at 21 Ill. Reg. 4864, effective March 26, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 6095, effective May 2, 1997; amended at 21 Ill. Reg. 11962, effective August 13, 1997; amended at 21 Ill. Reg. 12653, effective August 28, 1997; amended at 22 Ill. Reg. 4116, effective February 9, 1998; amended at 23 Ill. Reg. 13667, effective November 1, 1999; amended at 25 Ill. Reg. 10206, effective July 30, 2001; amended at 28 Ill. Reg. 2292, effective January 23, 2004; expedited correction at 28 Ill. Reg. 7575, effective January 23, 2004; amended at 29 Ill. Reg. 2729, effective March 1, 2005; amended at 29 Ill. Reg. 11819, effective July 12, 2005; amended at 29 Ill. Reg. 14060, effective September 1, 2005; amended at 29 Ill. Reg. 14351, effective September 6, 2005; amended at 30 Ill. Reg. 6170, effective March 21, 2006; amended at 30 Ill. Reg. 7778, effective April 5, 2006; amended at 30 Ill. Reg. 9911, effective May 9, 2006; amended at 30 Ill. Reg. 17509, effective October 19, 2006; amended at 31 Ill. Reg. 4267, effective February 22, 2007; amended at 31 Ill. Reg. 4927, effective March 12, 2007; recodified at 31 Ill. Reg. 10194; amended at 32 Ill. Reg. 16515, effective September 25, 2008; emergency amendment at 33 Ill. Reg. 6525, effective April 27, 2009, for a maximum of 150 days; emergency expired September 23, 2009; amended at 33 Ill. Reg. 10757, effective July 1, 2009; amended at 33 Ill. Reg. 16755, effective November 23, 2009; amended at 34 Ill. Reg. 9523, effective June 25, 2010; amended at 35 Ill. Reg. _____, effective _____.

[SUBPART G: BOARD TRUSTEE ELECTION](#)

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENTS

Section 1600.700 Nomination of Candidates

- a) Any candidate for a vacant contributing membership position on the System's Board of Trustees:
- 1) Shall be, on the date voter eligibility is determined pursuant to Section 1600.715, an employee who has been certified as a SURS covered employee by the employee's employer and an employee for whom employee contributions have been received in the previous 31 days;
 - 2) Shall be nominated by a written petition for a single candidate only, signed by no fewer than 400 individuals who, as of the date of signing, were participants.
- b) Any candidate for a vacant annuitant position on the System's Board of Trustees:
- 1) Must have been an annuitant for at least one full year prior to the Election Date as determined pursuant to Section 1600.705;
 - 2) Shall be nominated by a written petition for a single candidate only, signed by no fewer than 100 individuals who, as of the date of signing, were annuitants.
- c) For purposes of determining whether a SURS member is a contributing member, participant, or annuitant pursuant to this Subpart G:
- 1) A SURS member who is a contributing member or participant in the Self-Managed Plan, described in Section 15-158.2 of the Pension Code, is eligible under the same terms as SURS members who are in the traditional or portable benefit package, described in Sections 15-103.1 and 15-103.2, respectively, of the Pension Code, and a benefit recipient pursuant to an annuity contract purchased under the self-managed plan is an annuitant;
 - 2) A SURS member receiving a preliminary estimated payment pursuant to Section 1600.420 is an annuitant;

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENTS

- 3) A SURS member receiving a disability pursuant to Section 15-150 of the Illinois Pension Code is not an annuitant, but is considered a contributing member for purposes of Board elections.
- d) Petitions may be circulated for signatures by any individual or entity commencing the November 1 immediately preceding the applicable Election Date and ending on January 31.
- e) An individual eligible to sign a petition nominating a candidate for a vacant contributing membership position on the Board may sign petitions for as many contributing membership position candidates as desired.
- f) An individual eligible to sign a petition nominating a candidate for a vacant annuitant position on the Board may sign petitions for as many annuitant candidates as desired.

(Source: Added at 35 Ill. Reg. _____, effective _____)

Section 1600.705 Election Date/Election Day – Defined

- a) The term "Election Date" or "Election Day" shall mean May 1.
- b) If the Election Day falls on a Saturday, Sunday or holiday, the election will be held the next day on which the System is open for business. The final tabulation of ballots shall be completed on the next business day after Election Day.

(Source: Added at 35 Ill. Reg. _____, effective _____)

Section 1600.710 Petitions

- a) All petitions shall be in the form adopted by the System. Petition forms may be obtained from the System, upon written or oral request of any individual or entity, on or after October 1 immediately preceding the Election Date. The petition forms may be photocopied for use by the candidates. All candidates must complete an application in the form adopted by the System and submit it to the System by the December 31 immediately preceding the Election Date. The Board Secretary shall determine the number and type of Board positions to be filled for an election. The Board Secretary shall determine the eligibility of candidates pursuant to the Illinois Pension Code and this Part.

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENTS

- b) A valid petition nominating a candidate for a vacant contributing membership position or a vacant annuitant position on the System's Board of Trustees shall meet the following requirements:
- 1) On page one of the petition the potential candidate must sign the petition as one of the nominating signatories. The signature shall constitute the potential candidate's confirmation that he or she is willing to be a candidate.
 - 2) The petition must bear the requisite number of original signatures of individuals eligible to nominate the candidate, as established by Section 1600.700(a) or (b). A valid petition may consist of multiple pages and may contain blank signature lines; however, all valid signatures must be original signatures.
 - 3) Each signature of an eligible voter must be accompanied by the signing person's name (printed), home address (street, city, and state), job title (if any), SURS employer (or last SURS employer), and the last four digits of his or her social security number to assist the Board Secretary in verifying petition signing eligibility. The partial social security number shall remain confidential.
 - 4) The petition shall bear the notarized signature of the individual who circulated the petition for signatures, verifying that the signatures contained on the petition were signed in that individual's presence and are genuine, and that, to the best of the circulating individual's knowledge, the persons who signed the petition were eligible to do so under Section 1600.700(a) or (b).
 - 5) Original petitions shall be filed with and must be received by the Board Secretary by the January 31 immediately preceding the Election Day. Petitions received after the prescribed petition-filing period are invalid and will not be counted.
- c) The Board Secretary shall determine the validity of petitions not less than 75 days prior to the Election Day and notify all candidates in accordance with the election calendar whether their petitions met all petition requirements. Candidates filing

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENTS

conforming petitions will be added to the slate of candidates on the respective ballot.

- d) Any individual may, upon reasonable notice to the System, examine the petitions that have been filed with the System with respect to the election to take place; provided, however, that in order to protect the signing participants' and annuitants' privacy and confidentiality, the examination shall be subject to the following limitations:
- 1) Petitions that are examined will be duplicate copies of the original petitions filed, with any confidential information redacted;
 - 2) Petitions may only be examined at the System's offices after the validity of the petitions has been verified by the Board Secretary as provided in subsection (c); and
 - 3) Petitions may not be removed from the System's offices, copied, or duplicated by any means.
- e) Challenge to the Petition Validation Process
- 1) The challenger shall submit a written statement identifying the specific aspects of the petition validation process that is being challenged.
 - 2) All challenges shall be submitted to the Board Secretary no later than 7 days after the petition validation notification required in subsection (c). Any challenge submitted more than 7 days after the date of the notification shall not be considered. The Board Secretary shall transmit any challenges to a 3 member committee of the Board, comprised of members of the Board not running in the contested election.
 - 3) The committee shall consider the written statement and proceed to make a final determination with respect to the challenge.
 - 4) A written notice of the final determination shall be sent to the challenger and all candidates within 7 days after making the determination.

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENTS

- 5) The determination of the committee shall constitute a final administrative decision for purposes of the Administrative Review Law [305 ILCS 5/Art. III].

(Source: Added at 35 Ill. Reg. _____, effective _____)

Section 1600.715 Eligible Voters

- a) An individual is eligible to vote for a contributing membership position on the Board of Trustees of the System if he or she was a contributing member, defined as an employee who has been certified as a SURS covered employee by the employee's employer and an employee for whom employee contributions have been received in the previous 31 days, except as provided for in subsection (e) as of March 1 of the year in which the election is held.
- b) An individual is eligible to vote for a vacant annuitant position on the Board of Trustees of the System if he or she was an annuitant as of March 1 of the year in which the election is held.
- c) A person who is eligible to vote for a contributing membership position pursuant to subsection (a) is not eligible to vote for a vacant annuitant position.
- d) A person who is eligible to vote for an annuitant position pursuant to subsection (b) is not eligible to vote for a vacant contributing membership position.
- e) A SURS member receiving a disability pursuant to Section 15-150 of the Illinois Pension Code is not an annuitant but is considered a contributing member for purposes of Board elections.

(Source: Added at 35 Ill. Reg. _____, effective _____)

Section 1600.720 Election Materials

- a) At least 10 business days prior to the Election Day, the System shall mail to the eligible voter's latest address known to the System the following election materials:
- 1) A preprinted paper ballot listing, in order determined by random, blind lottery conducted by the Board Secretary, either the contributing

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENTS

membership candidates or the annuitant candidates, depending on the basis for the individual's eligible voter status as provided in Section 1600.715(a) or (b), using the entire name of each candidate in the System records on the first day nomination petitions can be accepted;

- 2) Candidate provided biographies in the format and length specified by the Board Secretary;
 - 3) Instructions for voting as specified by the Board Secretary;
 - 4) A preprinted, return envelope.
- b) If an eligible voter has not received any or all of the election materials specified in subsection (a) 5 business days prior to the Election Date, the eligible voter may request that the System send election materials to him or her. If an eligible voter incorrectly marks or spoils his or her paper ballot prior to returning it, the eligible voter may request a new set of election materials from the System at least 5 business days prior to the Election Date. Paper ballots already mailed by the eligible voter shall not be replaced.
- c) If previously mailed election materials are returned to the System undelivered at least 5 business days prior to the Election Date and a forwarding address has been provided, the System shall mail election materials to the forwarding address via first class U.S. mail.

(Source: Added at 35 Ill. Reg. _____, effective _____)

Section 1600.725 Marking of Ballots

A valid paper ballot must conform to the following requirements:

- a) All choices of candidates must be marked as directed on the ballot. If the ballot is not marked as directed, the mark is invalid and will not be counted.
- b) Each eligible voter is entitled to only one vote for any particular candidate.
- c) With respect to a ballot on which more than one trustee is to be elected, each eligible voter may vote for only one candidate for each position to be elected. If more candidates are selected than the number of positions to be elected, the ballot

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENTS

is invalid and will not be counted. If the number of candidates selected is fewer than the number of positions to be elected, the selection or selections will each count as only one vote.

- d) Only official SURS ballots will be counted. Handwritten entries of candidates are invalid and will not be counted.

(Source: Added at 35 Ill. Reg. _____, effective _____)

Section 1600.730 Return of Ballots and Ballot Counting Process

- a) Upon receipt of the election materials specified in Section 1600.720, the eligible voter shall:
- 1) Mark his or her ballot in accordance with Section 1600.725;
 - 2) Place the completed ballot into the return envelope provided; and
 - 3) Seal and mail, via U.S. mail only, the return envelope.
- b) Ballots must be received by the close of business on Election Day. Ballots received after Election Day are invalid and will not be counted.
- c) Ballots must be mailed in the return envelope provided and only mailed to the address on the envelope. Paper ballots delivered to the System in bulk, via hand delivery, by campus mail, or delivery other than as specified in subsection (a) are invalid and will not be counted.
- d) When all eligible ballots have been counted and tabulated, the necessary number of contributing members and annuitants who have received the greatest number of votes will be elected trustees; provided, however, the Board Secretary will ensure that, for the final composition of the Board, no more than 2 of the 4 contributing members are current employees of the University of Illinois at any of the campuses (Urbana-Champaign, Chicago, or Springfield) and no more than one of the 2 annuitants was last employed prior to retirement by the University of Illinois at any of the campuses. If the maximum number of University of Illinois positions has been filled, then any remaining positions shall be filled as follows:

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENTS

- 1) The remaining contributing member trustee positions will be filled by the contributing member nominees who are not current employees of the University of Illinois at any of the campuses and who received the greatest number of votes.
- 2) The remaining annuitant trustee positions will be filled by annuitant nominees who were not last employed prior to retirement by the University of Illinois at any of the campuses and who received the greatest number of votes.
- 3) In case of a tie, the contributing member nominee or annuitant nominee who will be elected will be determined by blind, random drawing.
- 4) The results of the election process then will be declared by the Board Secretary.
- e) The Board Secretary will certify to the Board the elected trustees by category and term of office. The Board Secretary will further certify the place of employment for each contributing member and the last place of employment prior to retirement for each annuitant.

(Source: Added at 35 Ill. Reg. _____, effective _____)

Section 1600.735 Certification of Ballot Counting

The ballot tabulating process shall be certified to the System in writing by an independent consultant at least 7 days prior to the Election Day. The election results shall be certified to the System either by an independent consultant or by the entity tabulating the results. The ballot tabulation process and election results will not be disclosed or announced until written certification is provided to the System.

(Source: Added at 35 Ill. Reg. _____, effective _____)

Section 1600.740 Challenges to Election Results

- a) Any challenge to the election results shall be made in the following manner:
 - 1) The challenger shall submit a written statement identifying the specific aspects of the election results that are being challenged.

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENTS

- 2) All challenges shall be submitted to the Board Secretary no later than 7 days after the election results have been certified. Any challenge submitted more than 7 days after the election results have been certified shall not be considered.
- b) The written statement timely submitted in accordance with subsection (a) shall be presented to and considered by the Board at the next regularly scheduled quarterly meeting of the Board. The challenger shall have no right to make a presentation at the Board meeting. The Board shall, in its sole discretion, determine what steps, if any, need to be taken in response to the challenge, including, but not limited to, modifying the election results declared.
- c) In the event that election results have already been declared, the election results shall remain valid pending determination of any challenge.
- d) A written notice of the final determination shall be sent to the challenger and all candidates within 7 days after making the determination. This notice shall constitute a final administrative decision of the Board for purposes of the Administrative Review Law.

(Source: Added at 35 Ill. Reg. _____, effective _____)

Section 1600.745 Candidate Informational Communication

- a) During any election period commencing the January 1 immediately preceding the Election Date and ending the day after the Election Date, the System will make available address files or e-mail lists of eligible voters for election candidates or other organizations to send additional informational material about the candidate. Organizations must be validly existing pursuant to law and must provide a mailing address and contact information to the System at the same time that a request is made for address files or e-mail lists.
- b) The address files or e-mail lists will be sent by the System to a third-party service firm hired by the candidate, or other organization, for mailing. The third-party service firm must guarantee security and only use the member contact information for communication of candidate informational materials.

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENTS

- c) The third-party service firm will limit the use of the address files or e-mail lists to ensure there is only one communication per candidate, per organization.
- d) The System will not incur any of the costs to produce mail or send the additional candidate information.
- e) The contents of informational materials must be approved by the Board Secretary prior to the mailing.

(Source: Added at 35 Ill. Reg. _____, effective _____)

Section 1600.750 Filling a Vacancy in the Term of an Elected Trustee

- a) A vacancy occurring in the elected membership of the Board shall be filled by the elected trustees as prescribed in Section 15-159(e) of the Pension Code.
- b) The elected trustees shall fill an unexpired term with currently eligible candidates as provided for in Sections 1600.700 and 1600.730 as follows:
 - 1) If an elected trustee position becomes vacant within the first 3 years of a term, the candidate receiving the next highest number of votes from the last respective election will temporarily fill the open position until the next regularly scheduled election. The remaining 3 years of the term will be filled at the next available election. The candidate receiving the greatest number of votes at the election shall be awarded the 6 year term. However, if a vacancy occurs within 6 months prior to the next election, the remaining elected trustees may choose to leave the position vacant until that election.
 - 2) If an elected trustee position becomes vacant within the last 3 years of a term, the candidate receiving the next highest number of votes from the last respective election will be appointed to fill the remainder of the term. However, if a vacancy occurs within 6 months prior to the next election, the remaining elected trustees may choose to leave the position vacant until that election.

(Source: Added at 35 Ill. Reg. _____, effective _____)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Child Support Services
- 2) Code Citation: 89 Ill. Adm. Code 160
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
160.60	Amendment
160.61	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 96-1134
- 5) Effective Date of Amendments: March 1, 2011
- 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: November 12, 2010; 34 Ill. Reg. 17134
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences Between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: This rulemaking implements Public Acts 96-1134 and 96-1074 that provide the following:
 - 1) Foster care payments paid to the Department of Children and Family Services (DCFS) for licensed foster care may be deducted from net income for the purposes of determining the minimum amount of child support.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 2) Adds definition of "probability of paternity" stating that the results of genetic testing show that the alleged father is not excluded and that the combined paternity index is at least 1000 to 1 with a 99.9% probability of paternity.
- 16) Information and questions regarding these adopted amendments 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 Amendments begins on the next page:

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER f: COLLECTIONS

PART 160

CHILD SUPPORT SERVICES

SUBPART A: GENERAL PROVISIONS

Section

- 160.1 Incorporation by Reference
- 160.5 Definitions
- 160.10 Child Support Enforcement Program
- 160.12 Administrative Accountability Process
- 160.15 Fees for IV-D Non-TANF Cases
- 160.20 Assignment of Rights to Support
- 160.25 Recoupment

SUBPART B: COOPERATION WITH CHILD SUPPORT ENFORCEMENT

Section

- 160.30 Cooperation With Support Enforcement Program
- 160.35 Good Cause for Failure to Cooperate with Support Enforcement
- 160.40 Proof of Good Cause For Failure to Cooperate With Support Enforcement
- 160.45 Suspension of Child Support Enforcement Upon a Claim of Good Cause

SUBPART C: ESTABLISHMENT AND MODIFICATION OF
CHILD SUPPORT ORDERS

Section

- 160.60 Establishment of Support Obligations
- 160.61 Uncontested and Contested Administrative Paternity and Support Establishment
- 160.62 Cooperation with Paternity Establishment and Continued Eligibility
Demonstration Program (Repealed)
- 160.64 Compromise of Assigned Obligations
- 160.65 Modification of Support Obligations

SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section

- 160.70 Enforcement of Support Orders
- 160.71 Credit for Payments Made Directly to the Title IV-D Client
- 160.75 Withholding of Income to Secure Payment of Support
- 160.77 Certifying Past-Due Support Information or Failure to Comply with a Subpoena or Warrant to State Licensing Agencies
- 160.80 Amnesty – 20% Charge (Repealed)
- 160.85 Diligent Efforts to Serve Process
- 160.88 State Case Registry
- 160.89 Interest

SUBPART E: EARMARKING CHILD SUPPORT PAYMENTS

Section

- 160.90 Earmarking Child Support Payments

SUBPART F: DISTRIBUTION OF SUPPORT COLLECTIONS

Section

- 160.95 State Disbursement Unit
- 160.100 Distribution of Child Support for TANF Recipients
- 160.110 Distribution of Child Support for Former AFDC or TANF Recipients Who Continue to Receive Child Support Services
- 160.120 Distribution of Child Support Collected While the Client Was an AFDC or TANF Recipient, But Not Yet Distributed at the Time the AFDC or TANF Case Is Cancelled
- 160.130 Distribution of Intercepted Federal Income Tax Refunds
- 160.132 Distribution of Child Support for Non-TANF Clients
- 160.134 Distribution of Child Support For Interstate Cases
- 160.136 Distribution of Support Collected in IV-E Foster Care Maintenance Cases
- 160.138 Distribution of Child Support for Medical Assistance No Grant Cases

SUBPART G: STATEMENT OF CHILD SUPPORT ACCOUNT ACTIVITY

Section

- 160.140 Quarterly Notice of Child Support Account Activity

SUBPART H: DEPARTMENT REVIEW OF DISTRIBUTION OF CHILD SUPPORT

Section

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 160.150 Department Review of Distribution of Child Support for TANF Recipients
160.160 Department Review of Distribution of Child Support for Former AFDC or TANF Recipients

AUTHORITY: Implementing and authorized by Sections 4-1.7, Art. X, 12-4.3, and 12-13 of the Illinois Public Aid Code [305 ILCS 5/4-1.7, Art. X, 12-4.3 and 12-13].

SOURCE: Recodified from 89 Ill. Adm. Code 112.78 through 112.86 and 112.88 at 10 Ill. Reg. 11928; amended at 10 Ill. Reg. 19990, effective November 14, 1986; emergency amendment at 11 Ill. Reg. 4800, effective March 5, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9129, effective April 30, 1987; amended at 11 Ill. Reg. 15208, effective August 31, 1987; emergency amendment at 11 Ill. Reg. 1563, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 9065, effective May 16, 1988; amended at 12 Ill. Reg. 18185, effective November 4, 1988; emergency amendment at 12 Ill. Reg. 20835, effective December 2, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 22278, effective January 1, 1989; amended at 13 Ill. Reg. 4268, effective March 21, 1989; amended at 13 Ill. Reg. 7761, effective May 22, 1989; amended at 13 Ill. Reg. 14385, effective September 1, 1989; amended at 13 Ill. Reg. 16768, effective October 12, 1989; amended at 14 Ill. Reg. 18759, effective November 9, 1990; amended at 15 Ill. Reg. 1034, effective January 21, 1991; amended at 16 Ill. Reg. 1852, effective January 20, 1992; amended at 16 Ill. Reg. 9997, effective June 15, 1992; amended at 17 Ill. Reg. 2272, effective February 11, 1993; amended at 17 Ill. Reg. 18844, effective October 18, 1993; amended at 18 Ill. Reg. 697, effective January 10, 1994; amended at 18 Ill. Reg. 12052, effective July 25, 1994; amended at 18 Ill. Reg. 15083, effective September 23, 1994; amended at 18 Ill. Reg. 17886, effective November 30, 1994; amended at 19 Ill. Reg. 1314, effective January 30, 1995; amended at 19 Ill. Reg. 8298, effective June 15, 1995; amended at 19 Ill. Reg. 12675, effective August 31, 1995; emergency amendment at 19 Ill. Reg. 15492, effective October 30, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 1195, effective January 5, 1996; amended at 20 Ill. Reg. 5659, effective March 28, 1996; emergency amendment at 20 Ill. Reg. 14002, effective October 15, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 1189, effective January 10, 1997; amended at 21 Ill. Reg. 3922, effective March 13, 1997; emergency amendment at 21 Ill. Reg. 8594, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9220, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 12197, effective August 22, 1997; amended at 21 Ill. Reg. 16050, effective November 26, 1997; amended at 22 Ill. Reg. 14895, effective August 1, 1998; emergency amendment at 22 Ill. Reg. 17046, effective September 10, 1998, for a maximum of 150 days; amended at 23 Ill. Reg. 2313, effective January 22, 1999; emergency amendment at 23 Ill. Reg. 11715, effective September 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12737, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 14560, effective December 1, 1999; amended at 24 Ill. Reg. 2380,

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

effective January 27, 2000; amended at 24 Ill. Reg. 3808, effective February 25, 2000; emergency amendment at 26 Ill. Reg. 11092, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17822, effective November 27, 2002; amended at 27 Ill. Reg. 4732, effective February 25, 2003; amended at 27 Ill. Reg. 7842, effective May 1, 2003; emergency amendment at 27 Ill. Reg. 12139, effective July 11, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18891, effective November 26, 2003; amended at 28 Ill. Reg. 4712, effective March 1, 2004; emergency amendment at 28 Ill. Reg. 10225, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 15591, effective November 24, 2004; emergency amendment at 29 Ill. Reg. 2743, effective February 7, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 10211, effective June 30, 2005; amended at 29 Ill. Reg. 14995, effective September 30, 2005; emergency amendment at 30 Ill. Reg. 5426, effective March 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 8897, effective May 1, 2006; amended at 30 Ill. Reg. 13393, effective July 28, 2006; amended at 31 Ill. Reg. 12771, effective August 27, 2007; emergency amendment at 32 Ill. Reg. 543, effective January 1, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 6511, effective March 31, 2008; amended at 32 Ill. Reg. 16805, effective October 6, 2008; amended at 33 Ill. Reg. 591, effective January 5, 2009; amended at 33 Ill. Reg. 9077, effective June 15, 2009; amended at 33 Ill. Reg. 12732, effective September 7, 2009; amended at 34 Ill. Reg. 6809, effective May 1, 2010; amended at 34 Ill. Reg. 15406, effective September 27, 2010; amended at 35 Ill. Reg. 2043, effective January 21, 2011; amended at 35 Ill. Reg. 4513, effective March 1, 2011.

SUBPART C: ESTABLISHMENT AND MODIFICATION OF
CHILD SUPPORT ORDERS**Section 160.60 Establishment of Support Obligations**

- a) Definitions
 - 1) "CSS" means any Child Support Specialist performing assigned duties, his or her supervisory staff and any other person assigned responsibility by the Director of the Department.
 - 2) "Service" or "Served" means notice given:
 - A) by personal service, certified mail (with or without return receipt requested) or restricted delivery,
 - B) *by a person who is licensed or registered as a private detective under the Private Detective, Private Alarm, Private Security, and*

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

Locksmith Act of 2004 [225 ILCS 447] or by a registered employee of a private detective agency certified under that Act, or

- C) *in counties with a population of less than 2,000,000 [305 ILCS 5/10-4], by any method provided by law for service of summons. (See Sections 2-202, 2-203 and 2-206 of the Code of Civil Procedure [735 ILCS 5/2-202, 2-203 and 2-206].)*
- 3) "Support Statutes" means the following:
 - A) Article X of the Illinois Public Aid Code [305 ILCS 5/Art. X];
 - B) The Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5];
 - C) The Non-Support Punishment Act [750 ILCS 16];
 - D) The Uniform Interstate Family Support Act [750 ILCS 22];
 - E) The Illinois Parentage Act of 1984 [750 ILCS 45]; and
 - F) Any other statute in another state that provides for child support.
- 4) "Retroactive support" means support for a period prior to the date a court or administrative support order is entered.
- 5) "Child's needs" means:
 - A) the custodial parent's statement of the associated costs, including, but not limited to, providing a child with: food, shelter, clothing, schooling, recreation, transportation and medical care; or
 - B) the State's current minimum hourly wage multiplied by 40 hours per work week, multiplied by 4.3 weeks per month, multiplied by the applicable child support guideline percentage contained in subsection (c)(1) of this Section.
- b) Responsible Relative Contact

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Timing and Purpose of Contact
 - A) The Department shall contact and interview responsible relatives in Title IV-D cases to establish support obligations, following the IV-D client interview.
 - B) The purpose of contact and interview shall be to obtain relevant facts, including income information (for example, paycheck stubs, income tax returns) necessary to determine the financial ability of such relatives for use in obtaining stipulated, consent and other court orders for support and in entering administrative support orders, pursuant to the support statutes.
 - 2) At least ten working days in advance of the interview, the Department shall notify each responsible relative contacted of his support obligation, by ordinary mail, which notice shall contain the following:
 - A) the Title IV-D case name and identification number;
 - B) the names and birthdates of the persons for whom support is sought or other information identifying such persons, such as a prior court number;
 - C) that the responsible relative has a legal obligation to support the named persons;
 - D) the date, time, place and purpose of the interview and that the responsible relative may be represented by counsel; and
 - E) that the responsible relative should bring specified information regarding his income and resources to the interview.
 - 3) The Department shall notify each Title IV-D client of the date, time and place of the responsible relative interview and that the client may attend if he or she chooses.
- c) Determination of Financial Ability
- 1) In cases handled under subsection (d) of this Section, the CSS shall

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

determine the amount of child support and enter an administrative support order on the following basis:

Number of Children	Percent of Responsible Relative's Net Income
1	20%
2	28%
3	32%
4	40%
5	45%
6 or more	50%

- A) "Net Income" is the total of all income from all sources, minus the following deductions:
- i) Federal income tax (properly calculated withholding or estimated payments);
 - ii) State income tax (properly calculated withholding or estimated payments);
 - iii) Social Security (FICA payments);
 - iv) Mandatory retirement contributions required by law or as a condition of employment;
 - v) Union dues;
 - vi) Dependent and individual health/hospitalization insurance premiums;
 - vii) Prior obligations of support or maintenance actually paid pursuant to a court order or administrative support order;
 - viii) Expenditures for repayment of debts that represent reasonable and necessary expenses for the production of income;
 - ix) Medical expenditures necessary to preserve life or health;

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

~~and~~

x) Reasonable expenditures for the benefit of the child and the other parent, exclusive of gifts; ~~and-~~

xi) Foster care payments paid by the Department of Children and Family Services for providing licensed foster care to a foster child.

B) The deductions in subsections (c)(1)(A)(viii), (ix) and (x) of this Section shall be allowed only for the period that such payments are due. The Department shall enter administrative support orders that contain provisions for an automatic increase in the support obligation upon termination of such payment period.

2) In de novo hearings provided for in subsection (d)(5)(H) of this Section and 89 Ill. Adm. Code 104.102, the Department's hearing officer shall determine the minimum amount of child support as follows:

Number of Children	Percent of Responsible Relative's Net Income
1	20%
2	28%
3	32%
4	40%
5	45%
6 or more	50%

A) "Net Income" is the total of all income from all sources, minus the following deductions:

- i) Federal income tax (properly calculated withholding or estimated payments);
- ii) State income tax (properly calculated withholding or estimated payments);
- iii) Social Security (FICA payments);

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- iv) Mandatory retirement contributions required by law or as a condition of employment;
 - v) Union dues;
 - vi) Dependent and individual health/hospitalization insurance premiums;
 - vii) Prior obligations of support or maintenance actually paid pursuant to a court order or administrative support order;
 - viii) Expenditures for repayment of debts that represent reasonable and necessary expenses for the production of income;
 - ix) Medical expenditures necessary to preserve life or health; and
 - x) Reasonable expenditures for the benefit of the child and the other parent, exclusive of gifts.
- B) The deductions in subsections (c)(2)(A)(viii), (ix) and (x) of this Section shall be allowed only for the period that such payments are due. The Department shall enter administrative support orders that contain provisions for an automatic increase in the support obligation upon termination of such payment period.
- C) The above guidelines shall be applied in each case unless the Department finds that application of the guidelines would be inappropriate after considering the best interests of the child in light of evidence including but not limited to one or more of the following relevant factors:
- i) the financial resources and needs of the child;
 - ii) the financial resources and needs of the custodial parent;
 - iii) the standard of living the child would have enjoyed had the marriage not been dissolved, the separation not occurred or

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- the parties married;
- iv) the physical and emotional condition of the child, and his educational needs; and
 - v) the financial resources and needs of the non-custodial parent.
- D) Each order requiring support that deviates from the guidelines shall state the amount of support that would have been required under the guidelines. The reason or reasons for the variance from the guidelines shall be included in the order.
- 3) In cases referred for judicial action under subsection (e) of this Section, the Department's legal representative shall ask the court to determine the amount of child support due in accord with Section 505 and medical support in accordance with Section 505.2 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505].
 - 4) All orders for support shall include a provision for the health care coverage of the child. In all cases where health insurance coverage is not being furnished by the responsible relative to a child to be covered by a support order, the Department shall enter administrative, or request the court to enter, support orders requiring the relative to provide such coverage when a child can be added to an existing insurance policy at reasonable cost or indicating what alternative arrangement for health insurance coverage is being provided. Net income shall be reduced by the cost thereof in determining the minimum amount of support to be ordered.
 - 5) In cases where the net income of the responsible relative cannot be determined because of default or any other reason, the Department shall order or request the court to order the responsible relative to pay retroactive support for the prior period in the amount of the child's needs as defined by subsection (a)(5)(A) or (B) of this Section when the IV-D client requests that such an order for retroactive support be entered or requested.
 - 6) The final order in all cases shall state the support level in dollar amounts.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 7) If there is no net income because of the unemployment of a responsible relative who resides in Illinois and is not receiving General Assistance in the City of Chicago and has children receiving cash assistance in Illinois, the Department, when proceeding under subsection (d) of this Section, shall order, or, when proceeding under subsection (e) of this Section, shall request the court to order the relative to report for participation in job search, training or work programs established for such relatives. In TANF cases, the Department shall order, when proceeding under subsection (d) of this Section, or, when proceeding under subsection (e) of this Section, shall request the court to order payment of past-due support pursuant to a plan and, if the responsible relative is unemployed, subject to a payment plan and not incapacitated, that the responsible relative participate in job search, training and work programs established under Section 9-6 and Article IXA of the Illinois Public Aid Code [305 ILCS 5/9-6 and Art. IXA].
- 8) The Department shall enter administrative support orders, or request the court to enter support orders, that include a provision requiring the responsible relative to notify the Department, within seven days:
 - A) of any new address of the responsible relative;
 - B) of the name and address of any new employer or source of income of the responsible relative;
 - C) of any change in the responsible relative's Social Security Number;
 - D) whether the responsible relative has access to health insurance coverage through the employer or other group coverage; and
 - E) if so, the policy name and number and the names of persons covered under the policy.
- 9) The Department shall enter administrative support orders, or request the court to enter support orders, that include a date on which the current support obligation terminates. The termination date shall be no earlier than the date on which the child covered by the order will attain the age of majority or is otherwise emancipated. The order for support shall state that the termination date does not apply to any arrearage that may remain

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

unpaid on that date. The provision of a termination date in the order shall not prevent the order from being modified.

- 10) The Department shall enter administrative support orders, or request the court to enter support orders, that include a statement that if there is an unpaid arrearage or delinquency equal to at least one month's support obligation on the termination date stated in the order for support or, if there is no termination date stated in the order, on the date the child attains the age of majority or is otherwise emancipated, then the periodic amount required to be paid for current support of that child immediately prior to that date shall automatically continue to be an obligation, not as current support but as periodic payment toward satisfaction of the unpaid arrearage or delinquency.
- 11) At the request of the IV-D client, the Department shall enter administrative support orders, or request the court to enter support orders, that include provisions for retroactive support, as follows:
 - A) In cases handled under subsection (d) of this Section, the Department shall order the period of retroactive support to begin with the later of two years prior to the date of entry of the administrative support order or the date of the married parties' separation (or the date of birth of the child for whom support is ordered, if the child was born out of wedlock).
 - B) In de novo hearings provided for in subsection (d)(5)(H) of this Section and 89 Ill. Adm. Code 104.102, the Department's hearing officer shall order the period of retroactive support to begin with the later of two years prior to the date of entry of the administrative support order or the date of the married parties separation (or the date of birth of the child for whom support is ordered, if the child was born out of wedlock), unless, in cases where the child was born out of wedlock, the hearing officer, after having examined the factors set forth in Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14] and Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505] decides that another date is more appropriate.
 - C) In cases referred for judicial action under subsection (e) of this

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section, the Department's legal representative shall ask the court to determine the date retroactive support is to commence in accord with Article X of the Illinois Public Aid Code [305 ILCS 5/Art. X], Sections 510 and 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/510 and 505], and Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14].

- d) Administrative Process
 - 1) Use of Administrative Process
 - A) Unless otherwise directed by the Department, the CSS shall establish support obligations of responsible relatives through the administrative process set forth in this subsection (d), in Title IV-D cases, wherein the court has not acquired jurisdiction previously, in matters involving:
 - i) presumed paternity as set forth in Section 5 of the Illinois Parentage Act of 1984 [750 ILCS 45/5] and support is sought from one or both parents;
 - ii) alleged paternity and support is sought from the mother;
 - iii) an administrative paternity order entered under Section 160.61 and support is sought from the man determined to be the child's father, or from the mother, or both;
 - iv) an establishment of parentage in accordance with Section 6 of the Illinois Parentage Act of 1984 [750 ILCS 45/6]; and
 - v) an establishment of parentage under the laws of another state, and support is sought from the child's father, or from the mother, or both.
 - B) In addition to those items specified in subsection (b)(2) of this Section, the notice of support obligation shall inform the responsible relative of the following:
 - i) that the responsible relative may be required to pay

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

retroactive support as well as current support; and

- ii) that in its initial determination of child support under subsection (c) of this Section, the Department will only consider factors listed in subsections (c)(1)(A)(i) through (x) of this Section; and
- iii) that the Department will enter an administrative support order based only on those factors listed in subsections (c)(1)(A)(i) through (x) of this Section; and
- iv) that in order for the Department to consider other factors listed in subsection (c)(2)(C) of this Section, Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14], and Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505], either the responsible relative or the client must request a de novo hearing within 30 days after mailing or delivery of the administrative support order; and
- v) that both the client and the responsible relative have a right to request a de novo hearing within 30 days after the mailing or delivery of an administrative support order, at which time a Department hearing officer may consider other factors listed in subsection (c)(2)(C) of this Section, Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14], and Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505]; and
- vi) that unless the client and/or the responsible relative requests a de novo hearing within 30 days after the order's mailing or delivery, the administrative support order will become a final enforceable order of the Department; and
- vii) that upon failure of the responsible relative to appear for the interview or to provide necessary information to determine net income, an administrative support order may be entered by default or the Department may seek court determination of financial ability based upon the

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

guidelines.

- 2) The CSS shall determine the ability of each responsible relative to provide support in accordance with subsection (c) of this Section when such relative appears in response to the notice of support obligation and provides necessary information to determine net income. An administrative support order shall be entered which shall incorporate the resulting support amount therein. When requested by the IV-D client, the CSS shall also determine (and incorporate in the administrative support order) the amount of retroactive support the responsible relative shall be required to pay by applying the relative's current net income (unless the relative provides necessary information to determine net income for the prior period) to the support guidelines in accordance with subsection (c) of this Section. The CSS shall reduce the total amount of retroactive support determined by the amount of cash contributions made by the responsible relative to the IV-D client for the benefit of the child during the retroactive period as specified in the IV-D client's affidavit of direct contribution. In no event shall credit be given in excess of the total amount of the retroactive support determined.
- 3) Failure to Appear
 - A) In instances in which the responsible relative fails to appear in response to the notice of support obligation or fails to provide necessary information to determine net income, the CSS shall enter an administrative support order by default, except as provided in subsection (d)(3)(D) of this Section. The terms of the order shall be based upon the needs of the child for whom support is sought, as defined by subsection (a)(5) of this Section. No default order shall be entered when a responsible relative fails to appear at the interview unless the relative shall have been served as provided by law with a notice of support obligation.
 - B) The CSS may issue a subpoena to a responsible relative who fails to appear for interview, or who appears and furnishes income information, when the CSS has information from the Title IV-D client, the relative's employer or any other reliable source indicating that:

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- i) financial ability, as determined from the guidelines contained in subsection (c) of this Section, exceeds the amount indicated in case of default, as indicated in subsection (d)(3)(A) of this Section; or
 - ii) income exceeds that reported by the relative.
- C) The CSS will not issue a subpoena under subsection (d)(3)(B) of this Section where the information from the Title IV-D client, the responsible relative's employer or other source concerning the relative's financial ability is verified through documentation such as payroll records, paycheck stubs or income tax returns.
- D) In instances in which the relative fails or refuses to accept or fully respond to a Department subpoena issued to him pursuant to subsection (d)(3)(B) of this Section, the CSS may enter a temporary administrative support order by default, in accordance with subsection (d)(3)(A) of this Section, and may then, after investigation and determination of the responsible relative's financial ability to support, utilizing existing State and federal sources (for example, Illinois Department of Employment Security), client statements, employer statements, or the use of the Department's subpoena powers, enter a support order in accord with subsection (c)(1) of this Section.
- 4) The Department shall register, enforce or modify an order entered by a court or administrative body of another state, and make determinations of controlling order where appropriate, in accordance with the provisions of the Uniform Interstate Family Support Act [750 ILCS 22].
- 5) An administrative support order shall include the following:
 - A) the Title IV-D case name and identification number;
 - B) the names and birthdates of the persons for whom support is ordered;
 - C) the beginning date, amount and frequency of support;

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- D) any provision for health insurance coverage ordered under subsection (c)(4) of this Section;
- E) a provision for retroactive support ordered under subsection (c)(11), including the total retroactive support obligation and the beginning date, amount (that shall not be less than 20 percent of the current support amount) and frequency of payments to be made until the retroactive support obligation is paid in full;
- F) the amount of any arrearage that has accrued under a prior support order and the beginning date, amount (that shall not be less than 20 percent of the support order) and frequency of payments to be made until the arrearage is paid in full;
- G) a provision requiring that support payments be made to the State Disbursement Unit;
- H) a statement informing the client and the responsible relative that they have 30 days from the date of mailing of the administrative support order in which to petition the Department for a release from or modification of the order and receive a hearing in accordance with 89 Ill. Adm. Code 104.102 and subsection (c)(2) of this Section, except that for orders entered as a result of a decision after a de novo hearing, the statement shall inform the client and the responsible relative that the order is a final administrative decision of the Department and that review is available only in accord with provisions of the Administrative Review Law [735 ILCS 5/Art III];
- I) except where the order was entered as a result of a decision after a de novo hearing, a statement that the order was based upon the factors listed in subsection (c)(1)(A) of this Section and that in order to have the Department consider other factors listed in subsection (c)(2)(C) of this Section, Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14] and Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505], either the responsible relative or the client must request a de novo hearing within 30 days after mailing or delivery of the administrative support order; and

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- J) in each administrative support order entered or modified on or after January 1, 2002, a statement that a support obligation required under the order, or any portion of a support obligation required under the order, that becomes due and remains unpaid for 30 days or more shall accrue simple interest at the rate of nine percent per annum.
- 6) Every administrative support order entered on or after July 1, 1997, shall include income withholding provisions based upon and containing the same information as prescribed in Section 160.75. The Department shall also prepare and serve income withholding notices after entry of an administrative support order and effect income withholding in the same manner as prescribed in Section 160.75.
 - 7) The Department shall provide to each client and each responsible relative a copy of each administrative support order entered, no later than 14 days after entry of such order, by:
 - A) delivery at the conclusion of an interview where financial ability to support was determined. An acknowledgment of receipt signed by the client or relative or a written statement identifying the place, date and method of delivery signed by the Department's representative shall be sufficient for purposes of notice to that person.
 - B) regular mail to the party not receiving personal delivery where the relative fails or refuses to accept delivery, where either party does not attend the interview, or the orders are entered by default.
 - 8) In any case where the administrative support process has been initiated for the custodial parent and the non-marital child, and the custodial parent and the non-marital child move outside the original county, the administrative support case shall remain in the original county unless a transfer to the other county in which the custodial parent and the non-marital child reside is requested by either party or the Department and the hearing officer assigned to the original county finds that a change of venue would be equitable and not unduly hamper the administrative support process.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 9) In any case in which an administrative support order is entered to establish and enforce an arrearage only, and the responsible relative's current support obligation has been terminated, the administrative support order shall require the responsible relative to pay a periodic amount equal to the terminated current support amount until the arrearage is paid in full.
- e) Judicial Process
- 1) The Department shall refer Title IV-D cases for court action to establish support obligations of responsible relatives, pursuant to the support statutes (see subsection (a)(3) of this Section) in matters requiring the determination of parentage (except when paternity is to be determined administratively under Section 160.61), when the court has acquired jurisdiction previously and in instances described in subsection (d)(3)(D) of this Section, and as otherwise determined by the Department.
 - 2) The Department shall prepare and transmit pleadings and obtain or affix appropriate signature thereto, which pleadings shall include, but not be limited to, petitions to:
 - A) intervene;
 - B) modify;
 - C) change payment path;
 - D) establish an order for support;
 - E) establish retroactive support when the IV-D client requests it;
 - F) establish past-due support;
 - G) establish parentage;
 - H) obtain a rule to show cause;
 - I) enforce judicial and administrative support orders; and
 - J) combinations of the above.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 3) Department legal representatives shall request that judicial orders for support require payments to be made to the State Disbursement Unit in accordance with Section 10-10.4 of the Illinois Public Aid Code [305 ILCS 5/10-10.4], Section 507.1 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/507.1], Section 320 of the Uniform Interstate Family Support Act [750 ILCS 22/320], Section 21.1 of the Illinois Parentage Act of 1984 [750 ILCS 45/21.1] and Section 25 of the Non-Support Punishment Act [750 ILCS 16/25].
- f) Petitions for Release from Administrative Support Orders – Extraordinary Remedies
- 1) Notwithstanding the statements required by subsections (d)(5)(H) and (d)(5)(I) of this Section, more than 30 days after the entry of an administrative support order under subsection (d) of this Section, a party aggrieved by entry of an administrative support order may petition the Department for release from the order on the same grounds as are provided for relief from judgments under Section 2-1401 of the Code of Civil Procedure.
 - 2) Petitions under this subsection (f) must:
 - A) cite a meritorious defense to entry of the order;
 - B) cite the exercise of due diligence in presenting that defense to the Department;
 - C) be filed no later than two years following the entry of the administrative support order, except that times listed below shall be excluded in computing the two years:
 - i) time during which the person seeking relief is under legal disability;
 - ii) time during which the person seeking relief is under duress;
 - iii) time during which the ground for relief is concealed from the person seeking relief;

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- D) be supported by affidavit or other appropriate showing as to matters not supported by the record.
- 3) Notice of the filing of the petition must be given and a copy of the petition must be served on the other parent, caretaker or responsible relative by certified mail, return receipt requested, or by any manner provided by law for service of process. The filing of a petition under this subsection (f) does not affect the validity of the administrative support order.

(Source: Amended at 35 Ill. Reg. 4513, effective March 1, 2011)

Section 160.61 Uncontested and Contested Administrative Paternity and Support Establishment

- a) Definitions
 - 1) "Combined paternity index" means a statistic, stated as an odds ratio in a report of genetic testing results, giving the likelihood that the man having undergone the testing is the father of the child relative to the chance that the father is another (unrelated random) man from the same racial background.
 - 2) "Genetic testing" means deoxyribonucleic acid (DNA) tests.
 - 3) "Service" or "Served" means notice given:
 - A) by personal service, certified mail (with or without return receipt requested) or restricted delivery,
 - B) *by a person who is licensed or registered as a private detective under the Private Detective, Private Alarm, Private Security, and Locksmith Act of 2004 [225 ILCS 447] or by a registered employee of a private detective agency certified under that Act, or*
 - C) *in counties with a population of less than 2,000,000 [305 ILCS 5/10-4], by any method provided by law for service of a summons. (See Sections 2-202, 2-203 and 2-206 of the Code of Civil Procedure [735 ILCS 5/2-202, 2-203 and 2-206].)*

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 4) "Non-marital child", as used in this Section and Section 160.62, means a child born out of wedlock for whom paternity has not been established.
- 5) "Alleged father", as used in this Section and Section 160.62, means a man alleged to be the father of a non-marital child.
- 6) "Presumed father" shall have the meaning ascribed to that term in the Illinois Parentage Act of 1984 [750 ILCS 45].

7) "Probability of paternity" is the value converted from the "Combined Paternity Index" into the percentage of probability.

b) Uncontested Administrative Paternity Process

- 1) Except as otherwise determined, the Department shall establish a man's paternity of a child through the administrative process set forth in this Section, in Title IV-D cases, wherein the court has not acquired jurisdiction previously, in matters involving:
 - A) a non-marital child and support is sought from the alleged father;
 - B) a non-marital child who is in the physical custody of the alleged father or a caretaker relative other than the child's mother, and support is sought from the alleged father or from the mother, or both; or
 - C) presumed paternity as set forth in Section 5(a)(1) and (2) of the Illinois Parentage Act of 1984 [750 ILCS 45/5(a)(1) and (2)] in which a man other than the presumed father has been alleged to be the child's father, and notice has been provided to the alleged and presumed fathers as set forth in this Section.
- 2) Contact with Responsible Relatives
 - A) Following the IV-D client interview, the Department shall contact and interview:
 - i) alleged fathers to establish paternity and support

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

obligations; and

- ii) mothers to establish an alleged father's paternity of a child (where the alleged father or a caretaker relative other than the mother has physical custody of the child) and to establish the support obligation of the alleged father, the mother, or both.
- B) The purpose of contact and interview shall be to obtain relevant facts, including information concerning the child's paternity and responsible relative income information (for example, paycheck stubs, income tax returns) necessary to establish the child's paternity and to determine the responsible relative's financial ability for use in establishing child support obligations.
- 3) At least ten working days in advance of the interview, the Department shall serve upon or provide to the alleged father from whom child support is sought, by ordinary mail, a notice of alleged paternity and support obligation, which notice shall contain the following:
- A) the Title IV-D case name and identification number;
 - B) the name and birthdate of the non-marital child;
 - C) that the alleged father has been identified as the biological father of the child named in the notice, and that if determined to be the child's father he will have a legal obligation to support the child;
 - D) the date, time, place and purpose of the interview and that the alleged father may be represented by counsel;
 - E) that the alleged father should bring specified information regarding his income and resources to the interview;
 - F) that upon failure of the alleged father to appear for the interview, administrative paternity and support orders may be entered against him by default; and
 - G) that the alleged father may be ordered to pay current support and

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

retroactive support, and to provide health insurance coverage for the child.

- 4) At least ten working days in advance of the interview, the Department shall serve upon or provide to the child's mother, by ordinary mail, a notice of alleged paternity and support obligation, when a man has been alleged to be the father of the child, the alleged father has physical custody of the child, and support is sought from the mother. The notice shall contain the following:
 - A) the Title IV-D case name and identification number;
 - B) the name and birthdate of the non-marital child;
 - C) that the mother has a legal obligation to support the child;
 - D) the date, time, place and purpose of the interview and that the mother may be represented by counsel;
 - E) that the mother should bring specified information regarding her income and resources to the interview;
 - F) that the mother may be ordered to pay current support and retroactive support, and to provide health insurance coverage for the child;
 - G) that the alleged father has been identified as the biological father of the child named in the notice, and that if determined to be the child's father he will have a legal obligation to support the child; and
 - H) that upon failure of the mother to appear for the interview, or to provide necessary information to determine net income:
 - i) an administrative support order may be entered against the mother by default or the Department may seek court determination of financial ability based upon the guidelines; and

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- ii) the Department may enter an order finding the alleged father to be the father of the child.
- 5) At least ten working days in advance of the interview, the Department shall serve upon or provide to the child's mother, by ordinary mail, a notice of alleged paternity and support obligation, when a man has been alleged to be the father of a child, an adult other than a parent of the child has physical custody of the child, and support is sought from the mother and the alleged father. The notice shall contain the following:
- A) the Title IV-D case name and identification number;
 - B) the name and birthdate of the non-marital child;
 - C) that the mother has a legal obligation to support the child;
 - D) the date, time, place and purpose of the interview and that the mother may be represented by counsel;
 - E) that the mother should bring specified information regarding her income and resources to the interview;
 - F) that the mother may be ordered to pay current support and retroactive support, and to provide health insurance coverage for the child;
 - G) that the alleged father has been identified as the biological father of the child named in the notice, and that if determined to be the child's father he will have a legal obligation to support the child; and
 - H) that upon failure of the mother to appear for the interview, or to provide necessary information to determine net income:
 - i) an administrative support order may be entered against the mother by default or the Department may seek an administrative or court determination of financial ability based upon the guidelines; and

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- ii) the Department may enter an order finding the alleged father to be the father of the child on the basis of genetic testing.
- 6) Where the man alleged to be the father of a child is different from a man presumed to be the father under Section 5(a)(1) and (2) of the Illinois Parentage Act of 1984 [750 ILCS 45/5(a)(1) and (2)], the Department shall send a notice to the presumed father which shall contain the following:
- A) the Title IV-D case name and identification number;
 - B) the child's name and birthdate;
 - C) the name of the child's mother;
 - D) that the man to whom the notice is directed has been identified as the child's presumed father;
 - E) that another man has been alleged to be the child's father, and the name of that alleged father;
 - F) that the Department has scheduled an interview with the alleged father for the purpose of determining the child's paternity, and the date, time and place of the interview (the date of the interview shall not be less than ten working days after the date of the notice to the presumed father);
 - G) that if the presumed father fails to appear at the interview to assert his rights as the presumed father, the Department may enter an administrative order finding the alleged father to be the child's father on the basis of genetic testing, or if the alleged father and the child's mother voluntarily sign an acknowledgment that the alleged father is the father of the child; and
 - H) that counsel may accompany the presumed father to the interview.
- 7) The Department shall notify each Title IV-D client of the date, time and place of the alleged father interview and that the client may attend if the

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

client chooses.

- 8) In cases involving a non-marital child:
- A) The Department shall provide the alleged father and the child's mother an opportunity to establish paternity by voluntarily signing an acknowledgment of paternity (and, in a case in which there is also a presumed father, an opportunity for the mother and the presumed father to sign a denial of paternity), after being provided with information concerning the implications of signing the acknowledgment (and denial), including parental rights and responsibilities of child support, retroactive support, health insurance coverage, custody, visitation, the right to obtain and agree to be bound by the results of genetic testing, and the right to deny paternity and obtain a contested hearing.
 - B) The Department shall enter and, within 14 days after entry, serve or mail the parties a copy of an administrative paternity order finding the alleged father to be the father of the child in the following circumstances. An acknowledgment of receipt signed by the client or relative or a written statement identifying the place, date, and method of delivery signed by the Department's representative shall be sufficient for purposes of notice to that person. The Department shall enter the order where:
 - i) the alleged father and the child's mother (and any presumed father) have voluntarily signed an agreement to be bound by the results of genetic testing, and the results of such testing show that the alleged father is not excluded and that the combined paternity index is at least ~~1000500~~ to 1 and there is a 99.9% probability of paternity;
 - ii) the alleged father fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon him in a case in which support is sought from the alleged father, or fails to appear for scheduled genetic testing after signing an agreement to be bound by the results of genetic testing;

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- iii) the child's mother fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon her in a case where the alleged father has physical custody of the child;
 - iv) the child's mother fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon her in a case where an adult other than a parent of the child has physical custody of the child, the alleged father has voluntarily signed an agreement to be bound by the results of genetic testing, the results of genetic testing show that the alleged father is not excluded, and the combined paternity index is at least ~~1000500~~ to 1 and there is a 99.9% probability of paternity;
 - v) the alleged father fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon him (or fails to appear for genetic testing after agreeing to be bound by the results of genetic testing) in a case where an adult other than a parent of the child has physical custody of the child;
 - vi) the presumed father fails to appear in response to the Department's notice to presumed father served upon him, the child's mother, and the alleged father have voluntarily signed an agreement to be bound by the results of genetic testing, the results of genetic testing show that the alleged father is not excluded, and the combined paternity index is at least ~~1000500~~ to 1 and there is a 99.9% probability of paternity; or
 - vii) the alleged father fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon him, and the presumed father fails to appear in response to the Department's notice to presumed father served upon the presumed father.
- C) The Department shall make a determination that the alleged father is not the father of the child where the results of genetic testing

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

exclude the alleged father.

- 9) An agreement to be bound by the results of genetic testing under subsection (b)(8)(B) of this Section shall not be valid where the mother or alleged father is a minor, unless the parent or guardian of the minor mother or minor alleged father also signs the agreement to be bound by the results of genetic testing, except where the mother or alleged father is either emancipated or head of his or her own household with the child for whom paternity is being determined.
 - 10) A party aggrieved by entry of an administrative paternity order, pursuant to subsection (b)(8) of this Section, may have the order vacated if, within 30 days after the authorized mailing or service of the order, the party appears in person at the office to which he or she was given notice to appear for an interview pursuant to subsection (b)(3) of this Section and files a written request for relief from the order. The Department shall then proceed with the establishment of paternity under this Section. A party may obtain relief under this subsection (b) only once in any proceeding to establish paternity.
 - 11) The child's mother or the alleged father may void the presumption of paternity created by voluntarily signing an acknowledgment of paternity under Section 12 of the Vital Records Act [410 ILCS 535/12] by signing a rescission of paternity and filing it with the Department by the earlier of:
 - A) 60 days after the date the acknowledgment of paternity was signed; or
 - B) the date of an administrative or judicial proceeding relating to the child, including a proceeding to establish a support order, in which the mother or the alleged father is a party.
 - 12) If the mother or alleged father signs a rescission of paternity, the Department shall process the case under this subsection (b).
- c) Contested Paternity Hearing Officers
- 1) Except as otherwise directed by the Department or provided for in this Part, cases in which paternity is contested shall be referred to Department

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

hearing officers to administratively determine paternity. The Department shall provide the alleged father (and any presumed father) with notice and opportunity to contest paternity at a hearing to determine the existence of the father and child relationship. The notice and any administrative hearing shall be governed by 89 Ill. Adm. Code 104.200 through 104.295. Any administrative support order shall be established in accordance with Section 160.60.

- 2) Notice shall be given to all parties in the manner provided for service of a notice of alleged paternity and support obligation under subsections (a) and (b) of this Section or, where necessary, by publication in cases in which the whereabouts of a party or parties are unknown after diligent location efforts by the Department. Where service is by publication, the notice shall be published at least once in each week for three consecutive weeks in a newspaper published in the county in which the administrative proceeding is pending. If there is no newspaper published in that county, then the publication shall be in a newspaper published in an adjoining Illinois county having a circulation in the county in which the administrative proceeding is pending. In addition, where service is by publication, the date of the interview stated in the notice shall not be less than 30 days after first publication of the notice.
- 3) The Department shall enter default paternity determinations in contested administrative cases as provided for under subsection (b) of this Section. However, where notice of the administrative proceedings was served on a party by publication under subsection (c)(2) of this Section, a notice of default paternity determination shall be published in the same manner. The notice of default paternity determination shall contain the information required in an administrative paternity order under subsections (d)(1) through (9) of this Section, except that the notice of default paternity determination shall not include the mother's and father's Social Security numbers. The Department shall not proceed to establish paternity administratively under subsection (c) of this Section in those cases wherein the court has acquired jurisdiction previously or the custodial parent claims good cause for failing to cooperate in the establishment of paternity and is found to be exempt from cooperating as set forth in Section 160.35.
- 4) In any case where the administrative paternity process has been initiated

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

for the custodial parent and the non-marital child, and the custodial parent and the non-marital child move outside the original county, the paternity determination case shall remain in the original county of venue unless a transfer to another county of proper venue is requested by either party and the hearing officer assigned to the original county finds that a change of venue would be equitable and not unduly hamper the administrative paternity process.

- d) An administrative paternity order, whether entered under subsection (b) or (c) of this Section, shall include the following:
- 1) the Title IV-D case name and identification number;
 - 2) the name and birthdate of the child for whom paternity is determined;
 - 3) the alleged father's name and his Social Security number, if known;
 - 4) the mother's name and her Social Security number, if known;
 - 5) a finding that the alleged father is the father of the child, and a statement indicating how paternity was determined (for example, agreement to be bound by the results of genetic testing, default, contested hearing);
 - 6) except in cases in which paternity is administratively determined under subsection (b)(8)(B)(ii), (v) or (viii) of this Section, or in a contested hearing under subsection (c) of this Section, a statement informing the client and responsible relative that each has 30 days after the date of mailing (or delivery at the interview) of the administrative paternity order to petition the Department for release from the order and receive a hearing in accordance with 89 Ill. Adm. Code 104.105;
 - 7) in cases in which paternity is administratively determined by default under subsection (b)(8)(B)(ii), (v) or (viii) of this Section, a statement informing the client and responsible relative of the relief available pursuant to subsection (b)(10) of this Section;
 - 8) a statement that more than 30 days after entry of an administrative paternity order, a party aggrieved by entry of the administrative paternity order may petition the Department for release from the order under the

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

provisions of subsection (e) of this Section; and

- 9) in cases in which paternity is administratively determined in a contested hearing under subsection (c) of this Section, a statement informing the client and responsible relative that the order is a final and binding administrative decision, and whether the order is reviewable only under the provisions of the Administrative Review Law [735 ILCS 5/Art. III].
- e) Petitions For Release – Extraordinary Remedies
- 1) Notwithstanding the statements required by subsection (d) of this Section, more than 30 days after entry of an administrative paternity order under subsection (b) or (c) of this Section, a party aggrieved by entry of an administrative paternity order may petition the Department for release from the order.
 - 2) Petitions under this subsection (e) must:
 - A) Cite a meritorious defense to entry of the order.
 - B) Cite the exercise of due diligence in presenting that defense to the Department.
 - C) Be filed no later than two years following the entry of the administrative paternity order, except that times listed below shall be excluded in computing the two years:
 - i) time during which the person seeking relief is under legal disability;
 - ii) time during which the person seeking relief is under duress; and
 - iii) time during which the ground for relief is concealed from the person seeking relief.
 - D) Be supported by affidavit or other appropriate showing as to matters not supported by the record.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 3) Notice of the filing of the petition must be given and a copy of the petition must be served on the other parent by certified mail, return receipt requested or by any manner provided by law for service of process. The filing of a petition under this subsection (e) does not affect the validity of the administrative paternity order.
- f) When the paternity of a child has been administratively established under subsection (b) or (c) of this Section, the Department shall enter an administrative support order under the process set forth in Section 160.60.
- g) In cases in which a final administrative determination of paternity is pending, but there is clear and convincing evidence of paternity based upon the results of genetic testing and upon motion of a party, the Department shall enter a temporary order for support in the manner provided for in Section 160.60.
- h) The Department shall notify the Department of Public Health of final administrative paternity determinations, voluntary acknowledgments of paternity, denials of paternity and rescissions of paternity.
- i) In cases in which a child's certificate of birth is on file in a state other than Illinois and any of the circumstances stated below occur, the Department shall forward to the other state a copy of the final administrative determination of paternity or the voluntary acknowledgment of paternity (and the presumed father's denial of paternity, if applicable) or the rescission of paternity:
 - 1) the Department enters a final administrative determination of paternity; or
 - 2) the paternity of a child is established by voluntary acknowledgment under Section 12 of the Vital Records Act [410 ILCS 535/12]; or
 - 3) the alleged father or the child's mother rescinds a voluntary acknowledgment of paternity under Section 12 of the Vital Records Act [410 ILCS 535/12].
- j) Judicial Process. The Department shall refer Title IV-D cases for judicial action to establish a child's paternity and a responsible relative's support obligation pursuant to the Illinois Parentage Act of 1984 [750 ILCS 45], the Revised Uniform Reciprocal Enforcement of Support Act [750 ILCS 20] or the Uniform Interstate Family Support Act [750 ILCS 22], as appropriate, in matters:

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) involving contested paternity, except where the case is appropriate for referral to a Department hearing officer;
- 2) where the non-marital child was not conceived in Illinois and the alleged father resides in a state other than Illinois;
- 3) where the court has acquired jurisdiction previously; or
- 4) where the results of genetic testing show that the alleged father is not excluded and the combined paternity index is less than ~~1000500~~ to 1 and there is a 99.9% probability of paternity, except ~~when~~where the case is appropriate for referral to a Department hearing officer under subsection (c) of this Section.

(Source: Amended at 35 Ill. Reg. 4513, effective March 1, 2011)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Organization, Public Information, and Types of Proceedings
- 2) Code Citation: 2 Ill. Adm. Code 2175
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
2175.205	Amended
2175.700	New
2175.710	New
- 4) Statutory Authority: Implementing Section 10 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/10, 27 and 28] and Section 5-15 of the Administrative Procedure Act [5 ILCS 100/5-15]
- 5) Effective Date of Amendments: March 4, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments are on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500, and are available there for public inspection.
- 9) Notice of Proposal Published in Illinois Register: Pursuant to Section 5-15 of the Administrative Procedure Act [5 ILCS 100/5-15] these rules were not published as proposed rules in the *Illinois Register*.
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes
- 13) Will these amendments replace any emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and Purpose of Amendments: The Board is amending its administrative rules, last amended in 2006, to update fees charged for copies provided to the public by referencing the Freedom of Information Act Sections on fees that may be charged. Also the Board is detailing responses to emergency shut-downs of Board offices, or facilities housing Board activities if a hearing is scheduled or a Board filing date is set on the day of the emergency shut-down.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Marie Tipsord
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago, IL 60601

312/814-4925

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R11-21 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us).

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE E: MISCELLANEOUS STATE AGENCIES
CHAPTER XXVIII: POLLUTION CONTROL BOARD

PART 2175

ORGANIZATION, PUBLIC INFORMATION, AND TYPES OF PROCEEDINGS

SUBPART A: INTRODUCTION AND ORGANIZATION

Section

2175.100	Summary and Purpose
2175.105	Board Membership
2175.110	Organization and Supervisory Relationships
2175.115	Location of Offices
2175.120	Board Meetings
2175.125	Public Notice of Open Board Meetings and Closed Deliberative Sessions
2175.130	Agenda of Open Board Meetings and Closed Deliberative Sessions
2175.135	Minutes of Open Board Meetings; Minutes and Verbatim Record of Closed Deliberative Sessions
2175.140	Accessibility of Open Board Meetings and Hearings

SUBPART B: FEES AND FORMS OF PAYMENT

Section

2175.200	Filing Fees
2175.205	Copying Fees
2175.210	Copying Procedures
2175.215	Forms of Payment
2175.220	Other Fees/Costs

SUBPART C: PUBLIC INFORMATION

Section

2175.300	Files Open to Reasonable Public Inspection
2175.305	Publications
2175.310	Board Web Site
2175.315	Documents Available from the Clerk's Office
2175.320	Requests for Information

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

SUBPART D: ACCESS TO BOARD RULES

Section

2175.400 Access to Board Rules in the Illinois Administrative Code

SUBPART E: RULEMAKING

Section

2175.500 Proposals
2175.505 Hearing
2175.510 First Notice
2175.515 Second Notice
2175.520 Adopted Rules
2175.525 Emergency Rules
2175.530 Peremptory Rules
2175.535 Rules Identical-In-Substance to Federal Regulations
2175.540 Federally Required Rules
2175.545 Generally Applicable Rules and Site-Specific Rules
2175.550 Clean Air Act Fast-Track Rulemaking
2175.555 Updating Incorporations By Reference

SUBPART F: ADJUDICATORY PROCEEDINGS

Section

2175.600 Adjudicatory Proceedings

SUBPART G: EMERGENCY PROCEDURESSection

2175.700 Emergency Procedures For Filings
2175.710 Emergency Procedures For Hearings

2175.APPENDIX A Organizational Chart

AUTHORITY: Implementing Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15] and authorized by Section 5 of the Environmental Protection Act [415 ILCS 5/5].

SOURCE: Administrative rules adopted at 3 Ill. Reg. 23, p. 96, effective May 29, 1983; repealed by operation of law effective October 1, 1984; new rules adopted at 9 Ill. Reg. 107,

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

effective December 21, 1984; old Part repealed at 20 Ill. Reg. 4796 and new Part adopted at 20 Ill. Reg. 4798, effective March 5, 1996; amended in R04-9 at 30 Ill. Reg. 14990, effective August 29, 2006; amended in R11-21 at 35 Ill. Reg. 4549, effective March 4, 2011.

SUBPART B: FEES AND FORMS OF PAYMENT

Section 2175.205 Copying Fees

- a) Most files, records, and data are available on the Board's Web site (see Section 2175.310 of this Part), where they may be viewed, searched, and downloaded free of charge. Copies may also be made at the Board office in Chicago upon payment of reasonable reproduction fees as prescribed by Section 6 of the FOIA [5 ILCS 140/6]. When reasonably practicable, materials may be provided electronically in the form of compact disk, or other appropriate portable electronic storage device. The fee for such material will be based on actual costs incurred by the Board, follows:
- ~~1) A hard copy of a single opinion and order will be furnished on request without cost, irrespective of length, with any dissenting and concurring opinions s. Hard copies of multiple opinions and orders cost 75 cents per page.~~
 - ~~2) Hard copies of hearing transcripts cost 75 cents per page.~~
 - ~~3) Hard copies of all other documents cost 75 cents per page.~~
 - ~~4) When reasonably practicable, materials may be provided electronically in the form of a diskette or compact disk. The fee for such material will be based on actual costs incurred by the Board.~~
- b) State agencies are, upon request, provided a hard copy of opinions and orders and transcripts free of charge.
- c) Fees will be waived or reduced if:
- 1) The requestor is a constitutional officer or a member of the General Assembly; or

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 2) *The requestor states the specific purpose for the request and indicates that a waiver of the fee is in the public interest. Waiver of the fee is in the public interest if the principal purpose of the request is to access and disseminate information regarding the health, safety, and welfare or the legal rights of the general public and is not for the purpose of personal or commercial benefit [5 ILCS 140/6(c**b**)].*
- d) No fee will be charged to inspect records. Inspection of records can only take place in Chicago at the Clerk's Office.

(Source: Amended at 35 Ill. Reg. 4549, effective March 4, 2011)

SUBPART G: EMERGENCY PROCEDURES**Section 2175.700 Emergency Procedures For Filings**

In the event that an emergency, such as extreme weather conditions, public safety or other exigency, results in the Governor or other authority directing the closure of the Clerk's office on a day scheduled for regular business, the Board will implement the following procedures:

- a) All non-statutory filing deadlines will be automatically extended until the next business day.
- b) Statutory filing deadlines must be met by following the rules at 35 Ill. Adm. Code 101.Subpart C.
- c) When possible, the Board will place notices on the Board's website of the emergency closures.

(Source: Added at 35 Ill. Reg. 4549, effective March 4, 2011)

Section 2175.710 Emergency Procedures For Hearings

In the event that an emergency, such as extreme weather conditions, public safety or other exigency, results in the Governor or other authority directing the closure of a facility where a Board hearing is scheduled for the day of the closure, the Board will implement the following procedures:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- a) Hearings scheduled for the day of the emergency closure, will be held on the next business day and may be continued on the record to a date certain, when schedules of the participants require such a continuance.
- b) When possible, the Board will place notices on the Board's website of the emergency closures and the date of the continued hearing.

(Source: Added at 35 Ill. Reg. 4549, effective March 4, 2011)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Hospital Licensing Requirements
- 2) Code Citation: 77 Ill. Adm. Code 250
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
250.130	Amend
250.160	Amend
250.260	Amend
250.1030	Amend
250.1320	Amend
- 4) Statutory Authority: Hospital Licensing Act [210 ILCS 85]
- 5) Effective Date of Rulemaking: March 4, 2011
- 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 amendments, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: October 1, 2010; 34 Ill. Reg. 13748
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version:

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

1. Section 250.160 (Incorporated and Reference Materials) was inserted in the rulemaking and subsection (a)(3) was added:
 - "A) 45 CFR 46.101, To What Does the Policy Apply? (October, 2010).
 - B) 45 CFR 46.103(b), Assuring Compliance with this Policy – Research conducted or supported by any Federal Department or Agency (October, 2010).
 - C) 42 CFR 482, Conditions of Participation for Hospitals (October, 2010).

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- D) Title 21 CFR Food and Drugs (April, 2010). was added.
2. In Section 250.160(c)(1), "Q) Health Care Surrogate Act [775 ILCS 40]." was added.
 3. In Section 250.260(c)(6), "shall" was changed to "may" in the last sentence.
 4. In Section 250.1320(a), "1) For the purposes of this Section, Phase 1 of postanesthesia care is the phase immediately following surgery, usually in a recovery room, after which the patient is returned to his or her room." was inserted and the following two subsections were renumbered accordingly.
 5. In Section 250.1320(c)(9)(C), ", preferably" was inserted after "person", "but at least prior to visitation" was inserted after "procedure", and "the procedure and" was stricken.

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

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
250.160	Amend	34 Ill. Reg. 15127; October 8, 2010
250.1910	Amend	34 Ill. Reg. 15127; October 8, 2010
250.1980	Amend	34 Ill. Reg. 15127; October 8, 2010
250.2450	Amend	34 Ill. Reg. 15127; October 8, 2010
250.2460	Amend	34 Ill. Reg. 15127; October 8, 2010
250.2470	Amend	34 Ill. Reg. 15127; October 8, 2010
250.2480	Amend	34 Ill. Reg. 15127; October 8, 2010
250.2490	Amend	34 Ill. Reg. 15127; October 8, 2010
250.2500	Amend	34 Ill. Reg. 15127; October 8, 2010
250.2610	Amend	34 Ill. Reg. 15127; October 8, 2010
250.2620	Amend	34 Ill. Reg. 15127; October 8, 2010

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

250.2630	Amend	34 Ill. Reg. 15127; October 8, 2010
250.2640	Amend	34 Ill. Reg. 15127; October 8, 2010
250.2650	Amend	34 Ill. Reg. 15127; October 8, 2010
250.2660	Amend	34 Ill. Reg. 15127; October 8, 2010
250.2670	Amend	34 Ill. Reg. 15127; October 8, 2010
250.2680	Amend	34 Ill. Reg. 15127; October 8, 2010

- 15) Summary and Purpose of the Rulemaking: The Hospital Licensing Requirements regulate hospitals, including such aspects of patient care as allegations of abuse and neglect of patients, the safe handling of patients, and postoperative care.

The statutory and non-statutory amendments in this proposed rulemaking involve these issues. Section 250.130 (Administration by the Department) and 250.260 (Patients' Rights) implemented statutory changes from Public Act 96-692, which establishes minimum requirements for protecting patients from abuse and neglect, including reporting such allegations, and subsequent investigations by the hospital and the Department. Section 250.1030 (Policies and Procedures) implemented statutory language from PA 96-389, which establishes minimum requirements for the lifting, transferring, moving, or repositioning of patients.

Section 250.1320 (Postoperative Recovery Facilities) was amended to bring the requirements for postoperative recovery rooms into conformity with current health care industry standards, including the current terminology for such units, "Phase 1 Postanesthesia Care Unit". The name of the Section also was changed.

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

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

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

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH

CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIES

PART 250

HOSPITAL LICENSING REQUIREMENTS

SUBPART A: GENERAL

Section

- 250.110 Application for and Issuance of Permit to Establish a Hospital
- 250.120 Application for and Issuance of a License to Operate a Hospital
- 250.130 Administration by the Department
- 250.140 Hearings
- 250.150 Definitions
- 250.160 Incorporated and Referenced Materials

SUBPART B: ADMINISTRATION AND PLANNING

Section

- 250.210 The Governing Board
- 250.220 Accounting
- 250.230 Planning
- 250.240 Admission and Discharge
- 250.250 Visiting Rules
- 250.260 Patients' Rights
- 250.265 Language Assistance Services
- 250.270 Manuals of Procedure
- 250.280 Agreement with Designated Organ Procurement Agencies
- 250.285 Smoking Restrictions
- 250.290 Safety Alert Notifications

SUBPART C: THE MEDICAL STAFF

Section

- 250.310 Organization
- 250.315 House Staff Members
- 250.320 Admission and Supervision of Patients
- 250.330 Orders for Medications and Treatments

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

250.340 Availability for Emergencies

SUBPART D: PERSONNEL SERVICE

Section

250.410 Organization
250.420 Personnel Records
250.430 Duty Assignments
250.435 Health Care Worker Background Check
250.440 Education Programs
250.450 Personnel Health Requirements
250.460 Benefits

SUBPART E: LABORATORY

Section

250.510 Laboratory Services
250.520 Blood and Blood Components
250.525 Designated Blood Donor Program
250.530 Proficiency Survey Program (Repealed)
250.540 Laboratory Personnel (Repealed)
250.550 Western Blot Assay Testing Procedures (Repealed)

SUBPART F: RADIOLOGICAL SERVICES

Section

250.610 General Diagnostic Procedures and Treatments
250.620 Radioactive Isotopes
250.630 General Policies and Procedures Manual

SUBPART G: GENERAL HOSPITAL EMERGENCY SERVICE

Section

250.710 Classification of Emergency Services
250.720 General Requirements
250.725 Notification of Emergency Personnel
250.730 Community or Areawide Planning
250.740 Disaster and Mass Casualty Program
250.750 Emergency Services for Sexual Assault Victims

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

SUBPART H: RESTORATIVE AND REHABILITATION SERVICES

Section	
250.810	Applicability of Other Parts of These Requirements
250.820	General
250.830	Classifications of Restorative and Rehabilitation Services
250.840	General Requirements for all Classifications
250.850	Specific Requirements for Comprehensive Physical Rehabilitation Services
250.860	Medical Direction
250.870	Nursing Care
250.880	Additional Allied Health Services
250.890	Animal-Assisted Therapy

SUBPART I: NURSING SERVICE AND ADMINISTRATION

Section	
250.910	Nursing Services
250.920	Organizational Plan
250.930	Role in hospital planning
250.940	Job descriptions
250.950	Nursing committees
250.960	Specialized nursing services
250.970	Nursing Care Plans
250.980	Nursing Records and Reports
250.990	Unusual Incidents
250.1000	Meetings
250.1010	Education Programs
250.1020	Licensure
250.1030	Policies and Procedures
250.1035	Domestic Violence Standards
250.1040	Patient Care Units
250.1050	Equipment for Bedside Care
250.1060	Drug Services on Patient Unit
250.1070	Care of Patients
250.1075	Use of Restraints
250.1080	Admission Procedures Affecting Care
250.1090	Sterilization and Processing of Supplies
250.1100	Infection Control

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 250.1110 Mandatory Overtime Prohibition
- 250.1120 Staffing Levels
- 250.1130 Nurse Staffing by Patient Acuity

SUBPART J: SURGICAL AND RECOVERY ROOM SERVICES

Section

- 250.1210 Surgery
- 250.1220 Surgery Staff
- 250.1230 Policies & Procedures
- 250.1240 Surgical Privileges
- 250.1250 Surgical Emergency Care
- 250.1260 Operating Room Register and Records
- 250.1270 Surgical Patients
- 250.1280 Equipment
- 250.1290 Safety
- 250.1300 Operating Room
- 250.1305 Visitors in Operating Room
- 250.1310 Cleaning of Operating Room
- 250.1320 Postanesthesia Care Units~~Postoperative Recovery Facilities~~

SUBPART K: ANESTHESIA SERVICES

Section

- 250.1410 Anesthesia Service

SUBPART L: RECORDS AND REPORTS

Section

- 250.1510 Medical Records
- 250.1520 Reports

SUBPART M: FOOD SERVICE

Section

- 250.1610 Dietary Department Administration
- 250.1620 Facilities
- 250.1630 Menus and Nutritional Adequacy
- 250.1640 Diet Orders

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

250.1650	Frequency of Meals
250.1660	Therapeutic (Modified) Diets
250.1670	Food Preparation and Service
250.1680	Sanitation

SUBPART N: HOUSEKEEPING AND LAUNDRY SERVICES

Section

250.1710	Housekeeping
250.1720	Garbage, Refuse and Solid Waste Handling and Disposal
250.1730	Insect and Rodent Control
250.1740	Laundry Service
250.1750	Soiled Linen
250.1760	Clean Linen

SUBPART O: MATERNITY AND NEONATAL SERVICE

Section

250.1810	Applicability of other Parts of these regulations
250.1820	Maternity and Neonatal Service (Perinatal Service)
250.1830	General Requirements for All Maternity Departments
250.1840	Discharge of Newborn Infants from Hospital
250.1850	Rooming-In Care of Mother and Infant
250.1860	Special Programs
250.1870	Single Room Maternity Care

SUBPART P: ENGINEERING AND MAINTENANCE OF THE PHYSICAL PLANT, SITE,
EQUIPMENT, AND SYSTEMS – HEATING, COOLING, ELECTRICAL, VENTILATION,
PLUMBING, WATER, SEWER, AND SOLID WASTE DISPOSAL

Section

250.1910	Maintenance
250.1920	Emergency electric service
250.1930	Water Supply
250.1940	Ventilation, Heating, Air Conditioning, and Air Changing Systems
250.1950	Grounds and Buildings Shall be Maintained
250.1960	Sewage, Garbage, Solid Waste Handling and Disposal
250.1970	Plumbing
250.1980	Fire and Safety

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

SUBPART Q: CHRONIC DISEASE HOSPITALS

Section	
250.2010	Definition
250.2020	Requirements

SUBPART R: PHARMACY OR DRUG AND MEDICINE SERVICE

Section	
250.2110	Service Requirements
250.2120	Personnel Required
250.2130	Facilities for Services
250.2140	Pharmacy and Therapeutics Committee

SUBPART S: PSYCHIATRIC SERVICES

Section	
250.2210	Applicability of other Parts of these Regulations
250.2220	Establishment of a Psychiatric Service
250.2230	The Medical Staff
250.2240	Nursing Service
250.2250	Allied Health Personnel
250.2260	Staff and Personnel Development and Training
250.2270	Admission, Transfer and Discharge Procedures
250.2280	Care of Patients
250.2290	Special Medical Record Requirements for Psychiatric Hospitals and Psychiatric Units of General Hospitals or General Hospitals Providing Psychiatric Care
250.2300	Diagnostic, Treatment and Physical Facilities and Services

SUBPART T: DESIGN AND CONSTRUCTION STANDARDS

Section	
250.2410	Applicability of these Standards
250.2420	Submission of Plans for New Construction, Alterations or Additions to Existing Facility
250.2430	Preparation of Drawings and Specifications – Submission Requirements
250.2440	General Hospital Standards
250.2442	Fees

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

250.2443	Advisory Committee
250.2450	Details
250.2460	Finishes
250.2470	Structural
250.2480	Mechanical
250.2490	Plumbing and Other Piping Systems
250.2500	Electrical Requirements

SUBPART U: CONSTRUCTION STANDARDS FOR EXISTING HOSPITALS

Section	
250.2610	Applicability of these Standards
250.2620	Codes and Standards
250.2630	Existing General Hospital Standards
250.2640	Details
250.2650	Finishes
250.2660	Mechanical
250.2670	Plumbing and Other Piping Systems
250.2680	Electrical Requirements

SUBPART V: SPECIAL CARE AND/OR SPECIAL SERVICE UNITS

Section	
250.2710	Special Care and/or Special Service Units
250.2720	Day Care for Mildly Ill Children

SUBPART W: ALCOHOLISM AND INTOXICATION TREATMENT SERVICES

Section	
250.2810	Applicability of Other Parts of These Requirements
250.2820	Establishment of an Alcoholism and Intoxication Treatment Service
250.2830	Classification and Definitions of Service and Programs
250.2840	General Requirements for all Hospital Alcoholism Program Classifications
250.2850	The Medical and Professional Staff
250.2860	Medical Records
250.2870	Referral
250.2880	Client Legal and Human Rights

250.APPENDIX A	Codes and Standards (Repealed)
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DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

250.EXHIBIT A	Codes (Repealed)
250.EXHIBIT B	Standards (Repealed)
250.EXHIBIT C	Addresses of Sources (Repealed)
250.ILLUSTRATION A	Seismic Zone Map
250.TABLE A	Measurements Essential for Level I, II, III Hospitals
250.TABLE B	Sound Transmission Limitations in General Hospitals
250.TABLE C	Filter Efficiencies for Central Ventilation and Air Conditioning Systems in General Hospitals (Repealed)
250.TABLE D	General Pressure Relationships and Ventilation of Certain Hospital Areas (Repealed)
250.TABLE E	Piping Locations for Oxygen, Vacuum and Medical Compressed Air
250.TABLE F	General Pressure Relationships and Ventilation of Certain Hospital Areas
250.TABLE G	Insulation/Building Perimeter

AUTHORITY: Implementing and authorized by the Hospital Licensing Act [210 ILCS 85].

SOURCE: Rules repealed and new rules adopted August 27, 1978; emergency amendment at 2 Ill. Reg. 31, p. 73, effective July 24, 1978, for a maximum of 150 days; amended at 2 Ill. Reg. 21, p. 49, effective May 16, 1978; emergency amendment at 2 Ill. Reg. 31, p. 73, effective July 24, 1978, for a maximum of 150 days; amended at 2 Ill. Reg. 45, p. 85, effective November 6, 1978; amended at 3 Ill. Reg. 17, p. 88, effective April 22, 1979; amended at 4 Ill. Reg. 22, p. 233, effective May 20, 1980; amended at 4 Ill. Reg. 25, p. 138, effective June 6, 1980; amended at 5 Ill. Reg. 507, effective December 29, 1980; amended at 6 Ill. Reg. 575, effective December 30, 1981; amended at 6 Ill. Reg. 1655, effective January 27, 1982; amended at 6 Ill. Reg. 3296, effective March 15, 1982; amended at 6 Ill. Reg. 7835 and 7838, effective June 17, 1982; amended at 7 Ill. Reg. 962, effective January 6, 1983; amended at 7 Ill. Reg. 5218 and 5221, effective April 4, 1983 and April 5, 1983; amended at 7 Ill. Reg. 6964, effective May 17, 1983; amended at 7 Ill. Reg. 8546, effective July 12, 1983; amended at 7 Ill. Reg. 9610, effective August 2, 1983; codified at 8 Ill. Reg. 19752; amended at 8 Ill. Reg. 24148, effective November 29, 1984; amended at 9 Ill. Reg. 4802, effective April 1, 1985; amended at 10 Ill. Reg. 11931, effective September 1, 1986; amended at 11 Ill. Reg. 10283, effective July 1, 1987; amended at 11 Ill. Reg. 10642, effective July 1, 1987; amended at 12 Ill. Reg. 15080, effective October 1, 1988; amended at 12 Ill. Reg. 16760, effective October 1, 1988; amended at 13 Ill. Reg. 13232, effective September 1, 1989; amended at 14 Ill. Reg. 2342, effective February 15, 1990; amended at 14 Ill. Reg. 13824, effective September 1, 1990; amended at 15 Ill. Reg. 5328, effective May 1, 1991; amended at 15 Ill. Reg. 13811, effective October 1, 1991; amended at 17 Ill. Reg. 1614, effective January 25, 1993; amended at 17 Ill. Reg. 17225, effective October 1, 1993; amended at 18 Ill. Reg. 11945, effective July 22, 1994; amended at 18 Ill. Reg. 15390, effective October 10, 1994; amended at 19 Ill. Reg. 13355, effective September 15, 1995;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

emergency amendment at 20 Ill. Reg. 474, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 3234, effective February 15, 1996; amended at 20 Ill. Reg. 10009, effective July 15, 1996; amended at 22 Ill. Reg. 3932, effective February 13, 1998; amended at 22 Ill. Reg. 9342, effective May 20, 1998; amended at 23 Ill. Reg. 1007, effective January 15, 1999; emergency amendment at 23 Ill. Reg. 3508, effective March 4, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9513, effective August 1, 1999; amended at 23 Ill. Reg. 13913, effective November 15, 1999; amended at 24 Ill. Reg. 6572, effective April 11, 2000; amended at 24 Ill. Reg. 17196, effective November 1, 2000; amended at 25 Ill. Reg. 3241, effective February 15, 2001; amended at 27 Ill. Reg. 1547, effective January 15, 2003; amended at 27 Ill. Reg. 13467, effective July 25, 2003; amended at 28 Ill. Reg. 5880, effective March 29, 2004; amended at 28 Ill. Reg. 6579, effective April 15, 2004; amended at 29 Ill. Reg. 12489, effective July 27, 2005; amended at 31 Ill. Reg. 4245, effective February 20, 2007; amended at 31 Ill. Reg. 14530, effective October 3, 2007; amended at 32 Ill. Reg. 3756, effective February 27, 2008; amended at 32 Ill. Reg. 4213, effective March 10, 2008; amended at 32 Ill. Reg. 7932, effective May 12, 2008; amended at 32 Ill. Reg. 14336, effective August 12, 2008; amended at 33 Ill. Reg. 8306, effective June 2, 2009; amended at 34 Ill. Reg. 2528, effective January 27, 2010; amended at 34 Ill. Reg. 3331, effective February 24, 2010; amended at 34 Ill. Reg. 19031, effective November 17, 2010; amended at 34 Ill. Reg. 19158, effective November 23, 2010; amended at 35 Ill. Reg. 4556, effective March 4, 2011.

SUBPART A: GENERAL

Section 250.130 Administration by the Department

- a) Interpretation of Regulations
Nothing in ~~this Part~~ ~~these regulations~~ shall be interpreted or used to impose any method of treatment or care inconsistent with the creed or moral tenets of any religious denomination, provided that the requirements as to personnel, building, equipment, space, sanitation, food service, supplies, records, and fire safety are met.
- b) Research Programs and/or Experimental Procedures:
 - 1) Definitions:
 - A) Experimental procedures ~~—~~ the use of medical, surgical, manipulative, or psychiatric procedures, drugs, or devices for purposes of diagnosis or treatment of human subjects who are inpatients or outpatients of a hospital and who are subjects at risk.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- B) Research program —: any organized activity intended to establish new medical or scientific information, ~~involving which activity involves~~ medical, surgical, manipulative, or psychiatric diagnosis or treatment of human subjects who are inpatients or outpatients of a hospital and who are subjects at risk.
- C) Subject at risk —: means any individual who may be exposed to the possibility of injury, including physical, psychological, or social injury, as a consequence of participation as a subject in any research, development, or related activity ~~that which~~ significantly departs from the application of those established and accepted methods necessary to meet his or her needs, or ~~that which~~ increases the ordinary risks of daily life, including the recognized risks inherent in a chosen occupation or field of service. (See 45 CFR 46.103(b), ~~(1980)~~)
- 2) Entitlement to conduct research programs and/or experimental procedures: A licensed hospital may conduct research programs and/or experimental procedures if ~~thesueh~~ hospital meets any of the following:
- A) ~~The~~ hospital is formally affiliated with, or is part of, a school whose graduates are eligible for examination for licensing pursuant to statutes, rules and regulations administered by the Department of ~~Financial and Professional Regulation~~ Registration and Education and whose graduates, if licensed, are eligible for admission to the medical staff, provided that the research programs and/or experimental procedures are conducted on a service or within a department of the hospital ~~that which~~ is within the scope of the formal affiliation. Documentation of ~~that sueh~~ affiliation shall be available for inspection by the Department upon reasonable request.
- B) ~~The~~ hospital is conducting, or proposing to conduct, programs subject to the provisions of 45 CFR 46.101 ~~et seq. (1980) as amended~~, or pursuant to the provisions of Title 21, Code of Federal Regulations, ~~(1981), as amended~~. Documentation of approval of the Secretary of the Department of Health and Human Services for ~~thesueh~~ research programs and/or experimental procedures shall

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

be available for inspection by the Department upon reasonable request.

C) ~~The~~ hospital has an Institutional Review Committee and has complied with all requirements specified in ~~subsection~~Section 250.130 (b)(4).

3) Approval to conduct research programs and/or experimental procedures:

A) Hospitals ~~that~~which meet the requirements of ~~subsection~~Section 250.130 (b)(2)(A) or ~~Section 250.130~~-(b)(2)(B) ~~of the Hospital Licensing Requirements~~ may conduct approved research such programs.

B) Hospitals ~~that~~which do not meet the requirements of ~~subsection~~Section 250.130 (b)(2)(A) or ~~Section 250.130~~-(b)(2)(B) ~~of the Hospital Licensing Requirements~~ shall have an Institutional Review Committee as described in ~~subsection~~Section 250.130 (b)(4) ~~below~~.

4) Use of Institutional Review Committee to approve research programs and/or experimental procedures:

A) ~~i)~~ The Committee ~~shall~~must be composed of not ~~fewer~~less than five ~~(5)~~ persons with varying backgrounds to assure complete and adequate review of activities commonly conducted by the institution. The Committee ~~shall~~must be sufficiently qualified through the maturity, experience, and expertise of its members and ~~the~~ diversity of its membership to ~~ensure~~insure respect for its advice and counsel for safeguarding the rights and welfare of human subjects.

~~B) ii)~~ In addition to possessing the professional competence necessary to review specific activities, the Committee ~~shall~~must be able to ascertain the acceptability of ~~applications~~application and proposals in terms of institutional commitments and regulations, applicable law, standards of professional conduct and practice, and community attitudes. The Committee ~~shall~~must therefore include persons whose concerns are in these areas. No member of a

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Committee shall be involved in either the initial or continuing review of an activity in which he or she has a conflicting interest, except to provide information requested by the Committee. No Committee shall consist entirely of persons who are officers, employees, or agents, of, or are otherwise associated with, the institution, apart from their membership on the Committee. No Committee shall consist entirely of members of a single professional group. The quorum of the Committee shall be defined, but ~~shall not~~may in no event be less than a majority of the total membership, duly convened to carry out the Committee's responsibilities.

- ~~C)B)~~ The Institutional Review Committee ~~shall~~must develop a set of implementation guidelines, including identification of the Committee and a written description of its review procedures. At a minimum, the review procedures ~~shall~~must provide for informed consent, which shall include provision to the individual of an explanation of any procedures ~~that~~which are experimental, a description of any discomforts and risks to be expected, alternative procedures that might be advantageous, answers to any inquiries concerning the procedures, and the opportunity to withdraw his or her consent and discontinue in the project at any time without prejudice.
- ~~D)C)~~ The Institutional Review Committee shall review all applications for research programs and/or experimental procedures within a hospital and prepare a written report, following the implementation ~~requirements~~guidelines outlined in ~~subsection~~ Section 250.130 (b)(4)~~(CB)~~, to be given to the applicant on the acceptance or rejection of the program. A copy of this report shall also be sent to the Department within 30 days after completion of the written report. In addition, minutes covering all activities ~~shall~~will be prepared and made available to the ~~Illinois~~Illinois-Department-of-Public-Health. Complete copies of the minutes and reports shall be presented to the hospital's governing authority. Records shall be retained for three years.
- ~~E)D)~~ If, ~~however~~, the Department finds that the public interest, safety or welfare ~~imperatively~~requires emergency action, the Director, after

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

appropriate medical consultation and guidance, may issue to the applicant a notice not to proceed with or continue (if initiated) the research program and/or experimental procedure ~~that which~~ is the subject of the application. The Director shall then obtain further information and clarification regarding the research program and/or experimental procedure ~~that which~~ is the subject ~~of~~ the application and make a final decision to approve or to disapprove the identified program and/or procedure.

~~F)E)~~ Failure to establish an Institutional Review Committee and/or failure to utilize the Institutional Review Committee ~~shall will~~ be considered a violation of the Hospital Licensing Act.

c) Inspections

- 1) All hospitals to which these requirements apply shall be subject to inspection by ~~personnel of~~ the Department, or by such other persons, including full-time local health officers, as the Department may designate. The licensee or person representing the licensee in the hospital shall provide the representative of the Department with any requested hospital records, assist in inspecting the premises, and secure information required by the Act or ~~this Part~~ Requirements.
- 2) The Department shall make or cause to be made such inspections and investigations as it deems necessary, ~~except that, subject to appropriation, the Department shall investigate every allegation of abuse of a patient received by the Department. (Section 9 of the Act)~~
- 3) Hospitals are authorized to submit a copy of the Joint ~~Commission on Accreditation of Healthcare Organizations' (JCAHO's)~~ Commission's survey report, certification and accreditation, interim self-evaluation report and Plan of Correction to the Department.
- 4) Information contained in reports of surveys made by ~~JCAHO the Joint Commission on Accreditation of Hospitals~~ and information gained from reports of surveys or transmittals of information from the various Divisions of the Department or ~~other~~ State ~~agencies~~ Agencies may be used in determining the need for inspections for compliance with licensing requirements. All ~~such~~ reports provided to the Department for this

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

purpose shall be considered confidential information as provided in Section 9 of the Act.

- d) Required ~~Regulations and advisory regulations~~
- 1) ~~The use herein of such words as "may" or "should" and such phrases as "it is recommended" indicates that in such instances the standard is advisory only and compliance optional. Compliance with all other regulations is required. 2) Hospitals participating in the Medicare/Medicaid Programs shall comply with the regulations of the Federal Department of Health, and Human Services as set forth in the latest publication entitled "Conditions of Participation; Hospital," (HHR-10 (6/77), or revisions thereof.~~
- e) ~~Revision of regulations~~
~~These regulations may be amended and revised by the Department. However, no rule, regulation or standard shall be adopted by the Department concerning the operation of hospitals which has not had prior approval of the Hospital Licensing Board nor shall the Department adopt any rule, regulation or standard relating to the establishment of a hospital without consultation with the Hospital Licensing Board.~~
- f) ~~Compliance with regulations~~
~~Unless otherwise specified, hospitals existing at the time of the initial promulgation of a regulation shall be given reasonable time, not to exceed one year from the date of promulgation, within which to comply.~~

(Source: Amended at 35 Ill. Reg. 4556, effective March 4, 2011)

Section 250.160 Incorporated and Referenced Materials

- a) The following regulations and standards are incorporated in this Part:
- 1) Private and professional association standards:
- A) American Society for Testing and Materials (ASTM), Standard No. E90-99 (2002): Standard Test Method for Laboratory Measurement of Airborne Sound Transmission Loss of Building Partitions and Elements, which may be obtained from the

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959. (See Section 250.2420.)

- B) The following standards of the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE), which may be obtained from the American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Inc., 1791 Tullie Circle, N.E., Atlanta, Georgia 30329: (See Section 250.2480.)
- i) ASHRAE Handbook of Fundamentals (2005);
 - ii) ASHRAE Handbook for HVAC Systems and Equipment (2004);
 - iii) ASHRAE Handbook-HVAC Applications (2003).
- C) The following standards of the National Fire Protection Association (NFPA), which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02169:
- i) No. 101 (2000): Life Safety Code; (See Sections 250.2420, 250.2450, 250.2460, 250.2470, and 250.2490.)
 - ii) No. 10 (1998): Standards for Portable Fire Extinguishers; (See Section 250.1980.)
 - iii) No. 13 (1999): Standards for the Installation of Sprinkler Systems; (See Sections 250.2490 and 250.2670.)
 - iv) No. 14 (2000): Standard for the Installation of Standpipe, Private Hydrants and Hose Systems; (See Sections 250.2490 and 250.2670.)
 - v) No. 25 (1998): Standard for the Inspection, Testing and Maintenance of Water-Based Fire Protection Systems;
 - vi) No. 30 (1996): Flammable and Combustible Liquids Code;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

(See Section 250.1980.);

- vii) No. 45 (1996): Standard on Fire Protection for Laboratories Using Chemicals;
- viii) No. 54 (1999): National Fuel Gas Code;
- ix) No. 70 (1999): National Electrical Code; (See Sections 250.2440 and 250.2500.);
- x) No. 72 (1999): National Fire Alarm Code;
- xi) No. 80 (1999): Standard for Fire Doors and Fire Windows; (See Section 250.2450.);
- xii) No. 82 (1999): Standard on Incinerators and Waste and Linen Handling Systems and Equipment; (See Section 250.2440.);
- xiii) No. 90A (1999): Standard for Installation of Air Conditioning and Ventilating Systems; (See Sections 250.2480 and 250.2660.);
- xiv) No. 96 (1998): Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations; (See Section 250.2660.);
- xv) No. 99 (1999): Standard for Health Care Facilities; (See Sections 250.1410, 250.1910, 250.1980, 250.2460, 250.2480, 250.2490 and 250.2660.);
- xvi) No. 101-A (2001): Guide on Alternative Approaches to Life Safety; (See Section 250.2620.);
- xvii) No. 110 (1999): Standard for Emergency and Standby Power Systems;
- xviii) No. 220 (1999): Standard on Types of Building Construction; (See Sections 250.2470 and 250.2620.);

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- xix) No. 221 (1997): Standard for Fire Walls and Fire Barrier Walls;
 - xx) No. 241 (1996): Standard for Safeguarding Construction, Alteration and Demolition Operations;
 - xxi) No. 255 and 258 (2000): Standard Method of Test of Surface Burning Characteristics of Building Materials, and Recommended Practice for Determining Smoke Generation of Solid Materials; (See Section 250.2480.);
 - xxii) No. 701 (1999): Standard Methods of Fire Tests for Flame Propagation of Textiles and Films. (See Sections 250.2460 and 250.2650.).
- D) American Academy of Pediatrics and American College of Obstetricians and Gynecologists, Guidelines for Perinatal Care, Sixth Edition (2007), which may be obtained from the American College of Obstetricians and Gynecologists Distribution Center, P.O. Box 933104, Atlanta, Georgia 31193-3104 (800-762-2264). (See Section 250.1820.)
- E) American College of Obstetricians and Gynecologists, Guidelines for Women's Healthcare, Third Edition (2007), which may be obtained from the American College of Obstetricians and Gynecologists Distribution Center, P.O. Box 933104, Atlanta, Georgia 31193-3104 (800-762-2264). (See Section 250.1820.)
- F) National Council on Radiation Protection and Measurements (NCRP), Report No. 49: Structural Shielding Design and Evaluation for Medical Use of X-rays and Gamma Rays of Energies up to 10 MeV (1976) and NCRP Report No. 102: Medical X-Ray, Electron Beam and Gamma-Ray Protection for Energies Up to 50 MeV (Equipment Design, Performance and Use) (1989), which may be obtained from the National Council on Radiation Protection and Measurements, 7910 Woodmont Ave., Suite 800, Bethesda, Maryland 20814-3095. (See Sections 250.2440 and 250.2450.)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- G) DOD Penetration Test Method MIL STD No. 282 (1995): Filter Units, Protective Clothing, Gas-mask Components and Related Products: Performance Test Methods, which may be obtained from Naval Publications and Form Center, 5801 Tabor Avenue, Philadelphia, Pennsylvania 19120. (See Section 250.2480.)
- H) National Association of Plumbing-Heating-Cooling Contractors (PHCC), National Standard Plumbing Code (2003), which may be obtained from the National Association of Plumbing-Heating-Cooling Contractors, 180 S. Washington Street, P.O. Box 6808, Falls Church, Virginia 22046 (703-237-8100).
- I) The International Code Council, International Building Code (2000), which may be obtained from the International Code Council, 4051 Flossmoor Road, Country Club Hills, Illinois 60477-5795. (See Section 250.2420.)
- J) American National Standards Institute, Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped (1968), which may be obtained from the American National Standards Institute, 25 West 433rd Street, 4th Floor, New York, New York 10036. (See Section 250.2420.)
- K) Accreditation Council for Graduate Medical Education, Essentials of Accredited Residencies in Graduate Medical Education (1997), which may be obtained from the Accreditation Council for Graduate Medical Education, 515 North State Street, Suite 2000, Chicago, Illinois 60610. (See Section 250.315.)
- L) Joint Commission on Accreditation of Healthcare Organizations, 2006 Hospital Accreditation Standards (HAS), Standard PC.3.10, which may be obtained from the Joint Commission on Accreditation of Healthcare Organizations, One Renaissance Boulevard, Oakbrook Terrace, Illinois 60181. (See Section 250.1035.)
- M) National Quality Forum, Safe Practices for Better Health Care (2009), which may be obtained from the National Quality Forum,

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

601 13th Street, NW, Suite 500 North, Washington DC 20005, or
from www.qualityforum.org.

- 2) Federal Government Publications:
 - A) Department of Health and Human Services, United States Public Health Service, Centers for Disease Control and Prevention, "Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings 2007" and "Guidelines for Infection Control in Health Care Personnel, 1998, which may be obtained from National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161. (See Section 250.1100.)
 - B) Department of Health and Human Services, United States Public Health Service, Centers for Disease Control and Prevention, "Guidelines for Environmental Infection Control in Health-Care Facilities: Recommendations – Animals in Health Care Facilities", "Morbidity and Mortality Weekly Report", June 6, 2003/Vol. 52/No. RR-10, which may be obtained from the Centers for Disease Control and Prevention, 1600 Clifton Road, MS K-95, Atlanta, Georgia 30333.
 - C) Department of Health and Human Services, United States Public Health Services, Centers for Disease Control and Prevention, "Guidelines for Hand Hygiene in Health-Care Settings", October 25, 2002, which may be obtained from the National Technical Information Services (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.
 - D) Department of Health and Human Services, United States Public Health Service, Centers for Disease Control and Prevention, "Guidelines for Disinfection and Sterilization in Healthcare Facilities, 2008", which may be obtained from the Centers for Disease Control and Prevention, 1600 Clifton Road, Atlanta, Georgia 30333.

3) Federal Regulations

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- A) [45 CFR 46.101, To What Does the Policy Apply? \(October 2010\).](#)
- B) [45 CFR 46.103\(b\), Assuring Compliance with this Policy – Research Conducted or Supported by any Federal Department or Agency \(October 2010\).](#)
- C) [42 CFR 482, Conditions of Participation for Hospitals \(October 2010\).](#)
- D) [21 CFR, Food and Drugs \(April 2010\).](#)

b) All incorporations by reference of federal regulations and guidelines and the standards of nationally recognized organizations refer to the regulations, guidelines and standards on the date specified and do not include any editions or amendments subsequent to the date specified.

c) The following statutes and State regulations are referenced in this Part:

1) State of Illinois statutes:

- A) Hospital Licensing Act [210 ILCS 85].
- B) Illinois Health Facilities Planning Act [20 ILCS 3960].
- C) Medical Practice Act of 1987 [225 ILCS 60].
- D) Podiatric Medical Practice Act of 1987 [225 ILCS 100].
- E) Pharmacy Practice Act of 1987 [225 ILCS 85].
- F) Physicians Assistant Practice Act of 1987 [225 ILCS 95].
- G) Illinois Clinical Laboratory and Blood Bank Act [210 ILCS 25].
- H) X-ray Retention Act [210 ILCS 90].
- I) Safety Glazing Materials Act [430 ILCS 60].
- J) Mental Health and Developmental Disabilities Code [405 ILCS 5].

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- K) Nurse Practice Act [225 ILCS 65].
- L) Health Care Worker Background Check Act [225 ILCS 46].
- M) MRSA Screening and Reporting Act [210 ILCS 83].
- N) Hospital Report Card Act [210 ILCS 88].
- O) Illinois Adverse Health Care Events Reporting Law of 2005 [410 ILCS 522].
- P) Smoke Free Illinois Act [410 ILCS 82].
- Q) [Health Care Surrogate Act \[775 ILCS 40\]](#).

2) State of Illinois rules:

- A) Department of Public Health, Illinois Plumbing Code (77 Ill. Adm. Code 890).
- B) Department of Public Health, Sexual Assault Survivors Emergency Treatment Code (77 Ill. Adm. Code 545).
- C) Department of Public Health, Control of Communicable Diseases Code (77 Ill. Adm. Code 690).
- D) Department of Public Health, Food Service Sanitation Code (77 Ill. Adm. Code 750).
- E) Department of Public Health, Public Area Sanitary Practice Code (77 Ill. Adm. Code 895).
- F) Department of Public Health, Maternal Death Review (77 Ill. Adm. Code 657).
- G) Department of Public Health, Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693).

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- H) Department of Public Health, Control of Tuberculosis Code (77 Ill. Adm. Code 696).
- I) Department of Public Health, Health Care Worker Background Check Code (77 Ill. Adm. Code 955).
- J) Department of Public Health, Language Assistance Services Code (77 Ill. Adm. Code 940).
- K) Capital Development Board, Illinois Accessibility Code (71 Ill. Adm. Code 400).
- L) State Fire Marshal, Boiler and Pressure Vessel Safety (41 Ill. Adm. Code 120).
- M) State Fire Marshal, Fire Prevention and Safety (41 Ill. Adm. Code 100).
- N) Illinois Emergency Management Agency, Standards for Protection Against Radiation (32 Ill. Adm. Code 340).
- O) Illinois Emergency Management Agency, Use of X-rays in the Healing Arts Including Medical, Dental, Podiatry, and Veterinary Medicine (32 Ill. Adm. Code 360).
- P) Smoke Free Illinois Act [410 ILCS 82].
- Q) [Health Care Surrogate Act \[775 ILCS 40\]](#).

(Source: Amended at 35 Ill. Reg. 4556, effective March 4, 2011)

SUBPART B: ADMINISTRATION AND PLANNING

Section 250.260 Patients' Rights

- a) Policy on Patients' Rights
 - 1) [Hospitals shall](#)~~It is recommended that hospitals~~ adopt a written policy on patients' rights.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 2) This policy ~~shall~~^{should} be available to all patients and personnel upon request.

b) Patient Morale

- 1) Emotional and Attitudinal Support
Hospitals shall have a written plan for the provision of those components of total patient care that relate to the spiritual, emotional and attitudinal health of the patient, patients' families and hospital personnel.
- 2) Social Services
Hospitals shall have a written plan for providing social services to those patients with social problems. This service may be provided through:
- A) An organized social service within the hospital~~;~~ or
- B) A social worker employed on a part-time basis~~;~~ or
- C) Social work consultant services from a community agency.

c) Patient Protection from Abuse

1) For purposes of this subsection (c):

"Abuse" – means any physical or mental injury or sexual abuse intentionally inflicted by a hospital employee, agent, or medical staff member on a patient of the hospital and does not include any hospital, medical, health care, or other personal care services done in good faith in the interest of the patient according to established medical and clinical standards of care.

"Mental injury" – means intentionally caused emotional distress in a patient from words or gestures that would be considered by a reasonable person to be humiliating, harassing, or threatening and which causes observable and substantial impairment.

"Sexual abuse" – means any intentional act of sexual contact or sexual penetration of a patient in the hospital.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

"Substantiated" – with respect to a report of abuse, means that a preponderance of the evidence indicates that abuse occurred.

- 2) No administrator, agent, or employee of a hospital or a member of its medical staff may abuse a patient in the hospital.
- 3) Any hospital administrator, agent, employee, or medical staff member who has reasonable cause to believe that any patient with whom he or she has direct contact has been subjected to abuse in the hospital shall promptly report or cause a report to be made to a designated hospital administrator responsible for providing such reports to the Department as required by this subsection (c).
- 4) Retaliation against a person who lawfully and in good faith makes a report under this subsection (c) is prohibited.
- 5) Upon receiving a report under subsection (c)(3), the hospital shall submit the report to the Department within 24 hours after obtaining such report. In the event that the hospital receives multiple reports involving a single alleged instance of abuse, the hospital shall submit one report to the Department.
- 6) Upon receiving a report under this subsection (c), the hospital shall promptly conduct an internal review to ensure the alleged victim's safety. Measures to protect the alleged victim shall be taken as deemed necessary by the hospital's administrator and shall include, but are not limited to, removing suspected violators from further patient contact during the hospital's internal review. If the alleged victim lacks decision-making capacity under the Health Care Surrogate Act and no health care surrogate is available, the hospital may contact the Illinois Guardianship and Advocacy Commission to determine the need for a temporary guardian of that person.
- 7) All internal hospital reviews shall be conducted by a designated hospital employee or agent who is qualified to detect abuse and is not involved in the alleged victim's treatment. All internal review findings shall be documented and filed according to hospital procedures and shall be made available to the Department upon request.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 8) Any other person may make a report of patient abuse to the Department if that person has reasonable cause to believe that a patient has been abused in the hospital.
- 9) The report required under this subsection (c) shall include:
- A) The name of the patient;
 - B) The name and address of the hospital treating the patient;
 - C) The age of the patient;
 - D) The nature of the patient's condition, including any evidence of previous injuries or disabilities; and
 - E) Any other information that the reporter believes might be helpful in establishing the cause of the reported abuse and the identity of the person believed to have caused the abuse.
- 10) Except for willful or wanton misconduct, any individual, person, institution, or agency participating in good faith in making a report or in making a disclosure of information concerning reports of abuse under this subsection (c), shall have immunity from any liability, whether civil, professional, or criminal, that otherwise might result by reason of such actions.
- 11) No administrator, agent, or employee of a hospital shall adopt or employ practices or procedures designed to discourage or having the effect of discouraging good faith reporting of patient abuse under this subsection (c).
- 12) Every hospital shall ensure that all new and existing employees are trained in the detection and reporting of abuse of patients and retrained at least every 2 years thereafter.
- 13) The Department shall investigate each report of patient abuse made under this subsection (c) according to the procedures of the Department, except that a report of abuse which indicates that a patient's life or safety is in

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

imminent danger shall be investigated within 24 hours after such report. Under no circumstances may a hospital's internal review of an allegation of abuse replace an investigation of the allegation by the Department.

- 14) *The Department shall keep a continuing record of all reports made pursuant to this subsection (c), including indications of the final determination of any investigation and the final disposition of all reports. The Department will inform the investigated hospital and any other person making a report under subsection (c)(7) of this Section of its final determination or disposition in writing.*
- 15) *All patient identifiable information in any report or investigation under this subsection (c) shall be confidential and shall not be disclosed except as authorized by the Act or other applicable law.*
- 16) *Nothing in this subsection (c) relieves a hospital administrator, employee, agent, or medical staff member from contacting appropriate law enforcement authorities as required by law.*
- 17) *Nothing in this subsection (c) shall be construed to mean that a patient is a victim of abuse because of health care services provided or not provided by health care professionals. (Section 9.6 of the Act)*

(Source: Amended at 35 Ill. Reg. 4556, effective March 4, 2011)

SUBPART I: NURSING SERVICE AND ADMINISTRATION

Section 250.1030 Policies and Procedures

- a) Nursing policies and procedures shall be developed, reviewed periodically but at least once a year, and revised as necessary by nursing representatives in cooperation with appropriate representatives from administration, the medical staff, and other concerned hospital services or departments.
- b) The nursing policies and procedures ~~They~~ shall be dated to indicate the time of the most recent review or revision.
- c) Written policies ~~shall~~ should include, but not be limited to, the following:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 1) Criteria pertaining to the performance of special procedures and the circumstances and supervision under which these may be performed by nursing personnel.
- 2) Communication and implementation of diagnostic and therapeutic orders, including verbal orders. The responsibility and mechanism for nursing service to obtain clarification of orders when indicated.
- 3) Administration of medication.
- 4) Assignments for providing nursing care to patients.
- 5) Documentation in patients' records by nursing personnel.
- 6) Infection control, pursuant to Section 250.1100.
- 7) *A policy to identify, assess, and develop strategies to control risk of injury to patients and nurses and other health care workers, associated with the lifting, transferring, repositioning, or movement of a patient. The policy shall establish a process that, at a minimum, includes all of the following:*
 - A) Analysis of the risk of injury to patients and nurses and other health care workers posed by the patient handling needs of the patient populations served by the hospital and the physical environment in which the patient handling and movement occurs;*
 - B) Education of nurses in the identification, assessment, and control of risks of injury to patients and nurses and other health care workers during patient handling;*
 - C) Evaluation of alternative ways to reduce risks associated with patient handling, including evaluation of equipment and the environment;*
 - D) Restriction, to the extent feasible with existing equipment and aids, of manual patient handling or movement of all or most of a patient's weight except for emergency, life-threatening, or otherwise exceptional circumstances;*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- E) Collaboration with, and an annual report to, the nurse staffing committee;
- F) Procedures for a nurse to refuse to perform or be involved in patient handling or movement that the nurse in good faith believes will expose a patient or nurse or other health care worker to an unacceptable risk of injury;
- G) Submission of an annual report to the hospital's governing body or quality assurance committee on activities related to the identification, assessment, and development of strategies to control risk of injury to patients and nurses and other health care workers associated with the lifting, transferring, repositioning, or movement of a patient; and
- H) Consideration of the feasibility of incorporating patient handling equipment or the physical space and construction design needed to incorporate that equipment when developing architectural plans for construction or remodeling of a hospital or unit of a hospital in which patient handling and movement occurs. (Section 6.25 of the Act)Patient safety.

8) Nursing role in other hospital services, including but not limited to such services as dietary, pharmacy and housekeeping.

9) Emotional and attitudinal support. (Refer to Section 250.260(b)(1).)

d) A nursing procedure manual shall be developed and copies shall be available on the patient care units, to the nursing staff and to other services and departments of the hospital, including members of the medical staff and students.

e) The procedure manual shall provide a ready reference on nursing procedures and a basis for standardization of procedures and equipment in the hospital.

(Source: Amended at 35 Ill. Reg. 4556, effective March 4, 2011)

SUBPART J: SURGICAL AND RECOVERY ROOM SERVICES

Section 250.1320 Postanesthesia Care Units~~Postoperative Recovery Facilities~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- a) Provision and use of Phase 1 Postanesthesia Care Unit (Phase 1 PACU)~~postoperative recovery facilities~~
- 1) For the purposes of this Section, Phase 1 of postanesthesia care is the phase immediately following surgery, usually in a recovery room, after which the patient is returned to his or her room.
 - 2) Postanesthesia care units~~Postoperative recovery facilities~~ shall be provided by all hospitals in which surgery is performed. They shall be in a separate room where patients who have undergone surgical procedures can be immediately observed and receive specialized care by selected and trained personnel; and where, when necessary, prompt emergency care can be initiated.
 - 3) The services of the Phase 1 PACU~~postoperative recovery room~~ may be used~~utilized~~ for postpartum care if the delivery room or place of delivery is in proximity to the Phase 1 PACU~~postoperative recovery room~~. Only clean (non-infected or non-infectious) postpartum patients may be admitted to the Phase 1 PACU~~postoperative recovery room~~ and may, after appropriate observation, be returned to the maternity department.
- b) Personnel
- 1) Physician
A physician shall be responsible for the conduct of the Phase 1 PACU~~recovery room~~, for the training of Phase 1 PACU~~recovery room~~ personnel, and for the establishment of admission, ~~and~~ discharge, ~~and~~ emergency policies and procedures.
 - 2) Nurse
 - A) A registered nurse who has education and experience in Phase 1 postanesthesia~~postoperative recovery room~~ care shall supervise all personnel performing nursing service functions.
 - B) A registered nurse shall be in attendance at all times when patients are in the Phase 1 PACU~~recovery room~~.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- C) There shall be sufficient nursing personnel to provide the specialized care required for the ~~postsurgical~~post-surgical patient. It is recommended that a ratio of one nursing personnel to ~~two~~three patients be maintained at all times.
- D) Nursing personnel shall be assigned permanently to the Phase 1 PACU~~postoperative recovery room~~ when patients are present.
- c) Practices for operation of the Phase 1 PACU~~postoperative recovery rooms~~
- 1) Only clean surgical cases shall be admitted to the Phase 1 PACU~~postoperative recovery room~~.
 - 2) Contaminated cases shall be returned to the isolation room or a private room. Contaminated cases may be admitted to the Phase 1 PACU~~when~~When a separate isolation facility is within or adjacent to the Phase 1 PACU~~postoperative recovery room, contaminated cases may be admitted to it~~.
 - 3) A member of the medical staff shall provide initial orders for the care of each patient upon admission.
 - 4) A member of the medical staff shall be responsible for the patient's discharge from the Phase 1 PACU~~recovery room~~.
 - 5) Anesthetized patients shall be constantly attended. Side rails shall be attached to movable carts and beds and raised above mattress level when occupied by anesthetized patients. Cribs shall be provided for the anesthetized or ~~postsurgical~~post-surgical child.
 - 6) Written policies and procedures, which ~~shall be~~are reviewed regularly and revised as necessary, shall be established.
 - 7) A complete orientation program and continuing in-service education program shall be provided for all personnel assigned to the Phase 1 PACU~~recovery room~~.
 - 8) Personnel with communicable diseases shall be excluded from the Phase 1 PACU~~recovery room~~.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 9) ~~Visitors~~~~No visitors~~ shall be permitted in the Phase 1 PACU ~~if postoperative recovery room, except in the case where~~ a hospital has adopted a policy, approved through the Governing Board, that allows for visitation in the Phase 1 PACU while the patient is a parent or guardian, or other individual selected by a child's parent or guardian, of a child 12 years of age or younger to be present with the child in recovering from a surgical procedure. Before allowing individuals to be present in the Phase 1 PACU ~~recovery area with their child~~, the hospital shall have a policy in place that includes at least the following:
- A) Written consent of an adult patient; both the parent, guardian, or legal representative of a minor or a mentally disabled adult; or other individual and the physician performing the surgery;
 - B) Notation in the patient's medical record of the presence of additional ~~visitors~~persons in the Phase 1 PACU ~~postoperative recovery room~~ during recovery of the patient~~child~~ from a surgical procedure;
 - C) Application of safeguards against the introduction of infection or other hazards by the visitor, parent, guardian or other individual including orientation, education and training of the person, preferably prior to the performance of the procedure but at least prior to visitation; this shall include, at minimum, specifics regarding ~~the procedure and~~ recovery, what can be expected, and basic infection control practices expected of the visitor~~person~~;
 - D) Provision of at least one additional staff person in the Phase 1 PACU ~~recovery room~~ assigned to oversee, supervise and assist the visitors~~parent, guardian or other designated individual~~ for the period of time the visitors ~~are~~parent, guardian or designated individual is present;
 - E) Provision of safeguards to ensure the privacy of other patients who may be recovering from surgical procedures, which may include separate rooms or some other type of separation for recovery of patients~~children~~ who would have a visitor~~parent~~ present. Privacy safeguards shall allow Phase 1 PACU staff to provide~~Whatever~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

~~method is chosen must allow for~~ constant attention ~~to of~~
anesthetized patients ~~by recovery room staff~~; and

- F) If ~~a~~ at any point during the recovery of the ~~minor~~ patient, ~~Phase 1 PACU~~ ~~it is determined by the recovery room~~ personnel ~~determine~~ that the ~~visitor parent, guardian or other individual~~ poses a threat to the safe, ~~therapeutic~~ recovery of the patient, ~~personnel he or she~~ may require the ~~visitor parent, guardian or other individual~~ to leave the ~~Phase 1 PACU~~ ~~recovery room~~.
- d) Drugs, supplies and equipment
Drugs, supplies and equipment shall be immediately and continually accessible in the ~~Phase 1 PACU unit for postoperative care~~, including emergencies. These shall include cardiac-respiratory ~~monitoring and~~ resuscitation materials.
- e) The ~~Phase 1 PACU post-operative recovery facility~~ shall contain and provide for a drug distribution station, including a secure area, adequate ~~hand-~~
~~washing~~ ~~handwashing~~ facilities, charting and dictating area, soiled utility area with bedpan flushing device, and adequate storage space for supplies and equipment.

(Source: Amended at 35 Ill. Reg. 4556, effective March 4, 2011)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Podiatric Scholarship and Residency Programs Code
- 2) Code Citation: 77 Ill. Adm. Code 593
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
593.10	Amended
593.20	Amended
593.30	Amended
593.130	Amended
593.150	New
593.160	New
593.170	New
593.220	Amended
593.230	Amended
593.240	Amended
- 4) Statutory Authority: Podiatric Scholarship and Residency Act [110 ILCS 978]
- 5) Effective Date of Rulemaking: March 2, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposed Amendments Published in Illinois Register: October 29, 2010; 34 Ill. Reg. 16802
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: The following changes were made in response to comments and suggestions of JCAR:

In Section 593.10 for the definition of the term "Act", the statutory reference "[110 ILCS 978]" was stricken.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

In Section 593.10 for the definition of "Medical Facility", the reference to "[30 ILCS 705/2(c)]" was deleted".

In Section 593.10 for the definition of "Primary Care Physician", "Practice" was added before "Act" and "[225 ILCS 100]" was stricken.

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

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Amendments are adopted for several new definitions and to include a reference to the Illinois Grant Funds Recovery Act. New language is included for recovery provisions and to enhance reporting requirements. In addition, amendments are adopted to include provisions for the Department to recover scholarship funds from students who do not complete podiatric medical school or who complete podiatric medical school but do not become a licensed podiatrist.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Susan Meister
Division of Legal Services
Department of Public Health
535 West Jefferson, 5th Floor
Springfield, Illinois 62761

e-mail: dph.rules@illinois.gov

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER g: GRANTS TO DENTAL AND MEDICAL STUDENTS

PART 593
PODIATRIC SCHOLARSHIP AND RESIDENCY PROGRAMS CODE

SUBPART A: GENERAL PROVISIONS

Section	
593.10	Definitions
593.20	Referenced Materials
593.30	Administrative Hearings

SUBPART B: GRANTS TO PODIATRIC PRACTICE RESIDENCY PROGRAMS

Section	
593.100	Eligibility for Grants
593.110	Limitations on Use of Grant Funds
593.120	Project Requirements
593.130	Application for Grants
593.140	Selection Criteria
<u>593.150</u>	<u>Grant Awards</u>
<u>593.160</u>	<u>Grant Funds Recovery</u>
<u>593.170</u>	<u>Reporting Requirements</u>

SUBPART C: PODIATRIC MEDICAL STUDENT SCHOLARSHIPS

Section	
593.200	Limitations on Use of Scholarship Funds
593.210	Eligibility for Application
593.220	Criteria for Selecting Scholarship Recipients
593.230	Terms of Performance
593.240	Scholarship Repayments

AUTHORITY: Implementing and authorized by the Podiatric Scholarship and Residency Act [110 ILCS 978].

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

SOURCE: Adopted at 17 Ill. Reg. 11987, effective July 20, 1994; amended at 32 Ill. Reg. 863, effective January 4, 2008; amended at 35 Ill. Reg. 4591, effective March 2, 2011.

SUBPART A: GENERAL PROVISIONS

Section 593.10 Definitions

"Act" means the Podiatric Scholarship and Residency Act ~~[110 ILCS 978]~~.

"Calendar Days" means all days in a month or prescribed time frame, including weekends and holidays.

"Department" means the Illinois Department of Public Health. (Section 10 of the Act)

"Designated Shortage Area" means an area designated by the Director as a physician shortage area, a medically underserved area, or a critical health manpower shortage area as defined by the United States Department of Health and Human Services, or as further defined by the Department to enable it to effectively fulfill the purpose stated in Section 5 of the Act. These areas may include the following:

an urban or rural area;

a population group; or

a public or nonprofit private medical facility. (Section 10 of the Act)

"Director" means the Director of the Illinois Department of Public Health. (Section 10 of the Act)

"Eligible Podiatry Student" means a person who meets all of the following qualifications:

He or she is an Illinois resident at the time of application for scholarship under the program established by the Act.

He or she is studying podiatric medicine in a podiatry school located in Illinois.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

He or she exhibits financial need as determined by the Department.

He or she agrees to practice full-time in a designated shortage area as a primary care physician one year for each year he or she is a scholarship recipient. (Section 10 of the Act)

"Full-time Practice" means maintaining office hours for patient care for at least 20 hours per week.

"Funding Period" means the time frame during which grant funds are to be expended by the grantee (usually corresponding with the Department's Fiscal Year).

"Grant Agreement" means the agreement entered into between the Department and the grantee setting forth the terms and conditions of a grant award.

"Grant Agreement Execution Date" means the date the grant agreement is signed by both the grantee and Department. This date signifies the beginning of the grant agreement.

"Grantee" means a person or entity which may use grant funds. (Section 2(c) of the Illinois Grant Funds Recovery Act)

"Grant Funds" means public funds dispensed by the Department to any person or entity for obligation, expenditure or use for a specific purpose. (Section 2(b) of the Illinois Grant Funds Recovery Act)

"Grantor Agency" means any agency of State government which dispenses grant funds. (Section 2(a) of the Illinois Grant Funds Recovery Act)

"Medical Facility" means a facility for the delivery of ~~health services~~ ~~Health Services~~ and includes a hospital, State mental health institution, public health center, outpatient medical facility, rehabilitation facility, long-term care facility, community mental health center, migrant health center, a community health center, or a State correctional institution. (Section 10 of the Act)

"Metropolitan Statistical Area" or "MSA" means one or more adjacent counties that have at least one urban core area of at least 50,000 in population, plus

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

adjacent territory that has a high degree of social and economic integration with the core as measured by commuting ties.

"Minority" means any person or group of persons who are: African-American (a person having origins in any of the black racial groups in Africa); Hispanic (a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race); Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands); or Native American ~~Indian~~ or Alaskan Native (a person having origins in any of the original peoples of North America).

"Not-for-Profit" means a corporation or entity described in the General Not-for-Profit Corporation Act of 1986.

"Podiatric Practice Residency Program" means a program accredited by the Council of Podiatric Medical Education. Residencies may be primary care or rotating. (Section 10 of the Act)

"Primary Care Physician" means a person licensed to practice podiatric medicine under the Podiatric Medical Practice Act of 1987-~~[225 ILCS 100]~~. (Section 10 of the Act)

"Residency Matching Process" means the matching of podiatric medical students with residency training programs in the student's selected specialty.

"Residency Training" means the years of graduate medical education that follow podiatric medical school and that train the new podiatric physician in his or her chosen specialty.

"Rural" means any geographic area not located in a U.S. Bureau of the Census Metropolitan Statistical Area; or a county located within a Metropolitan Statistical Area but having a population of 60,000 or less; or a community located within a Metropolitan Statistical Area but having a population of 2,400 or less or a RUCA Code 4 or above on the Rural-Urban Commuting Area list as defined by the U.S. Department of Agriculture Economic Research Service. The list of Rural-Urban Commuting Area Codes can be found at: <http://depts.washington.edu/uwruca/> <http://www.fammed.washington.edu/wwamirhrc/rucas/rucas.html>.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

"Urban" means all territory, population and housing units in urban areas, which include urbanized areas and urban clusters. An urban area generally consists of a large central place and adjacent, densely settled census blocks that together have a total population of at least 2,500 for urban clusters, or at least 50,000 for urbanized areas. Urban classification cuts across other hierarchies and can be in metropolitan or non-metropolitan areas.

(Source: Amended at 35 Ill. Reg. 4591, effective March 2, 2011)

Section 593.20 Referenced Materials

The following materials are referenced in this Part:

- a) Illinois Statutes:
 - 1) Podiatric Scholarship and Residency Act [110 ILCS 978]
 - 2) ~~Illinois~~ Podiatric Medical Practice Act of 1987 [225 ILCS 100]
 - 3) Illinois Grants Funds Recovery Act [30 ILCS 705]
 - 4) General Not-for-Profit Corporation Act of 1986 [805 ILCS 105]
- b) Illinois Rules: ~~Rules of~~ Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)

(Source: Amended at 35 Ill. Reg. 4591, effective March 2, 2011)

Section 593.30 Administrative Hearings

Any administrative hearings conducted by the Department concerning the provisions of this Part shall be governed by the Department's ~~Rules of~~ Practice and Procedure in Administrative Hearings (~~See~~ 77 Ill. Adm. Code 100).

(Source: Amended at 35 Ill. Reg. 4591, effective March 2, 2011)

SUBPART B: GRANTS TO PODIATRIC PRACTICE RESIDENCY PROGRAMS

Section 593.130 Application for Grants

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- a) ~~The Department shall prepare and distribute applications to eligible applicants (see Section 593.100) Applications shall be submitted which describe the applicant's proposed methods to achieve the goal(s) specified in the Department's request for proposals.~~
- b) ~~Applications shall describe the applicant's proposed methods to achieve the goals specified in the Department's request for proposals (see Section 593.120) Applications shall be prepared and distributed by the Department to eligible applicants.~~
- c) Applications shall be in two formats – one for new projects and one for the subsequent years of a continuing project.
- 1) New ~~Department~~ project applications shall include:
- A) The name of the applicant;
 - B) The applicant's address;
 - C) A list of the applicant's chief officers and key employees;
 - D) A general description of the applicant;
 - E) ~~A~~ A description of the project for which grant funds are requested, including a summary statement of the applicant's plan of action to address the ~~goals~~ goal(s) described in the Department's request for proposals;
 - F) Plans, equipment lists and other documents (as applicable) to demonstrate the type, structure and general character of the project;
 - G) ~~B~~ A description of the geographic area or special population group to be served by the applicant's project, a statement of the special needs of the area or group (e.g., lack of health care providers, high incidence of disease, economic barriers to care) and an explanation of the manner in which the proposed project would meet those needs;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- ~~H)C)~~ ~~Aa~~ statement of measurable and relevant objectives the applicant proposes to achieve in the first year of the project as well as its longer term goals, including appropriate measuring metrics;
- ~~I)D)~~ ~~Aa~~ work plan and time table for achievement of the objectives;
- ~~J)E)~~ ~~Anan~~ evaluation plan ~~thatwhich~~ will allow documentation of the project's progress in meeting the particular needs of the geographic area or special population group described in subsection (c)(1)~~(G)(B)~~ of this Section;
- ~~K)F)~~ ~~Aa~~ description of the podiatric medical student or resident involvement in the project including numbers participating, level of training, amount of academic time involved, and whether involvement will be a required or an optional experience for the student or resident;
- ~~L)G)~~ ~~Aa~~ description of the education benefits the project would offer students or residents ~~thatwhich, without the project~~, would not be available to them without the project;
- ~~M)H)~~ ~~Aa~~ description of the project's relationship to other activities and goals of the school or the residency program;
- ~~N)I)~~ ~~Aa~~ detailed budget with a narrative explanation of the request, including cost estimates of developing, constructing, operating or completing the project; and
- ~~O)J)~~ ~~Forfor~~ residency program applicants, a summary report for the most recent five-year period of the percentagepercent of graduates who have established practices in designated shortage areaspracticed in Illinois; and, if available, a count of those who have established practices in underserved areas of Illinois.
- 2) Continuing ~~Department~~-project applications shall include:
- ~~A)~~ The name of the applicant;
- ~~B)~~ The address of the applicant;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- ~~C)~~ A list of the applicant's chief officers and key employees;
- ~~D)~~ A general description of the applicant;
- ~~E)~~~~A)~~ A progress report on the prior project year's activities, including accomplishments in meeting all stated objectives, impact on needs of area or population group served, amount of student and/or resident involvement, and educational benefits achieved;
- ~~F)~~~~B)~~ A summary statement of all changes in plan of action;
- ~~G)~~~~C)~~ A description of all changes in geographic area or special population group being served;
- ~~H)~~~~D)~~ A statement of measurable objectives for the new project year, measured with previously identified metrics;
- ~~I)~~~~E)~~ A work plan and time table to meet the objectives;
- ~~J)~~~~F)~~ ~~An~~ evaluation plan for the new objectives;
- ~~K)~~~~G)~~ ~~A~~ detailed budget with a narrative description, including cost estimates of developing, constructing, operating or completing the project; and
- ~~L)~~~~H)~~ ~~For~~ residency program applicants, a report on the practice location of the most recent graduates.
- d) The Department will review applications based on the criteria in subsection (c) of this Section. In making its determination to issue a grant, the Department shall determine which applications best allow the achievement of goals specified in the Department's request for proposals. The Department may also give consideration to factors including, but not limited to, underserved populations, past performance of an applicant and availability of funding.

(Source: Amended at 35 Ill. Reg. 4591, effective March 2, 2011)

Section 593.150 Grant Awards

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- a) The Department and grantee shall enter into a binding grant agreement. This agreement contains terms and conditions that ensure compliance with this Subpart and the laws of the State of Illinois, and enforcement of the contract.
- b) Grantees shall be accountable to expend the funds solely for carrying out the approved project pursuant to the grant agreement.
- c) Any obligations of the Department to the grantee will immediately cease if the Illinois General Assembly fails to appropriate sufficient funds for the program.
- d) Grants will be made to eligible applicants upon availability of funds.

(Source: Added at 35 Ill. Reg. 4591, effective March 2, 2011)

Section 593.160 Grant Funds Recovery

- a) If a grantee fails to comply with this Subpart or any of the terms of the grant agreement, the Department, after notice and opportunity for hearing, shall suspend or revoke the grant and/or recover any grant funds previously disbursed to the grantee.
- b) If the Department believes that a grant should be suspended, terminated or recovered due to a grantee's failure to comply with this Subpart or the terms of the grant agreement, the grantee shall have the *opportunity for at least one informal hearing* before the Department or the Department's designee to *determine the facts and issues and to resolve any conflicts as amicably as possible before any formal recovery action is taken.* (Section 7 of the Illinois Grant Funds Recovery Act)
- c) If, based on the outcome of the informal hearing, the Department believes that a grant should be suspended, terminated and/or recovered due to a grantee's failure to comply with this Subpart or the terms of the grant agreement, then written notice of the proposed action shall be given to the grantee identifying the action to be taken and specific facts that permit the action. The grantee shall have 35 calendar days after the receipt of the notice to request a formal hearing (see 77 Ill. Adm. Code 100) to show why recovery is not justified or proper.
- d) If a grantee requests a hearing pursuant to subsection (c) of this Section, then:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 1) The Department shall hold a hearing at which the grantee (or the grantee's lawful representative) is permitted to present evidence and witnesses to show why the action should not be taken; and
- 2) After the conclusion of the hearing, the Department shall issue a written final order setting forth its findings of fact and decision. A copy of the order shall be sent to the grantee.
- e) A grantee may seek appropriate judicial review of any final order pursuant to applicable State law.
- f) The Department may suspend payment of grant funds at any time. If a grantee requests a hearing pursuant to subsection (c), the Department may not take any action of recovery until at least 35 calendar days after the Department has issued a final recovery order pursuant to subsection (d). If a grantee does not request a hearing as permitted in subsection (c), the Department may proceed with recovery of the grant funds identified in the notice at any time after the expiration of the 35 calendar day request period established in subsection (c).
- g) Any notice or mailing required or permitted by this Part shall be deemed received five business days after the notice or mailing is deposited in the United States mail, properly addressed with the grantee's current or last known business address and with sufficient U.S. postage affixed.

(Source: Added at 35 Ill. Reg. 4591, effective March 2, 2011)

Section 593.170 Reporting Requirements

- a) Each grantee shall submit progress reports to the Department every three months from the grant agreement execution date. The reports are due within 10 calendar days after the quarterly reporting period has expired. Such reports shall include but are not limited to:
 - 1) Current status of the project, including the percentage of the project finished;
 - 2) Project components finished and project components yet to be finished; and

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 3) Costs incurred to date and an itemized listing of the total current project costs and a comparison of those costs to the budget approved in the grant agreement.
- b) Grantees shall submit a final report within 60 calendar days after the conclusion of the grant agreement. The degree to which each objective in the grant proposal has been met shall be fully addressed in this report. In addition, this report shall include a comparison of the costs incurred in the project to the costs approved in the grant agreement.
- c) Failure to provide all the required reports and information shall result in the withholding or suspension of grant funds and the recovery of previously disbursed grant funds (see Section 593.150 of this Part and Section 4.1 of the Illinois Grant Funds Recovery Act).

(Source: Added at 35 Ill. Reg. 4591, effective March 2, 2011)

SUBPART C: PODIATRIC MEDICAL STUDENT SCHOLARSHIPS

Section 593.220 Criteria for Selecting Scholarship Recipients

- a) The Department shall allocate podiatric scholarship monies to podiatric medical schools for scholarship ~~awards~~award. ~~Podiatric~~Such ~~podiatric~~ medical schools shall utilize the following criteria in the selection of scholarship recipients. Preference shall be given to those scholarship applicants who, in written narratives and personal interviews, can best demonstrate the following:
 - 1) Interest~~interest~~ in pursuing podiatric medicine;
 - 2) Previous~~previous~~ experience with medically underserved populations;
 - 3) Previous~~previous~~ experience in the health care delivery system, with preference given to those whose experience has involved one of the primary care specialty areas;
 - 4) Academic~~academic~~ capabilities as reported by the applicant's podiatric medical school, including certified transcripts from the school;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 5) ~~Financial~~financial need as reported by standard financial analysis documentation supplied by the applicant's podiatric medical school on the student's behalf;
 - 6) ~~Greater~~greater number of years of podiatric medical school remaining;
 - 7) ~~Stated willingness to provide~~stated interest in providing podiatric care to Illinois citizens residing in designated shortage areas of Illinois;
 - 8) ~~Greatest~~greatest number of years of residence in Illinois; and
 - 9) United States citizens, or those granted permanent residence in the United States by the United States Department of Homeland Security, Citizenship and Immigration Service~~Immigration and Naturalization Service~~.
- b) Of all applicants, priority is given to those individuals who have previously received a Podiatric Student Scholarship, providing that the recipient:
- 1) ~~recipient~~ requests, in a format determined by the Department, a continuation of scholarship funds;
 - 2) ~~recipient~~ would not be repeating the same year of school for the second consecutive year because of poor academic performance; and
 - 3) ~~recipient~~ has not voluntarily withdrawn from podiatric medical school.
- c) *Minority students as defined in Section 593.10 shall be given preference in selection for scholarships.* (Section 5 of the Act)

(Source: Amended at 35 Ill. Reg. 4591, effective March 2, 2011)

Section 593.230 Terms of Performance

- a) Each scholarship recipient shall sign a written contract. The contract shall contain~~contains~~ additional terms and conditions that~~which~~ ensure compliance with this Part, the laws of the State of Illinois, and enforcement of the contract.
- b) Scholarship recipients who fail to complete podiatric medical school due to academic failure; (as documented by recipient's school); or who fail to complete

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

podiatric medical school due to voluntary actions on their part (e.g., withdraw from podiatric medical school) or who complete podiatric medical school but fail to become licensed as a podiatrist in Illinois shall repay to the Department a sum equal to 3 times the amount of the annual scholarship grant for each year the recipient attended podiatric medical school. This sum represents the fair market value of services lost by the State of Illinois~~be discharged from all obligations.~~

- 1) Payment shall be made in equal monthly installments in amounts so that all sums due shall be paid within a period of time equal to the recipient's time in podiatric medical school, or as otherwise agreed to by the recipient and the Department in writing.
 - 2) The recipient and Department shall enter into a written contract that describes the terms of the repayment and contains provisions for enforcement of the contract.
 - 3) If a scholarship recipient fails to pay monies owed the Department, the Department shall refer the matter to the Illinois Attorney General, a collection agency, or a licensed attorney.
- c) If the scholarship recipient is disabled or is otherwise unable for reasons beyond the recipient's control to fulfill the scholarship obligations, these obligations shall be suspended until the scholarship recipient is able to resume the scholarship obligations. However, the suspension shall not exceed two years.
- 1) To request a suspension of the scholarship obligation, a recipient shall submit a suspension request in writing to the Department. This request shall detail the reasons for the suspension and, if temporary, the duration of the suspension and shall be supported by clear and convincing documentation.
 - 2) The Department shall approve a request for a suspension if the request is supported by a letter from the recipient's licensed physician fully explaining and attesting to the recipient's inability (either temporarily or permanently) to continue either school or the practice of podiatric medicine and if the recipients agrees not to continue either his or her medical education or the practice of podiatric medicine in any state.
 - 3) If a scholarship recipient suffers total and permanent disability, the

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

scholarship obligation shall be excused and deemed satisfied.

- 4) If the scholarship recipient dies or is adjudicated as incompetent, all scholarship obligations shall be excused and deemed satisfied.
 - 5) If the Department determines that the scholarship obligation cannot be fulfilled as referenced in this Subpart, the student shall be discharged from all obligations to the Department in connection with the Podiatric Scholarship and Residency Program.
 - 6) If the Department denies the suspension request, the recipient shall fulfill the scholarship obligation.
 - 7) Based on the information contained in the request, the Department's acceptance or denial of the request will be provided in writing, under the Director's signature.
- e) ~~Scholarship recipients who fail to complete podiatric medical school due to voluntary actions on their part shall repay to the Department all scholarship monies. Repayment shall be made in such a manner as agreed to by the recipient and the Department in the recipient's contract.~~
- d) ~~In the event the scholarship recipient is disabled or is otherwise unable for reasons beyond the recipient's control to perform the scholarship's obligations, these obligations shall be suspended until such time as the scholarship recipient is able to resume the scholarship obligations. Such suspension shall be requested in writing by the scholarship recipient. The Department's acceptance or denial of the suspension request will be provided in writing, under the Director's signature. The Department shall accept a request for a suspension when supported by a letter from the recipient's physician attesting to the recipient's inability (either temporarily or permanently) to continue either school or the practice of podiatric medicine and the recipient's agreeing to not continue either his or her medical education or the practice of podiatric medicine in any state.~~
- d)e) Misrepresentation of any materialthe facts presented in the recipient's application shall be considered a breach of contract. If the Department determines that a breach of contract has occurred, theThe recipient's school shall be notified to halt further disbursements of scholarship funds and all funds provided by the Department to the student shall be due in full, immediately.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 35 Ill. Reg. 4591, effective March 2, 2011)

Section 593.240 Scholarship Repayments

- a) Upon the Illinois licensure of the scholarship recipient to practice podiatric medicine, the recipient shall provide podiatric health care in a designated shortage area of Illinois. The term of this service shall be one year for each academic year he or she is a scholarship recipient. (Section 10 of the Act)~~one year for each academic year he or she is a scholarship recipient.~~
- b) Service as a podiatric physician shall begin no later than 30 days after the recipient is licensed~~licensure of the recipient~~ to practice podiatric medicine. The Department shall defer service~~Service shall be deferred by the Department~~ until the recipient completes a podiatric care residency; service shall begin no later than 30 days after the recipient completes the residency~~completion~~.
- c) The recipient's internship, residency or other advanced clinical training does not qualify as service repayment of the scholarship obligation.
- d) The scholarship recipient shall submit a written request to the Department for approval for a proposed practice location. The Department shall provide approval or disapproval, in the form of a letter, to the scholarship recipient, based on the requirements of this Section. A letter of approval shall include a description of the terms of the service obligation.~~Written approval of the Department for a proposed practice location shall be requested and received by the scholarship recipient.~~
 - 1) Without prior written~~such~~ approval from the Department, time in practice at such a location shall not meet the scholarship recipient's service obligation.
 - 2) The scholarship recipient may request approval for a practice location up to 18 months preceding the time that practice at the location is to begin.
 - 3) Approval for a practice location is granted for the duration of the scholarship recipient's service obligation.
- e) The scholarship recipient's practice shall meet the following requirements:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 1) ~~Bebe~~ located in a designated shortage area;
 - 2) ~~Bebe~~ a full-time, office-based practice providing direct patient care; and
 - 3) ~~Provide~~~~provide~~ continuous service at the rate of 12 months for each academic year of podiatric medical school supported by the scholarship.
- f) Scholarship recipients may relocate to another practice location, or practice in more than one location, if the Department grants prior written approval ~~is granted by the Department~~.
- g) Scholarship recipients shall enter into a written contract with the Department that describes the terms of the service obligation and contains provisions for enforcement of the contract.
- h) *Scholarship recipients who fail to fulfill their obligation to practice in designated shortage areas shall pay to the Department a sum equal to 3 times the amount of the annual scholarship grant for each year the recipient fails to fulfill that obligation.* (Section 30 of the Act) This sum represents the fair market value of services lost by the State of Illinois.
- 1) Payment shall be made in equal monthly installments in ~~such~~ amounts so that all sums due shall be paid within a period of time equal to the recipient's service term, or remaining portion of the term, or as otherwise agreed to by the recipient and the Department, in writing.
 - 2) The recipient and Department shall enter into a written contract that describes the terms of the repayment and contains provisions for enforcement of the contract.
- i) If a scholarship recipient fails to pay monies owed the Department, the Department may refer the matter to the Illinois Attorney General, ~~or to~~ a collection agency, or a licensed attorney.

(Source: Amended at 35 Ill. Reg. 4591, effective March 2, 2011)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Nursing Education Scholarships
- 2) Code Citation: 77 Ill. Adm. Code 597
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
597.10	Amended
597.20	New
597.30	New
597.100	Amended
597.110	Amended
597.200	Amended
597.220	Amended
597.230	New
597.310	Amended
597.320	Amended
597.330	Amended
- 4) Statutory Authority: Nursing Education Scholarship Law [110 ILCS 975]
- 5) Effective Date of Rulemaking: March 2, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposed Amendments Published in Illinois Register: October 29, 2010; 34 Ill. Reg. 16820
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version:

No changes were made to the proposed rulemaking during the first notice period.

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

In Section 597.10, the definition of "Advanced practice nurse" was changed from:

"Advanced practice nurse" or "APN" means a person who is a licensed registered professional nurse and meets the requirements for licensure as an advanced practice nurse under the Nurse Practice Act [225 ILCS 65]. Categories of advanced practice nurse include Certified Nurse Midwife (CNM), Certified Nurse Practitioner (CNP), Certified Registered Nurse Anesthetist (CRNA), or Certified Clinical Nurse Specialist (CNS) (see 68 Ill. Adm. Code 135.10"

to: "Advanced practice nurse" or "APN" means a person who has met the qualifications for a certified nurse midwife (CNM), certified nurse practitioner (CNP); certified registered nurse anesthetist (CRNA); or clinical nurse specialist (CNS) and has been licensed by the Department of Financial and Professional Regulation. (Section 50-10) of the Nurse Practice Act)

In Section 597.10 for the definition of "Business day", "federal or State government declared" was added after "a".

In Section 597.10 for the definition of "Calendar day", "federal or State government declared" was added after "and".

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

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Amendments are adopted due to changes in the Nursing Education Scholarship Law through Public Act 96-805. This rulemaking expands the categories of nursing degrees to include individuals pursuing a master's or doctorate degree in nursing and who wish to become nurse educators. Selection criteria was revised to include the graduate degree in nursing to become a nurse educator, and the scholarship award distribution formula was adjusted to include recipients pursuing graduate degrees in nursing to become a nurse educator. Also, selection criteria were changed to incorporate a merit factor.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

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

Susan Meister
Division of Legal Services
Department of Public Health
535 West Jefferson, 5th Floor
Springfield, Illinois 62761

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

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER g: GRANTS TO DENTAL AND MEDICAL STUDENTS

PART 597
NURSING EDUCATION SCHOLARSHIPS

SUBPART A: ~~GENERAL PROVISIONS~~INTRODUCTION

Section	
597.10	Definitions
<u>597.20</u>	<u>Referenced Materials</u>
<u>597.30</u>	<u>Administrative Hearings</u>

SUBPART B: ELIGIBILITY AND APPLICATION

Section	
597.100	Eligibility
597.110	Application

SUBPART C: AWARD OF SCHOLARSHIPS

Section	
597.200	Scholarship Description
597.210	Determination of Financial Need
597.220	Selection Criteria for Award of Scholarships
<u>597.230</u>	<u>Student Enrollment and Institutions' Obligations</u>

SUBPART D: TERMS OF PERFORMANCE

Section	
597.300	Contract
597.310	Repayment of Scholarship
<u>597.320</u>	<u>Satisfaction</u> Forgiveness of Scholarship <u>Obligation</u>
597.330	Deferment of Scholarship Obligation

AUTHORITY: Implementing and authorized by the Nursing Education Scholarship Law [110 ILCS 975].

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

SOURCE: Adopted at 17 Ill. Reg. 13763, effective August 10, 1993; amended at 18 Ill. Reg. 17720, effective November 30, 1994; amended at 21 Ill. Reg. 4828, effective March 29, 1997; amended at 23 Ill. Reg. 8824, effective August 1, 1999; amended at 26 Ill. Reg. 16965, effective November 8, 2002; amended at 32 Ill. Reg. 19813, effective December 5, 2008; amended at 35 Ill. Reg. 4609, effective March 2, 2011.

SUBPART A: GENERAL PROVISIONSINTRODUCTION**Section 597.10 Definitions**

"Academic year" means the period of time from September 1 of one year through August 31 of the next year or as otherwise defined by the academic institution. (Section 3(6) of the Law)

"Accepted for admission" means a student has completed the requirements for entry into an associate degree in nursing program, associate degree in applied sciences in nursing program, hospital-based diploma in nursing program, baccalaureate degree in nursing program, graduate degree in nursing program, or certificate in practical nursing program at an approved institution, as documented by the institution. (Section 3(10) of the Law)

"Administrative Law Judge" means the person appointed to preside at administrative hearings under Subpart A of this Part.

"Advanced practice nurse" or "APN" means a person who has met the qualifications for a certified nurse midwife (CNM), certified nurse practitioner (CNP); certified registered nurse anesthetist (CRNA); or clinical nurse specialist (CNS) and has been licensed by the Department of Financial and Professional Regulation. (Section 50-10 of the Nurse Practice Act)

"Approved institution" means a public community college, private junior college, hospital-based diploma in nursing program, or public or private college or university located in this State that has approval by the Department of Financial and Professional Regulation for an associate degree in nursing program, associate degree in applied sciences in nursing program, hospital-based diploma in nursing program, baccalaureate degree in nursing program, graduate degree in nursing program, or certificate in practical nursing program. (Section 3(3) of the Law)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

"Associate degree in nursing program" or "hospital-based diploma in nursing program" means a program offered by an approved institution and leading to an associate degree in nursing, associate degree in applied sciences in nursing, or hospital-based diploma in nursing. (Section 3(7) of the Law)

"Baccalaureate degree in nursing program" means a program offered by an approved institution and leading to a bachelor of science degree in nursing. (Section 3(4) of the Law)

"Business day" means any day, including Monday through Friday. It does not include a federal or State government declared holiday, Saturday or Sunday

"Calendar day" means all days in a month or prescribed time frame. It includes weekends and federal or State government declared holidays.

"Center for Nursing Advisory Board" means the board that advises the Department on issues affecting the nursing profession in Illinois (see Section 6.5(b) of the Law and the Nurse Practice Act).

"Class rank" is the measure of how a student's performance compares to other students in his or her class.

"Department" means the Illinois Department of Public Health. (Section 3(2) of the Law)

"Director" means the Director of the Illinois Department of Public Health. (Section 3(9) of the Law)

"Enrollment" means the establishment and maintenance of an individual's status as a nursing student in an approved institution, regardless of the terms used at the institution to describe such status. (Section 3(5) of the Law)

"Fees" means those mandatory charges, in addition to tuition, that all students enrolled in a nursing program must pay, including required course or lab fees. (Section 3(11) of the Law)

~~"Full-time nurse educator employment" means employment by an approved academic institution in Illinois to educate nursing students based on the academic institution's definition of full-time faculty status.~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

"Full-time nursing employment" means providing direct patient care of at least 24 hours per week for those persons working weekend shifts, or 35 hours or more per week for those working weekday shifts.

"Full-time nursing student" means a student who is enrolled in a nursing program for at least 12 credit hours per term or as otherwise determined as full-time by the academic institution. (Section 3(12) of the Law)

"Grade point average" or "GPA" means a measure of a student's academic achievement, calculated by dividing the total number of grade points received by the total number of grade points attempted.

"Graduate degree in nursing program" means a program offered by an approved institution and leading to a master of science degree in nursing or a doctorate of philosophy or doctorate of nursing degree in nursing. (Section 3(8) of the Law)

~~*"Hospital-based diploma in nursing program" means a program offered by an approved institution and leading to a hospital-based diploma in nursing. (Section 3(7) of the Law)*~~

"Law" means the Nursing Education Scholarship Law [110 ILCS 975]. (Section 3(13) of the Law)

"Licensed practical nurse" means a person who is currently licensed as a licensed practical nurse by the Department of Financial and Professional Regulation under the Nurse Practice Act [225 ILCS 65]. (Section 3(18) of the Law)

"Mean-Weighted Average Tuition and Fees" means the tuition and mandatory fees used for the Illinois Public Universities and Illinois Community Colleges by the Illinois Student Assistance Commission for purposes of Monetary Award Program (MAP) grants, multiplied by the number of full-time equivalent undergraduate students enrolled at each such institution, added together, and divided by the sum of the full-time equivalent enrollments for the previous year at each institution. This figure is calculated once per year and is used regardless of whether individual institutions adjust their tuition and mandatory fees for that same year. The Mean-Weighted Average Tuition and Fees is calculated separately for Illinois Public Universities and Illinois Community Colleges (as cited in the COLLEGE ILLINOIS! Master Agreement and Disclosure Statement).

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

"Monetary Award Program" or "MAP" means a grant awarded by the Illinois Student Assistance Commission (ISAC) that provides payment toward tuition and mandatory fees for Illinois residents to attend an Illinois college. Eligibility is based on financial need. The maximum award depends on legislative action and available funding each year.

"Nurse educator" means a person who is currently licensed as a registered nurse by the Department of Financial and Professional Regulation under the Nurse Practice Act, who has a graduate degree in nursing, and who is employed by an approved academic institution to educate registered nursing students, licensed practical nursing students, and registered nurses pursuing graduate degrees. (Section 3(23) of the Law)

"Nurse educator employment" means employment by an approved academic institution in Illinois to educate nursing students.

"Nurse educator employment obligation" means employment in this State as a nurse educator for at least two years for each year of scholarship assistance received under Section 6.5 of the Law. (Section 3(24) of the Law)

"Nursing employment obligation" means employment in this State as a registered professional nurse, ~~or~~ licensed practical nurse, or advanced practice nurse in direct patient care ~~or as a nurse educator in the case of a graduate degree in nursing program recipient~~ for at least one year for each year of scholarship assistance received through the Nursing Education Scholarship Program. (Section 3(14) of the Law)

"Part-time nursing employment" means providing direct patient care for between 17.5 hours and 34 hours per week.

"Part-time student" means a person who is enrolled for at least one-third of the number of hours required per term by a school for its full-time students. (Section 3(15) of the Law)

"Practical Nursing Program" means a program offered by an approved institution and leading to a certificate in practical nursing. (Section 3(16) of the Law)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

"Quarter" means a term within an academic year that marks the beginning and end of classes. Quarters are approximately eight to 10 weeks in duration and there are four quarters in an academic year.

"Registered professional nurse" means a person who is currently licensed as a registered professional nurse by the Department of Financial and Professional Regulation under the Nurse Practice Act [225 ILCS 65]. (Section 3(17) of the Law)

"School term" means an academic term, such as a semester, quarter, or trimester, or number of clock hours, as defined by an approved institution. (Section 3(19) of the Law)

"Semester" means a term within an academic year that marks the beginning and end of classes. Semesters are approximately 15 to 16 weeks in duration and there are two semesters in an academic year.

"Summer term" means a term within an academic year that marks the beginning and end of classes. The term is approximately four to nine weeks in duration and is typically offered during June, July and August of an academic year.

"Student in good standing" means a student enrolled in a nursing program maintaining a cumulative grade point average equivalent to at least an academic grade of "C". (Section 3(20) of the Law)

"Total and permanent disability" means a physical or mental impairment, disease, or loss of a permanent nature that prevents nursing employment with or without reasonable accommodation. Proof of disability shall be a declaration from the social security administration~~Social Security Administration~~, Illinois Workers' Compensation Commission, Department of Defense, or an insurer authorized to transact business in Illinois who is providing disability insurance coverage to a contractor. (Section 3(21) of the Law)

"Trimester" means a term within an academic year that marks the beginning and end of classes. Trimesters are approximately 12 to 15 weeks in duration and there are three trimesters in an academic year.

"Tuition" means the established charges of an institution of higher learning for instruction at that institution. (Section 3(22) of the Law)

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 35 Ill. Reg. 4609, effective March 2, 2011)

Section 597.20 Referenced Materials

The following materials are referenced in this Part:

- a) Illinois statutes:
- 1) Nursing Education Scholarship Law [110 ILCS 975]
 - 2) Nurse Practice Act [225 ILCS 65]
 - 3) Board of Higher Education Act [110 ILCS 205]
 - 4) Department of Public Health Powers and Duties Law [20 ILCS 2310/2310-200]
- b) Illinois Administrative Rules:
- 1) Nursing and Advanced Practice Nursing Act – Advanced Practice Nurse (68 Ill. Adm. Code 1305)
 - 2) Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)

(Source: Added at 35 Ill. Reg. 4609, effective March 2, 2011)

Section 597.30 Administrative Hearings

Administrative hearings conducted concerning the provisions of this Part shall be governed by the Department's Practice and Procedure in Administrative Hearings.

(Source: Added at 35 Ill. Reg. 4609, effective March 2, 2011)

SUBPART B: ELIGIBILITY AND APPLICATION

Section 597.100 Eligibility

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

To qualify for consideration, an applicant ~~shall~~must meet the eligibility criteria outlined in Section 5 or 6.5 of the Law showing that the applicant:

- a) *Has been a resident of this State for at least one year prior to application, and is a citizen or a lawful permanent resident alien of the United States* (~~Sections~~Section 5(1) and 6.5(a)(1) of the Law); and
- b) *Is enrolled in or accepted for admission to an Illinois school in an associate degree in nursing program, hospital-based diploma in nursing program, baccalaureate degree in nursing program, graduate degree in nursing program or certificate in practical nursing program at an approved institution* (Section 5(2) of the Law); *and*
- c) *Agrees to meet the nursing employment obligation or the nurse educator employment obligation (as applicable)* (~~see the definition of "nursing employment obligation" in Section 597.10~~) (~~Sections~~Section 5(3) and 6.5(a)(3) of the Law).

(Source: Amended at 35 Ill. Reg. 4609, effective March 2, 2011)

Section 597.110 Application

- a) Application forms are prescribed by the Department and are available at financial aid offices, departments of nursing at approved schools, the Department's web site, or directly from the Department upon request.
- b) Incomplete applications and applications received after the published deadline will not be considered in the selection process. During the application cycle, all applicants will be notified in writing regarding the status of their applications. Corrections to the application must be made during this time period.
- c) *Each person applying for such a scholarship shall be provided with a copy of Section 6 or 6.5(e) of the Law at the time of application.* (~~Sections~~Section 6 and 6.5(e) of the Law)

(Source: Amended at 35 Ill. Reg. 4609, effective March 2, 2011)

SUBPART C: AWARD OF SCHOLARSHIPS

Section 597.200 Scholarship Description

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- a) A full-time nursing student in good standing pursuing *an associate degree in nursing* may receive a scholarship for *up to 2 academic years*. (Section 5 of the Law)
- b) A full-time nursing student in good standing pursuing *a hospital-based diploma in nursing* may receive a scholarship for *up to 3 academic years*. (Section 5 of the Law)
- c) A full-time nursing student in good standing pursuing *a baccalaureate degree in nursing* may receive a scholarship for *up to 4 academic years*. (Section 5 of the Law)
- d) A full-time nursing student in good standing pursuing *a graduate degree in nursing to become an advanced practice nurse* may receive a scholarship for *up to 5 academic years*. (Section 5 of the Law)
- e) A full-time nursing student in good standing pursuing *a certificate in practical nursing* may receive a scholarship for *up to one academic year*. (Section 5 of the Law)
- f) A full-time nursing student in good standing pursuing a graduate degree in nursing for the purpose of becoming a nurse educator may receive a scholarship for up to 3 years. (Section 6.5(c) of the Law)
- gf) Full-time tuition and fees awards for students at approved private institutions shall not exceed the tuition and fee charges at community colleges and universities statewide and the uniform living allowance reported in the weighted Monetary Award Program (MAP) budget for the academic year in which the scholarship is made. (Section 7 of the Law)
- hg) Part-time awards shall be determined by applying the proportion represented by the part-time enrollment to full-time enrollment ratio to the average per term scholarship amount for a student in the same nursing degree category. (Section 7 of the Law)
- ih) Using information provided annually by the Illinois Student Assistance Commission, 75% of the weighted tuition and fees charged by community colleges in Illinois shall be added to the uniform living allowance reported in the weighted

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Monetary Award Program (MAP) budget to determine the full-time scholarship amount for students pursuing an associate degree in nursing or a hospital-based diploma in nursing at an Illinois community college. (Section 7 of the Law)

- j) *Scholarship amounts for students pursuing associate ~~degrees in nursing~~, baccalaureate ~~degrees in nursing~~, or graduate degrees in nursing at a college or university shall include 75% of the weighted tuition and fees charged by public universities in Illinois plus the uniform living allowance reported in the weighted MAP budget. (Section 7 of the Law)*
- k) *Scholarship amounts for students in ~~certificate in~~ practical nursing programs shall include 75% of the average tuition and fees charges at all practical nursing programs plus the uniform living allowance reported in the weighted MAP budget. (Section 7 of the Law)*

(Source: Amended at 35 Ill. Reg. 4609, effective March 2, 2011)

Section 597.220 Selection Criteria for Award of Scholarships

- a) Scholarships awarded by the Department will be given to students who meet ~~all the~~ eligibility requirements in Section 597.100 of this Part and who agree to the provisions of the contract.
- b) Recipients shall be selected on the basis of the following criteria:
 - 1) ~~Recipients requesting a scholarship renewal~~ ~~Renewal recipients~~ will receive preference;
 - 2) *If in any year the number of qualified applicants exceeds the number of scholarships to be awarded, the Department shall, in consultation with the Center for Nursing Advisory Board, consider the following factors in granting priority in awarding scholarships:*
 - A) *Financial need, as shown on a current standardized financial needs assessment form used by an approved institution, of students pursuing their education on a full-time or close to full-time basis.*
 - B) *A student's status as a registered nurse who is pursuing a graduate degree in nursing to pursue employment in an approved institution*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

that educates licensed practical nurses and that educates registered nurses in undergraduate and graduate nursing programs.

C) *A student's merit, as shown through his or her grade point average, class rank, and other academic and extracurricular activities (Sections ~~Section~~ 5 and 6.5(b) of the Law), including, but not limited to:*

- i) A cumulative grade point average (GPA) of at least 3.0 on a 4.0 scale, or
- ii) Class rank in the 50th percentile or higher, or
- iii) Demonstration of academic achievement by having previously earned a certificate in practical nursing, a hospital-based diploma in nursing, ~~or~~ an associate degree in nursing, or a baccalaureate degree in nursing (as applicable).

3) In addition to the requirements in subsections (b)(1) and (b)(2), students pursuing a graduate degree in nursing who wish to become a nurse educator shall demonstrate their merit, as shown through their experience as a nurse, including supervisory experience, or experience as a nurse in the United States military. (Section 6.5(b)(3) of the Law)

43) In the event of a tie, students having the fewest number of credit hours remaining to complete the degree will be awarded scholarships.

c) Scholarship awards shall be distributed as follows:

- 1) *At least 40% of the scholarships awarded shall be for recipients who are pursuing baccalaureate degrees in nursing;*
- 2) *At least 30% of the scholarships awarded shall be for recipients who are pursuing associate degrees in nursing or a hospital-based diploma in nursing;*
- 3) *At least 20% of the scholarships awarded shall be for recipients who are*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

pursuing a graduate degree in nursing; and

- 4) *At least 10% of the scholarships awarded shall be for recipients who are pursuing a certificate in practical nursing. (Section 5 of the Law)*

(Source: Amended at 35 Ill. Reg. 4609, effective March 2, 2011)

Section 597.230 Student Enrollment and Institutions' Obligations

- a) An approved institution may accept a student into its nursing education program based on its own admission requirements, standards and policies.
- b) The Department shall disburse available scholarship funds for tuition and fees to the approved institution directly for the payment of tuition and other necessary fees or for credit against the student's obligation for tuition and fees. If the Department disburses scholarship funds directly to an approved institution, the approved institution shall be contractually obligated to provide facilities and instruction to the student on the same terms as to other students. (Section 9(a) of the Law)
- c) An approved institution shall provide written notice to the Department if any scholarship recipient who is enrolled in the approved institution ceases to be a student in good standing. The notice shall be sent to the Department within 10 business days after the institution determines that the student ceases to be in good standing.
- d) A student who receives a renewal scholarship shall either re-enroll in the approved institution that the student attended during the preceding academic year or enroll in another approved institution. The approved institution accepting the student for enrollment or re-enrollment shall notify the Department regarding the acceptance. The notice will be sent to the Department within 10 business days after the student's acceptance.

(Source: Added at 35 Ill. Reg. 4609, effective March 2, 2011)

SUBPART D: TERMS OF PERFORMANCE

Section 597.310 Repayment of Scholarship

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- a) Any recipient who defaults on the terms of the contract shall pay to the Department an amount equal to the amount of scholarship funds received per year for each unfulfilled year of the nursing employment obligation or nurse educator employment obligation, together with interest at 7% per year on the unpaid balance. (Sections 6 and 6.5(d) of the Law)
- b) Cash repayment must begin within 6 months following the date of the default action initiating the repayment. (SectionsSection 6 and 6.5(d) of the Law)
- c) Recipients in default shall enter into a Contract for Repayment with the Department as soon as the reason for default has been established. TheThis Contract for Repayment shall specify the amount due, the repayment schedule and all other terms of the cash repayment. Interest charges shall be completely waived if the recipient repays the total scholarship amount prior to the first payment due date.
- d) IfIn the event a recipient fails to pay monies owed to the Department, the Department may require a recipient to reimburse the State for expenses, including but not limited to legal fees and costs, incurred by the Department or other agent of the State for a successful legal action against the recipient for a breach of any provision of the scholarship contract and refer the recipientbe referred to the Illinois Attorney General or to a collection agency. The total 6-year interest shall be due if the recipient fails to fulfill the repayment requirements and the case is settled through authorized agencies outside the Department. (Section 4 of the Law)
- e) All cash repayments must be completed within 6 years from the date of the first annual cash payment. (SectionsSection 6 and 6.5(d) of the Law)
- f) In a breach of contract, the Department may utilize referral to the Department of Professional Regulation to revoke, suspend, refuse to renew, place on probationary status, or take other disciplinary action concerning the recipient's credentials. (Section 4 of the Law)
- g) The Department may allow a nurse educator employment obligation fulfillment alternative if the nurse educator scholarship recipient is unsuccessful in finding work as a nurse educator. The Department shall maintain a database of all available nurse educator positions in this State. (Section 6.5(d) of the Law) The

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Department shall utilize the following Internet address to ascertain all available nurse educator positions in Illinois: www.nursing.illinois.gov/ads.asp.

(Source: Amended at 35 Ill. Reg. 4609, effective March 2, 2011)

Section 597.320 Satisfaction~~Forgiveness~~ of Scholarship Obligation

- a) A recipient must graduate from the nursing program funded and provide a copy of the diploma or certificate that indicates the graduation date as soon as the document is available.
- b) A recipient must be licensed as a registered professional nurse or as a licensed practical nurse in the State of Illinois and must provide a copy of the license as soon as it is available.
- c) Fulfillment of the nursing employment obligation will be achieved as follows:
 - 1) For each full-time semester completed, the obligation is six months of full-time employment or 12 months of part-time employment;
 - 2) For each part-time semester completed, the obligation is **three** months of full-time employment or six months of part-time employment;
 - 3) For each full-time quarter or trimester completed, the obligation is four months of full-time employment or eight months of part-time employment;
 - 4) For each part-time quarter or trimester completed, the obligation is **two** months of full-time employment or **four** months of part-time employment;
 - 5) For each full-time summer term completed, the obligation is three months of full-time employment or **six** months of part-time employment;
 - 6) For each part-time summer term completed, the obligation is 1½ months of full-time employment or three months of part-time employment.
- d) Fulfillment of the nurse educator employment obligation will be achieved as follows:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 1) For each full-time semester completed, the obligation is 12 months of employment;
 - 2) For each part-time semester completed, the obligation is six months of employment;
 - 3) For each full-time quarter or trimester completed, the obligation is eight months of employment;
 - 4) For each part-time quarter or trimester completed, the obligation is four months of employment;
 - 5) For each full-time summer term completed, the obligation is six months of employment;
 - 6) For each part-time summer term completed, the obligation is three months of employment.
- e) ~~For each full-time semester, the nursing employment obligation is 6 months of full-time employment; for each part-time semester, the nursing employment obligation is 3 months of full-time employment; for each full-time quarter/trimester, the nursing employment obligation is 4 months of full-time employment; for each part-time quarter/trimester, the nursing employment obligation is 2 months of full-time employment; for each full-time summer term, the full-time nursing employment obligation is 3 months of full-time employment; for each part-time summer term, the full-time nursing employment obligation is 1½ months of full-time employment. The total nursing employment obligation for any one academic year shall not exceed 12 months of full-time employment.~~
- ed) *Within 12 months after graduation from an associate degree in nursing program, hospital-based diploma in nursing program, baccalaureate degree in nursing program, graduate degree in nursing program, or certificate in practical nursing program, any recipient who accepted a scholarship under Section 5 of the Act shall begin meeting the required nursing employment obligation or nurse educator employment obligation providing direct patient care or employment as a nurse educator in the case of a recipient receiving a graduate degree in nursing. (~~Sections~~Section 6 and 6.5(d) of the Law) Employment as a "license pending" nurse does not meet the nursing employment requirements. Fulfillment of the nursing employment obligation or nurse educator employment obligation must be*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

completed within a time period equivalent to twice the number of months of nursing employment obligation as described in ~~subsection~~ (c) and (d).

- (fe) Forms to document full-time and/or part-time nursing employment shall be sent to the recipient following graduation and licensure. Documentation forms will be forwarded periodically until the nursing employment obligation is completed, at which time the recipient will be notified and the record closed.
- (gf) If a recipient suffers a verifiable total and permanent disability, the nursing employment obligation or nurse educator employment obligation shall be excused and deemed satisfied. (See the definition of "total and permanent disability" in Section 597.10.)
- (hg) If a recipient dies or is adjudicated as incompetent, all scholarship obligations shall be excused and deemed satisfied. (See the definition of "total and permanent disability" in Section 597.10.) No claim for repayment may be filed against the estate of such a decedent or incompetent. (Sections 6 and 6.5(d) of the Law)

(Source: Amended at 35 Ill. Reg. 4609, effective March 2, 2011)

Section 597.330 Deferment of Scholarship Obligation

- a) The nursing employment *obligation may be deferred and re-evaluated* by a review of a written request from the recipient *every 6 months when the failure to fulfill the nursing employment obligation results from involuntarily leaving the profession due to a decrease in the number of nurses employed in the State or when the failure to fulfill the nursing employment obligation results from total and permanent disability.*
- b) *In order to defer the continuous nursing employment obligation, a recipient must request the deferment in writing from the Department and must provide a letter from his/her physician attesting to the recipient's inability (either temporarily or permanently) to continue employment. (Section 6 of the Law)*
- c) *A recipient shall notify the Department within 30 days if the recipient spends up to 4 years in military service before or after graduation and after completion of the nursing employment obligation. (Section 6 of the Law) The time spent in military service, up to 4 years, shall be excluded from the computation of the number of*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

months of nursing employment obligation as described in Section 597.320(c).

- d) *A recipient shall notify the Department within 30 days after enrollment if the recipient is enrolled in an academic program leading to a graduate degree in nursing. (Section 6 of the Law) The nursing employment obligation shall be deferred until he or she has completed a graduate degree in nursing.*
- e) *If a recipient receives funding through the Nursing Education Scholarship Program for a higher degree, the nursing employment obligation shall be deferred until he or she is no longer enrolled or has graduated with the higher degree. (Section 6 of the Law)*
- f) *The recipient must begin meeting the required nursing employment obligation no later than 6 months after the end of any deferment. (Section 6 of the Law)*
- g) *Within 12 months after graduation from a graduate degree in nursing program for nurse educators, any recipient who accepted a scholarship shall begin meeting the required nurse educator employment obligation. (Section 6.5(d) of the Law)*
- h) *In order to defer the continuous employment obligation, a recipient must request the deferment in writing from the Department. (Section 6.5(d) of the Law) The following deferments are allowed:*
 - 1) *A recipient shall receive a deferment if he or she notifies the Department, within 30 days after enlisting, that he or she is spending up to 4 years in military service.*
 - 2) *A recipient shall receive a deferment if he or she notifies the Department, within 30 days after enrolling, that he or she is enrolled in an academic program leading to a graduate degree in nursing.*
- i) *The recipient must begin meeting the required nurse educator employment obligation no later than 6 months after the end of the deferment or deferments. (Section 6.5(d) of the Law)*

(Source: Amended at 35 Ill. Reg. 4609, effective March 2, 2011)

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Secretary of State Standard Procurement
- 2) Code Citation: 44 Ill. Adm. Code 2000
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
2000.08	Amendment
2000.15	Amendment
2000.525	Amendment
2000.1005	Amendment
2000.2005	Amendment
2000.2010	Amendment
2000.2025	Amendment
2000.2030	Amendment
2000.2035	Amendment
2000.2040	Amendment
2000.2050	Amendment
2000.2060	Amendment
2000.2580	New Section
2000.4545	Amendment
2000.4570	Amendment
2000.5037	New Section
2000.5510	Amendment
2000.5520	Amendment
2000.5555	New Section
- 4) Statutory Authority: The Illinois Procurement Code [30 ILCS 500]
- 5) Effective Date of Amendments: March 3, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposed Amendments Published in the Illinois Register: September 3, 2010; 34 Ill. Reg. 12682

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: No substantive changes made between proposal and adoption. All technical changes recommended by JCAR were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The proposed rules further define terms, provide the structure for the oversight of procurement, specify required documentation of procurement actions, specify publication in the Illinois Procurement Bulletin of explanation for awards to other than the low bidder and the content of the explanation, restrict amendments to sole economically feasible source procurements for professional and artistic services, limit scope of emergency conditions for emergency purchases, specify the requirements for an extension of an emergency purchase, provide requirements for publication of professional and artistic procurements, expand reasons for the cancellation of a solicitation, provide requirements for pre-solicitation assistance prepared by a person outside of state personnel, change permissible duration of contracts, provide the requirement for disclosure of subcontractors, change definition of small business, change goals for minority and female owned businesses, provide requirements for vendor registration with the State Board of Elections, provide contract file requirements for vendors required to register with State Board of Elections, add that subcontractors' performance may be reviewed and the procedures for review, provide for debarment or suspension of subcontractors, and provide procedures for hearings and decisions of hearings.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Secretary of State
Cynthia Grant
Assistant General Counsel
298 Howlett Building
Springfield, IL 62756

217/785-3094

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 17) Does this amendment require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 50/5-25]? No

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

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY MANAGEMENT
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES
CHAPTER XXV: SECRETARY OF STATE

PART 2000

SECRETARY OF STATE STANDARD PROCUREMENT

SUBPART A: GENERAL

Section	
2000.01	Title
2000.05	Policy
2000.08	Illinois Procurement Code
2000.10	Application
2000.15	Definition of Terms Used in This Part
2000.25	Property Rights

SUBPART B: PROCUREMENT RULES

Section	
2000.525	Rules

SUBPART C: PROCUREMENT AUTHORITY

Section	
2000.1005	Conduct <u>and Oversight</u> of Procurements

SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

Section	
2000.1510	Illinois Procurement Bulletin
2000.1560	Supplemental Notice
2000.1570	Error in Notice
2000.1580	Direct Solicitation

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

Section	
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SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

2000.2005	General Provisions
2000.2010	Competitive Sealed Bidding
2000.2012	Multi-Step Sealed Bidding
2000.2015	Competitive Sealed Proposals
2000.2020	Small Purchases
2000.2025	Sole Economically Feasible Source Procurement
2000.2030	Emergency Procurements
2000.2035	Competitive Selection Procedures for Professional and Artistic Services
2000.2036	Other Methods of Source Selection
2000.2037	Tie Bids and Proposals
2000.2038	Mistakes
2000.2040	Cancellation of Solicitations; Rejection of Bids or Proposals

SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

Section	
2000.2043	Suppliers
2000.2044	Vendor List/Required Use
2000.2045	Prequalification
2000.2046	Responsibility

SUBPART G: BID, PROPOSAL AND PERFORMANCE SECURITY

Section	
2000.2047	Security Requirements

SUBPART H: SPECIFICATIONS AND SAMPLES

Section	
2000.2050	Specifications and Samples

SUBPART I: CONTRACT TYPE

Section	
2000.2055	Types of Contracts

SUBPART J: DURATION OF CONTRACTS

Section	
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SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

2000.2060 Duration of Contracts – General

SUBPART K: CONTRACT MATTERS

Section

2000.2560 Prevailing Wage

2000.2570 Equal Employment Opportunity; Affirmative Action

2000.2580 Subcontractors

SUBPART L: CONTRACT PRICING

Section

2000.2800 All Costs Included

SUBPART M: CONSTRUCTION AND
CONSTRUCTION RELATED PROFESSIONAL SERVICES

Section

2000.3005 Construction and Construction Related Professional Services

SUBPART N: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

Section

2000.4000 Applicability

2000.4005 Requests for Space/Department Responsibilities

2000.4010 General Acquisition Procedures

2000.4015 Acquisition of Leases by RFI

2000.4020 Leases Acquired by Other Methods

2000.4025 Renewal or Extension of Lease in Effect Prior to July 1, 1998

2000.4030 Renewal of Leases Entered into After July 1, 1998

2000.4035 Purchase Options

2000.4040 Lease Administration

2000.4045 Emergency Lease Procurement

SUBPART O: PREFERENCES

Section

2000.4505 Procurement Preferences

2000.4510 Resident Bidder Preference

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 2000.4530 Correctional Industries
- 2000.4535 Sheltered Workshops for the Disabled
- 2000.4540 Gas Mileage
- 2000.4545 Small Business
- 2000.4570 Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities

SUBPART P: ETHICS

- Section
- 2000.5013 Conflicts of Interest
- 2000.5015 Negotiations for Future Employment
- 2000.5020 Exemptions
- 2000.5030 Revolving Door
- 2000.5035 Disclosure of Financial Interests and Potential Conflicts of Interest
- | [2000.5037](#) [Vendor Registration, Certification and Prohibition on Political Contributions](#)

SUBPART Q: CONCESSIONS

- Section
- 2000.5310 Concessions

SUBPART R: COMPLAINTS, PROTESTS AND REMEDIES

- Section
- | 2000.5510 Complaints Against Vendors [or Subcontractors](#)
- 2000.5520 Suspension
- 2000.5530 Resolution of Contract Controversies
- 2000.5540 Violation of Statute or Rule
- 2000.5550 Protests
- | [2000.5555](#) [Hearings and Decisions](#)

SUBPART S: SUPPLY MANAGEMENT AND DISPOSITIONS

- Section
- 2000.6010 Supply Management and Dispositions

SUBPART T: GOVERNMENTAL JOINT PURCHASING

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

Section	
2000.6500	General
2000.6510	No Agency Relationship

SUBPART U: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

Section	
2000.7000	Severability
2000.7010	Government Furnished Property
2000.7015	Inspections
2000.7020	Records and Audits
2000.7025	Written Determinations
2000.7030	No Waiver of Sovereign Immunity

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

SOURCE: Emergency rule adopted at 22 Ill. Reg. 12208, effective July 1, 1998, for a maximum of 150 days; adopted at 22 Ill. Reg. 20306, effective November 9, 1998; emergency amendment at 23 Ill. Reg. 5911, effective April 30, 1999, for a maximum of 150 days; emergency expired September 26, 1999; amended at 23 Ill. Reg. 13953, effective November 8, 1999; amended at 35 Ill. Reg. 4629, effective March 3, 2011.

SUBPART A: GENERAL

Section 2000.08 Illinois Procurement Code

Articles 1, 15, 20, 25, 30, 33, 35, 40, 43, 45, 50 and 53 of the Illinois Procurement Code [30 ILCS ~~500.525~~/Arts. 1, 15, 20, 25, 30, 33, 35, 40, 43, 45, 50 and 53] (the Code) will be referenced in this Part. The Secretary of State shall procure its needs in a manner substantially in accordance with the requirements of the Code and shall promulgate rules no less restrictive than the requirements of the Code. [30 ILCS 500/1-30(a)] as though applicable to the SOS, and the needs shall be procured in a manner substantially in accordance with those provisions of the Code, except to the extent otherwise provided in this Part. For purposes of this Part, any reference in the Code or this Part to the Chief Procurement Officer (CPO) means the employee designated by the Secretary of State to serve in that capacity. ~~Secretary of State or his/her designee.~~ The Secretary of State may appoint one or more State Purchasing Officers (SPOs).

(Source: Amended at 35 Ill. Reg. 4629, effective March 3, 2011)

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

Section 2000.15 Definition of Terms Used in This Part

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

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

"Award" – The selection of a vendor for a contract.

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

"Bidder" – Any person other than an individual acting as a sole proprietor who submits a bid.

"Bidder or Offeror Authorized to do Business in Illinois" – A person (other than an individual acting as a sole proprietor) that is a legal entity authorized to do business in Illinois by the SOS Department of Business Services.

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

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

"Bulletin" – The Illinois Procurement Bulletin.

"Change Order" – A change order shall have the same meaning as an "amendment".

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

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

"Concession" – The right or a lease to engage in a certain activity for profit on the lessor's premises (e.g., a refreshment or parking concession).

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

"Contract" – A contract may be in written or oral form. The term contract as used in the Code and this Part does not include: supplies or services the terms governing which are established by tariff of the Illinois Commerce Commission or the Federal Communications Commission, bonds issued by or on behalf of any State agency, or contracts, other than for "concessions", that the State agency signs, but has no financial obligation to the other parties.

"Contractor" or "Vendor" – The terms contractor and vendor are used interchangeably for purposes of the Code and this Part.

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

"DCMS" – The Department of Central Management Services.

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

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

"Multi-Year Contract" – A multi-year contract is a contract with a performance term of more than 12 months.

"Offeror" – A person who responds to an Invitation for Bids, Request for Proposals or other form of solicitation.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

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

"Proposal" – The response to a Request for Proposals.

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

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

"Renewal" – An extension of an original contract with materially identical terms to the original contract.

"Request for Information" or "RFI" – The process by which a purchasing agency requests information from offerors for all State contracts for leases of real property or capital improvements.

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

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

~~"Responsive Bidder or Offeror" – A person who has submitted a bid that conforms in all material respects to the Invitation for Bids.~~ [30 ILCS 500/1-85]

"Reverse Auction" – A source selection technique that allows for purchase of supplies or services through a competitive auction process. A reverse auction allows bidders to electronically submit prices for an Invitation for Bids during a

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

predefined time period and is designed to obtain the lowest cost for supplies and services.

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

"Solicitation" – An Invitation for Bids, a Request for Proposals or other request to one or more vendors to respond to a procurement need expressed by the State.

"SOS" – The Office of the Secretary of State.

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

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

"State" – The Office of the Secretary of State.

"Subcontract" – A contract between one person and another person who has or is seeking a contract subject to this Code, pursuant to which the subcontractor provides to the contractor some or all of the goods, services, property, remuneration or other form of consideration that are the subject of the primary contract and includes, among other things, subleases from a lessee of a State agency.

"Subcontractor" – A person or entity that enters into a contractual agreement, for an amount greater than the small purchases limits set by Section 20-20 of the Code (or an amount set by rule pursuant to Section 20-20(c) of the Code) or Section 35-35 of the Code or Section 45 of the Architectural, Engineering and Land Surveying Qualifications Based Selection Act [30 ILCS 535/45], with a contractor who has or is seeking a contract subject to the Code, to provide the

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

contractor some or all of the goods, services, property, remuneration or other form of consideration that are the contractor's contractual obligations.

"Supplies" – *All personal property, including but not limited to equipment, materials, printing, and insurance, and the financing of those supplies.* [30 ILCS 500/1-15.110]

"Unsolicited Offer" – Any offer other than one submitted in response to a solicitation.

(Source: Amended at 35 Ill. Reg. 4629, effective March 3, 2011)

SUBPART B: PROCUREMENT RULES

Section 2000.525 Rules

- a) To the extent practicable, the SOS may avail itself of master, scheduled or open-ended contracts established by DCMS; items available from the Paper and Printing Warehouse; and DCMS contracts for telecommunications equipment, software and services, paper and envelopes, and vehicles and vehicle services. The CPO or SPO may submit purchase requests to DCMS in accordance with rules promulgated by DCMS.
- b) The Office of the Secretary of State shall procure its capital needs in a manner substantially in accordance with the requirements of this Part and will promulgate rules specifically for capital construction that are no less restrictive than the requirements of the Code. Until specific Secretary of State rules can be promulgated for this purpose, the Office will conform its capital procurement activities to the requirements of the Procurement Code by following the administrative rules of the Capital Development Board (44 Ill. Adm. Code 910, 950 and 980) and the Department of Central Management Services (44 Ill. Adm. Code 1).

(Source: Amended at 35 Ill. Reg. 4629, effective March 3, 2011)

SUBPART C: PROCUREMENT AUTHORITY

Section 2000.1005 Conduct and Oversight of Procurements

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- a) Chief Procurement Officer. The Secretary of State ~~or his/her designee~~ shall designate a chief procurement officer~~serve as~~ (CPO) for purposes of the Code and this Part. ~~and~~ The CPO may conduct any or all procurements on behalf of the SOS. The CPO shall have at least 5 years of experience in State budgeting or procurement activities, or shall be a certified professional public buyer or certified public purchasing officer by the Universal Public Purchasing Certification Council. The CPO shall be a resident of the State of Illinois and shall owe a fiduciary duty to the State. The CPO is responsible for signing all written award determination letters, stating the reasoning for any contract award decision. The CPO shall perform other duties as required by law.
- b) State Purchasing Officer. The ~~Secretary~~~~CPO~~ may appoint one or more SPOs to conduct procurement in accordance with the terms of the appointment and this Part. The employee performing the duties of the SPO shall be classified as a Merit Compensation employee pursuant to Secretary of State Department of Personnel rules (80 Ill. Adm. Code 410 and 420) and, upon attaining certified status, shall have the employment protections afforded that status. SPOs must be certified as a professional public buyer or a public purchasing officer by the Universal Public Purchasing Certification Council within 18 months after appointment. In the absence of an SPO, the CPO may designate a temporary acting SPO. The SPO shall exercise procurement authority at the direction of the CPO, and the decisions of an SPO are subject to review by the CPO. The SPO may enter into contracts for the Office of the Secretary of State. The SPO shall perform other duties as required by law.
- c) Procurement Compliance Monitor. The Secretary of State Inspector General, appointed pursuant to Section 14 of the Secretary of State Act [15 ILCS 305/14], or his or her designee, shall serve as the Procurement Compliance Monitor. If a designee is appointed to serve as the monitor, that designee shall be classified as a Merit Compensation employee pursuant to Secretary of State Department of Personnel rules (80 Ill. Adm. Code 410 and 420) and, upon attaining certified status, shall have the employment protections afforded that status. It shall be the duty of the monitor to oversee and review the procurement processes. The monitor shall have direct communication with the Secretary. The monitor shall:
- 1) have the right to review all contracts, attend any procurement meeting, and access reports and files;
 - 2) issue reports to the CPO regarding outstanding procurement problems;

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 3) ensure transparency and compliance with procurement laws;
 - 4) report findings of waste to SOS departments. If the department does not correct circumstances causing the waste, the monitor shall report to the CPO and the Inspector General; and
 - 5) perform other duties as required by law.
- d) Procurement Policy Board. The Secretary shall appoint a Secretary of State Procurement Policy Board (SOS PPB). The SOS PPB shall consist of 5 members. In making appointments to the SOS PPB, the Secretary shall consider an individual's knowledge and experience in State government procurements and operations. The members shall receive no compensation for serving on the SOS PPB other than reimbursement for expenses reasonably incurred in the performance of their duties . Except as provided in subsection (e), the SOS PPB shall:
- 1) be authorized to review, comment upon, and recommend rules and practices governing the procurement, management, control and disposal of supplies, services, professional or artistic services, construction, and capital improvements procured by the Office of the Secretary of State;
 - 2) be authorized to review any proposal, bid or contract, and may issue recommendations regarding procurement matters;
 - 3) be notified by the CPO if a conflict of interest is identified, discovered or reasonably suspected to exist. In the event of such notification, the SOS PPB is to recommend action and give its recommendation to the CPO and Secretary. The SOS PPB's recommendation shall be published in the Procurement Bulletin;
 - 4) report to the Inspector General whenever the PPB has cause to believe there has been a violation of the Procurement Code; and
 - 5) perform other duties as required by law.
- e) Real Estate Review Board. The Secretary shall appoint a Secretary of State Real Estate Review Board (RRB), consisting of 4 members plus the Property

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

Management Administrator. The 4 appointed members shall include 2 real estate professionals, one attorney, and one accountant. The RRB shall be authorized to review, comment upon, and recommend rules and practices governing the procurement, leasing, management, control and disposal of real property by the Secretary of State. Reviews of real property transactions shall consider issues related to legality; fair market value; verifications of property information, including square footage, property taxes, etc.; accuracy of rent allocation schedules; accuracy of vendor disclosure documents; and possible conflicts of interest.

f) Chief Internal Auditor. The Secretary shall appoint a chief internal auditor. The auditor must have a Bachelor's degree, and must be either a certified internal auditor, or a certified public accountant with at least 4 years of auditing experience, or an auditor with 5 years of experience. Any chief internal auditor appointed on or after July 1, 2010, shall be appointed for a period of 5 years and may only be removed for cause. The chief internal auditor shall report directly to the Secretary. Subject to the approval of the Secretary, and consistent with the Fiscal Control and Internal Auditing Act [30 ILCS 10], the chief internal auditor shall:

- 1) direct the internal audit functions and activities;
- 2) prepare audit reports and assess program goals;
- 3) be responsible for the preparation of an annual audit plan for submission to and subject to the approval of the Secretary; and
- 4) perform other duties as required by law.

(Source: Amended at 35 Ill. Reg. 4629, effective March 3, 2011)

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

Section 2000.2005 General Provisions

- a) Late Bids or Proposals, Late Withdrawals and Late Modifications
 - 1) Definition. Any bid or proposal received after the time and date for receipt, and at other than the specified location, is late. A bid that is

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

delivered to the wrong location but that is subsequently delivered to the correct location by the date and time specified shall be considered, but the agency shall not be responsible for ensuring such subsequent delivery. Any withdrawal or modification of a bid or proposal received after the time and date set for opening of bids or proposals is late. If received at other than the specified location, the submission is late.

- 2) Treatment. No late bid or proposal, late modification, or late withdrawal will be considered unless the Procurement Officer, and not a designee, determines it would have been timely but for the action or inaction of State personnel directly serving the procurement activity (e.g., providing the wrong address).
 - 3) Records. Records shall be made and, in accordance with the State Records Act [5 ILCS 160], kept for each late bid or proposal, late modification, or late withdrawal.
 - 4) Other Submissions. Any other submission that has a time or date deadline shall be treated in the same manner as a late bid.
- b) Extension of Time
- 1) The Procurement Officer may, prior to the date or time for submitting or modifying a bid or proposal, extend the date or time for the convenience of the State.
 - 2) After opening bids or proposals, the Procurement Officer may request bidders or offerors who submitted timely bids or proposals to extend the time during which the State may accept the bids or proposals, provided that, with regard to bids, no other change is permitted. This extension does not provide an opportunity for others to submit bids or proposals.
- c) Electronic and Facsimile Submissions
- 1) The Invitation for Bids (IFB) or Request for Proposals (RFP) may state that electronic and facsimile machine submissions will be considered if they are received at the designated office by the time and date set for receipt. Any required attachments will be submitted as stated in the IFB or RFP.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 2) Electronic submissions authorized by specific language in the IFB or RFP will be opened in accordance with electronic security measures in effect at the SOS at the time of opening. Unless the electronic submission procedures provide for a secure receipt, vendor assumes risk of premature disclosure due to submission in unsealed form.
- 3) Fax submissions authorized by specific language in the IFB or RFP will be placed in a sealed container upon receipt and opened as other submissions. Vendor assumes risk of premature disclosure due to submission in unsealed form.
- d) **Intent to Submit**
The Invitation for Bids or the Request for Proposals may require that vendors submit, by a certain time and date, a notice of their intent to submit a bid or proposal in response to the IFB or RFP. Bids and proposals submitted without complying with the notice of intent requirement may be rejected.
- e) **Only One Bid or Proposal Received**
If only one bid or proposal is received, an award may be made to the single bidder or offeror if the Procurement Officer finds that the price submitted is fair and reasonable, and that either other prospective bidders had reasonable opportunity to respond or there is not adequate time for resolicitation. Otherwise:
 - 1) new bids or offers may be solicited, including under sole source (Section 2000.2025) or emergency (Section 2000.2030) procedures; or
 - 2) the procurement may be canceled.
- f) **Alternate or Multiple Bids or Proposals**
 - 1) Alternate bids or proposals may be accepted if:
 - A) permitted by the solicitation and in accordance with instructions in the solicitation; or
 - B) only one vendor responded, in which case the alternate submission may be evaluated and treated in accordance with Section 2000.2025 (Sole Economically Feasible Source Procurement) of

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

this Part; or

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

2) Multiple bids or proposals may be accepted if:

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

B) only one vendor responded, then, one or more of the submissions may be evaluated, provided that, in the case of bids, only the lowest cost bid meeting specifications may be considered.

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

g) Multiple Items

An Invitation for Bids or Request for Proposals may call for pricing of multiple items of similar or related type with award based on individual line item, group total of certain items, or grand total of all items.

h) "All or None" Bids or Proposals

All or none bids or proposals may be accepted if the evaluation shows an all or none award to be the lowest cost or best value of those submitted.

i) Conditioning Bids or Proposals Upon Other Awards

Any bid or proposal that is conditioned upon receiving award of the particular contract being solicited and one or more other State contracts shall:

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

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

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- j) Unsolicited Offers
- 1) Processing of Unsolicited Offers. The Procurement Officer may consider unsolicited offers and shall have final authority with respect to evaluation, acceptance and rejection of such unsolicited offer.
 - 2) Conditions for Consideration. An unsolicited offer must be in writing and must be sufficiently detailed to allow a judgment to be made concerning the potential utility of the offer to the State.
 - 3) Award. An award may not be made based on an unsolicited offer in place of the notice and competition requirements of the Code and this Part except if that unsolicited offer meets the requirements for a small (Section 2000.2020), sole source (Section 2000.2025), or emergency (Section 2000.2030) procurement.
- k) Clarification of Bids and Proposals
- The Procurement Officer may request that a vendor clarify its bid or proposal as a part of the evaluation process. A vendor shall not be allowed to materially change its bid or proposal in response to a request for clarification. A clarification is not an opportunity to make changes or for submission of best and finals as authorized elsewhere in this Part.
- l) Extension of Time on Indefinite Quantity Contracts
- The time of performance of an indefinite quantity contract may be extended upon agreement of the parties, provided the extension is for 90 days or less and the Procurement Officer determines in writing that it is not practical to award another contract at the time of such extension.
- m) Increase in Quantity on Definite Quantity Contracts
- 1) The quantity that may be ordered from a definite quantity contract without additional notice and competition may be increased by up to 20% provided the Procurement Officer determines that separate bidding for the additional quantity is not likely to achieve lower pricing. A particular procurement may specify a different percentage.
 - 2) The quantity may be increased by any percentage provided the dollar

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

value of the increase does not exceed the applicable small purchase (Section 2000.2020) threshold.

- n) **Subsequent Purchase Request**

If, within 30 days after making an award to a particular vendor pursuant to a competitive sealed bid on behalf of the SOS, the SPO receives a purchase request for the same item and for the same or lesser quantity, the SPO may contract with that vendor on the same terms and conditions, including price, without additional notice and competition, if such contract is acceptable to the vendor.
- o) **Assignment, Novation or Change of Name**
 - 1) **Assignment.** No State contract is transferable, or otherwise assignable, without the written consent of the Procurement Officer, provided, however, that a vendor may assign money receivable under a contract after due notice to the State. Assignment may require the execution of a contract with the assignee and in such cases the assignee must meet all requirements for contracting with the State.
 - 2) **Recognition of a Successor in Interest; Novation.** When in the best interest of the State, a successor in interest may be recognized in a novation agreement in which the transferor and the transferee agree that:
 - A) the transferee assumes all of the transferor's obligations;
 - B) the transferee meets all requirements for contracting with the State;
 - C) the transferor waives all rights under the contract as against the State; and
 - D) unless the transferor guarantees performance of the contract by the transferee, the transferee shall, if required by the State, furnish a satisfactory performance bond.
 - 3) **Change of Name.** A vendor may submit to the Procurement Officer a written request to change the name in which it holds a contract with the State. The name change shall not alter any of the terms and conditions of the contract or the obligations of the vendor.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 4) Reports. All change of name or novation agreements under this subsection (o) shall be reported to the CPO of DCMS within 30 days after the date the agreement becomes effective so that the bid list may be updated.
- p) Contracting for Installment Purchase Payments, Including Interest
Contracts may provide for installment purchase payments, including interest charges, over a period of time. The interest rate may not exceed that established by law, including the Bond Authorization Act [30 ILCS 305].
- q) Use of Source Selection Method that is Not Required
If SOS uses a method of source selection that it is not, by law, required to use (e.g., use of a competitive sealed bid for a small purchase), the SOS is not bound to strict compliance with the Code and rules governing the method of source selection used.
- r) Vendor Signature
A bid or proposal submitted unsigned will be evaluated if the vendor submits a written signature acceptable to the Procurement Officer within the time specified by that officer.
- s) Stringing
Dividing or planning procurements to avoid use of competitive procedures (stringing) is prohibited.
- t) Confidential Data
Vendors must clearly identify any information that is exempt from the disclosure requirement of the Illinois Freedom of Information Act [5 ILCS 140] and must request special handling of that material.
- u) Documentation of Procurement Actions
Each SPO shall maintain in the procurement or associated contract file all substantive documents and records of communications that pertain to the procurement and any resulting contract. This shall include, as applicable, but is not limited to:
- 1) Procurement Business Case, signed by the CPO or SPO, that establishes the reason for the contract decision or other form of decision memo showing CPO or SPO approvals to proceed with the contract award;

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 2) Procurement Bulletin postings;
- 3) Solicitation document (e.g., IFB) and all amendments, clarifications and Best & Final requests;
- 4) Vendors' responses, including clarifications and responses to Best & Final requests;
- 5) Evaluation material (e.g., scoring guidelines and forms; completed score sheets for individual evaluators, including notes; evaluation committee's combined score sheets; evaluation committee's recommendation; and management's decision);
- 6) Protest and resolution;
- 7) Contract and any order, change, amendments, renewal or extension;
- 8) Contractor Performance Reviews;
- 9) All information from subsections (u)(1) through (8), less information exempt from disclosure under the Freedom of Information Act [5 ILAC 140], shall be prepared and available for inspection and copying, with information from subsections (u)(1) through (5) available on the date any award is posted to the Procurement Bulletin.

(Source: Amended at 35 Ill. Reg. 4629, effective March 3, 2011)

Section 2000.2010 Competitive Sealed Bidding

- a) Application
Competitive sealed bidding is the required method of source selection except as allowed by the Code and this Part. The provisions of this Section apply to every procurement required to be conducted by competitive sealed bidding.
- b) The Invitation for Bids
 - 1) Use. The Invitation for Bids is used to initiate a competitive sealed bid procurement.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 2) Content. The Invitation for Bids shall include, at a minimum, the following:
 - A) instructions and information to bidders concerning the bid submission requirements, including the time and date set for receipt of bids, the address of the office to which bids are to be delivered, and the maximum time for bid acceptance by the State;
 - B) the purchase description, evaluation factors, delivery or performance schedule, and such inspection and acceptance requirements as are not included in the purchase description; and
 - C) the contract terms and conditions, including warranty and bonding or other security requirements, as applicable.
 - 3) Incorporation by Reference. The Invitation for Bids may incorporate documents by reference provided that the Invitation for Bids specifies where such documents can be obtained.
- c) Bidding Time
Bidding time is the period of time between the date of notice or distribution of the Invitation for Bids and the time and date set for receipt of bids. In each case, bidding time will be set to provide bidders a reasonable time to prepare their bids. A minimum of 14 days shall be provided unless a shorter time is authorized by the Code or this Part.
- d) Bidder Submissions
- 1) Bid Form. The Invitation for Bids may include a form or format for submitting bids. If a form or format is specified, vendor shall submit bids as instructed.
 - 2) Bid Samples and Descriptive Literature
 - A) Bid samples or descriptive literature may be required when it is necessary to evaluate required characteristics of the items bid.
 - B) Unsolicited bid samples or descriptive literature is submitted at the bidder's risk, may not be examined or tested, will not be deemed to

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

vary any of the provisions of the Invitation for Bids, and may not be utilized by the vendor to contest a decision or understanding with the State.

- e) Public Notice
 - 1) Publication. Every procurement for supplies and services in excess of the small purchase amount that must be procured using an Invitation for Bids shall be publicized in the Illinois Procurement Bulletin (see Section 2000.1510).
 - 2) Public Availability. A copy of the Invitation for Bids shall be made available for public inspection.
 - 3) Distribution. Invitations for Bids or Notices of the Availability of Invitations for Bids may be mailed or otherwise furnished to a sufficient number of bidders for the purpose of securing competition. Notices of Availability shall, at a minimum, indicate where Invitations for Bids may be obtained; generally describe what is needed; and indicate the due date for bids. Where appropriate, the Procurement Officer may require payment of a fee or a deposit for supplying the Invitation for Bids.
- f) Pre-Bid Conference

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

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 2) Distribution. Amendments shall be made available to all prospective bidders known to have received an Invitation for Bids.
 - 3) Timeliness. Amendments shall be made available within a reasonable time to allow prospective bidders to consider them in preparing their bids. If the time and date set for receipt of bids will not permit such preparation, the amendment shall extend the response time. If necessary, the response time may be extended by fax or telephone and confirmed in the amendment.
- h) Pre-Opening Modification or Withdrawal of Bids
- 1) Procedure. Bids may be modified or withdrawn by written notice received in the office designated in the Invitation for Bids prior to the time and date set for bid opening.
 - 2) Disposition of Bid Security. If a bid is withdrawn in accordance with this Section, the bid security, if any, shall be returned to the bidder.
 - 3) Records. All documents relating to the modification or withdrawal of bids shall be made a part of the appropriate procurement file.
- i) Receipt, Opening and Recording of Bids
- 1) Receipt. Upon its receipt, each bid and modification shall be time-stamped but not opened and shall be stored in a secure place until the time and date set for bid opening. If a bid is opened in error, the file shall so state.
 - 2) Opening and Recording
 - A) Bids and modifications shall be opened publicly at the time, date, and place designated in the Invitation for Bids. Opening shall be witnessed by a State employee or any other person present, but the person opening bids shall not serve as witness. The name of each bidder, the bid price, and such other information as is deemed appropriate by the Procurement Officer, shall be recorded and the name of each bidder read aloud or otherwise made available. The name of the witness shall also be recorded at the opening.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- B) The winning bid shall be available for public inspection after award, along with the record of each unsuccessful bid.
- 3) Confidential Data. The SPO shall examine the bids to determine the validity of any requests for nondisclosure of trade secrets and other proprietary data identified in writing. If the parties do not agree as to the disclosure of data or other information, the bid shall be rejected as nonresponsive.
- j) Bid Evaluation and Award
- 1) General. The contract is to be awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the Invitation for Bids, except as permitted in the Code and this Part. The Invitation for Bids shall set forth the requirements and criteria that will be used to determine the lowest responsive bidder. No bid shall be evaluated for any requirements or criteria that are not disclosed in the Invitation for Bids.
 - 2) Responsibility. Responsibility of prospective vendors is covered by Section 2000.2046 (Responsibility) of this Part.
 - 3) Responsiveness. A bid must conform in all material respects to the Invitation for Bids.
 - A) Product or Service Acceptability. The Invitation for Bids shall set forth any evaluation criteria to be used in determining product or service acceptability. It may require the submission of bid samples, descriptive literature, technical data, references, licenses, or other information or material. It may also provide for accomplishing any of the following prior to award:
 - i) inspection or testing of a product or service prior to award for such characteristics as quality or workmanship;
 - ii) examination of such elements as appearance, finish, taste, or feel;

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- iii) other examinations to determine whether it conforms with any other purchase description requirements.
- B) The acceptability evaluation is not conducted for the purpose of determining whether one bidder's product or service capability is superior to another, but only to determine that a bidder's offering is acceptable as set forth in the Invitation for Bids. Any bidder's offering that does not meet the acceptability requirements shall be rejected.
- 4) Determination of Lowest Bidder. Following determination of product or service acceptability as set forth in this subsection (j), bids will be evaluated to determine which bidder offers the lowest cost to the State in accordance with the evaluation criteria set forth in the Invitation for Bids. Only objectively measurable criteria that are set forth in the Invitation for Bids shall be applied in determining the lowest bidder. Examples of such criteria include, but are not limited to, transportation cost and ownership or life-cycle cost formulas. Evaluation factors need not be precise predictors of actual future costs, but to the extent possible such evaluation factors shall be reasonable estimates based upon information the State has available concerning future use and shall provide for the equitable treatment of all bids. Pricing for optional supplies or services, or for renewal terms, may be considered, particularly when the pricing for such items or terms is unbalanced when compared to other pricing in the bid.
- 5) Price Negotiation. Negotiations are permitted with the low bidder to obtain a lower price for the item bid.
- k) Documentation of Award
Following award, a record showing the successful bidder shall be made a part of the procurement file.
- l) Award to Other Than Low Bidder
 - 1) The Procurement Officer, but not a designee, may award to other than the lowest responsible and responsive bidder upon a written determination that award to another bidder is in the State's best interest. The written explanation must be published in the appropriate volume of the Procurement Bulletin. ~~The name of the bidder selected, pricing, and the~~

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

~~reasons for selecting this bidder instead of the low bidder must be published in the Bulletin.~~

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

3) The explanation must include:

A) a description of the SOS's needs;

B) a determination that the anticipated cost will be fair and reasonable;

C) a listing of all reasonable and responsive bidders; and

D) the name of the bidder selected, pricing, and the reasons for selecting that bidder.

4) The explanation shall be filed with the Legislative Audit Commission and the SOS PPB.

m) Publicizing Award

The successful bidder shall be notified of award and ~~thesuch~~ notification may be in the form of a letter, purchase order or other clear communication. In procurements over the small purchase limit set in Section 2000.2020 (Small Purchases) of this Part, notice of award shall be published in the Bulletin.

(Source: Amended at 35 Ill. Reg. 4629, effective March 3, 2011)

Section 2000.2025 Sole Economically Feasible Source Procurement

a) Application

The provisions of this Part apply to procurement from a sole economically feasible source (referred to as sole source) unless the estimated amount of the procurement is within the limit set in Section 2000.2020 (Small Purchases) or unless emergency conditions exist as defined in Section 2000.2030 (Emergency

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

Procurements) of this Part.

b) Conditions for Use of Sole Source Procurement

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

- 1) the compatibility of equipment, accessories, replacement parts, or service is a paramount consideration;
- 2) a sole supplier's items are needed for trial use or testing;
- 3) a sole supplier's item is to be procured for commercial resale;
- 4) public utility regulated services are to be procured;
- 5) the item is copyrighted or patented and the item or service is not available except from the holder of the copyright or patent;
- 6) the procurement of the media for advertising;
- 7) the procurement of art or entertainment services; and
- 8) changes to existing contracts (see subsection (c)).

c) Changes

- 1) Changes to an existing contract that are germane and reasonable in scope and cost in relation to the original contract or program, that are necessary or desirable to complete the contract or program, and that can be best accomplished by the contract holder may be procured under this Section when the Procurement Officer determines that the cost of delay or disruption to the contract or program, and the cost of a new solicitation, clearly indicate that the existing vendor is the sole economically feasible source.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 2) A change (whether in cost or rate) that does not exceed the applicable small purchase limit as defined in Section 2000.2020 of this Part, or that is an emergency as defined in Section 2000.2030 of this Part, may be made in accordance with procedures governing those Sections and need not comply with these sole source procedures. A change in the length of the contract that does not exceed 30 days and other minor, immaterial changes to the scope or administrative provisions of a contract shall not be considered changes subject to these sole source procedures.
- d) Procurement Officer to Determine
- 1) The determination as to whether a procurement shall be made as a sole source shall be made by the Procurement Officer. Such determination and the basis therefore shall be in writing. Such officer may specify the application of such determination and the duration of its effectiveness.
 - 2) Any purchase request submitted to the CPO suggesting that a procurement be restricted to one potential vendor shall be accompanied by an explanation as to why no other vendor will be suitable or acceptable to meet the need.
- e) Publication of Sole Source Notice
- The Procurement Officer shall publish in the Bulletin notice of intent to contract with that vendor at least 14 days prior to execution of the contract.
- 1) If no challenge to this determination is made by a vendor within the 14 day period, the Procurement Officer may execute a contract with that vendor.
 - 2) If a challenge is received, the Procurement Officer shall consider the information and shall commence a competitive procurement if the Procurement Officer determines that more than one economically feasible source may be available and the sole source designation is, therefore, not appropriate, unless an emergency situation exists.
- f) Negotiation in Sole Source Procurement
- The Procurement Officer shall conduct negotiations, as appropriate, to reach contract terms, including price, and shall maintain a record of each sole source procurement showing:

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 1) the vendor's name;
- 2) the amount and type of the contract;
- 3) what was procured; and
- 4) the identification number of the contract file.

g) Prohibition Against Amending a Contract for Professional or Artistic Services Based on Sole Source

The provisions of subsection (c) shall not permit an amendment to a contract for professional or artistic services if:

- 1) there is an increase in the amount paid under the contract of more than 5% of the initial award; or
- 2) the term of the contract would extend by a period not to exceed the time reasonably needed for a competitive procurement or 2 months, whichever is less.

(Source: Amended at 35 Ill. Reg. 4629, effective March 3, 2011)

Section 2000.2030 Emergency Procurements

- a) Applications
The provisions of this Part apply to every procurement over the small purchase limit set in Section 2000.2020 (Small Purchases) of this Part and ~~thatwhich~~ is not a sole source procurement under Section 2000.2025 of this Part made under emergency, including quick purchase, conditions.
- b) Definition of Emergency Conditions
Procurements may be made under this Section 2000.2030 in the following circumstances:
 - 1) Traditional circumstances include but are not limited to:
 - A) public health or safety, including the health or safety of any particular person, is threatened;

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- B) immediate repairs are needed to State property to protect against further loss or damage to State property, or to prevent loss or damage to State property;
 - C) immediate action is needed to prevent or minimize serious disruption in State services;
 - D) action is needed to ensure the integrity of State records;
 - E) equipment or services are necessary in the furtherance of covert activities lawfully conducted by a State agency. Any required disclosures shall be made so as not to jeopardize those covert activities;
 - F) immediate action is necessary to avoid lapsing or loss of federal or donated funds; ~~or~~
 - G) the need for items to protect or further State interests is immediate and use of other competitive source selection procedures under the Code and this Part cannot be accomplished without significant risk of causing serious disadvantage to the State; or-
 - H) immediate action is necessary to protect the collection of substantial State revenue.
- 2) After Unsuccessful Competitive Sealed Bidding or Proposals or Request for Proposals. When bids or proposals received pursuant to a competitive sealed bid or competitive sealed proposal method are unreasonable or noncompetitive, or the price exceeds available funds, and time or other circumstances will not permit the delay required to resolicit competitive sealed bids or proposals, and if emergency conditions exist after an unsuccessful attempt to use competitive sealed bidding, an emergency procurement may be made.
- 3) Extension to Allow Competition. Extending an existing contract for such period of time as is needed to conduct a competitive method of source selection where terminating or allowing the contract to terminate would not be advantageous to the State.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 4) Quick Purchase-
- A) A supplier announces bankruptcy, cessation of business, or loss of franchise, or gives other similar reason so that making a purchase immediately is more advantageous to the State than instituting a competitive procurement under the provisions of the Code for the supplies or services;
 - B) Items are available on the spot market or at discounted prices for a limited time so that good business judgment mandates a purchase immediately to take advantage of the availability and price;
 - C) Availability of rare items, such as books of historical value;
 - D) The procurement is for entertainment.
- c) Scope of Emergency Conditions
- 1) Emergency procurements shall be limited to the items, quantity and term necessary to meet the emergency need.
 - 2) Emergency procurements shall be limited to the time reasonably needed for a competitive procurement, but in no event shall it exceed 90 days unless the CPO determines additional time is needed.
 - 3) In the event an emergency procurement exceeds 90 days, the contract scope and duration may be extended. The extension shall be limited in items, quantity and days.
- d) Authority to Make Emergency Procurements
Authority to make emergency procurements is established in Subpart C. Whenever practical, existing State contracts shall be utilized and, whenever practical, approval by the SPO shall be obtained prior to the procurement. The CPO or SPO shall be responsible for making the filings required in Section 20-30 of the Code.
- e) Source Selection Methods
Any method of source selection, whether or not identified in this Part, may be

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

used to conduct the procurement in emergency situations. The procedure used shall be selected to assure that the required items are procured in time to meet the emergency. Such competition as is practicable shall be obtained.

- f) Determination and Record of Emergency Procurement
- 1) Determination. The Procurement Officer shall make a written determination stating the basis for an emergency procurement and for the selection of the particular vendor. ~~The Such~~ determinations shall be kept in the contract file of the Procurement Officer.
 - 2) Record. An affidavit of each emergency procurement shall be filed ~~by~~with the CPO with the SOS PPB and the Auditor General within 10 days after the procurement and shall include the following information:
 - A) the vendor's name;
 - B) the amount and type of the contract, provided that, if only an estimate of the amount is available immediately, the record shall be supplemented with the final amount once known;
 - C) a description of what the vendor will do or provide;
 - D) the reasons for using the emergency method of source selection.
 - 3) Notice of the emergency procurement shall be published in the Bulletin in accordance with Subpart D of this Part.
- g) Extensions of Emergency
In the event an emergency procurement exceeds 90 days, the emergency procurement may be extended. Prior to the execution of the extension:
- 1) the CPO must determine additional time is necessary;
 - 2) the contract scope and duration must be limited to the emergency;
 - 3) a public hearing must be held;
 - 4) the CPO must provide written justification for the emergency contract;

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 5) notice of the intent to extend shall be provided to the SOS PPB and published in the Bulletin in accordance with Subpart D of this Part.

(Source: Amended at 35 Ill. Reg. 4629, effective March 3, 2011)

Section 2000.2035 Competitive Selection Procedures for Professional and Artistic Services

- a) Application
- 1) The provisions of this Section apply to every procurement of professional and artistic services except those subject to the Architectural, Engineering and Land Surveying Qualifications Based Selection Act [30 ILCS 535] and except as provided in Section 2000.2035(e).
 - 2) *"Professional and artistic services" means those services provided under contract to a State agency by a person or business, acting as an independent contractor, qualified by education, experience, and technical ability [30 ILCS 500/1-15.60].*
- b) Professional and artistic services are further defined as follows:
- 1) "Qualified by education" means the individual who would perform the services must have obtained the level of education specified in the Request for Proposals.
 - 2) "Qualified by experience" means the individual who would perform the services must have the level of general experience specified in the Request for Proposals.
 - 3) "Qualified by technical ability" means the individual who would perform the services must demonstrate a high degree of skill or ability in performing services that are the same, similar or closely related in nature to those specified in the Request for Proposals.
 - 4) An essential element distinguishing professional and artistic services from other services is confidence, trust, and belief in not only the ability, but the talent, of the individual performing the service. These services are primarily for intellectual or creative skills. Contracts for services primarily

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

involving manual skills or labor are not professional and artistic services contracts. (See Illinois Attorney General Opinion S-256, January 20, 1971.)

- 5) If the professional or artistic contract is with a firm or other business entity, the individuals whose education, experience and technical ability provided the basis on which the firm or other business entity was selected must meet the qualifications.
 - 6) When SOS requires services that meet the requirements of this subsection (b), the competitive selection procedures described in this Section must be followed. Services that do not meet the requirements of this Section must be procured in accordance with other methods of source selection authorized by the Code and this Part.
- c) The categories of services enumerated below shall be considered and procured as professional and artistic services. With regard to other services, the SPO may determine whether the factors identified in subsection (b), when applied to particular services to be procured, require such services to be procured as professional and artistic under these competitive selection procedures, or as services that are subject to one of the other methods of source selection authorized by the Code and this Part. The following categories are examples of disciplines that would always be professional and artistic services:
- 1) law;
 - 2) accounting;
 - 3) medicine;
 - 4) dentistry; and
 - 5) clinical psychology.
- d) Architect, engineering and land surveying services shall be procured pursuant to the procedures of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act [30 ILCS 535]. Such procurements are not subject to the procedures for other professional services established in the Code or this Part.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- e) **Conditions for Use of Competitive Selection Procedures**
Except as authorized under Section 20-25 (Sole Source Procurement) or Section 20-30 (Emergency Procurements) of the Code, these competitive selection procedures shall be used for all procurements of professional and artistic services of \$20,000 or more. Services of less than \$20,000 and for a nonrenewable term of one year or less may be procured in accordance with Section 2000.2020 (Small Purchases) of this Part.
- f) **Prequalification.** The CPO shall maintain a list of prequalified professional and artistic vendors in accordance with Section 2000.2045 of this Part. Persons may amend statements of qualifications at any time by filing a new statement. Failure of a professional and artistic vendor to prequalify shall not be cause for rejection of a proposal provided that the responsive offeror supplies with its proposal all information defined by the prequalification process.
- g) **Public Notice of Competitive Selection Procedures**
 - 1) Notice of the need for professional and artistic services shall be made by the Procurement Officer in the form of a Request for Proposals.
 - 2) Notice shall be given as provided in Section 2000.2010 (Competitive Sealed Bidding) of this Part.
 - 3) Notice shall also be distributed to prequalified persons interested in performing the services required by the proposed contract.
- h) **Request for Proposals**
 - 1) **Contents.** The Request for Proposals shall be in the form specified by the CPO and shall contain at least the following information:
 - A) the type of services required;
 - B) a description of the work involved;
 - C) an estimate of when and for how long the services will be required;
 - D) the type of contract to be used;

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- E) a date by which proposals for the performance of the services shall be submitted;
 - F) a statement of the minimum information that the proposal shall contain, which may, by way of example, include:
 - i) the name of the offeror, the location of the offeror's principal place of business and, if different, the place of performance of the proposed contract;
 - ii) if deemed relevant by the Procurement Officer, the age of the offeror's business and average number of employees over a previous period of time, as specified in the Request for Proposals;
 - iii) the abilities, qualifications, and experience of all persons who would be assigned to provide the required services;
 - iv) a listing of other contracts under which services similar in scope, size, or discipline to the required services were performed or undertaken within a previous period of time, as specified in the Request for Proposals;
 - v) a plan, giving as much detail as is practical, explaining how the services will be performed;
 - G) price (to be submitted in a separate envelope in the proposal package and not mentioned elsewhere in the proposal package); and
 - H) the factors to be used in the evaluation and selection process and their relative importance.
- 2) Evaluation. Proposals shall be evaluated only on the basis of evaluation factors stated in the Request for Proposals. Price will not be evaluated until ranking of all proposals and identification of the most qualified vendor. The relative importance of the evaluation factors will vary according to the type of services being procured. The minimum factors

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

are:

- A) the plan for performing the required services;
 - B) ability to perform the services as reflected by technical training and education, general experience, specific experience in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services;
 - C) the personnel, equipment, and facilities to perform the services currently available or demonstrated to be made available at the time of contracting; and
 - D) a record of past performance of similar work.
- i) **Pre-Proposal Conference**
A pre-proposal conference, if appropriate, shall be conducted in accordance with Section 2000.2010(f) (Pre-Bid Conference). Such a conference may be held anytime prior to the date established for submission of proposals.
- j) **Delivery, Receipt and Handling of Proposals**
- 1) Proposals shall be submitted to and opened by the SPO in accordance with instructions given by the SPO.
 - 2) **Public Opening**
 - A) Proposals and modifications shall be opened publicly at the time, date and place designated in the Request for Proposals.
 - B) Opening shall be witnessed by a State employee or by any other person present, but the person opening proposals shall not serve as witness. A record shall be prepared that shall include the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the supply or service item offered. The record of proposals shall be open to public inspection after award of the contract.
 - C) Proposals and modifications shall be opened in a manner designed

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

to avoid disclosing contents to competitors. Only State personnel and contractual agents may review the proposals prior to award.

- D) Proposals of offerors who are not awarded the contract shall not be open to public inspection.
- k) Discussions
- 1) Discussions Permissible. The Procurement Officer may conduct discussions with any offeror to:
 - A) determine in greater detail such offeror's qualifications; and
 - B) explore with the offeror the scope and nature of the required services, the offeror's proposed method of performance, and the relative utility of alternative methods of approach. The Procurement Officer may allow changes to the proposal based on those discussions.
 - 2) No Disclosure of Information. Discussions shall not disclose any information derived from proposals submitted by other offerors, and the agency conducting the procurement shall not disclose any information contained in any proposals until after award of the proposed contract has been made. The proposal of the offeror awarded the contract shall be open to public inspection except as otherwise provided in the contract.
- l) Selection of the Best Qualified Offerors
After conclusion of validation of qualifications, evaluation, and discussion, the Procurement Officer shall rank the acceptable offerors in the order of their respective qualifications.
- m) Evaluation of Pricing Data
Pricing submitted for all proposals timely submitted shall be opened and ranked.
- 1) If the low price is submitted by the most qualified vendor, the Procurement Officer may award to that vendor.
 - 2) If the price of the most qualified vendor is not low and if it does not exceed \$25,000, the Procurement Officer, but not a designee, may award

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

to that vendor.

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

n) Negotiation and Award of Contract

- 1) General. The Procurement Officer shall attempt to negotiate a contract with the best qualified offeror for the required services at fair and reasonable compensation. The Procurement Officer may, in the interest of efficiency, negotiate with other vendors, while negotiating with the best qualified vendor.
- 2) Elements of Negotiation. At a minimum, contract negotiations shall be directed toward:
 - A) making certain that the offeror has a clear understanding of the scope of the work, specifically, the essential requirements involved in providing the required services;
 - B) determining that the offeror will make available the necessary personnel and facilities to perform the services within the required time; and
 - C) agreeing upon compensation that is fair and reasonable, taking into account the estimated value of the required services and the scope, complexity, and nature of such services.
- 3) Successful Negotiation of Contract with Best Qualified Offeror
 - A) If compensation, contract requirements, and contract documents can be agreed upon with the best qualified offeror, the contract shall be awarded to that offeror, unless the procurement is canceled.
 - B) Compensation must be determined in writing to be fair and reasonable. Fair and reasonable compensation shall be determined

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

by the Procurement Officer based on the circumstances of the particular procurement, including but not limited to the nature of the services needed, qualifications of the offerors, consideration of range of prices received in the course of the procurement, and the agency's identified budget.

- 4) Failure to Negotiate Contract with Best Qualified Offeror
 - A) If compensation, contract requirements, or contract documents cannot be agreed upon with the best qualified offeror, a written record stating the reasons therefore shall be placed in the file. The Procurement Officer shall advise such offeror of the termination of negotiations.
 - B) Upon failure to negotiate a contract with the best qualified offeror, the Procurement Officer may enter into negotiations with the next most qualified offeror.
 - C) Nothing in this Section shall prohibit the Procurement Officer from making a selection that represents the best value, qualifications, price and other relevant factors established in the request for proposals being considered. The Procurement Officer may, in considering best value, determine the proposal from a fully qualified vendor that submitted the lowest price to be the best value without further evaluation.
- o) Notice of Award

Written notice of award shall be public information and made a part of the contract file. The SPO shall publish the names of the responsible decision makers of the purchasing agency, the name of the agency, the successful vendor, a contract reference number or other identifier, and the value of the contract. Publication shall be in the next available issue of the Bulletin.
- p) A CPO may allow an SPO to publish notices of small,~~Small,~~ sole source and emergency procurements of professional and artistic services under the jurisdiction of an SPO. ~~do not require approval of the CPO to proceed. Any notices shall be published by the SPO.~~
- q) Post Performance Review

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

The SPO shall require the using department to provide a synopsis of the contract and shall rate the vendor's performance using the form developed by the SPO. A copy of the completed form shall be provided to the SPO.

(Source: Amended at 35 Ill. Reg. 4629, effective March 3, 2011)

Section 2000.2040 Cancellation of Solicitations; Rejection of Bids or Proposals

- a) **Scope of this Section**
The provisions of this Section shall govern the cancellation of any solicitations whether issued by the State under competitive sealed bidding, competitive sealed proposals, small purchases, or any other source selection method, and rejection of bids or proposals in whole or in part.
- b) **Policy**
Any solicitation may be canceled when the Procurement Officer believes cancellation to be in the State's best interest. Nothing shall compel the award of a contract.
- c) **Cancellation of Solicitation; Rejection of All Bids or Proposals Prior to Opening**
 - 1) As used in this Section, "opening" means the date set for opening of bids, receipt of unpriced technical offers in multi-step sealed bidding, or receipt of proposals in competitive sealed proposals.
 - 2) Prior to opening, a solicitation may be canceled in whole or in part when the Procurement Officer determines in writing that such action is in the State's best interest for reasons including, but not limited to:
 - A) the State no longer requires the supplies or services;
 - B) the State no longer can reasonably expect to fund the procurement;
~~or~~
 - C) proposed amendments to the solicitation would be of such magnitude that a new solicitation is desirable;-
 - D) **ambiguous or otherwise inadequate specifications;**

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- E) the solicitation did not provide for consideration of all factors of significance to the State;
 - F) prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;
 - G) all otherwise acceptable bids or proposals received are at clearly unreasonable prices; or
 - H) there is reason to question whether the bids or proposals may not have been independently arrived at in open competition, may have been the result of collusion or may have been submitted in bad faith.
- 3) When a solicitation is canceled prior to opening, notice of cancellation shall be sent to all businesses that responded to the solicitation.
- 4) The notice of cancellation shall:
- A) identify the solicitation;
 - B) briefly explain the reason for cancellation; and
 - C) where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurements of similar supplies or services.
- d) Cancellation of Solicitation; Rejection of All Bids or Proposals After Opening
- 1) After opening but prior to award, all bids or proposals may be rejected in whole or in part when the Procurement Officer determines in writing that ~~the~~such action is in the State's best interest. Reasons for the Procurement Officer's determination~~Such reasons~~ may include, but are not limited to:
- A) the supplies or services being procured are no longer required;
 - B) ambiguous or otherwise inadequate specifications were part of the solicitation;

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- C) the solicitation did not provide for consideration of all factors of significance to the State;
 - D) prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;
 - E) all otherwise acceptable bids or proposals received are at clearly unreasonable prices; or
 - F) there is reason to question whether the bids or proposals may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith.
- 2) When the solicitation is canceled or when all bids or proposals are rejected, all vendors who submitted bids or proposals shall be sent a notice upon request informing them of the reasons for the cancellation or rejection.
- e) Documentation
The reasons for cancellation or rejection shall be made a part of the procurement file and shall be available for public inspection.
- f) Rejection of Individual Bids or Proposals
- 1) General. This subsection (f) applies to rejections of individual bids or proposals in whole or in part.
 - 2) Notice in Solicitation. Each solicitation shall provide that any bid or proposal may be rejected in whole or in part when in the best interest of the State as provided in this Section.
 - 3) Reasons for Rejection
Reasons for rejecting a bid or proposal may include, but are not limited to:
 - A) the business that submitted the bid or proposal is nonresponsible as determined under Section 2000.2046 (Responsibility) of this Part;
 - B) the bid or proposal is not responsive, that is, it does not conform in all material respects to the solicitation;

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- C) the proposal ultimately (that is, after any opportunity has passed for altering or clarifying the proposal) fails to meet the announced requirements of the State in some material respect;
 - D) the supply or service item offered in the bid is unacceptable by reason of its failure to meet the requirements of the specifications or permissible alternates or other acceptability criteria set forth in the Invitation for Bids; or
 - E) the proposed price is clearly unreasonable.
- 4) Notice of Rejection. Upon request, unsuccessful bidders or offerors shall be advised of the reasons for rejection.

(Source: Amended at 35 Ill. Reg. 4629, effective March 3, 2011)

SUBPART H: SPECIFICATIONS AND SAMPLES

Section 2000.2050 Specifications and Samples

- a) Responsibilities Regarding Specifications
 - 1) The Procurement Officer shall write the necessary specifications except as noted in this subsection (a).
 - 2) If a specification for general or common use or a qualified products list exists for an item to be procured under Section 20-20 of the Code (Small Purchases), it shall be used except as otherwise authorized by the SPO. If no such specification exists, the Procurement Officer shall have the authority to prepare specifications for use in such purchases. In an emergency under Section 20-30 of the Code, any necessary specification may be utilized without regard to the provisions of this Subpart.
- b) Procedures for the Development of Specifications
 - 1) If the SPO develops a specification for a common or general use item or has developed a qualified products list in accordance with this Section for a particular supply or service, it shall be used unless the SPO authorizes

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

use of another specification.

- 2) All procurements shall be based on specifications that accurately reflect the State's needs. Specifications shall clearly and precisely describe the salient technical or performance requirements.
- 3) Specifications shall not include restrictions that do not significantly affect the technical requirements or performance requirements, or other legitimate State needs. All specifications shall be written in such a manner as to describe the requirements to be met, without having the effect of exclusively requiring a proprietary supply or service, or procurement from a sole source, unless no other manner of description will suffice.
- 4) Any specifications or standards adopted by business, industry, not-for-profit organization or governmental unit may be adopted by reference.
- 5) A specification may provide alternate descriptions where two or more design, functional, or performance criteria will satisfactorily meet the State's requirements.

c) Brand Name or Equal Specification

- 1) Brand name or equal specifications may be used when the Procurement Officer determines in writing that:
 - A) no specification for a common or general use specification or qualified products list is available;
 - B) time does not permit the preparation of another form of specification, not including a brand name specification;
 - C) the nature of the product or the nature of the State's requirement makes use of a brand name or equal specification suitable for the procurement; or
 - D) use of a brand name or equal specification is in the State's best interest.
- 2) Brand name or equal specifications shall seek to designate more than one

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

brand as "or equal", and shall further state that substantially equivalent products to those designated will be considered for award.

- 3) Unless the Procurement Officer determines that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, functional, or performance characteristics that are required.
 - 4) Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition. "Or equal" submissions will not be rejected because of minor differences in design, construction or features that do not affect the suitability of the product for its intended use. Burden of proof that the product is equal is on the bidder.
- d) Brand Name Only Specification
- 1) Determination. A brand name only specification may be used only when the Procurement Officer makes a written determination that only the identified brand name item or items will satisfy the State's needs.
 - 2) Use. Brand name alone may be specified in order to ensure compatibility in existing systems, to preserve warranty, to ensure maintenance, or as authorized in writing by the SPO. The Procurement Officer may, pursuant to an authorized competitive procedure, select a particular vendor to provide supplies or services for a specified period of time, and for that period the supplier of additional, related and updated supplies and services may be limited to the selected vendor or the brand initially selected.
 - 3) Competition. The Procurement Officer shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit such sources to achieve whatever degree of competition is practicable. If only one source can supply the requirement, the procurement shall be made under Section 2000.2025 (Sole Economically Feasible Source Procurement) of this Part.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 4) Small and Emergency Procurements. Brand name only specifications may be used when procuring items under the small (Section 2000.2020) and emergency (Section 2000.2025) provisions of this Part.
- e) Qualified Products List
- 1) Use. A qualified products list may be developed by the Procurement Officer when testing or examination of the supplies prior to issuance of the solicitation is desirable or necessary in order to best satisfy State requirements.
 - 2) Solicitation. When developing a qualified products list, a representative group of potential suppliers shall be solicited in writing to submit products for testing and examination to determine acceptability for inclusion in a qualified products list. Any potential supplier, even though not solicited, may offer its products for consideration during the time allowed for testing and examination.
 - 3) Testing and Confidential Data. Inclusion on a qualified products list shall be based on results of tests or examinations conducted in accordance with established requirements. Except as otherwise provided by law, trade secrets, test data, and similar information provided by the supplier will be kept confidential when requested in writing by the supplier.
- f) Proven Products
The supply or service may be rejected if it has not been offered to other governmental or commercial accounts for at least one year. Specifications may require that the supply or services must have been used in business or industry for a specified period of time to be considered.
- g) State Required Samples
- 1) Any required samples must be submitted as instructed in the solicitation with transportation prepaid by the vendor. Each sample must be labeled with the vendor's name, address and a means of matching the sample with the applicable bid or proposal.
 - 2) Any sample submitted must be representative of the item that would be delivered if a contract were awarded for that item. Samples submitted by a

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

successful vendor will be retained to check continuing quality. Submission of samples will not limit the State's right to require adherence to specifications.

- 3) No payment will be made for State Required Samples. Samples not destroyed or consumed by examination or testing will be returned upon request and at vendor's expense. Such request must be made at time of submission with return collect or prepayment provisions and instructions for return accompanying the samples.
- h) **Product Demonstration**
Any vendor may request time and space to demonstrate a product or service. Agreement to allow such demonstration will be solely at the State's discretion and will not entitle the bidder to a contract nor shall payment for the demonstration be allowed unless a written contract had been executed prior to the demonstration.
- i) **Specifications Prepared by Other Than State Personnel**
 - 1) Specifications may be prepared by other than State personnel, including, but not limited to, consultants, architects, engineers, designers, and other drafters of specifications for public contracts when the Procurement Officer determines that there will be no substantial conflict of interest involved and it is otherwise in the best interest of the State, and provided the Procurement Officer retains the authority to finally approve the specifications. Contracts for the preparation of specifications by other than State personnel shall require the specification writer to adhere to State requirements.
 - 2) The person who prepared the specifications shall not submit a bid or proposal to meet the procurement need unless the Secretary of State, and not a designee, determines in writing that it would be in the best interest to accept such a bid or proposal from that person. A notice to that effect shall be published in the Bulletin.
- j) Pre-solicitation Assistance/Specifications Prepared by Other Than State Personnel
 - 1) Prior to issuing a solicitation, an SPO may issue an RFI to obtain services of any person or business to conduct research, analyze requirements or provide general design or other assistance to help the SOS develop its

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

procurement strategy, specifications and documents and to identify and address other related needs. No services can be obtained to assist the SOS in reviewing, drafting or preparing an RFP or RFI or to provide similar assistance.

- 2) Notice. A Request for Information shall be published in the Illinois Procurement Bulletin for at least 7 calendar days. All information received in response to an RFI shall be published in the Bulletin for at least 7 calendar days.
- 3) The RFI shall contain at least the following:
 - A) the name of the requesting agency;
 - B) a brief description of the agency's need; and
 - C) a statement that the RFI is not a solicitation.

(Source: Amended at 35 Ill. Reg. 4629, effective March 3, 2011)

SUBPART J: DURATION OF CONTRACTS

Section 2000.2060 Duration of Contracts – General

- a) General
 - 1) A multi-term contract for a term of up to 10 years is authorized when determined by the ~~CPO~~Procurement Officer to be in the best interest of the State, inclusive of proposed contract renewals.
 - 2) A software license may have a term longer than 10 years, including for a perpetual term, provided the payment term is limited to no more than 10 years.
 - 3) The length of the payment terms of the bonds issued by or on behalf of the SOS shall be limited as provided in the statute authorizing the issuance of bonds.
- b) The contractual obligation of both parties in each fiscal period succeeding the first

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

is subject to appropriation and availability of funds. The contract shall provide that, in the event that funds are not available for any succeeding fiscal period, the remainder of such contract shall be canceled without penalty to, or further payment being required by, the State. This provision applies to only those contracts that are funded in whole or in part by funds appropriated by the Illinois General Assembly or other governmental entity.

c) Conditions for Use of Multi-~~YearTerm~~ Contracts

A multi-~~yearterm~~ contract may be used when:

- 1) special production of definite quantities or the furnishing of long-term services is required to meet State needs; or
- 2) a multi-~~yearterm~~ contract will serve the best interests of the State by encouraging effective competition or otherwise promoting economies in State procurement. The following factors are among those relevant to such a determination:
 - A) firms that are not willing or able to compete because of high start-up costs or capital investment in facility expansion will be encouraged to participate in the competition when they are assured of recouping ~~thosesueh~~ costs during the period of contract performance;
 - B) lower production costs because of larger quantity of service requirements, and substantial continuity of production or performance over a longer period of time, can be expected to result in lower unit prices;
 - C) stabilization of the vendor's work force over a longer period of time may promote economy and consistent quality; or
 - D) the cost and burden of contract solicitation, award, and administration of the procurement may be reduced.

d) Multi-~~YearTerm~~ Contract Procedure

The solicitation shall state:

- 1) the proposed term;

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 2) the amount of supplies or services required for the proposed contract period;
 - 3) the type of pricing requested (e.g., firm for term);
 - 4) how award will be determined.
- e) Renewals
- 1) When the original procurement specifically called for an initial term plus renewals, the renewals may be exercised without further procurement activity, provided the initial term and the exercised renewals may not exceed 10 years, the terms and conditions do not change except as provided in the contract (such as price escalations tied to an index) and the option is reserved solely to the State or is by mutual agreement. A renewal option that requires modification to a material term or condition of the contract shall be treated as a new contract and shall be subject to competitive procurement procedures established by the Code and this Part.
 - 2) When the original procurement was silent as to renewals, the renewal must be procured using one of the methods of source selection authorized by the Code and this Part. This renewal shall start a new term not to exceed 10 years.
 - 3) When a renewal will result in the total term, counting the initial term and any previous renewals, to exceed 10 years, the renewal must be procured using one of the methods of source selection authorized by the Code and this Part. This renewal will start a new term that shall not exceed 10 years.

(Source: Amended at 35 Ill. Reg. 4629, effective March 3, 2011)

SUBPART K: CONTRACT MATTERS

Section 200.2580 Subcontractors

All competitive sealed proposals, including proposals for professional and artistic services, shall include a provision to require each offeror to identify, either in its proposal or prior to award, the

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

identity of the subcontractors that will be used in the performance of the contract, as well as the amounts expected to be paid to each subcontractor.

(Source: Added at 35 Ill. Reg. 4629, effective March 3, 2011)

SUBPART O: PREFERENCES

Section 2000.4545 Small Business

- a) **Set-Aside**
The CPO for DCMS may determine categories of supplies or service procurements that will be set aside for small business located in Illinois. The SPO may contact DCMS to determine whether a particular procurement has been set aside for small business, and, if so, the SOS may honor the set aside to the extent practicable.
- b) **Small Business List**
The SOS may refer to the list of responsible vendors that meet the criteria of small business. A business that fits the definition of small on the day of bid or proposal opening will be considered small for the duration of the contract.
- c) **Required Use**
If a Procurement Officer wishes to make a procurement covered by a set-aside designation, the solicitation must note responses are limited to those from responsible small businesses. Bids or proposals received from large businesses will be rejected as nonresponsive.
- d) **Withdrawal of Set-Aside**
If the Procurement Officer determines that acceptance of the best bid or proposal will result in the payment of an unreasonable price, the Procurement Officer shall reject all bids or proposals and withdraw the designation of small business set-aside for the procurement in question. When a small business set-aside is withdrawn, notification shall be published in the Illinois Procurement Bulletin with an explanation. After withdrawal of the small business set-aside, the procurement shall be conducted in accordance with the limitations of the Code and this Part.
- e) **Criteria for Small Business**
Unless the CPO provides a definition for a particular procurement that reflects

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

industrial characteristics, a small business is one:

- 1) Independently owned and operated.
- 2) Not dominant in its field of operations. This means the business does not exercise a controlling or major influence in a kind of business activity in which a number of business concerns are primarily engaged. In determining dominance, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.
- 3) With annual sales for most recently ended fiscal year no greater than:
 - A) ~~\$10,000,000~~\$7,500,000 for wholesale business;
 - B) ~~\$10,000,000~~\$3,000,000 for construction business; or
 - C) ~~\$6,000,000~~\$1,500,000 for retail business.
- 4) With no more than 250 employees if a manufacturing business.
 - A) A manufacturing business shall calculate how many people it employs by determining its average full-time equivalent employment, based on the number of persons employed on a full-time, part-time, temporary or other basis, for its most recently ended fiscal year.
 - B) If a manufacturing business has been in existence for less than a full fiscal year, its average employment should be calculated for the period through one month prior to the bid or proposal due date.
- 5) If the business is any combination of retailer, wholesaler, or construction business, then the annual sales for each component may not exceed the amounts shown in subsection (e)(3). For example, a business that is both a retailer and a wholesaler may not have total sales exceeding ~~\$16,000,000~~\$9,000,000, and the retail component may not exceed ~~\$6,000,000~~\$1,500,000 and the wholesale component may not exceed

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

~~\$10,000,000.7,500,000.~~ If the business is also a manufacturer, in addition to meeting the annual sales requirement, the number of manufacturing employees may not exceed the number shown in subsection (e)(4).

- 6) When computing the size status of a vendor, the number of employees and annual sales and receipts, as applicable, of the vendor and all affiliates shall be included. Concerns are affiliates when either one directly or indirectly controls or has the power to control the other, or when a third party or parties controls or has the power to control both. In determining whether concerns are independently owned and operated and whether affiliation exists, consideration shall be given to all appropriate factors, including use of common facilities, common ownership and management and contractual arrangements. However, a franchise relationship shall not affect small business status if the franchise has the right to profit commensurate with ownership and bears the risk of loss or failure.

(Source: Amended at 35 Ill. Reg. 4629, effective March 3, 2011)

Section 200.4570 Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities

- a) Introduction
The Business Enterprise Act for Minorities, Females, and Persons with Disabilities [30 ILCS 575] (Act) sets a goal (minimum ~~20%12%~~) for contracting with businesses owned or controlled by minorities, females, or persons with disabilities.
- b) Goal
The CPO shall establish a goal that at least ~~20%12%~~ of the dollar value of State contracts be awarded to minority and female-owned businesses. Of that ~~20%12%~~, ~~7%five~~ shall be for female-owned businesses, ~~2%two~~ for businesses owned by persons with disabilities and not-for-profit agencies for the disabled, and the remaining ~~5%five~~ for other minority-owned businesses, unless these percentages are modified by the Council created under the Act.
- c) Upon direction of the CPO, and pursuant to direction from the Council, the SOS may establish set-asides and other ~~such~~ preferences for vendors certified under that Act.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- d) **Certification**
Certification procedures are set forth in rules governing the Business Enterprise Act (44 Ill. Adm. Code 10).
- e) **List of Certified Businesses**
 - 1) The CPO for DCMS shall maintain a list of businesses that have been certified.
 - 2) The names and addresses of certified vendors shall be made available to the public.
- f) **Professional and Artistic Contract Reporting**
Professional and artistic contracts, which must be reported to the Business Enterprise Council pursuant to Section 6a of the Business Enterprise Act, shall be reported as follows:
 - 1) Notice that an agency intends to enter into a professional and artistic contract shall be given to the Council. Notice may be mailed, hand delivered or given by fax, and must be submitted on the same date that the potential vendor is contacted. If the contract is advertised in the Bulletin, reporting to the Council is not required.
 - 2) The notice shall include the agency name and address; contact person; contract reference number; date bid or proposal was first available; return dates and opening dates; term of the contract; services to be provided; special requirements; and dollar value. Notice should be given on the form available from the CPO for DCMS.

(Source: Amended at 35 Ill. Reg. 4629, effective March 3, 2011)

SUBPART P: ETHICS

Section 2000.5037 Vendor Registration, Certification and Prohibition on Political Contributions

- a) **Introduction**
Illinois law (10 ILCS 5/9-35 and 30 ILCS 500/20-160 and 50-37 (the statutes)) restricts political contributions by vendors and affiliated entities; requires

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

registration with the State Board of Elections (SBEL); requires a copy of the registration certificate stamped by SBEL (Registration Certificate) to be submitted with bids/proposals and contracts; and requires solicitation and contract certifications relative to the requirements of the law. This Section supplements requirements found in the statutes and does not excuse compliance with any of those requirements.

b) General Registration Requirements

- 1) These requirements apply to contracts, bids and proposals that are subject to the Illinois Procurement Code:
 - A) Bids/proposals referenced in this Section are those submitted in response to a competitive solicitation that is posted to the Illinois Procurement Bulletin on or after January 1, 2009, regardless of the value assigned to the procurement.
 - B) Bids and proposals include pending bids and proposals.
 - C) These requirements generally apply to a vendor whose existing State contracts have an aggregate value in excess of \$50,000, whose aggregate value of bids/proposals for State contracts exceeds \$50,000, or whose aggregate value of State contracts and bids/proposals exceeds \$50,000.
 - D) This value is calculated on a calendar-year basis.
- 2) On a calendar-year basis, each vendor or potential vendor must keep track of the value of contracts and bids/proposals. Vendors must register with SBEL when the vendor determines that the value of the contracts and bids/proposals meets the threshold for registration.
- 3) An "executive employee" means:
 - A) the President, Chairman of the Board, or Chief Executive Officer of a business entity and any other individual that fulfills equivalent duties as the President, Chairman of the Board, or Chief Executive Officer of a business entity.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

B) any employee of a business entity whose compensation is determined directly, in whole or in part, by the award or payment of contracts by a State agency to the entity employing the employee, irrespective of the employee's title or status in the business entity. For the purposes of this subsection (b)(3)(B), compensation determined directly by award or payment of contracts means a payment over and above regular salary that would not be made if it were not for the award of the contract.

c) Bids and Proposals

- 1) A copy of the Registration Certificate must be submitted with bids/proposals.
- 2) If the Registration Certificate is not timely submitted, the SOS will reject the bid/proposal.
- 3) The SOS will not reject a bid/proposal if absence of the Registration Certificate is the result of delay or error by the State, but will require the Registration Certificate before making an award.

d) Contracts

A copy of the Registration Certificate must be in the procurement file as set forth in this subsection (d), unless the Vendor certifies it is not required to register.

- 1) For contract renewals and extensions, if the value of the renewal or extension by itself, or in combination with the contract being renewed/extended and other contracts and bids/proposals exceeds \$50,000, the vendor must provide the Registration Certificate and make the appropriate contract certification, if it has not already done so.
- 2) For indefinite quantity/estimated value contracts, a vendor who is otherwise not required to register shall register with SBEL when the value of orders placed pursuant to an indefinite/estimated value contract plus all other contracts and bids/proposals exceeds \$50,000.
- 3) For contract amendments, if the value of the amendment, by itself or in combination with the contract being renewed plus other contracts and bids/proposals, exceeds \$50,000, the vendor must provide the Registration

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

Certificate and make the appropriate contract certification, if it has not already done so.

- 4) Any contracts mistakenly executed in violation of this Section must be amended to include the contract certifications, and the vendor must supply the Registration Certificate. If any violation by the vendor is not cured within 5 business days after receipt of notification of the violation, the contract is voidable by the State without penalty.
- 5) Contract certification required by the statutes shall be included in or added to each contract that must be filed with the State Comptroller pursuant to Section 20-80 of the Illinois Procurement Code and those written, two-party contracts that need not be filed with the Comptroller. The SOS may require written confirmation of the rule-imposed certification at any time.

(Source: Added at 35 Ill. Reg. 4629, effective March 3, 2011)

SUBPART R: COMPLAINTS, PROTESTS AND REMEDIES

Section 2000.5510 Complaints Against Vendors or Subcontractors

- a) The purpose of this Section is to document performance of vendors or subcontractors.
- b) Whenever a vendor or subcontractor fails to meet contract requirements, including but not limited to failure to deliver on time or meet specifications, the SOS shall take appropriate action to initiate a complaint to the vendor or subcontractor.
- c) For relatively minor infractions, the SOS may initiate contact by telephone or in person. If not resolved by this action, a written complaint shall be made.
- d) For other infractions, the SOS shall send a written complaint to the vendor or subcontractor detailing the problem. For complaints regarding contracts established by the CPO for DCMS, a form available from the CPO for DCMS shall be used for processing complaints.
- e) A copy of all written complaints and the resolution or status shall be filed with the SPO.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 35 Ill. Reg. 4629, effective March 3, 2011)

Section 2000.5520 Suspension

- a) Application
This Section applies to all debarments or suspensions of vendors or subcontractors from consideration for award of contracts under the Code.
- b) The CPO may suspend a vendor or subcontractor from doing business with the SOS, with one or more agencies, or with respect to specific types of supplies or services. A suspension may be issued upon a showing the vendor or subcontractor violated the Code or this Part, or failed to conform to specifications or terms of delivery.
- c) When the CPO finds cause exists for suspension, a notice of suspension, including a copy of such determination, shall be sent to the suspended vendor or subcontractor. Bids or proposals will not be solicited from the suspended vendor or subcontractor, and, if received, will not be considered during the period of suspension.
- d) A vendor or subcontractor may be suspended for a period of time commensurate with the seriousness of the offense, but for no more than five years. The suspension will be effective seven calendar days after receipt of notice unless an objection is filed. If an objection is filed, suspension would not become effective until the evaluation of the objection is completed.
- e) The CPO may debar a vendor or subcontractor. Debarment is the permanent suspension of a vendor or subcontractor from doing business with the SOS. A debarment may only take place in those instances involving bribery or attempted bribery of a State of Illinois officer or employee, or as otherwise allowed or required by law. Bids or proposals received from the debarred vendor will not be considered.
- f) The CPO shall maintain a master list of all suspensions and debarments. The master list will retain information concerning suspensions and debarments as public records. Such records will be maintained for a period of at least three years following the end of the suspension or debarment. Such public information may be considered in determining responsibility.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 35 Ill. Reg. 4629, effective March 3, 2011)

Section 2000.5555 Hearings and Decisions

- a) The Chief Procurement Officer shall conduct public hearings prior to awarding contracts for sole source procurements pursuant to Section 20-25 and before extending emergency procurements pursuant to Section 20-30.
- b) Notices of hearings shall be published in the Bulletin at least 14 days prior to the date of the public hearing.
 - 1) All notices shall include the date, time, and location of the public hearing.
 - 2) Notices for sole source procurements shall include the sole source procurement justification form, a description of the item to be procured, and the intended sole source contractor.
 - 3) Notices for extending emergency procurements shall include the CPO's written justification for the emergency contract and the name of the contractor.
- c) A copy of the notice and all documents provided at the hearing shall be included in the subsequent Procurement Bulletin.
- d) The SOS PPB and members of the public may present testimony at the hearings.
- e) The hearings shall be held in the offices of the Secretary of State or at some other convenient location readily accessible to members of the public.
- f) The CPO or his or her designee shall preside over the hearings and shall issue a written determination within 14 calendar days after the conclusion of the hearing.
- g) Copies of all statements and exhibits introduced at the hearings, the written determination of the CPO or designee, and a summary of the proceedings at the hearings shall be included in the appropriate procurement files.

(Source: Added at 35 Ill. Reg. 4629, effective March 3, 2011)

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Issuance of Licenses
- 2) Code Citation: 92 Ill. Adm. Code 1030
- 3) Section Number: 1030.92 Adopted Action: Amendment
- 4) Statutory Authority: 625 ILCS 5/6-113(a) and 625 ILCS 5/6-521
- 5) Effective Date of Amendment: March 3, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department's Division of Driver's Services, and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 34 Ill. Reg. 18347; November 29, 2010
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Difference between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: The Department, as a result of a Federal Motor Carrier Safety Administration (FMCSA) audit of the Illinois CDL program, is required to implement new federal CDL license restrictions and discontinue the use of state-specific restrictions in this Part. This requirement is in accordance with the Federal Motor Carrier Safety Regulations (FMCSR) at 49 CFR 384.204.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

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

Jennifer Egizii
Office of the Secretary of State
Driver Services Department
2701 South Dirksen Parkway
Springfield, Illinois 62723

217/557-4462

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

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATEPART 1030
ISSUANCE OF LICENSES

Section	
1030.1	Definitions
1030.10	What Persons Shall Not be Licensed or Granted Permits
1030.11	Procedure for Obtaining a Driver's License/Temporary Visitor's Driver's License
1030.12	Identification Cards for the Homeless
1030.13	Denial of License or Permit
1030.14	Emergency Contact Database
1030.15	Cite for Re-testing
1030.16	Physical and Mental Evaluation
1030.17	Errors in Issuance of Driver's License/Cancellation
1030.18	Medical Criteria Affecting Driver Performance
1030.20	Classification of Drivers – References (Repealed)
1030.25	Safe Driver License Renewals
1030.30	Classification Standards
1030.40	Fifth Wheel Equipped Trucks
1030.50	Bus Driver's Authority, Religious Organization and Senior Citizen Transportation
1030.55	Commuter Van Driver Operating a For-Profit Ridesharing Arrangement
1030.60	Third-Party Certification Program
1030.63	Religious Exemption for Social Security Numbers
1030.65	Instruction Permits
1030.70	Driver's License Testing/Vision Screening
1030.75	Driver's License Testing/Vision Screening With Vision Aid Arrangements Other Than Standard Eye Glasses or Contact Lenses
1030.80	Driver's License Testing/Written Test
1030.81	Endorsements
1030.82	Charter Bus Driver Endorsement Requirements
1030.83	Hazardous Material Endorsement
1030.84	Vehicle Inspection
1030.85	Driver's License Testing/Road Test
1030.86	Multiple Attempts – Written and/or Road Tests
1030.88	Exemption of Facility Administered Road Test
1030.89	Temporary Driver's Licenses and Temporary Instruction Permits
1030.90	Requirement for Photograph and Signature of Licensee on Driver's License

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

- 1030.91 Disabled Person Identification Card
- 1030.92 Restrictions
- 1030.93 Restricted Local Licenses
- 1030.94 Duplicate or Corrected Driver's License or Instruction Permit
- 1030.95 Consular Licenses (Repealed)
- 1030.96 Seasonal Restricted Commercial Driver's License
- 1030.97 Invalidation of a Driver's License, Permit and/or Driving Privilege
- 1030.98 School Bus Commercial Driver's License or Instruction Permit
- 1030.100 Anatomical Gift Donor (Repealed)
- 1030.110 Emergency Medical Information Card
- 1030.115 Change-of-Address
- 1030.120 Issuance of a Probationary License
- 1030.130 Grounds for Cancellation of a Probationary License
- 1030.140 Use of Captured Images
- 1030.APPENDIX A Questions Asked of a Driver's License Applicant
- 1030.APPENDIX B Acceptable Identification Documents

AUTHORITY: Implementing Article I of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Art. I] and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)].

SOURCE: Filed March 30, 1971; amended at 3 Ill. Reg. 7, p. 13, effective April 2, 1979; amended at 4 Ill. Reg. 27, p. 422, effective June 23, 1980; amended at 6 Ill. Reg. 2400, effective February 10, 1982; codified at 6 Ill. Reg. 12674; amended at 9 Ill. Reg. 2716, effective February 20, 1985; amended at 10 Ill. Reg. 303, effective December 24, 1985; amended at 10 Ill. Reg. 15130, effective September 2, 1986; amended at 10 Ill. Reg. 18182, effective October 14, 1986; amended at 11 Ill. Reg. 9331, effective April 28, 1987; amended at 11 Ill. Reg. 18292, effective October 23, 1987; amended at 12 Ill. Reg. 3027, effective January 14, 1988; amended at 12 Ill. Reg. 13221, effective August 1, 1988; amended at 12 Ill. Reg. 16915, effective October 1, 1988; amended at 12 Ill. Reg. 19777, effective November 15, 1988; amended at 13 Ill. Reg. 5192, effective April 1, 1989; amended at 13 Ill. Reg. 7808, effective June 1, 1989; amended at 13 Ill. Reg. 12880, effective July 19, 1989; amended at 13 Ill. Reg. 12978, effective July 19, 1989; amended at 13 Ill. Reg. 13898, effective August 22, 1989; amended at 13 Ill. Reg. 15112, effective September 8, 1989; amended at 13 Ill. Reg. 17095, effective October 18, 1989; amended at 14 Ill. Reg. 4570, effective March 8, 1990; amended at 14 Ill. Reg. 4908, effective March 9, 1990; amended at 14 Ill. Reg. 5183, effective March 21, 1990; amended at 14 Ill. Reg. 8707, effective May 16, 1990; amended at 14 Ill. Reg. 9246, effective May 16, 1990; amended at 14 Ill. Reg. 9498, effective May 17, 1990; amended at 14 Ill. Reg. 10111, effective June 11, 1990; amended at 14 Ill. Reg. 10510, effective June 18, 1990; amended at 14 Ill. Reg. 12077,

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

effective July 5, 1990; amended at 14 Ill. Reg. 15487, effective September 10, 1990; amended at 15 Ill. Reg. 15783, effective October 18, 1991; amended at 16 Ill. Reg. 2182, effective January 24, 1992; emergency amendment at 16 Ill. Reg. 12228, effective July 16, 1992, for a maximum of 150 days; emergency expired on December 13, 1992; amended at 16 Ill. Reg. 18087, effective November 17, 1992; emergency amendment at 17 Ill. Reg. 1219, effective January 13, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 2025, effective February 1, 1993; amended at 17 Ill. Reg. 7065, effective May 3, 1993; amended at 17 Ill. Reg. 8275, effective May 24, 1993; amended at 17 Ill. Reg. 8522, effective May 27, 1993; amended at 17 Ill. Reg. 19315, effective October 22, 1993; amended at 18 Ill. Reg. 1591, effective January 14, 1994; amended at 18 Ill. Reg. 7478, effective May 2, 1994; amended at 18 Ill. Reg. 16457, effective October 24, 1994; amended at 19 Ill. Reg. 10159, effective June 29, 1995; amended at 20 Ill. Reg. 3891, effective February 14, 1996; emergency amendment at 20 Ill. Reg. 8358, effective June 4, 1996, for a maximum of 150 days; emergency amendment repealed in response to an objection of the Joint Committee on Administrative Rules at 20 Ill. Reg. 14279; amended at 21 Ill. Reg. 6588, effective May 19, 1997; amended at 21 Ill. Reg. 10992, effective July 29, 1997; amended at 22 Ill. Reg. 1466, effective January 1, 1998; emergency amendment at 23 Ill. Reg. 9552, effective August 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13947, effective November 8, 1999; amended at 24 Ill. Reg. 1259, effective January 7, 2000; emergency amendment at 24 Ill. Reg. 1686, effective January 13, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 6955, effective April 24, 2000; emergency amendment at 24 Ill. Reg. 13044, effective August 10, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18400, effective December 4, 2000; amended at 25 Ill. Reg. 959, effective January 5, 2001; amended at 25 Ill. Reg. 7742, effective June 5, 2001; amended at 25 Ill. Reg. 12646, effective September 24, 2001; emergency amendment at 25 Ill. Reg. 12658, effective September 24, 2001, for a maximum of 150 days; emergency expired February 20, 2002; amended at 26 Ill. Reg. 9961, effective June 24, 2002; amended at 27 Ill. Reg. 855, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 7340, effective April 14, 2003, for a maximum of 150 days; emergency expired September 10, 2003; emergency amendment at 27 Ill. Reg. 16968, effective October 17, 2003, for a maximum of 150 days; emergency expired March 14, 2004; emergency amendment at 28 Ill. Reg. 384, effective January 1, 2004, for a maximum of 150 days; emergency expired May 29, 2004; amended at 28 Ill. Reg. 8895, effective June 14, 2004; amended at 28 Ill. Reg. 10776, effective July 13, 2004; amended at 29 Ill. Reg. 920, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2469, effective January 31, 2005, for a maximum of 150 days; emergency expired June 29, 2005; amended at 29 Ill. Reg. 9488, effective June 17, 2005; amended at 29 Ill. Reg. 12519, effective July 28, 2005; amended at 29 Ill. Reg. 13237, effective August 11, 2005; amended at 29 Ill. Reg. 13580, effective August 16, 2005; amended at 30 Ill. Reg. 910, effective January 6, 2006; amended at 30 Ill. Reg. 5621, effective March 7, 2006; amended at 30 Ill. Reg. 11365, effective June 15, 2006; emergency amendment at 30 Ill. Reg. 11409, effective June 19, 2006, for a maximum of 150 days; emergency expired November 15, 2006; amended at 31 Ill.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

Reg. 4782, effective March 12, 2007; amended at 31 Ill. Reg. 5096, effective March 15, 2007; amended at 31 Ill. Reg. 5864, effective March 29, 2007; amended at 31 Ill. Reg. 6370, effective April 12, 2007; amended at 31 Ill. Reg. 7643, effective May 16, 2007; amended at 31 Ill. Reg. 11342, effective July 18, 2007; amended at 31 Ill. Reg. 14547, effective October 9, 2007; amended at 31 Ill. Reg. 14849, effective October 22, 2007; amended at 31 Ill. Reg. 16543, effective November 27, 2007; amended at 31 Ill. Reg. 16843, effective January 1, 2008; emergency amendment at 32 Ill. Reg. 208, effective January 2, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 6544, effective April 4, 2008; amended at 33 Ill. Reg. 2391, effective January 21, 2009; amended at 33 Ill. Reg. 8489, effective June 5, 2009; amended at 33 Ill. Reg. 9794, effective June 29, 2009; amended at 33 Ill. Reg. 11620, effective July 22, 2009; amended at 33 Ill. Reg. 14185, effective September 28, 2009; amended at 34 Ill. Reg. 563, effective December 22, 2009; amended at 34 Ill. Reg. 9457, effective June 23, 2010; amended at 34 Ill. Reg. 15418, effective September 22, 2010; amended at 34 Ill. Reg. 19071, effective November 22, 2010; amended at 35 Ill. Reg. 2197, effective January 21, 2011; amended at 35 Ill. Reg. 4692, effective March 3, 2011.

Section 1030.92 Restrictions

- a) A driver services facility representative shall have the authority to determine license restrictions. No restriction shall be added until the driving test is given unless the restriction is due to a vision or hearing defect.
- b) If a change in a person's physical and/or visual condition is discovered by a facility representative, the representative has the authority to add, delete or change the restrictions.
- c) A Type B restriction requires corrective eye lenses. This restriction is added when a person needs corrective eye lenses to meet visual acuity standards as provided in Section 1030.70. This restriction includes eye glasses and contact lenses in one or both eyes, pursuant to Section 1030.75.
- d) A Type C restriction requires the driver to use one or more mechanical aids (e.g., hand operated brake, gearshift extension, shoulder harness, or foot operated steering wheel) to assist with the proper and safe operation of the vehicle.
- e) A Type D restriction requires the driver to use one or more prosthetic aids (e.g., artificial legs, artificial hands, hook on right or left arm, or brace on each leg) while operating a motor vehicle.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

- f) A Type E restriction requires automatic transmission. An automatic transmission restriction is added when a driver is unable to operate a standard shift vehicle due to the minimal use of one or both arms and/or legs.
- g) A Type F restriction requires left and right outside rearview mirrors when a driver is hearing impaired, has a monocular visual acuity reading of 20/100 or worse in either eye, requires a right outside rearview mirror because of problems turning the head while backing, cannot meet the peripheral vision requirements of Section 1030.70(a), and/or takes the road test in a right hand-driven vehicle with the steering wheel on the right side. A driver may be restricted to both left and right rearview mirrors if minimum peripheral standards are met by the use of only one eye in accordance with Sections 1030.70 and 1030.75.
- h) A Type G restriction requires the driver to drive only in the daylight. This restriction is added when a driver has binocular visual acuity that does not meet the 20/40 minimum in accordance with Section 1030.70(a), but is not worse than 20/70. People who want to drive utilizing a non-standard lens arrangement pursuant to Section 1030.75 are restricted to daylight driving only.
- i) A Type J restriction with appropriate numerical indicators includes other restrictions not listed in this Section. These Type J restrictions and numerical indicators are as follows:
- 1) J01 Driver has been issued an Illinois Medical Restriction Card, which must be carried in addition to a valid Illinois driver's license/permit.
 - 2) J02 Driver authorized to operate a religious organization bus within classification, as provided in IVC Section 6-106.2.
 - 3) J03 Driver authorized to operate a religious organization bus or van within Class D only. The driver took the religious organization bus test in a Class D vehicle, but may hold a Class A, B or C license.
 - 4) J04 Driver authorized to operate a religious organization bus or van within Class C or a lesser classification vehicle only. The driver took the religious organization bus test in a Class C vehicle, but may hold a Class A or B license.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

- 5) J05 Driver authorized to operate a senior citizen transportation vehicle within classification. The driver operates a vehicle that is utilized solely for the purpose of providing transportation for senior citizens, as provided in IVC Section 6-106.3.
- 6) J06 Driver authorized to operate a senior citizen transportation vehicle within Class D only. The driver took the senior citizen transportation vehicle test in a Class D vehicle, but may hold a Class A, B or C license.
- 7) J07 Driver authorized to operate a senior citizen transportation vehicle within written Class C vehicle, or a lesser classification vehicle only. The driver took the senior citizen transportation vehicle test in a Class C vehicle, but may hold a Class A or B license.
- 8) J08 Driver authorized to operate a commuter van in a for-profit ridesharing arrangement within classification, as provided in IVC Section 6-106.4.
- 9) J09 Driver who is 16 or 17 years of age authorized to operate either Class L motor-driven cycles or Class M motorcycles, as provided in IVC Section 6-103(2).
- 10) J10 Driver restricted to the operation of a vehicle with a GVWR of 16,000 pounds or less.
- 11) J11 Indicates the driver took the road test on a three-wheel motorcycle (Class M) or three-wheel motor-driven cycle (Class L) and is restricted to a three-wheel cycle of the proper class.
- ~~12) J12 — Driver authorized to operate Class B or lesser classification vehicle for the passenger endorsement.~~
- ~~13) J13 — Driver authorized to operate Class C classification vehicle for the passenger endorsement.~~
- 1214) J14 Restricted to the use of a non-standard lens arrangement pursuant to Section 1030.75 when operating a motor vehicle. (Lens

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

arrangement may be designed for monocular or binocular vision.)

- ~~1345~~) J15 Special Restrictions – An applicant may have special restrictions applied specifically to the vehicle the applicant is operating at the time a road test is being administered by a facility examiner. These special restrictions may apply only when the applicant is operating that particular motor vehicle. This J15 restriction only applies to variations of C, D or E restrictions. To remove a special restriction or to operate another motor vehicle would require the applicant to be administered another road test in the new vehicle.
- ~~1446~~) J16 ~~MopedPedaleyele~~ Only – Authorizes an applicant holding a Class L license to operate a ~~mopedpedaeyele~~ only.
- ~~1547~~) J17 Authorizes a person holding a Class L or M license to operate a motorcycle or motor driven cycle with rear wheel extensions while maintaining a single front wheel.
- ~~1648~~) J33 Driver authorized to operate a Class D vehicle using a non-standard lens arrangement, pursuant to Section 1030.75, during nighttime hours.
- ~~199~~) ~~J48—Allows a person to use commercial privileges only for driving school buses to transport students for school-related activities.~~
- ~~1720~~) J50 Farm waived non-CDL (Class A only) – Allows farmers or a member of the farmer's family who is 21 years of age or older and has completed all of the applicable exams (core, combination, air brake, and all three parts of the road test) to drive a farm waived non-CDL (Class A only) vehicle. Those eligible may operate the truck/tractor semi-trailer to transport farm products, equipment or supplies to or from a farm, if used within 150 air miles of the farm, and not used in the operations of a common or contract carrier.
- ~~1824~~) J71 No photo or signature – out of state at renewal – license issued to driver who is temporarily absent from State of Illinois at expiration date of his/her driver's license.
- ~~1922~~) J72 No photo or signature – out of country at renewal – license issued to

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

driver who is temporarily residing outside the United States of America at the expiration date of his/her driver's license.

~~2023~~) J73 No photo or signature – military or military dependent – license issued at the expiration of the driver's license of the licensee, spouse and dependent children who are living with the licensee while on active duty serving in the Armed Forces of the United States outside the State of Illinois.

~~2124~~) J74 Military deferral card issued at the expiration of the driver's license to extend the expiration while in the military of the licensee, spouse and dependent children who are living with the licensee while on active duty serving in the Armed Forces of the United States outside the State of Illinois.

~~2225~~) J75 No photo or signature – administrative approval license to driver who having his/her photograph taken is against his/her religious convictions or has a serious facial disfigurement.

~~2326~~) J88 Deaf/Hard of Hearing – requires alternative forms of communication.

~~2427~~) J99 This restriction appears on the license if more than two J restrictions are placed on the driver.

- j) A Type K restriction indicates the driver is authorized to operate a commercial motor vehicle intrastate only.
- k) A Type L restriction indicates that the person is not authorized to operate vehicles equipped with air brakes.
- ~~l)~~ A Type M restriction indicates P endorsement only valid in a Class B or lesser classification vehicle.
- ~~m)~~ A Type N restriction indicates P endorsement only valid in a Class C or lesser classification vehicle.
- ~~n)~~ An applicant who wants to appeal a type of restriction that has been added to a driver's license, depending on the type of restriction, shall:

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

- 1) For Type B, C, D, E, F, G, J01, or any other medical restriction that has been added to the driver's license pursuant to the restrictions contained in subsection (i), follow the manner prescribed by this Part.
- 2) For any other types of restrictions that have been added to the driver's license pursuant to this Section, appeal to the Department of Administrative Hearings pursuant to IVC Section 2-118.
- 3) Further review of all restrictions shall be conducted by the courts pursuant to the Administrative Review Law [735 ILCS 5/Art. III].

(Source: Amended at 35 Ill. Reg. 4692, effective March 3, 2011)

SECRETARY OF STATE

NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENTS

- 1) Heading of the Part: Lobbyist Registration and Reports
- 2) Code Citation: 2 Ill. Adm. Code 560
- 3) Register Citation to Notice of Proposed Amendments: 35 Ill Reg. 1870; February 4, 2011
- 4) Date, Time and Location of Public Hearing:
Monday, March 28, 2011
1:00 p.m. to 3:00 p.m.
Illinois State Library, Room 403
300 South 2nd Street
Springfield, IL 62701
- 5) Other Pertinent Information: Illinois Secretary of State Index Department is scheduling a public hearing to receive ideas, questions and concerns on the subject of these proposed amendments (and those changes proposed for Part 560). The public hearing will be for the sole purpose of gathering public comments on the proposed amendments. If any person requires special accommodations, please notify the Department in advance of the hearing, if possible. Contact:

Michelle Nijm
Assistant General Counsel
100 W. Randolph, Ste. 5-400
Chicago, IL. 60601

312/814-7246

Persons interested in presenting testimony at this hearing are advised that the Illinois Secretary of State Index Department will adhere to the following procedures in the conduct of the hearing:

- a) The hearing officer will try to accommodate all comments from all persons in attendance in an orderly manner.
- b) If possible, please provide a written copy of any statements that are planned before testimony is presented.

SECRETARY OF STATE

NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENTS

- c) In order to provide for a balanced presentation of views and to facilitate the orderly conduct of the hearing, the hearing officer may impose such other rules of procedure, including the order of call of witnesses, as she/he deems necessary.

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 March 1, 2011 through March 7, 2011 and have been scheduled for review by the Committee at its April 12, 2011 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>
4/15/11	<u>Department of Public Health, Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)</u>	1/7/11 35 Ill. Reg. 343	4/12/11
4/15/11	<u>Department of Financial and Professional Regulation, Title Insurance Act (50 Ill. Adm. Code 8100)</u>	10/22/10 34 Ill. Reg. 15926	4/12/11
4/15/11	<u>Department of Financial and Professional Regulation, Non-Binding, Advisory Opinions on Criminal Convictions (68 Ill. Adm. Code 1130)</u>	11/12/10 34 Ill. Reg. 17126	4/12/11
4/20/11	<u>Department on Aging, Elder Rights (89 Ill. Adm. Code 270)</u>	12/10/10 34 Ill. Reg. 19133	4/12/11
4/20/11	<u>Department of Insurance, Illegal Groups and Unfair Rate Discrimination (50 Ill. Adm. Code 906)</u>	6/4/10 34 Ill. Reg. 7578	4/12/11

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENT

- 1) Heading of the Part: Lead Poisoning Prevention Code
- 2) Code Citation: 77 Ill. Adm. Code 845
- 3)

<u>Section Number:</u>	<u>Proposed Action:</u>
845.30	New
- 4) Date Notice of Proposed Amendment Published in the Illinois Register: April 16, 2010;
34 Ill. Reg. 5568
- 5) Reason for the withdrawal: The Illinois Department of Public Health proposes to withdraw the rulemaking for Part 845 due to the fact that the amendments are based on federal standards set by the Consumer Product Safety Commission (CPSC), and on February 2, 2011, CPSC placed a stay of enforcement on its standards in order to review the viability of testing and certification for the maximum level of lead in children's products until December 31, 2011. CPSC indicated that they are unable to ensure at this time whether testing and certification of the federal standards is possible and feasible. Due to the revisions to the Consumer Product Safety Improvement Act on August 14, 2010 and subsequent stay of enforcement by CPSC, the Department believes that it is prudent to withdraw this rulemaking in anticipation of further amendments needed once the federal standards are set.

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 35, Issue 12 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

PROPOSED RULES

68 - 1150	4453
50 - 1410	4491
80 - 1600	4498

ADOPTED RULES

89 - 160	3/1/2011	4513
2 - 2175	3/4/2011	4549
77 - 250	3/4/2011	4556
77 - 593	3/2/2011	4591
77 - 597	3/2/2011	4609
44 - 2000	3/3/2011	4629
92 - 1030	3/3/2011	4692

**OTHER INFORMATION REQUIRED BY
LAW TO BE PUBLISHED IN THE
ILLINOIS REGISTER**

77 - 845	4706
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