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INTRODUCTION

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

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

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

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

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2018

Issue#	Rules Due Date	Date of Issue
1	December 26, 2017	January 5, 2018
2	January 2, 2018	January 12, 2018
3	January 8, 2018	January 19, 2018
4	January 16, 2018	January 26, 2018
5	January 22, 2018	February 2, 2018
6	January 29, 2018	February 9, 2018
7	February 5, 2018	February 16, 2018
8	February 13, 2018	February 23, 2018
9	February 20, 2018	March 2, 2018
10	February 26, 2018	March 9, 2018
11	March 5, 2018	March 16, 2018
12	March 12, 2018	March 23, 2018
13	March 19, 2018	March 30, 2018
14	March 26, 2018	April 6, 2018
15	April 2, 2018	April 13, 2018
16	April 9, 2018	April 20, 2018
17	April 16, 2018	April 27, 2018
18	April 23, 2018	May 4, 2018
19	April 30, 2018	May 11, 2018
20	May 7, 2018	May 18, 2018
21	May 14, 2018	May 25, 2018
22	May 21, 2018	June 1, 2018
23	May 29, 2018	June 8, 2018
24	June 4, 2018	June 15, 2018
25	June 11, 2018	June 22, 2018

26	June 18, 2018	June 29, 2018
27	June 25, 2018	July 6, 2018
28	July 2, 2018	July 13, 2018
29	July 9, 2018	July 20, 2018
30	July 16, 2018	July 27, 2018
31	July 23, 2018	August 3, 2018
32	July 30, 2018	August 10, 2018
33	August 6, 2018	August 17, 2018
34	August 13, 2018	August 24, 2018
35	August 20, 2018	August 31, 2018
36	August 27, 2018	September 7, 2018
37	September 4, 2018	September 14, 2018
38	September 10, 2018	September 21, 2018
39	September 17, 2018	September 28, 2018
40	September 24, 2018	October 5, 2018
41	October 1, 2018	October 12, 2018
42	October 9, 2018	October 19, 2018
43	October 15, 2018	October 26, 2018
44	October 22, 2018	November 2, 2018
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46	November 5, 2018	November 16, 2018
47	November 13, 2018	November 26, 2018
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49	November 26, 2018	December 7, 2018
50	December 3, 2018	December 14, 2018
51	December 10, 2018	December 21, 2018
52	December 17, 2018	December 28, 2018

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Skilled Nursing and Intermediate Care Facilities Code

2) Code Citation: 77 Ill. Adm. Code 300

3) Section Number: 300.272 — Proposed Action: Amendment

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) A Complete Description of the Subjects and Issues Involved: This rulemaking updates statutory language in Section 300.272 (Determination to Issue a Notice of Violation or Administrative Warning) to make it consistent with the Nursing Home Care Act.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

Erin Conley
Rules Coordinator

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

Illinois Department of Public Health
Division of Legal Services
535 W. Jefferson St., 5th Floor
Springfield IL 62761

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

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Long-term care facilities

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 2018

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

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

PART 300
SKILLED NURSING AND INTERMEDIATE CARE FACILITIES CODE

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300.150 Issuance of an Initial License Due to a Change of Ownership
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300.163 Alzheimer's Special Care Disclosure
300.165 Criteria for Adverse Licensure Actions
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DEPARTMENT OF PUBLIC HEALTH

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DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

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DEPARTMENT OF PUBLIC HEALTH

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DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

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DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

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DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

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DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 1066, effective March 1, 1980, for a maximum of 150 days; adopted at 4 Ill. Reg. 30, p. 311, effective July 28, 1980; emergency amendment at 6 Ill. Reg. 3229, effective March 8, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 6454, effective May 14, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 11631, effective September 14, 1982; amended at 6 Ill. Reg. 14550 and 14554, effective November 8, 1982; amended at 6 Ill. Reg. 14684, effective November 15, 1982; amended at 7 Ill. Reg. 285, effective December 22, 1982; amended at 7 Ill. Reg. 1972, effective January 28, 1983; amended at 7 Ill. Reg. 8579, effective July 11, 1983; amended at 7 Ill. Reg. 15831, effective November 10, 1983; amended at 7 Ill. Reg. 15864, effective November 15, 1983; amended at 7 Ill. Reg. 16992, effective December 14, 1983; amended at 8 Ill. Reg. 15599, 15603, and 15606, effective August 15, 1984; amended at 8 Ill. Reg. 15947, effective August 17, 1984; amended at 8 Ill. Reg. 16999, effective September 5, 1984; codified at 8 Ill. Reg. 19766; amended at 8 Ill. Reg. 24186, effective November 29, 1984; amended at 8 Ill. Reg. 24668, effective December 7, 1984; amended at 8 Ill. Reg. 25102, effective December 14, 1984; amended at 9 Ill. Reg. 132, effective December 26, 1984; amended at 9 Ill. Reg. 4087, effective March 15, 1985; amended at 9 Ill. Reg. 11049, effective July 1, 1985; amended at 11 Ill. Reg. 16927, effective October 1, 1987; amended at 12 Ill. Reg. 1052, effective December 24, 1987; amended at 12 Ill. Reg. 16811, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18477, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 4684, effective March 24, 1989; amended at 13 Ill. Reg. 5134, effective April 1, 1989; amended at 13 Ill. Reg. 20089, effective December 1, 1989; amended at 14 Ill. Reg. 14950, effective October 1, 1990; amended at 15 Ill. Reg. 554, effective January 1, 1991; amended at 16 Ill. Reg. 681, effective January 1, 1992; amended at 16 Ill. Reg. 5977, effective March 27, 1992; amended at 16 Ill. Reg. 17089, effective November 3, 1992; emergency amendment at 17 Ill. Reg. 2420, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 8026, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15106, effective September 3, 1993; amended at 17 Ill. Reg. 16194, effective January 1, 1994; amended at 17 Ill. Reg. 19279, effective October 26, 1993; amended at 17 Ill. Reg. 19604, effective November 4, 1993; amended at 17 Ill. Reg. 21058, effective November 20, 1993; amended at 18 Ill. Reg. 1491, effective January 14, 1994; amended at 18 Ill. Reg. 15868, effective October 15, 1994; amended at 19 Ill. Reg. 11600, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 567, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10142, effective July 15, 1996; amended at 20 Ill. Reg. 12208, effective September 10, 1996; amended at 21 Ill. Reg. 15000, effective November 15, 1997; amended at 22 Ill. Reg. 4094, effective February 13, 1998; amended at 22 Ill. Reg. 7218, effective April 15, 1998; amended at 22 Ill. Reg. 16609, effective September 18, 1998; amended at 23 Ill. Reg. 1103, effective January 15, 1999; amended at 23 Ill. Reg. 8106, effective July 15, 1999;

amended at 24 Ill. Reg. 17330, effective November 1, 2000; amended at 25 Ill. Reg. 4911, effective April 1, 2001; amended at 26 Ill. Reg. 3113, effective February 15, 2002; amended at 26 Ill. Reg. 4846, effective April 1, 2002; amended at 26 Ill. Reg. 10523, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 2181, effective February 1, 2003, for a maximum of 150 days; emergency expired June 30, 2003; emergency amendment at 27 Ill. Reg. 5452, effective March 25, 2003, for a maximum of 150 days; emergency expired August 21, 2003; amended at 27 Ill. Reg. 5862, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 14204, effective August 15, 2003, for a maximum of 150 days; emergency expired January 11, 2004; amended at 27 Ill. Reg. 15855, effective September 25, 2003; amended at 27 Ill. Reg. 18105, effective November 15, 2003; expedited correction at 28 Ill. Reg. 3528, effective November 15, 2003; amended at 28 Ill. Reg. 11180, effective July 22, 2004; amended at 28 Ill. Reg. 14623, effective October 20, 2004; amended at 29 Ill. Reg. 876, effective December 22, 2004; emergency amendment at 29 Ill. Reg. 11824, effective July 12, 2005, for a maximum of 150 days; emergency rule modified in response to JCAR Recommendation at 29 Ill. Reg. 15101, effective September 23, 2005, for the remainder of the maximum 150 days; emergency amendment expired December 8, 2005; amended at 29 Ill. Reg. 12852, effective August 2, 2005; amended at 30 Ill. Reg. 1425, effective January 23, 2006; amended at 30 Ill. Reg. 5213, effective March 2, 2006; amended at 31 Ill. Reg. 6044, effective April 3, 2007; amended at 31 Ill. Reg. 8813, effective June 6, 2007; amended at 33 Ill. Reg. 9356, effective June 17, 2009; amended at 34 Ill. Reg. 19182, effective November 23, 2010; amended at 35 Ill. Reg. 3378, effective February 14, 2011; amended at 35 Ill. Reg. 11419, effective June 29, 2011; expedited correction at 35 Ill. Reg. 17468, effective June 29, 2011; amended at 36 Ill. Reg. 14090, effective August 30, 2012; amended at 37 Ill. Reg. 2298, effective February 4, 2013; amended at 37 Ill. Reg. 4954, effective March 29, 2013; amended at 38 Ill. Reg. 22851, effective November 21, 2014; amended at 39 Ill. Reg. 5456, effective March 25, 2015; amended at 41 Ill. Reg. 14811, effective November 15, 2017; amended at 43 Ill. Reg._____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 300.272 Determination to Issue a Notice of Violation or Administrative Warning

a) Upon receipt of a report of an inspection, survey or evaluation of a facility, the Director or his or her designee will~~shall~~ review the findings contained in the report to *determine whether the report's findings constitute a violation or violations of which the facility must be given notice*~~ and which *threaten the health, safety, or welfare of a resident or residents*~~. All information, evidence and observations made during an inspection, survey or evaluation will~~shall~~ be considered findings or deficiencies. (Section 3-212(c) of the Act)

b) In making this determination, the Director or his or her designee will~~shall~~ consider any *comments and documentation provided by the licensee~~facility~~ within 10~~ten~~ days after~~of~~ receipt of the copy of the report* in accordance with Section 300.200(c). (Section 3-212(c) of the Act)

c) In determining whether the findings warrant the issuance of a notice of violation, the Director or his or her designee will~~shall~~ base his or her determination on the following factors:

1) *The severity of the finding*. The Director or his or her designee will consider whether the finding constitutes a ~~merely~~ technical non-substantial error or whether the finding is serious enough to constitute an actual violation of the intent and purpose of the Act or this Part~~standard~~.

2) *The danger posed to resident health and safety*. The Director or his or her designee will consider whether the finding could pose any direct harm to the residents.

3) *The diligence and efforts to correct deficiencies and correction of reported deficiencies by the facility*. The Director or his or her designee will consider *comments and documentation provided by the facility* evidencing~~Consideration will be given to any evidence provided by the facility in its comments and documentation~~ that steps have been taken to correct reported~~reduce noted~~ findings and to insure a reduction of deficiencies.

4) *The frequency and duration of similar findings in previous reports and the facility's general inspection history*. The Director~~director~~ or his or her designee will consider whether the same finding or a similar finding relating to the same condition or occurrence has been included in previous reports and the facility has allowed the condition or occurrence to continue or to recur. (Section 3-212(c) of the Act)

d) If the Director or his or her designee determines that the report's findings constitute a violation or violations that~~which~~ do not directly threaten the health, safety, or welfare of a resident or residents, the *Department shall issue an administrative warning* as provided in Section 300.277 (Section 3-303.2(a) of the Act)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

e) *Violations shall be determined under this* Section *no later than 75~~60~~ days after completion of each inspection, survey and evaluation*. (Section 3-212(c) of the Act)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Sheltered Care Facilities Code

2) Code Citation: 77 Ill. Adm. Code 330

3) Section Number: 330.272 — Proposed Action: Amendment

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) A Complete Description of the Subjects and Issues Involved: This rulemaking updates statutory language in Section 330.272 (Determination to Issue a Notice of Violation or Administrative Warning) to make it consistent with the Nursing Home Care Act.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

Erin Conley
Rules Coordinator

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

Division of Legal Services
Illinois Department of Public Health
Division of Legal Services
535 W. Jefferson St., 5th Floor
Springfield IL 62761

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

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Sheltered care facilities

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 2018

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

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

PART 330
SHELTERED CARE FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

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

DEPARTMENT OF PUBLIC HEALTH

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330.286 Notice of Penalty Assessment; Response by Facility
330.287 Consideration of Factors for Assessing Penalties
330.288 Reduction or Waiver of Penalties
330.290 Quarterly List of Violators (Repealed)
330.300 Alcoholism Treatment Programs In Long-Term Care Facilities
330.310 Department May Survey Facilities Formerly Licensed
330.315 Supported Congregate Living Arrangement Demonstration
330.320 Waivers
330.330 Definitions
330.340 Incorporated and Referenced Materials

SUBPART B: ADMINISTRATION

Section
330.510 Administrator

SUBPART C: POLICIES

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

DEPARTMENT OF PUBLIC HEALTH

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SUBPART D: PERSONNEL

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

SUBPART E: HEALTH SERVICES AND MEDICAL CARE OF RESIDENTS

Section
330.1110 Medical Care Policies
330.1120 Personal Care
330.1125 Life Sustaining Treatments
330.1130 Communicable Disease Policies
330.1135 Tuberculin Skin Test Procedures
330.1140 Care and Treatment of Sexual Assault Survivors
330.1145 Restraints
330.1150 Emergency Use of Physical Restraints
330.1155 Unnecessary, Psychotropic, and Antipsychotic Drugs
330.1160 Vaccinations

SUBPART F: RESTORATIVE SERVICES

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

SUBPART G: MEDICATIONS

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

DEPARTMENT OF PUBLIC HEALTH

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SUBPART H: RESIDENT AND FACILITY RECORDS

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

SUBPART I: FOOD SERVICE

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

SUBPART J: MAINTENANCE, HOUSEKEEPING AND LAUNDRY

Section
330.2210 Maintenance
330.2220 Housekeeping
330.2230 Laundry Services

SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section
330.2410 Furnishings
330.2420 Equipment and Supplies

DEPARTMENT OF PUBLIC HEALTH

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SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

Section
330.2610 Codes
330.2620 Water Supply
330.2630 Sewage Disposal
330.2640 Plumbing

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

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

DEPARTMENT OF PUBLIC HEALTH

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330.3180 Electrical

SUBPART N: FIRE PROTECTION STANDARDS FOR NEW SHELTERED CARE FACILITIES

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

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

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

SUBPART P: FIRE PROTECTION STANDARDS FOR

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

EXISTING SHELTERED CARE FACILITIES

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

SUBPART Q: RESIDENT'S RIGHTS

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

SUBPART R: DAY CARE PROGRAMS

Section
330.4510 Day Care in Long-Term Care Facilities

330.APPENDIX A Interpretation, Components, and Illustrative Services for Sheltered Care Facilities (Repealed)
330.APPENDIX B Classification of Distinct Part of a Facility For Different Levels of Service

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

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

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

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

effective January 15, 1999; amended at 23 Ill. Reg. 8064, effective July 15, 1999; amended at 24 Ill. Reg. 17304, effective November 1, 2000; amended at 25 Ill. Reg. 4901, effective April 1, 2001; amended at 26 Ill. Reg. 4859, effective April 1, 2002; amended at 26 Ill. Reg. 10559, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 2202, effective February 1, 2003, for a maximum of 150 days; emergency expired June 30, 2003; emergency amendment at 27 Ill. Reg. 5473, effective March 25, 2003, for a maximum of 150 days; emergency expired August 21, 2003; amended at 27 Ill. Reg. 5886, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 14218, effective August 15, 2003, for a maximum of 150 days; emergency expired January 11, 2004; amended at 27 Ill. Reg. 15880, effective September 25, 2003; amended at 27 Ill. Reg. 18130, effective November 15, 2003; expedited correction at 28 Ill. Reg. 3541, effective November 15, 2003; amended at 28 Ill. Reg. 11195, effective July 22, 2004; emergency amendment at 29 Ill. Reg. 11879, effective July 12, 2005, for a maximum of 150 days; emergency rule modified in response to JCAR Recommendation at 29 Ill. Reg. 15156, effective September 23, 2005, for the remainder of the maximum 150 days; emergency amendment expired December 8, 2005; amended at 29 Ill. Reg. 12891, effective August 2, 2005; amended at 30 Ill. Reg. 1439, effective January 23, 2006; amended at 30 Ill. Reg. 5260, effective March 2, 2006; amended at 31 Ill. Reg. 6072, effective April 3, 2007; amended at 31 Ill. Reg. 8828, effective June 6, 2007; amended at 33 Ill. Reg. 9371, effective June 17, 2009; amended at 34 Ill. Reg. 19199, effective November 23, 2010; amended at 35 Ill. Reg. 3415, effective February 14, 2011; amended at 35 Ill. Reg. 11513, effective June 29, 2011; amended at 37 Ill. Reg. 2315, effective February 4, 2013; amended at 37 Ill. Reg. 4970, effective March 29, 2013; amended at 39 Ill. Reg. 5470, effective March 25, 2015; amended at 41 Ill. Reg. 14826, effective November 15, 2017; amended at 43 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 330.272 Determination to Issue a Notice of Violation or Administrative Warning

a) Upon receipt of a report of an inspection, survey or evaluation of a facility, the Director or his or her designee will~~shall~~ review the findings contained in the report to determine *whether the report's findings constitute a violation or violations of which the facility must be given notice~~ and which *threaten the health, safety, or welfare of a resident or residents*~~. All information, evidence~~,~~ and observations made during an inspection, survey or evaluation will~~shall~~ be considered findings or deficiencies. (Section 3-212(c) of the Act)

b) In making this determination, the Director or his or her designee will~~ designees shall~~ consider any *comments and documentation provided by the licensee within 10 days after receipt of the copy of the report~~facility~~ within ten days of receipt of*

~~the report~~ in accordance with Section 330.200(c). (Section 3-212(c) of the Act)

c) In determining whether the findings warrant the issuance of a notice of violation, the Director or his or her designee will~~shall~~ base his or her determination on the following factors:

1) *The severity of the finding*. The Director or his or her designee will consider whether the finding constitutes a ~~merely~~ technical non-substantial error or whether the finding is serious enough to constitute an actual violation of the intent and purpose of the Act or this Part~~standard~~.

2) *The danger posed to resident health and safety*. The Director or his or her designee will consider whether the finding could pose any direct harm to the residents.

3) *The diligence and efforts to correct deficiencies and correction of reported deficiencies by the facility*. The Director or his or her designee will consider *comments and documentation provided by the facility*~~Consideration will be given to any evidence provided by the facility in its comments and documentation~~ that steps have been taken to correct reported~~reduce noted~~ findings and to insure a reduction of deficiencies.

4) *The frequency and duration of similar findings in previous reports and the facility's general inspection history*. The Director~~director~~ or his or her designee will consider whether the same finding or a similar finding relating to the same condition or occurrence has been included in previous reports and the facility has allowed the condition or occurrence to continue or to recur. (Section 3-212(c) of the Act)

d) If the Director or his or her designee determines that the report's findings constitute a violation or violations that~~which~~ do not directly threaten the health, safety, or welfare of a resident or residents, the *Department shall issue an administrative warning* as provided in Section 330.377. (Section 3-303.2(a) of the Act)

e) *Violations shall be determined under this* Section *no later than 75~~60~~ days after completion of each inspection, survey and evaluation.* (Section 3-212(c) of the Act)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

(Source: Amended at 43 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Long-Term Care for Under Age 22 Facilities Code

2) Code Citation: 77 Ill. Adm. Code 390

3)

Section Numbers:	Proposed Actions:
390.110	Amendment
390.120	Amendment
390.130	Amendment
390.140	Amendment
390.150	Amendment
390.160	Amendment
390.165	Amendment
390.175	Amendment
390.180	Amendment
390.190	Amendment
390.200	Amendment
390.210	Amendment
390.220	Amendment
390.230	Amendment
390.240	Amendment
390.260	Amendment
390.270	Amendment
390.271	Amendment
390.272	Amendment
390.274	Amendment
390.276	Amendment
390.277	Amendment
390.278	Amendment
390.280	Amendment
390.282	Amendment
390.284	Repealed
390.286	Amendment
390.287	New Section
390.288	Amendment
390.300	Amendment
390.310	Amendment
390.315	Repealed
390.320	Amendment
390.330	Amendment

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

390.340	Amendment
390.2620	Amendment
390.2920	Amendment

4) Statutory Authority: MC/DD Act [210 ILCS 46]

5) A Complete Description of the Subjects and Issues Involved: This rulemaking makes numerous technical and substantive changes to 77 Ill. Adm. Code 390 to implement PA 99-180, which created the MC/DD Act, which along with Part 390, provides for licensure for Under Age 22 facilities. Upon adoption of these proposed amendments, those facilities will be known as MC/DD facilities and the name of Part 390 will change to the Medically Complex for the Developmentally Disabled Facilities Code.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

Erin Conley
Rules Coordinator

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th Floor
Springfield IL 62761

217/785-9212
e-mail: dph.rules@illinois.gov

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Skilled nursing facilities that serve a medically fragile population

B) Reporting, bookkeeping or other procedures required for compliance: Maintaining updated facility financial and licensure records.

C) Types of professional skills necessary for compliance: Nursing

14) Regulatory Agenda on which this rulemaking was summarized: January 2018

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

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

PART 390
MEDICALLY COMPLEX FOR THE DEVELOPMENTALLY DISABLED ~~LONG-TERM CARE FOR UNDER AGE 22~~ FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

390.286 Notice of Penalty Assessment: Response by Facility~~Determination to Assess Penalties~~
390.287 Consideration of Factors for Assessing Penalties
390.288 Reduction or Waiver of Penalties
390.290 Quarterly List of Violators (Repealed)
390.300 Alcoholism Treatment Programs in Long-Term Care Facilities
390.310 Department May Survey Facilities Formerly Licensed
390.315 Supported Congregate Living Arrangement Demonstration (Repealed)
390.320 Waivers
390.330 Definitions
390.340 Incorporated and Referenced Materials

SUBPART B: ADMINISTRATION

Section
390.500 Administrator

SUBPART C: POLICIES

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

390.700 Incidents and Accidents
390.750 Contacting Local Law Enforcement
390.760 Infection Control

SUBPART D: PERSONNEL

Section
390.810 General
390.820 Categories of Personnel
390.830 Consultation Services

SUBPART E: HEALTH AND DEVELOPMENTAL SERVICES

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

SUBPART F: RESTRAINTS AND BEHAVIOR MANAGEMENT

Section
390.1310 Restraints
390.1312 Nonemergency Use of Physical Restraints
390.1314 Emergency Use of Physical Restraints
390.1316 Unnecessary, Psychotropic, and Antipsychotic Drugs

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

390.1320 Behavior Management
390.1330 Behavior Emergencies (Repealed)

SUBPART G: MEDICATIONS

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

SUBPART H: RESIDENT AND FACILITY RECORDS

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

SUBPART I: FOOD SERVICE

Section
390.1810 Director of Food Services
390.1820 Dietary Staff in Addition to Director of Food Services
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AUTHORITY: Implementing and authorized by the MC/DD Act [210 ILCS 46].

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

July 3, 1993; emergency amendment at 17 Ill. Reg. 7974, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15073, effective September 3, 1993; amended at 17 Ill. Reg. 16167, effective January 1, 1994; amended at 17 Ill. Reg. 19235, effective October 26, 1993; amended at 17 Ill. Reg. 19547, effective November 4, 1993; amended at 17 Ill. Reg. 21031, effective November 20, 1993; amended at 18 Ill. Reg. 1453, effective January 14, 1994; amended at 18 Ill. Reg. 15807, effective October 15, 1994; amended at 19 Ill. Reg. 11525, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 535, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10106, effective July 15, 1996; amended at 20 Ill. Reg. 12101, effective September 10, 1996; amended at 22 Ill. Reg. 4062, effective February 13, 1998; amended at 22 Ill. Reg. 7188, effective April 15, 1998; amended at 22 Ill. Reg. 16576, effective September 18, 1998; amended at 23 Ill. Reg. 1069, effective January 15, 1999; amended at 23 Ill. Reg. 8021, effective July 15, 1999; amended at 24 Ill. Reg. 17283, effective November 1, 2000; amended at 25 Ill. Reg. 4890, effective April 1, 2001; amended at 26 Ill. Reg. 4890, effective April 1, 2002; amended at 26 Ill. Reg. 10645, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 2258, effective February 1, 2003, for a maximum of 150 days; emergency expired June 30, 2003; emergency amendment at 27 Ill. Reg. 5509, effective March 25, 2003, for a maximum of 150 days; emergency expired August 21, 2003; amended at 27 Ill. Reg. 5947, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 14250, effective August 15, 2003, for a maximum of 150 days; emergency expired January 12, 2004; amended at 27 Ill. Reg. 15949, effective September 25, 2003; amended at 27 Ill. Reg. 18204, effective November 15, 2003; expedited correction at 28 Ill. Reg. 3565, effective November 15, 2003; amended at 28 Ill. Reg. 11231, effective July 22, 2004; emergency amendment at 29 Ill. Reg. 12025, effective July 12, 2005, for a maximum of 150 days; emergency rule modified in response to JCAR Recommendation at 29 Ill. Reg. 15301, effective September 23, 2005, for the remainder of the maximum 150 days; emergency amendment expired December 8, 2005; amended at 29 Ill. Reg. 12988, effective August 2, 2005; amended at 30 Ill. Reg. 1473, effective January 23, 2006; amended at 30 Ill. Reg. 5383, effective March 2, 2006; amended at 31 Ill. Reg. 6145, effective April 3, 2007; amended at 31 Ill. Reg. 8864, effective June 6, 2007; amended at 33 Ill. Reg. 9406, effective June 17, 2009; amended at 34 Ill. Reg. 19239, effective November 23, 2010; amended at 35 Ill. Reg. 3495, effective February 14, 2011; amended at 39 Ill. Reg. 5503, effective March 25, 2015; amended at 42 Ill. Reg. 6716, effective March 29, 2018; amended at 43 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 390.110 General Requirements

a) This Part applies to the operator/licensee of facilities, or distinct parts of facilities~~thereof~~, that are ~~to be~~ licensed and classified to provide nursing care to

persons pursuant to the terms and conditions of the MC/DD Act.~~under 22 years of age. Any license issued and in effect prior to March 1, 1980, pursuant to the "Nursing homes, sheltered care homes, and homes for the aged Act" (Ill. Rev. Stat. 1977, ch. 111½, par. 35.16 et seq.) shall remain valid and subject to the terms and conditions of the Nursing Home Care Act (the Act) (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 4151-101 et seq.) [210 ILCS 45] and all regulations promulgated thereunder until the expiration date shown on the face of such license.~~

b) The license issued to each operator/licensee shall designate the licensee's name, the facility name and~~,~~ address, the classification by level of service authorized for that facility, the number of beds authorized for each level, the date the license was issued and the expiration date. Licenses~~Such licenses~~ shall be issued for a period of *not less than 6~~six~~ months nor more than 18 months for facilities with annual licenses and not less than 18 months nor more than 30 months for facilities with 2-year licenses*. The Department will set the period of the license based on the license expiration dates of the facilities in the geographical area surrounding the facility *in order to distribute the expiration dates* as evenly as possible *throughout the calendar year*. (Section 3-110 of the Act)

c) An applicant may request that the license issued by the ~~Department of Public Health (the~~ Department~~)~~ have distinct parts classified according to levels of services. The distinct part shall~~must~~ satisfactorily meet the applicable physical plant standards of this Part based on a level of service classification sought for that distinct part. If necessary to protect the health, welfare and safety of residents in a distinct part who require~~requiring~~ higher standards, the facility shall comply~~Department shall require compliance~~ with whatever additional physical plant standards are necessary, in any distinct part, to achieve this protection. Administrative, supervisory, and other personnel may be shared by the entire facility, if ~~so doing does not adversely affect meeting~~ the total needs of the residents of the facility are met.

d) *A facility shall admit only that number of residents for which it is licensed~~The operator may not admit residents in excess of the licensed capacity of the facility~~*. (See Section 2-209 of the Act) ~~(B)~~

e) A ~~long-term care~~ facility ~~for persons under 22 years of age licensed and classified under the Act~~ shall not use in its title or description "Hospital,"~~,~~ "Sanitarium,"~~,~~ "Sanatorium,"~~,~~ or any other word or description in its title or advertisements

that~~which~~ indicates that a type of service is provided by the facility that~~which~~ the facility is not licensed to provide or~~, in fact,~~ does not provide. A ~~long-term care~~ facility~~ for persons under 22 years of age~~ may use in its title or advertisement the words or description~~:~~ "Nursing Home,"~~,~~ "Intermediate Care,"~~,~~ or "Skilled Nursing Facility".

f) *Any person establishing, constructing or modifying a health care ~~long-term care~~ facility or portion thereof without obtaining a~~the~~ required permit* from the Health Facilities and Services Review Board, *or in violation of the terms of the required permit, ~~from the Health Facilities Planning Board~~ shall not be eligible to apply for any necessary operating licenses or be eligible for payment by any State agency for services rendered in that facility until the required permit is obtained.~~licensure for that facility or portion thereof~~* (Section 13.1 of the Illinois Health Facilities Planning Act~~) (Ill. Rev. Stat. 1991, ch. 111½, par. 1163.1) [20 ILCS 3960]).~~

g) *Any owner of a facility licensed under the Act~~The licensee~~ shall give 90 days' ~~days~~ notice prior to voluntarily closing a facility or closing any part of a facility, or prior to closing any part of a facility if closing such part will require the transfer or discharge of more than 10%~~ten percent~~ of the residents. Such notice shall be given to the Department, to any residents who must be transferred or discharged, to the resident's representative, and to a member of the resident's family, where practicable. Notice shall state the proposed date of closing and the reason for closing. The facility~~licensee~~ shall offer to assist the resident in securing an alternative placement and shall advise the resident on available alternatives. Where the resident is unable to choose an alternate placement and is not under guardianship, the Department shall be notified of the need for relocation assistance. The facility shall comply with all applicable laws and regulations until the date of closing, including those related to transfer or discharge of residents. The Department may place a relocation team in the facility as provided under Section 3-419 of the Act.* (Section 3-423 of the Act) ~~(A, B)~~

h) Licensure for More ~~more~~ than One Level ~~one level~~ of Care~~care~~.

1) A facility may be licensed for more than one level of care. The licensee shall~~must~~ designate the level of care that will be provided in each bedroom. Bedrooms of like licensed level of care shall~~must~~ be contiguous to each other within each "nursing unit" as defined in Section 390.330. Each nursing unit may have up to two levels of care and shall~~must~~ meet

the construction standards for the highest licensed level of care in the nursing unit.

2) If a licensee wishes to designate a portion of its licensed beds as Intermediate Care for the Developmentally Disabled, licensed under the ID/DD Community Care Act and 77 Ill. Adm. Code 350, the licensed beds shall~~must~~ be located in a distinct part (as defined in Section 390.330) of the facility.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 390.120 Application for License

a) *Application* for a license to establish or *operate a* Medically Complex for the Developmentally Disabled (MC/DD) *facility shall be made* in writing and submitted *to the Department on forms furnished by the Department*. (Section 3-103(1) of the Act)~~Any person acting individually or jointly with other persons who proposes to build, own, establish, or operate an intermediate care facility or skilled nursing facility shall submit application information on forms provided by the Department.~~ The facility shall provide~~Department shall be furnished~~ a written description of the proposed program ~~to be provided,~~ and other ~~such~~ information that the Department~~as it~~ may require ~~in order~~ to determine the appropriate level of licensure~~care for which the facility should be licensed~~. The application form and other required information shall be submitted and approved prior to surveys of the physical plant or review of building plans and specifications.

b) An application for a new facility shall be accompanied by a permit as required by the Illinois Health Facilities Planning Act ~~[20 ILCS 3960]~~.

~~c) *Application* for a license to establish or *operate* an intermediate care facility or skilled nursing *facility shall be made* in writing and submitted, with other such information as the Department may require, *on forms* provided by the Department. (Section 3-103(1) of the Act)~~

c~~d~~) *The application shall be under oath and the submission of false or misleading information shall be a Class A misdemeanor. The application shall contain the following information:*

1) *The name and address of the applicant if an individual, and if a firm,*

partnership, or association, the name and address *of every member thereof, and in the case of a corporation, the name and address thereof and of its officers and its registered agent, and in the case of a unit of local government, the name and address of its chief executive officer;*

2) *The name and location of the facility for which a license is sought;*

3) *The name of the person or persons under whose management or supervision the facility will be conducted;*

4) *The number and type of residents for which maintenance, personal care, or nursing is to be provided; and*

5) The~~*Such*~~ *information relating to the number, experience, and training of the employees of the facility, any management agreements for the operation of the facility, and of the moral character of the applicant and employees as the Department may deem necessary.* (Section 3-103(2) of the Act)

d~~e~~) Ownership Change or Discontinuation

1) The license is not transferable. It is issued to a specific licensee and for a specific location. The license and the valid current renewal certificate immediately become void and shall be returned to the Department when the facility is sold or leased; when operation is discontinued; when operation is moved to a new location; when the licensee (if an individual) dies; when the licensee (if a corporation or partnership) dissolves or terminates; or when the licensee (whatever the entity) ceases to be.

2) A license issued to a corporation shall become null, void and of no further effect upon the dissolution of the corporation. The license shall not be revived if the corporation is subsequently reinstated. A new license shall~~must~~ be obtained~~ in such cases~~.

e~~f~~) *Each initial application shall be accompanied by a financial statement setting forth the financial condition of the applicant and by a statement from the unit of local government having zoning jurisdiction over the facility's location stating that the location of the facility is not in violation of a zoning ordinance. An initial application for a new facility shall be accompanied by a permit as required by the*

Illinois Health Facilities Planning Act. After the application is approved, the applicant shall advise the Department every 6six months of any changes in the information originally provided in the application. (Section 3-103(3) of the Act)

fg) *The DirectorThe Department may issue licenses or renewals for periods of not less than 6six months nor more than 18 months for facilities with annual licenses and not less than 18 months for facilities with 2-year licenses in order for the Department to distribute the expiration dates of such licenses throughout the calendar year, and. The fees for such licenses shall be pro-rated on the basis of the portion of the year for which they are issued.* (Section 3-110 of the Act)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 390.130 Licensee

a) The licensee is the corporate body, political subdivision, individual, or individuals responsible for the operation of the facility and upon whom rests the responsibility for meeting the licensing requirements. The licensee isdoes not requiredhave to own the building being used.

b) If the licensee does not own the building, a lease or management agreement between the licensee and the owner of the building is required. A copy of the lease or management agreement shall be furnished to the Department. The licensee also shall provide the Department shall also be provided with a copy of all new lease agreements or any changes to existing agreements within 30 days afterof the effective date of the such changes.

c) If the licensee is not a corporation or a political subdivision of the State of Illinois, each person responsible for the operation of the facility, and upon whom rests the responsibility for meeting the requirements of the Act and this Partlicensing Minimum Standards, shall be at least 18 years of age.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 390.140 Issuance of an Initial License for a New Facility

a) *Upon receipt and review of an application for a license and inspection of the applicant facility, the Director shall issue a probationary license if he or she finds:*

1) *That the individual applicant, or the corporation, partnership or other entity if the applicant is not an individual,~~The applicant~~ is a person responsible and suitable to operate or to direct or participate in the operation of a facility by virtue of financial capacity, appropriate business or professional experience, a record of compliance with lawful orders of the Department and lack of revocation of a license during the previous five years and is not the owner of a facility designated pursuant to Section 3-304.2 of the Act and Section 390.185 as a distressed facility;*

2) *That the~~The~~ facility is under the supervision of an administrator who is licensed, if required, under the Nursing Home Administrators Licensing and Disciplinary Act* ~~(Ill. Rev. Stat. 1991, ch. 111, pars. 3651 et seq.) [225 ILCS 70]~~*; and*

3) *That the~~The~~ facility is in substantial compliance with the Act* and this Part*~~and this Part~~*. (Section 3-109 of the Act)

b) The Department will issue a probationary license for 120 days from the date of issuance.

c) *Within 30 days prior to the termination of a probationary license, the Department shall fully and completely inspect the facility and, if the facility meets the applicable requirements for licensure, shall issue a license under Section 3-109* of the Act*~~of the Act~~*. (Section 3-116 of the Act) If the facility is not in compliance and satisfactory progress toward compliance is not being made, the Department will allow the probationary license to expire.

d) *If the Department finds that the facility does not meet the requirements for licensure but has made substantial progress toward meeting those requirements, the license may be renewed once for a period not to exceed 120 days from the expiration date of the initial probationary license.~~Under no condition may more than two successive probationary licenses be issued.~~* (Section 3-116 of the Act) The Department will not issue more than two consecutive probationary licenses.

e) The licensee shall qualify for issuance of a two-year license if the licensee has met the criteria contained in Section 3-110(b) of the Act for the last 24 ~~twenty-four~~ consecutive months.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 390.150 Issuance of an Initial License Due to a Change of Ownership

a) *Upon receipt and review of an application for a license, the Director shall issue a probationary license if he or she finds:*

1) *That the individual applicant, or the corporation, partnership, or other entity if the applicant is not an individual,~~The applicant~~ is a person responsible and suitable to operate or to direct or to participate in the operation of a facility by virtue of financial capacity, appropriate business or professional experience, a record of compliance with lawful orders of the Department and lack of revocation of a license during the previous five years, and is not the owner if a facility designated pursuant to Section 3-304.2* of the Act and Section 390.185 *as a distressed facility;*

2) *That the~~The~~ facility is under the supervision of an administrator who is licensed, if required, under the Nursing Home Administrators Licensing and Disciplinary Act; and*

3) *That the~~The~~ facility is in substantial compliance with* the*~~the~~ Act* and this Part*~~and this Part~~*. (Section 3-109 of the Act)

b) *Whenever ownership of a facility is transferred from the person named in a license to any other person, the transferee must obtain a new probationary license. The transferee shall notify the Department of the transfer and apply for a new license at least 30 days prior to final transfer. The Department will not approve the transfer of ownership to an owner of a facility designated pursuant to Section 3-304.2 of the Act* and Section 390.185 *as a distressed facility.* (Section 3-112 of the Act)

c) *The transferor shall notify the Department at least 30 days prior to final transfer. The transferor shall remain responsible for the operation of the facility until such time as the license is issued to the new transferee.* (Section 3-112 of the Act)

d) *The license granted to the transferee shall be subject to any plan of correction submitted by the previous owner and approved by the Department and any conditions contained in a conditional license issued to the previous owner. If there are outstanding violations and no plan of correction has been submitted by*

the facility and approved by the Department, the Department may issue a conditional license and plan of correction as provided in Sections 3-311 through 3-317 of the Act in place of a probationary license. (Section 3-113 of the Act)

e) *The transferor shall remain liable for all penalties assessed against the facility which are imposed for violations occurring prior to transfer of ownership.* (Section 3-114 of the Act)

f) The Department will issue a probationary license for 120 days from the date of issuance.

g) *Within 30 days prior to the termination of a probationary license, the Department shall fully and completely inspect the facility and, if the facility meets the applicable requirements for licensure, shall issue a license under Section 3-109* of the Act~~*of the Act*~~. (Section 3-116 of the Act) If the facility is not in compliance and satisfactory progress toward compliance is not being made, the Department will allow the probationary license to expire.

h) *If the Department finds that the facility does not meet the requirements for licensure but has made substantial progress toward meeting those requirements, the license may be renewed once for a period not to exceed 120 days from the expiration date of the initial probationary license*. (Section 3-116 of the Act) The Department will not issue more than two consecutive probationary licenses~~Under no condition may more than two successive probationary licenses be issued~~.

i) The issuance date of the probationary license to the new owner will be the date the last licensure requirement is met as determined by the Department.

j) The licensee shall qualify for issuance of a two-year license if the licensee has met the criteria contained in Section 3-110(b) of the Act for the last 24~~twenty-four~~ consecutive months.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 390.160 Issuance of a Renewal License

At least 120 days, but not more than 150 days, prior to license expiration, the licensee shall submit an application for renewal of the license in such form and containing such information as the Department requires. If the application is approved, and the facility is in compliance with all

~~other~~ licensure requirements in the Act and this Part, *the license shall be renewed in accordance with Section 3-110* of the Act~~*of the Act*~~. (Section 3-115 of the Act)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 390.165 Criteria for Adverse Licensure Actions

a) Adverse licensure actions are determinations to deny the issuance of an initial license, to deny the issuance of a renewal of a license, or to revoke the current license of a facility.

b) A determination by the Director or his or her designee to take adverse licensure action against a facility will~~shall~~ be based on a finding that one or more of the following criteria are met:

1) A substantial failure to comply with the Act or this Part~~The facility has *substantially failed to meet any of the minimum standards set forth in the act or this Part*~~. For purposes of this provision, substantial failure is a failure to meet the requirements of this Part that~~which~~ is other than a variance from strict and literal performance and that~~which~~ results only in unimportant omissions or defects given the particular circumstances involved. *A substantial failure by the facility shall include, but not be limited to, the following:*~~(Section 3-117(1) and 3-119(a)(1) of the Act)~~

A) *Termination of Medicare or Medicaid certification by the Centers for Medicare and Medicaid Services; or*

B) *A failure by the facility to pay any fine assessed under the Act after the Department has sent to the facility and licensee at least 2 notices of assessment that include a schedule of payments as determined by the Department, taking into account extenuating circumstances and financial hardships of the facility*. (Section 3-119(a)(1) of the Act)

2) *Conviction of the licensee, or of the person designated to manage or supervise the facility, of a felony, or of 2 or more misdemeanors involving moral turpitude, during the previous 5 years as shown by*~~*The licensee or applicant, or the person designated to manage or supervise the facility has been convicted* of any of the following crimes *during the previous five*~~

~~*years.* Such convictions shall be verified by~~ *a certified copy of the record of the court of conviction*. (Section 3-119(a)(2) of the Act)

~~A) *A felony.*~~

~~B) *Two or more misdemeanors involving turpitude.* (Sections 3-117(2) and 3-119(a)(2) of the Act)~~

3) The moral character of the licensee, administrator, manager, or supervisor of the facility is not reputable~~*The moral character of the licensee, administrator, manager, or supervisor of the facility is not reputable*~~. Evidence to be considered will include verifiable statements by residents of a facility, law enforcement officials, or other persons with knowledge of the individual's character. In addition, the definition afforded to the terms "reputable," "unreputable," and "irreputable" by the circuit courts of the State of Illinois shall apply when appropriate to the given situation. For purposes of this Section, a manager or supervisor of the facility is an individual with responsibility for the overall management, direction, coordination, or supervision of the facility or the facility staff. ~~(Sections 3-117(2) and 3-119(a)(2) of the Act)~~

4) Personnel is~~The facility is operating (or, for an initial applicant, intends to operate) with *personnel which are*~~ *insufficient in number or unqualified by training or experience to properly care for the number and type of residents served by the facility*~~in the facility~~. Requirements in this Part~~Standards in these rules~~ concerning personnel, including Sections 390.810, 390.820, 390.830, 390.1030, 390.1040 and 390.1050, will be considered in making this determination. (Section~~Sections 3-117(3) and~~ 3-119(a)(3) of the Act)

5) *Financial or other resources are*~~The facility has available~~ *insufficient* ~~*financial or other resources*~~ *to conduct and operate the facility in accordance with* the Act and this Part~~*this Part*~~. Financial information and changes in financial information provided by the facility under Section 390.120(f) and under Section 3-208 of the Act will be considered in making this determination. (Section 3-119(a)(4)~~208~~ of the Act)

6) *The facility is not under the direct supervision of a full-time administrator* as required by Section 390.500~~510~~. (Section~~Sections 3-117(6) and~~ 3-

119(a)(5) of the Act)

7) The facility has violated the rights of residents of the facility by any of the following actions:

A) A pervasive pattern of cruelty or indifference to residents has occurred in the facility.

B) The facility has appropriated ~~or converted for its use~~ the property of a resident or has converted a resident's property for the facility's use without the~~his~~ written consent ~~or the consent~~ of the resident or his or her legal guardian.

C) The facility has secured property, or a bequest of property, from a resident by undue influence.

8) The facility knowingly submitted false information either on the licensure or renewal application forms or during the course of an inspection or survey of the facility.

9) The facility has refused to allow an inspection or survey of the facility by agents of the Department ~~to occur~~.

c) The Director or his or her designee will~~shall~~ consider all available evidence at the time of the determination, including the history of the facility and the applicant in complying with the Act and this Part, notices of violations that~~which~~ have been issued to the facility and the applicant, findings of surveys and inspections, and any other evidence provided by the facility, residents, law enforcement officials and other interested individuals.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 390.175 Denial of Renewal of License

a) Application for renewal of a license of a facility shall be denied and the license of the facility shall be allowed to expire when the Director or his or her designee finds that a condition, occurrence, or situation in the facility meets any of the criteria specified in Section 390.165(b) and in Section 3-1219(a) of the Act. Pursuant to Section 10-65 of the Illinois Administrative Procedure Act ~~(Ill. Rev.~~

~~Stat. 1991, ch. 127, par. 1010-65) [5 ILCS 100/10-65]~~, licensees who are individuals are subject to denial of renewal of licensure if the individual is more than 30 days delinquent in complying with a child support order.

b) When the Director or his or her designee determines that an application for renewal of a license of a facility is to be denied, the Department will~~shall~~ notify the facility. The notice to the facility will~~shall~~ be in writing and will~~shall~~ include:

1) *A clear and concise statement of the violations on which the nonrenewal or revocation is based*, and *the statute or rule violated*~~of the basis of the denial. The statement shall include a citation to the provisions of the Act and this Part on which the application for renewal is being denied~~.

2) A statement of the date on which the current license of the facility will expire as provided in subsection (c)~~ of this Section~~ and Section 3-119(d) of the Act.

3) *Notice of the opportunity for*~~A description of *the right of the applicant to appeal the denial of the application for renewal and the right to*~~ *a hearing under Section 3-703* of the Act. (Section 3-119(b) of the Act)

c) The effective date of the nonrenewal of a license shall be as provided in Section 3-119(d) of the Act.

d) *The Department may extend the effective date of license revocation or expiration in any case in order*~~The current license of the facility shall be *extended by the Department* when it finds that such extension is necessary~~ *to permit orderly removal and relocation of residents*. (Section 3-119(d)(3) of the Act)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 390.180 Revocation of License

a) The license of a facility shall be revoked when the Director or his or her designee finds that a condition, occurrence or situation in the facility meets any of the criteria specified in Section 390.165(b) and in Section 3-119(a) of the Act. In addition, the license of a facility will be revoked when the facility fails to abate or eliminate a Type~~level~~ A violation as provided in Section 390.282(b) or when *the facility has committed 2 Type AA violations within a 2-year period*. (Section 3-

119(a)(6) of the Act) Pursuant to Section 10-65 of the Illinois Administrative Procedure Act, licensees who are individuals are subject to revocation of licensure if the individual is more than 30 days delinquent in complying with a child support order.

b) When the Director or his or her designee determines that the license of a facility is to be revoked, the Department willshall notify the facility. The notice to the facility willshall be in writing and willshall include:

1) *A clear and concise statement of the violations on which the revocation is based*, and *the statute or rule violated*of the basis of the revocation. The statement shall include a citation to the provisions of the Act and this Part on which the license is being revoked.

2) A statement of the date on which the revocation will take effect as provided in subsection (c) of this Section and Section 3-119(d) of the Act.

3) *Notice of opportunity for*A description of *the right of the facility to appeal the revocation of the license and the right to a hearing under Section 3-703* of the Act. (Section 3-119(b) of the Act)

c) The effective date of the revocation of a license shall be as provided in Section 3-119(d) of the Act.

d) *The Department may extend the effective date of license revocation or expiration in any case in order*The effective date of the revocation shall be extended by the Department when it finds that such extension is necessary *to permit orderly removal and relocation of residents*. (Section 3-119(d)(3) of the Act)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 390.190 Experimental Program Conflicting With Requirements

a) Any facility desiring to conduct an experimental program or do research thatwhich is in conflict with this Part shall submit a written request to the Department and secure prior approval. The Department will not approve experimental programs thatwhich would violate residents'residents rights under the Act, this Section, and Section 390.3220(e). Additionally, experimental programs in facilities shall comply with the following:Such approval will be

~~granted only if the request will not create an unnecessary and unusual threat to the health, welfare, or safety of the residents or staff. (A, B)~~

1) *No facility shall permit experimental research or treatment to be conducted on a resident or give access to any person or person's records for a retrospective study about the safety or efficacy of any care or treatment without the prior written approval of the institutional review board*;

2) *No administrator, or person licensed by the State to provide medical care or treatment to any person, may assist or participate in any experimental research on or treatment of a resident, including a retrospective study, that does not have the prior written approval of the institutional review board. Such conduct shall be grounds for professional discipline by the Department of Financial and Professional Regulation*; and

3) *The institutional review board may exempt from ongoing review research or treatment initiated on a resident before the individual's admission to a facility and for which the board determines there is adequate ongoing oversight by another institutional review board.*

b) *Nothing in* the Act or *this Section shall prevent a facility, any facility employee, or any other person from assisting or participating in any experimental research on or treatment of a resident if the research or treatment began before the person's admission to a facility, until the board has reviewed the research or treatment and decided to grant or deny approval or to exempt the research or treatment from ongoing review*. (Section 2-104(a) of the Act)

~~b) The Department may grant to a facility special permission to provide day care when it has adequate facilities and staff to satisfactorily provide such services. Such permission will be based on compliance with the requirements in Section 390.3510.~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 390.200 Inspections, Surveys, Evaluations and Consultation

a) The terms survey, inspection and evaluation are synonymous. These terms refer to the overall examination of compliance with the Act and this Part. All facilities

to which this Part applies shall be subject to and shall be deemed to have given consent to annual inspections, surveys or evaluations by properly identified personnel of the Department, or by ~~such~~ other properly identified persons, including local health department staff, as the Department may designate. *An inspection, survey or evaluation, other than an inspection of financial records, shall be conducted without prior notice to the facility. A visit for the sole purpose of consultation may be announced.* (Section 3-212(a) of the Act) The licensee, or person representing the licensee in the facility, shall provide ~~to the representative of the Department~~ access and entry to the premises or facility for obtaining information required to carry out the Act and this Part. In addition, ~~representatives of~~ *the Department shall have access to and may reproduce or photocopy at its cost any books, records, and other documents maintained by the facility,* the licensee or their representatives *to the extent necessary to carry out the Act* and this Part. (Section 3-213 of the Act) A facility may charge the Department for ~~such~~ photocopying at a rate determined by the facility not to exceed the rate in Access to Public Records of the Department of Public Health~~the Department's Freedom of Information Code~~ (2 Ill. Adm. Code 1127~~1126~~). ~~(Sections 3-212 and 3-213 of the Act)~~

b) *In determining whether to make more than the required number of unannounced inspections, surveys and evaluations of a facility, the Department shall consider one or more of the following:*

1) *Previous~~previous~~ inspection reports;*

2) *The~~the~~ facility's history of compliance with* the Act and this Part*, and correction of violations, penalties or other enforcement actions;~~:~~*

~~A)~~ ~~*correction of violations;*~~

~~B)~~ ~~*penalties or other enforcement actions;*~~

3) *The~~the~~ number and severity of complaints received about the facility;*

4) *Any~~any~~ allegations of resident abuse or neglect;*

5) *Weather~~weather~~ conditions;*

6) *Health~~health~~ emergencies;*

7) *Other~~other~~ reasonable belief that deficiencies exist;* (Section 3-212(b) of the Act) and

8) Requirements~~requirements~~ pursuant to the "1864 Agreement" (42 USC ~~U.S.C.A.~~ 1395aa) between the Department and the U.S. Department of Health and Human Services (HHS) (e.g., annual and follow-up certification inspections, life safety code inspections and any inspections requested by the Secretary~~secretary~~ of HHS). ~~(Section 3-212(b) of the Act)~~

c) *The Department shall not be required to determine whether a facility certified to participate in the Medicare program under Title XVIII of the Social Security Act, or the Medicaid Program under Title XIX of the Social Security Act, and which the Department determines by inspection to be in compliance with the certification requirements of Title XVIII or XIX, is in compliance with any requirement of the ~~the~~ Act* and this Part *that is less stringent than or duplicates a federal certification requirement.* (Section 3-212(b-1) of the Act~~, see P.A. 88-278, effective August 10, 1993~~)

d) *The Department shall*, in accordance with Section 3-212(a) of the Act, *determine whether a certified facility is in compliance with requirements of the Act that exceed federal certification requirements.* (Section 3-212(b-1) of the Act~~, see P.A. 88-278, effective August 10, 1993~~)

e) *If a certified facility is found to be out of compliance with federal certification requirements, the results of the inspection conducted pursuant to Title XVIII or XIX of the Social Security Act* (Section 3-212 (b-1) of the Act~~, see P.A. 88-278, effective August 10, 1993~~) shall be reviewed to determine which, if any, of the results shall be considered licensure findings, as follows:

1) The result identifies potential violations of the MC/DD ~~Nursing Home Care~~ Act and this Part; and

2) The result, based on available information, would likely represent a Type AA, a Type A or a Type B violation if tested against the factors described in Sections 390.272 and 390.274.

f) All results of an inspection conducted pursuant to Title XVIII or XIX of the

Social Security Act that the Department considers licensure findings shall be provided to the facility at the time of exit or by mail in accordance with subsection (g)~~ of this Section~~.

g) *Upon the completion of each inspection, survey and evaluation, the appropriate Department personnel who conducted the inspection, survey or evaluation shall submit a copy of their report to the licensee* or the licensee's~~their~~ representative *upon exiting the facility* or upon considering results of an inspection conducted pursuant to Title XVIII or XIX of the Social Security Act~~*results of an inspection conducted pursuant to Title XVIII or XIX of the Social Security Act*~~ as licensure findings. A copy of the information gathered during a complaint investigation will not be provided upon exiting the facility. *Comments or documentation provided by the licensee, which may refute findings in the report, which explain extenuating circumstances that the facility could not reasonably have prevented, or which indicate methods and timetables for correction of deficiencies described in the report shall be provided to the Department within 10 ~~ten~~ days of receipt of the copy of the report.* (Section 3-212(c) of the Act)

h) Consultation consists of providing advice or suggestions to the staff of a facility at their request relative to specific matters of the scope of regulation, methods of compliance with the Act or this Part, or general matters of patient care. A request for consultation by a facility or facility staff does not obligate Department personnel to provide consultation. A facility that requests and obtains consultation from the Department retains legal responsibility for compliance with the Act and this Part.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 390.210 Filing an Annual Attested Financial Statement

a) *Each licensee shall file annually an attested financial statement. The Director may order an audited financial statement of a particular facility by an auditor of the Director's choice.* The Department will pay the cost of extra audits ordered by the Director.~~*submit an annual attested financial statement to the Department. This financial statement shall be filed in a prescribed format on forms supplied by the Department. The forms will be developed in conjunction with the Illinois Department of Public Aid.*~~ The time period covered in the financial statement shall be a period determined by the Department for the initial filing, and after the initial filing shall ~~thereafter~~ coincide with the facility's fiscal year or the calendar

year. (Section 3-208(a) of the Act)

~~b) The Department may require any facility to file an audited financial statement, if the Department determines that such a statement is needed. (Section 3-208 of the Act)~~

~~c) The Department may require any or all facilities to submit attested or audited financial statements more frequently than annually, if the Department determines that more frequent financial statements are needed. The frequency and time period of such filings shall be as determined by the Department for each individual facility. (Section 3-208 of the Act)~~

b~~d~~) The financial statement shall be filed with the Department within 90 days following the end of the designated reporting period. The financial statement will not be considered as having been filed unless all sections of the prescribed forms have been properly completed. Those sections that~~which~~ do not apply to a particular facility shall be noted "not applicable" on the forms.

c~~e~~) The information required to be submitted in the financial statement shall~~will~~ include, but is not limited to, the following:

1) Facility information, including: facility name and address, licensure information, type of ownership, licensed bed capacity, date and cost of building construction and additions, date and cost of acquisition of buildings, building sizes, equipment costs and dates of acquisition.

2) Resident information, including: number and level of care of residents by source of payment, income from residents by level of care.

3) Cost information by level of care, including:

A) General service costs~~;~~ such as dietary, food, housekeeping, laundry, utilities, and plant operation and maintenance.

B) Health care costs~~;~~ such as medical director, nursing, medications, oxygen, activities, medical records, other medical services, social services, and utilization reviews.

C) General administration costs ~~Administration;~~ such as

administrative salaries, professional services, fees, subscriptions, promotional, insurance, travel, clerical, employee benefits, license fees, and in-service~~inservice~~ training and education.

D) Ownership costs~~;~~ such as depreciation, interest, taxes, rent, and leasing.

E) Special Service cost centers~~;~~ such as habilitative and rehabilitative services, therapies, transportation, education, barber and beauty care, and gift and coffee shops~~shop~~.

4) Income information, including operating and non-operating income.

5) Ownership information, including balance sheet and payment to owners.

6) Personnel information, including the number and type of people employed and salaries paid.

7) Related organization information, including related organizations from which services are purchased.

d~~f~~) The new owner or a new lessee of a previously licensed facility may file a projection of capital costs at the time of closing or signing of the lease.

e~~1~~) The new owner or new lessee of a~~A~~ facility that~~which~~ is licensed for the first time (a newly constructed facility) shall~~must~~ file a projection of capital costs.

f~~2~~) The owner or lessee in subsections (d) and (e) shall~~Each of the above must~~ file a full cost report within nine months after acquisition (covering the first six months of operation). Each shall~~must~~ also file a cost report within 90 days after~~of~~ the close of its first complete fiscal year.

g) *No public funds shall be expended for the maintenance of any resident in a~~any~~ facility that ~~which~~ has failed to file the~~this~~ financial statement, and no public funds shall be paid to, or on behalf of, a facility that ~~which~~ has failed to file a~~the~~ statement.* (Section 3-208(b) of the Act)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Section 390.220 Information to be Made Available to the Public by the Department

a) *The Department shall respect the confidentiality of a resident's record and shall not divulge or disclose the contents of a record in a manner which identifies a resident, except upon a resident's death to a relative or guardian, or under judicial proceedings. This Section shall not be construed to limit the right of a resident or a resident's representative to inspect or copy the resident's records.* (Section 2-206(a) of the Act)

b) *Confidential medical, social, personal or financial information identifying a resident shall not be available for public inspection in a manner that ~~which~~ identifies a resident.* (Section 2-206(b) of the Act)

c) *The following information is subject to disclosure to the public from the Department or the Department of Healthcare and Family Services~~Public Aid~~:*

1) *Information submitted under Sections 3-103 and 3-207* of the Act*~~of the Act~~, except information concerning the remuneration of personnel licensed, registered, or certified by the Department of Financial and Professional Regulation and monthly charges for an individual private resident;*

2) *Records of license and certification inspections, surveys, and evaluations of facilities, other reports of inspections, surveys, and evaluations of resident care, whether a facility is designated a distressed facility and the basis for the designation, and reports concerning a facility prepared pursuant to Titles XVIII and XIX of the Social Security Act, ~~(42 U.S.C.A. 1395 et seq. and 1396 et seq.)~~ subject to the provisions of the Social Security Act subject to the provisions of the Social Security Act ~~(42 U.S.C.A. 301 et seq.)~~;*

3) *Cost and reimbursement reports submitted by a facility under Section 3-208* of the Act*~~of the Act~~ reports of audits of facilities, and other public records concerning the cost incurred by, revenues received by, and reimbursement of facilities; and*

4) *Complaints filed against a facility and complaint investigation reports, except that a complaint or complaint investigation report shall not be disclosed to a person other than the complainant or complainant's*

representative before it is disclosed to a facility under Section 3-702 of the Act~~*of the Act*~~*, and, further, except that a complainant or resident's name shall not be disclosed except under Section 3-702* of the Act~~*of the Act*~~*. (Section 2-205 of the Act)*

d) *The Department shall disclose information under this Section in accordance with provisions for inspection and copying of public records required by the Freedom of Information Act* ~~*(Ill. Rev. Stat. 1987, ch. 116, par. 201 et seq.)*~~*.*

e) *However, the disclosure of information described in* subsection (c)(1)~~*subsection (1)*~~ *shall not be restricted by any provision of the Freedom of Information Act.* (Section 2-205 of the Act)

f) Copies of reports available to the public may be obtained by making a written request to the Department in accordance with the Department's rules, Access to Records of the Department of Public Health.~~Freedom of Information rules (2 Ill. Adm. Code 1126). However, access to cost reports shall be governed by Department of Public Aid rule "Access to Cost Reports" (89 Ill. Adm. Code 140.544). The Department may, at its discretion, waive this fee if the party requesting the material is involved in legal action with the Department.~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 390.230 Information to be ~~Be~~ Made Available to the Public by~~By~~ the Licensee

a) *Every facility shall conspicuously post or display in an area of its offices~~it~~ accessible to residents, employees, and visitors the following:*

1) *Its current license;*

2) *A description, provided by the Department of complaint procedures established under the Act and the name, address, and telephone numbers of a person authorized by the Department to receive complaints;*

3) *A copy of any order pertaining to the facility issued by the Department or a court; and*

4) *A list of the material available for public inspection under* subsection (b)~~*subsection (b) of this Section and Section 3-210 of the Act*~~*.* (Section 3-

209 of the Act)

b) *A facility shall retain the following for public inspection:*

1) *A complete copy of every inspection report of the facility received from the Department during the past five years;*

2) *A copy of every order pertaining to the facility issued by the Department or a court during the past five years;*

3) *A description of the services provided by the facility and the rates charged for those services and items for which a resident may be separately charged;*

4) *A copy of the Statement of Ownership required by Section 3-207* of the Act~~*of the Act*~~*;*

5) *A record of personnel employed or retained by the facility who are licensed, certified or registered by the Department of Financial and Professional Regulation;* ~~*and*~~

6) *A complete copy of the most recent inspection report of the facility received from the Department; and*~~.~~

7) *A copy of the current Consumer Choice Information Report required by Section 2-214* of the Act. (Section 3-210 of the Act)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 390.240 Municipal Licensing

a) Municipalities that have adopted a licensing ordinance as provided under Section 3-104 of the Act and this Part shall adopt this Part by complying with Article I, Division 3, of the Illinois Municipal Code. ~~*Municipalities which have adopted a licensing ordinance as provided under Section 3-104 of the Act and this Part shall adopt this Part by complying with Article I, Division 3, of the Illinois Municipal Code* (Ill. Rev. Stat. 1987, ch. 24, par. 1-3-1 et seq.)~~

b) Expiration dates on licenses issued by municipalities shall be ~~Municipalities shall~~

~~issue licenses so that the expiration dates are~~ distributed throughout the calendar year. The month the license expires shall coincide with the date of original licensure of the licensee. ~~During the 24 month period following the effective date of the Act, the municipality may issue renewal licenses for period of less than one year in order to distribute the expiration date of such licenses throughout the calendar year.~~

c) The municipality shall notify the Department within 10 ~~ten~~ days following ~~from~~ the date of issuance or denial of a license that the municipal license has been issued or denied. If the license is issued, the notice shall ~~will~~ include the facility name, address, the date of issuance and the number of beds by level of care for which the license was issued. If the license is denied, the notice shall ~~will~~ indicate reason for denial and the current status of licensee's (applicant's) application for municipal license.

d) The municipality shall use the same licensing classifications as the Department, and a municipality shall not issue a license to a facility for a different classification from the license issued by the Department~~*The municipality shall use the same licensing classifications as the Department; and a facility may not be licensed for a different classification by the Department than by the municipality*~~.

e) The Department and the municipality shall have the right at any time to visit and inspect the premises and personnel of any facility for the purpose of determining whether the applicant or licensee is in compliance with the Act, this Part or with the local ordinances that govern the regulation of the facility. The Department may survey any former facility that once held a license to insure that the facility is not operating without a license. Municipalities may charge a reasonable license or renewal fee for the regulation of facilities, which shall be in addition to the fees paid to the Department~~*The Department and the municipality shall have the right at any time to visit and inspect the premises and personnel of any facility for the purpose of determining whether the applicant or licensee is in compliance with the Act, this Part or with the local ordinances which govern the regulation of the facility. The Department may survey any former facility which once held a license to insure that the facility is not again operating without a license. Municipalities may charge a reasonable license or renewal fee for the regulation of facilities, which fees shall be in addition to the fees paid to the Department*~~.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Section 390.260 Issuance of Conditional Licenses

a) *The Director may issue a conditional license under Section* 3-305 of the Act *to any facility if the Director finds that either a Type "A" or Type "B" violation exists in such facility. The issuance of a conditional license shall revoke any license held by the facility.* (Section 3-311 of the Act)

b) *Prior to the issuance of a conditional license, the Department shall review and approve a written plan of correction. The Department shall specify the violations that ~~which~~ prevent full licensure and shall establish a time schedule for correction of the deficiencies. Retention of the license shall be conditional on the timely correction of the deficiencies in accordance with the plan of correction.* (Section 3-312 of the Act)

c) *Written notice of the decision to issue a conditional license shall be sent to the applicant or licensee, together with the specification of all violations of the ~~the~~ Act~~Act~~* and this Part *that ~~which~~ prevent full licensure and that ~~which~~ form the basis for the Department's decision to issue a conditional license and the required plan of correction. The notice shall inform the applicant or licensee of its right to a full hearing under Section 3-315* of the Act *to contest the issuance of the conditional license.* (Section 3-313 of the Act)

d) *If the applicant or licensee desires to contest the basis for issuance of a conditional license, or the terms~~term~~ of the ~~license, or~~ plan of correction, the applicant or licensee shall send a written request for hearing to the Department within 10~~ten (10)~~ days after receipt by the applicant or licensee of the Department's notice and decision to issue a conditional license. The Department shall hold the hearing as provided under Section 3-703* of the Act. The terms of the conditional license shall be stayed pending the issuance of the Final Order at the conclusion of the hearing, and the facility may operate in the same manner as with an unrestricted license. Section 3-315 of the Act)

e) *A conditional license shall be issued for a period specified by the Department, but in no event for more than one year.* The effective date of the conditional license shall not begin until ~~such time as~~ the applicant or licensee has had the opportunity to request a hearing pursuant to subsection (d)~~ of this Section~~, and if a hearing is requested in a timely manner, then the terms of the conditional license shall be stayed as provided for in subsection (d)~~ of this Section~~. *The Department shall periodically inspect any facility operating under a conditional license. If the*

Department finds substantial failure by the facility to timely correct the violations which prevented full licensure and formed the basis for the Department's decision to issue a conditional license in accordance with the required plan of correction, the conditional license may be revoked as provided under Section 3-119 of the Act. (Section 3-316 of the Act)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 390.270 Monitor and Receivership

a) *The Department may place an employee or agent to serve as a monitor in a facility or may petition the circuit court for appointment of a receiver for a facility, or both, when any of the following conditions exist:*

1) *The facility is operating without a license;*

2) *The Department has suspended, revoked or refused to renew the existing license of the facility;*

3) *The facility is closing or has informed the Department that it intends to close and adequate arrangements for relocation of residents have not been made at least 30 days prior to closure;*

4) *The Department determines that an emergency exists, whether or not it has initiated revocation or nonrenewal procedures, if because of the unwillingness or inability of the licensee to remedy the emergency the Department believes a monitor or receiver is necessary;* as used in this subsection, *"emergency" means a threat to the health, safety or welfare of a resident that the facility is unwilling or unable to correct;* ~~or~~

5) The Department receives notification that *the facility is terminated or will not be renewed for participation in the federal reimbursement program under either Title XVIII* (Medicare) *or Title XIX* (Medicaid) *of the Social Security Act; or*~~. (Section 3-501 of the Act)~~

6) *At the discretion of the Department when a review of facility compliance history, incident reports, or reports of financial problems raises a concern that a threat to resident health, safety, or welfare exists.* (Section 3-501 of the Act)

b) The monitor shall meet the following minimum requirements:

1) Be~~be~~ in good physical health as evidenced by a physical examination by a physician within the last year;

2) Have~~have~~ an understanding of the needs of long-term care facility residents as evidenced by one year of experience in working, as appropriate, with elderly or developmentally disabled individuals in programs such as patient care, social work or advocacy;

3) Have~~have~~ an understanding of the Act and this Part, which are the subject of the monitors' duties as evidenced in a personal interview of the candidate;

4) Not~~not~~ be related to the owners of the involved facility through blood, marriage or common ownership of real or personal property, except ownership of stock that is traded on a stock exchange;

5) Have~~have~~ successfully completed a baccalaureate degree or possess a nursing license or a nursing home administrator's license; and

6) Have~~have~~ two years of full-time work experience, relevant to the reason the monitor has been placed in the facility, in the long-term care industry of the State of Illinois.

c) The monitor shall be under the supervision of the Department,~~;~~ ~~shall~~ perform the duties of a monitor delineated in Section 3-502 of the Act,~~;~~ and accomplish the following actions:

1) Visit~~visit~~ the facility as directed by the Department;

2) Review~~review~~ all records pertinent to the condition for the ~~such~~ monitor's placement under subsection (a)~~ of this Section~~;

3) Provide~~provide~~ to the Department written and oral reports detailing the observed conditions of the facility; and

4) Be~~be~~ available as a witness for hearings involving the condition for

placement as monitor.

d) All communications, including but not limited to data, memoranda, correspondence, records and reports, shall be transmitted to and become the property of the Department. In addition, findings and results of the monitor's work done under this Part shall be ~~strictly~~ confidential and not subject to disclosure without written authorization from the Department or by court order subject to disclosure only in accordance with the ~~provisions of the~~ Freedom of Information Act, subject to the confidentiality requirements of the Act.

e) The Department may terminate the assignment as monitor ~~may be terminated~~ at any time ~~by the Department~~.

f) Through consultation with the long-term care industry associations, professional organizations, consumer groups and health care management corporations, the Department will~~shall~~ maintain a list of receivers. Preference on the list shall be given to individuals possessing a valid Illinois nursing home administrator's license and~~Nursing Home Administrator's License,~~ experience in financial and operations management of a long-term care facility and to individuals with access to consultative experts with this~~the aforementioned~~ experience. To be placed on the list, individuals shall~~must~~ meet the following minimum requirements:

1) Be~~be~~ in good physical health, as evidenced by a physical examination by a physician within the last year;

2) Have~~have~~ an understanding of the needs of long-term care facility residents and the delivery of the highest possible quality of care, as evidenced by one year of experience in working with elderly or developmentally disabled individuals in programs such as patient care, social work, or advocacy;

3) Have~~have~~ an understanding and working knowledge of the Act~~,~~ and this Part, as evidenced in a personal interview of the candidate;

4) Have~~have~~ successfully completed a baccalaureate degree or possess a nursing license or a nursing home administrator's license; and

5) Have~~have~~ two years full-time working experience, relevant to the reason the monitor has been placed in the facility, in the Illinois long-term care

industry.

g) Upon a court appointment of a receiver for a facility~~ by a court~~, the Department will~~shall~~ inform the individual of all legal proceedings to date that~~which~~ concern the facility.

h) The receiver may request that the Director~~ of the Department~~ authorize expenditures from monies appropriated, pursuant to Section 3-511 of the Act, if incoming payments from the operation of the facility are less than the costs incurred by the receiver.

i) In the case of Department-ordered patient transfers, the receiver may:

1) Assist~~assist~~ in providing for the orderly transfer of all residents in the facility to other suitable facilities or make other provisions for their continued health;

2) Assist~~assist~~ in providing for transportation of the resident and~~,~~ his or her medical records and ~~his~~ belongings if he or she is transferred or discharged; assist in locating alternative placement; assist in preparing the resident for transfer; and permit the resident's legal guardian to participate in the selection of the resident's new location;

3) Unless~~unless~~ emergency transfer is necessary, explain alternative placements to the resident and provide orientation to the place chosen by the resident or resident's guardian.

j) *In any action or special proceeding, brought against a receiver in the receiver's official capacity, for acts committed while carrying out ~~the aforesaid~~ powers and duties under* the Act and this Section*, the receiver shall be considered a public employee under the Local Governmental and Governmental Employees Tort Immunity Act~~ [745 ILCS 10]~~. A receiver may be held liable in a personal capacity only for the receiver's own gross negligence, intentional acts or breach of fiduciary duty.* (Section 3-513 of the Act)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 390.271 Presentation of Findings

a) If it is probable ~~that~~ findings will be presented that could be issued as violations of regulations that~~which~~ represent a direct threat to the health, safety or welfare of residents, Department surveyors shall notify the administrator or designee during the course of the survey of ~~such~~ possible findings.

b) The Department will~~shall~~ conduct an exit conference with the administrator or other facility designee at the conclusion of each on-site inspection at the facility, whether or not the investigation has been completed. If the investigation has been completed, findings will~~shall~~ be presented during the exit conference. If the investigation has not been completed at the time of the facility exit, the Department will~~shall~~ inform the facility administrator or designee that the investigation is not complete and that findings will~~may~~ be presented to the facility at a later date. Presentation of any additional findings may be conducted at the facility, at the Department's regional office, or by telephone.

c) With the assistance of the administrator, surveyors will~~shall~~ schedule a time and place for the exit conference to be held at the conclusion of the survey.

d) At the exit conference, surveyors will~~shall~~ present their findings and resident identity key, and identify regulations related to the findings. The facility administrator or designee shall have an opportunity at the exit conference to discuss and provide additional documentation related to the findings. The Department's surveyors conducting the exit conference may, at~~in~~ their discretion, modify or eliminate ~~any or~~ all preliminary findings in accordance with any facts presented by the facility to the Department during the exit conference.

e) Additional comments or documentation may be submitted by the facility to the Department during a 10-day comment period as allowed by the Act.

f) If the Department determines, after review of the comments submitted pursuant to subsection (d)~~ of this Section~~, that the facility may have committed violations of the Act or this Part different than or in addition to those presented at the exit conference and the violations may be cited as either Type AA, Type A or repeat Type B violations, the Department shall ~~so~~ inform the facility in writing. The facility shall then have an opportunity to submit additional comments addressing the different or additional Sections of the Act or this Part. The surveyors will be advised of any code changes made after their recommendations are submitted.

g) The facility shall have ~~5 (~~five~~)~~ working days from receipt of the notice required

by this subsection ~~(f) of this Section~~ to submit its additional comments to the Department. The Department will~~shall~~ consider the~~such~~ additional comments in determining the existence and level of violation of the Act and~~/or~~ this Part in the same manner as the Department considers the facility's original comments.

h) If desired by the facility, an audio-taped recording may be made of the exit conference provided that a copy of the~~such~~ recording is provided, at facility expense, to the surveyors at the conclusion of the exit conference. Video-taped recordings shall not be allowed.

i) Surveyors shall not conduct an exit conference for the following reasons:

1) The facility administrator or designee requests that an exit conference not be held;~~:~~

2) During a scheduled exit conference, facility staff ~~and/~~or their guests create an environment that is not conducive to a meaningful exchange of information.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 390.272 Determination to Issue a Notice of Violation or Administrative Warning

a) Upon receipt of a report of an inspection, survey or evaluation of a facility, the Director or his or her designee will~~shall~~ review the findings contained in the report to determine *whether the report's findings constitute a violation or violations of which the facility must be given notice* ~~and which *threaten the health, safety, or welfare of a resident or residents*~~. All information, evidence, and observations made during an inspection, survey or evaluation shall be considered findings or deficiencies. (Section 3-212(c) of the Act)

b) In making this determination, the Director or his or her designee will~~shall~~ consider any *comments and documentation provided by the licensee within 10 days after receipt of the copy of the report* ~~*facility* within ten days of receipt of the report~~ in accordance with Section 390.200(c). (Section 3-212(c) of the Act)

c) In determining whether the findings warrant the issuance of a notice of violation, the Director or his or her designee will~~shall~~ base his or her determination on the following factors:

1) *The severity of the finding*. The Director or his or her designee will consider whether the finding constitutes a merely technical non-substantial error or whether the finding is serious enough to constitute an actual violation of the intent and purpose of the Act or this Part~~standard~~.

2) *The danger posed to resident health and safety*. The Director or his or her designee will consider whether the finding could pose any direct harm to the residents.

3) *The diligence and efforts to correct deficiencies and correction of reported deficiencies by the facility*. The Director or his or her designee will consider *comments and documentation provided by the facility*~~Consideration will be given to any evidence provided by the facility in its comments and documentation~~ that steps have been taken to correct reported~~reduce noted~~ findings and to insure a reduction of deficiencies.

4) *The frequency and duration of similar findings in previous reports and the facility's general inspection history*. The Director~~director~~ or his or her designee will consider whether the same finding or a similar finding relating to the same condition or occurrence has been included in previous reports and the facility has allowed the condition or occurrence to continue or to recur. (Section 3-212(c) of the Act)

d) If the Director or his or her designee determines that the report's findings constitute a violation or violations that~~which~~ do not directly threaten the health, safety, or welfare of a resident or residents, the *Department shall issue an administrative warning* as provided in Section 390.277. (Section 3-303.2(a) of the Act)

e) *Violations shall be determined under this* Section~~*Section*~~ *no later than 90~~60~~ days after completion of each inspection, survey and evaluation*. (Section 3-212(c) of the Act)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 390.274 Determination of the Type~~Level~~ of a Violation

a) After determining that issuance of a notice of violation is warranted and prior to

issuance of the notice, the Director~~ or his designee~~ will review the findings that~~which~~ are the basis of the violation and any comments and documentation provided by the facility to determine the level of the violation. Each violation will~~shall~~ be determined to be either a Type AA, a Type~~level~~ A, a Type~~ or level~~ B, or a Type C violation based on the criteria outlined in this Section.

b) The following definitions of levels of violations shall be used in determining the level of each violation:

1) *A "Type AA violation" is a violation of the Act or* this Part *that creates a condition or occurrence relating to the operation and maintenance of a facility that proximately caused a resident's death*. (Section 1-128.5 of the Act)

2~~1~~) *A* ~~A "level A violation" or~~ "*Type A violation*~~type A violation~~" is *a violation of the Act or this Part that*~~the act or these rules which~~ *creates a condition or occurrence relating to the operation and maintenance of a facility that creates*~~presenting~~ *a substantial probability that the risk of death or serious mental or physical harm to a resident will result* from the violation ~~therefrom~~ *or* the violation *has resulted in actual physical or mental harm to a resident*. (Section 1-129 of the Act)

3~~2~~) *A* ~~A "level B violation" or~~ "*Type B violation*~~type B violation~~" is *a violation of the Act or this Part that*~~these rules which~~ *creates a condition or occurrence relating to the operation and maintenance of a facility that is more likely than not to cause more than minimum physical or mental harm to*~~directly threatening to the health, safety or welfare of~~ *a resident or is specifically designated as a Type "B" violation in the Act*. (Section 1-130 of the Act)

4) *A "Type C violation"* is *a violation of* the *Act or* this Part *that creates a condition or occurrence relating to the operation and maintenance of a facility that creates a substantial probability that less than minimal physical or mental harm to a resident will result* from the violation. (Section 1-132 of the Act)

c) In determining the level of a violation, the Director or his or her designee will~~shall~~ consider the following criteria:

~~1)~~ ~~The specific requirements of this Part which have been violated and the designated level of violation for those provisions.~~

~~A)~~ ~~The designated level of violation is indicated by the letter or letters in parentheses following specific provisions. The presence of more than one letter following a specific provision indicates that the provision may be applicable to different levels of violation. The absence of any letter following a specific provision indicates that no designated level of violation applicable to that provision has been determined.~~

~~B)~~ ~~The designated level of violation will be considered in conjunction with the other criteria contained in subsections (c)(2) and (c)(3) of this Section which may increase or decrease the level of violation cited for a specific violation, except that no violation will be cited as a level B violation unless there is a direct threat to the health, safety or welfare of a resident, or as a level A violation unless there is a substantial probability of the death of a resident or serious mental or physical harm to a resident.~~

1~~2~~) The degree of danger to the resident or residents that~~which~~ is posed by the condition or occurrence in the facility. The following factors will be considered in assessing the degree of danger:

A) Whether the resident or residents of the facility are able to recognize conditions or occurrences that~~which~~ may be harmful and are able to take measures for self-preservation and self-protection. The extent of nursing care required by the residents as indicated by review of patient needs will be considered in relation to this determination.

B) Whether the resident or residents have access to the area of the facility in which the condition or occurrence exists and the extent of the~~such~~ access. A facility's use of barriers, warning notices, instructions to staff and other means of restricting resident access to hazardous areas will be considered.

C) Whether the condition or occurrence was the result of inherently hazardous activities or negligence by the facility.

D) Whether the resident or residents of the facility were notified of the condition or occurrence and the promptness of the~~such~~ notice. Failure of the facility to notify residents of potentially harmful conditions or occurrences will be considered. The adequacy of the method of the ~~such~~ notification and the extent to which the~~such~~ notification reduced the potential danger to the residents will also be considered.

2~~3~~) The directness and imminence of the danger to the resident or residents by the condition or occurrence in the facility. In assessing the directness and imminence of the danger, the following factors will be considered:

A) Whether actual harm, including death, physical injury or illness, mental injury or illness, distress, or pain, to a resident or residents resulted from the condition or occurrence and the extent of ~~such~~ harm.

B) Whether available statistics and records from similar facilities indicate that direct and imminent danger to the resident has resulted from similar conditions or occurrences and the frequency of ~~such~~ danger.

C) Whether professional opinions and findings indicate that direct and imminent danger to the resident or residents will result from the condition or occurrence.

D) Whether the condition or occurrence was limited to a specific area of the facility or was widespread throughout the facility. Efforts taken by the facility to limit or reduce the scope of the area affected by the condition or occurrence will be considered.

E) Whether the physical, mental~~,~~ or emotional state of the resident or residents~~,~~ who are subject to the danger~~,~~ would facilitate or hinder harm actually resulting from the condition or occurrence.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 390.276 Notice of Violation

a) *Each notice of violation shall be prepared in writing* and contain the following information*and shall contain the following information*:

1) A description of *the nature of the violation*.

2) A citation of the specific *statutory provision or rule* alleged by*which* the Department *to have been violated*believes has been violated. (Section 3-301 of the Act)

3) A*a* statement of the level of the violation as determined pursuant to Section 390.274.

4) One of the following requirements for corrective action:

A) *The situation, condition or practice constituting a Type AA violation or a Type "A" violation shall be abated or eliminated immediately unless a fixed period of time, not exceeding 15 days, as determined by the Department and specified in the notice of violation, is required for correction*For level A violations, a statement that necessary corrective action to *abate or eliminate* the violation must be taken *immediately* or within a specific *fixed period of time not exceeding 15 days*. In setting this period, the Department will consider whether harm to residents of the facility is imminent, whether necessary precautions can be taken to protect residents before the corrective action is completed, and whether delay would pose additional risks to the residents.

B) *At the time of issuance of a notice of a Type B violation, the Department will request a plan of correction that is subject to the Department's approval. The facility shall have 10 days after receipt of notice of violation in which to prepare and submit a plan of correction*For level B violations, a *request* that the facility submit *a plan of correction within ten days of the receipt of the notice of violation* pursuant to Section 3-303 of the Act and Section 390.278 of this Part. (Section 3-3033-301 of the Act)

5) A statement that the Department may take additional action under the Act, including assessment of penalties or licensure action.

6) A description of the licensee's right to appeal the notice and its right to a hearing.

b) For each~~Each~~ notice of violation, *the Director or his or her designee shall serve a notice of violation upon the licensee within 10 days* ~~shall be sent to the facility and the licensee or served personally at the facility *within ten days*~~ after the Director ~~or his designee~~ determines that issuance of a notice of violation is warranted under Section 390.272. (Section 3-301 of the Act)

c) *Residents and their guardians or other resident representatives, if any, shall be notified of any violation of the Act or* this Part *pursuant to Section 2-217 of the Act, or of violations of the requirements of Title XVIII or XIX of the Social Security Act or* federal regulations, *with respect to the health, safety, or welfare of the resident*. (Section 2-115 of the Act)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 390.277 Administrative Warning

a) *If the Department finds a situation, condition or practice that violates* the *Act or* this Part *that does not constitute a Type AA, Type A, Type B, or Type C violation, the Department shall issue an administrative warning*. (Section 3-303.2(a) of the Act)

b~~a~~) Each administrative warning shall be in writing and shall include the following information:

1) A description of the nature of the violation.

2) A citation of the specific statutory provision or rule that~~which~~ the Department alleges~~believes~~ has been violated.

3) A statement that the *facility shall be responsible for correcting the situation, condition, or practice.* (Section 3-303.2(a) of the Act)

c~~b~~) Each administrative warning shall be sent to the facility and the licensee or served personally at the facility within 10~~ten~~ days after the Director ~~or his designee~~ determines that issuance of an administrative warning is warranted under this

Section 390.272.

d~~c~~) The facility is not required to submit a plan of correction in response to an administrative warning, *except for violations in Sections 3-401 through 3-413* of the Act. (Section 3-303.2(a) of the Act)

e~~d~~) If the Department finds, during *the next on-site inspection by the Department that which occurs no earlier more than 90 days from after the issuance of the administrative Administrative warning, a written plan of correction must be submitted in the same manner as provided in Section 3-303(b)* of the Act that the facility has not *corrected the situation, condition, or practice which resulted in the issuance of the Administrative warning*, the Department shall notify the facility of the finding. The facility must then *submit a written plan of correction* as provided in Section 390.278. The Department will consider the plan of correction and take any necessary action in accordance with Section 390.278. (Section 3-303.2(b) of the Act)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 390.278 Plans of Correction

a) *The situation, condition or practice constituting a Type AA violation or a Type A violation shall be abated or eliminated immediately unless a fixed period of time, not exceeding 15 days, as determined by the Department and specified in the notice of violation, is required for correction*. (Section 3-303(a) of the Act)

b~~a~~) *The A facility shall have 10 ten days after receipt of notice of violation* for a Type B violation, or after receipt of a notice under Section 390.277(e~~d~~) of failure to correct a situation, condition, or practice that which resulted in the issuance of an administrative warning, *to prepare and submit a plan of correction* to the Department. (Section 3-303(b) of the Act)

c~~b~~) Within the 10 ten-day period, a facility may request additional time for submission of the plan of correction. The Department will extend the period for submission of the plan of correction for an additional 30 days, when it finds that corrective action by a facility to abate or eliminate the violation will require *substantial capital improvement*. The Department will consider the extension and complexity of necessary physical plant repairs and improvements and any impact on the health, safety, or welfare of the residents of the facility in determining whether to

grant a requested extension. (Section 3-303(b) of the Act)

d~~c~~) Each plan or correction shall be based on an assessment by the facility of the conditions or occurrences that~~which~~ are the basis of the violation and an evaluation of the practices, policies, and procedures that~~which~~ have caused or contributed to the conditions or occurrences. The facility shall maintain evidence~~Evidence~~ of the~~such~~ assessment and evaluation~~ shall be maintained by the facility~~. Each plan of correction shall include:

1) A description of the specific corrective action the facility is taking, or plans to take, to abate, eliminate, or correct the violation cited in the notice;~~.~~

2) A description of the steps that~~which~~ will be taken to avoid future occurrences of the same and similar violations; and~~.~~

3) A specific date by which the corrective action will be completed.

e~~d~~) Submission of a plan of correction shall not be considered an admission by the facility that the violation has occurred.

f~~e~~) The Department will~~shall~~ review each plan of correction to ensure~~insure~~ that it provides for the abatement, elimination, or correction of the violation. The Department will~~shall~~ reject a submitted plan only if it finds any of the following deficiencies:

1) The plan does not appear to address the conditions or occurrences that~~which~~ are the basis of the violation and an evaluation of the practices, policies, and procedures that~~which~~ have caused or contributed to the conditions or occurrences;~~.~~

2) The plan is not specific enough to indicate the actual actions the facility will be taking to abate, eliminate, or correct the violation;~~.~~

3) The plan does not provide for measures that~~which~~ will abate, ~~or~~ eliminate, or correct the violation;~~.~~

4) The plan does not provide steps that~~which~~ will avoid future occurrences of the same and similar violations; or~~.~~

5) The plan does not provide for timely completion of the corrective action, considering the seriousness of the violation, any possible harm to the residents, and the extent and complexity of the corrective action.

g~~f~~) When the Department rejects a submitted plan of correction, it will~~shall~~ notify the facility. The notice of rejection shall be in writing and shall specify *the reason for the rejection. The facility shall have 10~~ten~~ days after receipt of the notice of rejection in which to submit a modified plan*. (Section 3-303(b) of the Act)

h~~g~~) If a facility fails to submit a plan or modified plan meeting the criteria in subsection (d~~e~~) within the prescribed time periods in subsection (b~~a~~) or (c~~b~~)~~ of this Section~~, or anytime the Department issues a Type AA, a Type A, or repeat Type B violation, the Department will impose an approved plan of correction~~ will be imposed by the Department~~.

i~~h~~) The Department will~~shall~~ verify the completion of the corrective action required by the plan of correction within the specified time period during subsequent investigations, surveys and evaluations of the facility.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 390.280 Reports of Correction

a) In lieu of submitting~~submission of~~ a plan of correction, a facility may submit a report of correction if the corrective action has been completed. The report of correction shall~~must~~ be submitted within the time periods required in Section 390.278 for submission of a plan of correction.

b) Each report of correction shall be based on an assessment by the facility of the conditions or occurrences that~~which~~ are the basis of the violation and an evaluation of the practices, policies, and procedures that~~which~~ have caused or contributed to the conditions or occurrences. Evidence of the~~such~~ assessment and evaluation shall be maintained by the facility. Each report of correction shall include:

1) A description of the specific corrective action the facility has taken to abate, eliminate, or correct the violation cited in the notice.

2) A description of the steps ~~which have been~~ taken to avoid future occurrences of the same and similar violations.

3) The specific date on which the corrective action was completed.

4) A signed statement by the administrator of the facility that the report of correction is true and accurate, which shall be considered an oath for the purposes of any legal proceedings.

c) Submission of a report of correction shall not be considered an admission by the facility that the violation has occurred.

d) The Department shall review and approve or disapprove the report of correction based on the criteria outlined in this Section ~~390.278(d)~~ for review of plans of correction. If a report of correction is disapproved, the facility shall be subject to a plan of correction imposed by the Department as provided in Section 390.278.

e) The Department will~~shall~~ verify the completion of the corrective action outlined in the report of correction during subsequent investigations, surveys, and evaluations of the facility.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 390.282 Conditions for Assessment of Penalties

The Department shall consider the assessment of a monetary penalty against a facility under the following conditions:

a) *A licensee who commits a Type AA violation, as defined in Section 1-128.5* of the Act, *is automatically issued a conditional license for a period of 6 months to coincide with an acceptable plan of correction and assessed a fine of up to $25,000 per violation. For a facility licensed to provide care to fewer than 100 residents, but no fewer than 17 residents, the fine shall be up to $18,500 per violation. For a facility licensed to provide care to fewer than 17 residents, the fine shall be up to $12,500 per violation.* (Section 3-305(1) of the Act)

b) *A licensee who commits a Type A violation, as defined in Section 1-129* of the Act, *is automatically issued a conditional license for a period of 6 months to coincide with an acceptable plan of correction and assessed a fine of up to*

$12,500 per violation. For a facility licensed to provide care to fewer than 100 residents, but no fewer than 17 residents, the fine shall be up to $10,000 per violation. For a facility licensed to provide care to fewer than 17 residents, the fine shall be up to $6,250 per violation. (Section 3-305(1.5) of the Act)

c) *A licensee who commits a Type AA or Type A violation, as defined in Section 1-128.5 or 1-129* of the Act, *that continues beyond the time specified in Section 3-303(a), that is cited as a repeat violation shall have its license revoked and shall be assessed a fine of 3 times the fine computed under subsection* (a). (Section 3-305(3) of the Act)

d) *A licensee who commits a Type B violation, as defined in Section 1-130* of the Act, *shall be assessed a fine of up to $1,100 per violation. For a facility licensed to provide care to fewer than 100 residents, but no fewer than 17 residents, the fine shall be up to $750 per violation. For a facility licensed to provide care to fewer than 17 residents, the fine shall be up to $550 per violation*. (Section 3-305(2) of the Act)

e) *A licensee who fails to satisfactorily comply with an accepted plan of correction for a Type B violation or an administrative warning issued pursuant to Sections 3-401 through 3-413* of the Act *or* this Part *shall be automatically issued a conditional license for a period of not less than 6 months. A second or subsequent acceptable plan of correction shall be filed. A fine shall be assessed in accordance with subsection* (d) *when cited for the repeat violation. This fine shall be computed for all days of the violation, including the duration of the first plan of correction compliance time*. (Section 3-305(4) of the Act)

f) *A licensee who commits 8 or more Type C violations, as defined in Section 1-132* of the Act, *in a single survey shall be assessed a fine of up to $250 per violation. A facility licensed to provide care to fewer than 100 residents, but no fewer than 17 residents, that commits 8 or more Type C violations in a single survey, shall be assessed a fine of up to $200 per violation. A facility licensed to provide care to fewer than 17 residents, that commits 8 or more Type C violations in a single survey, shall be assessed a fine of up to $175 per violation*. (Section 3-305(2.5) of the Act)

g) *If an occurrence results in more than one type of violation, as defined in the Act (that is, a Type AA, Type A, Type B, or Type C violation), then the maximum fine that may be assessed for that occurrence is the maximum fine that may be*

assessed for the most serious type of violation charged. For purposes of the preceding sentence, a Type AA violation is the most serious type of violation that may be charged, followed by a Type A, Type B, or Type C violation, in that order. (Section 3-305(8) of the Act)

h) *If any facility willfully makes a misstatement of fact to the Department or willfully fails to make a required notification to the Department and that misstatement or failure delays the start of a survey or impedes a survey, then it will constitute a Type B violation. The minimum and maximum fines that may be assessed pursuant to this subsection* (h) *shall be 3 times those otherwise specified for any facility*. (Section 3-305(9) of the Act)

i) *If the Department finds that a facility has violated a provision of* this Part *that has a high risk designation, or that a facility has violated the same provision of* this Part *3 or more times in the previous 12 months, the Department may assess a fine of up to 2 times the maximum fine otherwise allowed*. (Section 3-305(10) of the Act)

j) For the purposes of calculating certain penalties pursuant to this Section, violations of the following requirements shall have the status of "high risk designation".

1) Section 390.681

2) Section 390.700

3) Section 390.750(b)

4) Section 390.760

5) Section 390.1010

6) Section 390.1040

7) Section 390.1310

8) Section 390.1316

9) Section 390.2740(f)

10) Section 390.3040(f)

11) Section 390.3240

k) *When the Department finds that a provision of Article II* of the Act *has been violated with regard to a particular resident, the Department shall issue an order requiring the facility to reimburse the resident for injuries incurred, or $100, whichever is greater. In the case of a violation involving any action other than theft of money belonging to a resident, reimbursement shall be ordered only if a provision of Article II* of the Act *has been violated with regard to that or any other resident of the facility within the 2 years immediately preceding the violation in question*. (Section 3-305(6) of the Act)

~~a) When a notice of violation for a level A violation is issued.~~

~~1) The penalty to be assessed for this violation shall be the greater of the following:~~

~~A) An amount *not less than* $5000 as determined by the Director or his designee considering the factors outlined in Section 390.286(a), or~~

~~B) The total of the following:~~

~~i) $5 *per resident in the facility, plus*~~

~~ii) $.20 *per resident for each day of the violation, commencing on the day on which the notice of violation is served under Section 3-301* of the Act *and ending on the date the violation is corrected*, or~~

~~C) *When death, serious mental or physical harm, permanent disability, or disfigurement results, a fine of not less than* $10,000, as determined by the Director or his designee considering the factors outlined in Section 390.286(a). (Section 3-305(1) of the Act)~~

~~2) The facility shall also be issued a conditional license for a period of six~~

~~months as provided in Section 390.260.~~

~~b)~~ ~~When a facility fails to abate or eliminate a level A violation immediately or within the period set by the Department in the notice of violation pursuant to Section 390.276(a)(4)(A).~~

~~1)~~ ~~The facility shall be cited for a repeat violation.~~

~~2)~~ ~~The penalty to be assessed shall be three times the penalty computed under subsection (a)(1) of this Section.~~

~~3)~~ ~~The license of the facility shall be revoked as provided in Section 390.180.~~

~~c)~~ ~~When a notice of violation for a level B violation is issued.~~

~~1)~~ ~~The penalty to be assessed for this violation shall be the greater of the following:~~

~~A)~~ ~~An amount *not less than* $500 as determined by the Director or his designee considering the factors outlined in Section 390.286(a), or~~

~~B)~~ ~~The total of the following:~~

~~i)~~ ~~$3 *per resident in the facility, plus*~~

~~ii)~~ ~~$.15 *per resident for each day of the violation, commencing on the date a notice of violation* is *served under Section 3-301* of the Act *and ending on the date the violation is corrected*. (Section 3-305(2) of the Act)~~

~~2)~~ ~~Upon acceptance of a plan of correction by the Department, assessment of the penalty shall be suspended by the Department. No additional penalty shall be imposed for days during which the plan of correction is in effect.~~

~~d)~~ ~~When a facility fails to correct a level B violation within the time period specified in the plan of correction approved by the Department.~~

~~1)~~ ~~The facility shall be cited for a repeat violation.~~

~~2) The penalty to be assessed shall be computed in accordance with subsection (c)(1) of this Section. Days during which the plan of correction was in effect shall be included in the calculation of the penalty.~~

~~3) The facility shall also be issued a conditional license for a period of at least six months as provided in Section 390.260.~~

~~e) *When a notice of violation is issued for a violation of Article II of the Act with regard to the rights of a particular resident of the facility, the Department shall order the facility to reimburse the residents for any injuries incurred or if the amount of the injuries is less than $100, the Department shall order the facility to pay $100 to the resident*. (Section 3-305(7) of the Act)~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 390.284 Calculation of Penalties (Repealed)

~~a) For the purpose of calculating penalties as provided in Section 390.282, *each day on which a violation continues to exist after the day on which notice of the violation is received by the facility shall be considered a separate violation*. The Department shall not be required to send additional notices of violation to the facility for such continuing violations. (Section 3-302 of the Act)~~

~~b) For purposes of calculating penalties as provided in Section 390.282, *the number of residents in the facility and the number of residents on each day shall be calculated as the average number of residents in the facility during the 30 days immediately preceding the day on which the findings were made in the facility and the conditions or occurrences determined to be a violation were discovered*. The number of residents in the facility on the day on which the findings were made in the facility will be considered to be the same as the average number of residents in the facility during the preceding 30 days, unless evidence is provided by the facility substantiating that the average number of residents for that period was different. Changes in the number of residents in the facility subsequent to the day on which the findings were made shall not be considered in the calculation. (Section 3-305(5) of the Act)~~

(Source: Repealed at 43 Ill. Reg. _____, effective _____)

Section 390.286 Notice of Penalty Assessment: Response by Facility~~Determination to~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

~~**Assess Penalties**~~

~~a)The Director or his designee shall consider the following factors in determining whether or not to assess penalties for violations under the conditions outlined in Section 390.282.1)*The severity of harm, including death or serious physical or mental harm, which has resulted to a resident and the extent to which residents have been subject to potential serious harm*. A penalty will be assessed when the Director or his designee finds that death or serious physical or mental harm to a resident has occurred on that the facility has knowingly subjected residents to potential serious harm.2)*The gravity of the violation and the extent to which the provisions of the act or this Part were violated*. The Director or his designee will assess a monetary penalty if he finds that the violation recurred or continued, is widespread throughout the facility or evidences flagrant violation or the Act or this Part.3)*The extent and seriousness of any previous violations committed by the facility and the extent of diligence exercised by the facility to correct such violations*. The Director or his designee will assess a penalty when he finds that the facility has been cited for similar violations and has failed to correct such violations as promptly as practicable or has failed to exercise diligence in taking necessary corrective action. The Director or his designee will also consider any evidence that the violations constitute a pattern of deliberate action by the facility. The extent of any change in the ownership and management of the facility will be considered in relation to the seriousness of previous violations.4)*Any possible financial benefit the facility could gain as a result of committing or continuing the violation*. Such benefits include, but are not limited, to, diversion of costs associated with physical plant repairs, staff salaries, consultant fees, or direct patient care services. (Section 3-306 of the Act)~~

a~~b~~) If the Director or his or her designee determines that a penalty is to be assessed, a written notice of penalty assessment shall be sent to the facility. Each notice of penalty assessment shall include:

1) *The amount of the penalty* *assessed*~~being assessed~~ as provided in Section 390.282.

2) The amount of any reduction or whether the penalty has been waived pursuant to Section 390.288.

3) A description of the violation ~~*the violation*~~, including a reference to the notices of violation and plans of correction that~~which~~ are the basis of the assessment.

4) A citation to the provision of *the statute~~Act~~ or ~~the~~ rule alleged to have been violated~~which the facility has violated~~*.

5) A description of the right of the facility to appeal the assessment and of the *right to a hearing under Section 3-703 of the Act~~of the facility to a hearing~~*. (Section 3-307 of the Act)

6) For *violations* that ~~violations which~~ are *continuing* ~~continuing~~ at the time of the notice of assessment, *the amount of additional* penalties ~~*penalties*~~ *per day* that ~~which~~ will be assessed. (Section 3-307 of the Act)

b) *A facility may contest an assessment of a penalty by sending a written request for hearing to the Department under Section 3-703* of the Act. *Upon receipt of the request, the Department will hold a hearing as provided under Section 3-703* of the Act. *Instead of requesting a hearing pursuant to Section 3-703* of the Act, *a facility may, within 10 business days after receipt of the notice of violation and fine assessment, transmit to the Department 65% of the amount assessed for each violation specified in the penalty assessment*. (Section 3-309 of the Act)

c) The ~~Penalties shall be paid by the~~ facility shall pay the penalties to the Department within the time periods provided in Section 3-310 of the Act.

d) The submission of 65% of the amount assessed for each violation specified in the penalty assessment shall constitute a waiver by the facility of a right to hearing (see Section 3-703 of the Act).

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 390.287 Consideration of Factors for Assessing Penalties

At any hearing requested by a facility that challenges the appropriateness of any penalty imposed by the Department, the facility may present evidence as to any or all of the following factors. The Director will then consider any evidence presented by the facility, or any evidence otherwise available to the Department, regarding the following factors in determining whether a penalty is to be imposed and in determining the amount of the penalty to be imposed, if any, for a violation.

a) *The gravity of the violation, including the probability that death or serious physical or mental harm to a resident will result or has resulted, the severity of the actual or potential harm, and the extent to which the provisions of the* Act or

this Part *were violated*. A penalty will be assessed when the Director finds that *death or serious physical or mental harm to a resident* has occurred or that the facility has knowingly subjected residents to potential serious harm.

b) *The reasonable diligence exercised by the licensee and efforts to correct violations*. The Director will assess a monetary penalty if he or she finds that the violation recurred or continued, is widespread throughout the facility or evidences flagrant violation of the Act or this Part.

c) *Any previous violations committed by the licensee*. The Director will assess a penalty when he or she finds that the facility has been cited for similar violations and has failed to correct those violations as promptly as practicable or has failed to exercise diligence in taking necessary corrective action. The Director will also consider any evidence that the violations constitute a pattern of deliberate action by the facility. Any change in the ownership and management of the facility will be considered in relation to the seriousness of previous violations.

d) *The financial benefit to the facility of committing or continuing the violation*. These benefits include, but are not limited to, diversion of costs associated with physical plant repairs, staff salaries, consultant fees, or direct patient care services. (Section 3-306 of the Act)

(Source: Added at 43 Ill. Reg. _____, effective _____)

Section 390.288 Reduction or Waiver of Penalties

a) Reductions for All Types ~~all types~~ of Violations Subject ~~violations subject~~ to Penalties~~penalties.~~

1) The Director or his or her designee will~~shall~~ consider the factors contained in Section 390.287~~390.286(a)~~ in determining whether to reduce the amount of the penalty to be assessed from the amount calculated pursuant to Section 390.282~~390.284~~ and in determining the amount of the~~such~~ reduction.

2) When the Director or his or her designee finds that correction of a violation required capital improvements or repairs in the physical plant of the facility and the facility has a history of compliance with physical plant requirements, the penalty will be reduced by the amount of the cost of the

improvements or repairs. This reduction, however, shall not reduce the penalty for a Type~~level~~ A violation to an amount less than $1000.

b) ~~Reductions and waivers for level B violations.1)~~Penalties resulting from Type~~level~~ B violations may be reduced or waived only under one of the following conditions:

1~~A~~) *The facility submits a report of correction within 10~~ten~~ days* after the notice of violation is received, and the report is subsequently verified by the Department.

2~~B~~) *The facility submits a plan of correction within 10~~ten~~ days* after the notice of violation is received, the plan is approved by the Department, *the facility submits a true report of correction within 15 days* after submission of the plan of~~or~~ correction, and the report is subsequently verified by the Department.

3~~C~~) *The facility submits a plan of correction within 10 ~~ten~~ days* after the notice of violation is received, *the plan provides for a* period of *correction ~~within not more than~~ 30 or fewer days* after submission of the plan of correction, and *the Department approves* the *plan ~~is approved by the Department~~*.

4~~D~~) When the correction ~~Correction~~ of the violation requires substantial capital improvements or repairs in the physical plant of the facility, *the facility submits a plan of~~or~~ correction for violations involving substantial capital improvements that ~~costs, the plan of correction~~ provides for correction ~~completion of the corrective action~~ within the initial 90-day limit ~~days after submission of the plan~~*, and the ~~plan is approved by the~~ Department approves the plan. (Section 3-308 of the Act)

c~~2~~) Under the~~these~~ conditions set forth in this Section, the Director or his or her designee shall consider the factors outlined in Section 390.286(a) in determining whether to reduce or waive the penalty and in setting the amount of any reduction.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 390.300 Alcoholism Treatment Programs in Long-Term Care Facilities

a) A facility that desires to provide an alcoholism treatment program shall first

receive written approval from the Department. The approval will be granted only if the facility can demonstrate that the program will not interfere in any way with the residents in the other distinct parts of the facility~~*A long-term care facility that desires to provide an alcoholism treatment program must first receive written approval from the Department*. *Such approval will be granted only if it can be shown that such program will not interfere in any way with the residents in the other parts of the facility.*~~

b) Any alcoholism treatment program in a ~~long-term care~~ facility shall~~must~~ meet the program standards of 77 Ill. Adm. Code 2060 (~~the rules for~~ Alcoholism and Substance Abuse Treatment and~~,~~ Intervention Licenses).~~and Research Programs (77 Ill. Adm. Code 2058), as promulgated by the Illinois Department of Alcoholism and Substance Abuse under the Illinois Alcoholism and Other Drug Dependency Act. (Ill. Rev. Stat. 1987, ch. 111½, par. 6351-101 et seq.)~~

c) The alcoholism treatment program shall~~must~~ be in a ~~completely~~ separate distinct part of the ~~long-term care~~ facility~~,~~ and shall~~must~~ include all beds in that distinct part. It shall~~must~~ be ~~completely~~ separated from the rest of the facility~~,~~ and have separate entrances.

d) Beds designated for alcoholism treatment shall not~~cannot~~ be used for long-term care residents, nor shall~~can~~ beds designated for long-term care residents be used for residents undergoing treatment for alcoholism.

e) The alcoholism treatment program staff shall not perform~~will not be utilized in performing~~ services in the long-term care distinct part~~area~~ of the facility, nor shall~~will~~ long-term care program staff ~~be utilized to~~ provide any services in the alcoholism treatment designated area.

f) Joint~~There may be joint~~ use of laundry, food service, housekeeping and administrative services is permitted, provided written approval is obtained from the Department. The~~Such~~ approval will be granted only if the facility can demonstrate~~it can be shown~~ that ~~such~~ joint usage will not interfere in any way with the residents in other distinct parts of the facility.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 390.310 Department May Survey Facilities Formerly Licensed

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

The Department may survey any former facility that ~~which~~ once held a license to ensure~~insure~~ that the facility is not again operating without a license. (Section 3-107 of the Act)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 390.315 Supported Congregate Living Arrangement Demonstration (Repealed)

~~a) A facility or location approved to participate in the Supported Congregate Living Arrangement Demonstration authorized by Section 4.02b of the Illinois Act on the Aging [20 ILCS 105/4.02b] and requesting a waiver of the Act and this Part shall submit to the Department *a joint waiver request* with the Department on Aging or documentation that the Department on Aging failed to *act upon* a waiver *application within 60 days* after the applicant submitted a request to the Department on Aging. (Section 4.02b of the Illinois Act on the Aging)~~

~~b) The waiver application shall include the following:~~

~~1) a specific listing of those portions of the Act and this Part for which a waiver is being requested; and~~

~~2) the applicant's proposed Program Plan.~~

~~c) The proposed *Program Plan* shall describe *the types of residents to be served and the services that will be provided in the* Supported Congregate Living Arrangement Demonstration. (Section 3-102.2 of the Act)~~

~~d) The Department will evaluate the waiver application based on the criteria in Section 390.320 of this Part. The applicant shall be notified within 10 days after the Department's waiver determination.~~

~~e) *The Department may revoke the waiver if* the Department *determines that the* Supported Congregate Living Arrangement Demonstration:~~

~~1) *is not in compliance with the Program Plan* submitted in accordance with subsection (b) of this Section (Section 3-102.2 of the Act);~~

~~2) is not in compliance with the Department's waiver approval conditions; or~~

~~3) has been terminated from the demonstration by the Department on Aging.~~

(Source: Repealed at 43 Ill. Reg. _____, effective _____)

Section 390.320 Waivers

a) *Upon application by a facility, the Director may grant or renew the waiver of the facility's compliance with a rule or standard for a period not to exceed the duration of the current license or, in the case of an application for license renewal, the duration of the renewal period.* (Section 3-303.1 of the Act)

b) *The waiver may be conditioned upon the facility taking action prescribed by the Director as a measure equivalent to compliance.* (Section 3-303.1 of the Act)

c) *In determining whether to grant or renew a waiver, the Director shall consider:*

1) *The~~the~~ duration and basis for any current waiver with respect to the same rule or standard and the validity and effect upon patient health and safety of extending it on the same basis;*

~~2) *the continued validity of extending the waiver on the same basis;*~~

2~~3~~) *The~~the~~ effect upon the health and safety of residents;*

3~~4~~) *The~~the~~ quality of resident care* (whether the waiver would reduce the overall quality of the resident care below that required by the Act or this Part);

4~~5~~) *The~~the~~ facility's history of compliance with* the Act ~~*the Act*~~ *and this Part* (the existence of a consistent pattern of violation of the Act or this Part); *and*

5~~6~~) *The~~the~~ facility's attempts to comply with the particular rule or standard in question.* (Section 3-303.1 of the Act)

d) *The Department shall renew waivers relating to physical plant standards issued pursuant to* the Act and this Section ~~*this Section*~~ *at the time of the indicated reviews, unless it can show why the~~such~~ waivers should not be extended for the following reasons:*

1) *The~~the~~ condition of the physical plant has deteriorated or its use substantially changed so that the basis upon which the waiver was issued is materially different; or*

2) *The~~the~~ facility is renovated or substantially remodeled in such a way as to permit compliance with the applicable rules and standards without substantial increase in cost* (Section 3-303.1 of the Act)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 390.330 Definitions

The terms defined in this Section are terms that are used in one or more of the sets of licensing standards established by the Department to license various levels of long-term care. They are defined as follows:

Abuse – any physical or mental injury or sexual assault inflicted on a resident other than by accidental means in a facility. (Section 1-103 of the Act)

Abuse means:

Physical abuse refers to the infliction of injury on a resident that occurs other than by accidental means and that requires (whether or not actually given) medical attention.

Mental injury arises from the following types of conduct:

Verbal abuse refers to the use by a licensee, employee or agent of oral, written or gestured language that includes disparaging and derogatory terms to residents or within their hearing or seeing distance, regardless of their age, ability to comprehend or disability.

Mental abuse includes, but is not limited to, humiliation, harassment, threats of punishment or deprivation, or offensive physical contact by a licensee, employee or agent.

Sexual harassment or sexual coercion perpetrated by a licensee, employee or agent.

Sexual assault.

Access – the right to:

Enter any facility;

Communicate privately and without restriction with any resident who consents to the communication;

Seek consent to communicate privately and without restriction with any resident;

Inspect the clinical and other records of a resident with the express written consent of the resident; or

Observe all areas of the facility except the living area of any resident who protests the observation. (Section 1-104 of the Act)

Act – as used in this Part, the MC/DD Act~~Nursing Home Care Act [210 ILCS 45]~~.

Activity Program – a specific planned program of varied group and individual activities geared to the individual resident's needs and available for a reasonable number of hours each day.

Adaptive Behavior – the effectiveness or degree with which the individual meets the standards of personal independence and social responsibility expected of his or her age and cultural group.

Adaptive Equipment – a physical or mechanical device, material or equipment attached or adjacent to the resident's body that may restrict freedom of movement or normal access to one's body, the purpose of which is to permit or encourage movement, or to provide opportunities for increased functioning, or to prevent contractures or deformities. Adaptive equipment is not a physical restraint. No matter the purpose, adaptive equipment does not include any device, material or method described in Section 390.1310 as a physical restraint.

Addition – any construction attached to the original building, that ~~which~~ increases the area or cubic content of the building.

Adequate or Satisfactory or Sufficient – enough in either quantity or quality, as determined by a reasonable person familiar with the professional standards of the subject under review, to meet the needs of the residents of a facility under the particular set of circumstances in existence at the time of review.

Administrative Warning – a notice to a facility issued by the Department under Section 390.277 ~~of this Part~~ and Section 3-303.2 of the Act that ~~, which~~ indicates that a situation, condition, or practice in the facility violates the Act or the Department's rules, but is not a Type~~type~~ A or Type~~type~~ B violation.

Administrator – *a person who is charged with the general administration and supervision of a facility and licensed, if required, under the Nursing Home Administrators Licensing and Disciplinary Act*. (Section 1-105 of the Act)~~the person who is directly responsible for the operation and administration of the facility, irrespective of the assigned title. (See Licensed Nursing Home Administrator.)~~

Advocate – a person who represents the rights and interests of an individual as though they were the person's own, in order to realize the rights to which the individual is entitled, obtain needed services, and remove barriers to meeting the individual's needs.

Affiliate – means:

> *With respect to a partnership, each partner thereof.*
>
> *With respect to a corporation, each officer, director and stockholder thereof.*
>
> *With respect to a natural person: any person related in the first degree of kinship to that person; each partnership and each partner thereof which that person or any affiliate of that person is a partner; and each corporation in which that person or any affiliate of that person is an officer, director or stockholder.* (Section 1-106 of the Act)

Aide or Orderly – any person providing direct personal care, training or habilitation services to residents.

Alteration – any construction change or modification of an existing building which does not increase the area or cubic content of the building.

Ambulatory Resident – a person who is physically and mentally capable of walking without assistance, or is physically able with guidance to do so, including the ascent and descent of stairs.

Applicant – any person making application for a license. (Section 1-107 of the Act)

Appropriate – term used to indicate that a requirement is to be applied according to the needs of a particular individual or situation.

Assessment – the use of an objective system with which to evaluate the physical, social, developmental, behavioral, and psychosocial aspects of an individual.

Audiologist – a person who is licensed as an audiologist under the Illinois Speech-Language Pathology and Audiology Practice Act~~ [225 ILCS 110]~~.

Autism – a syndrome described as consisting of withdrawal, very inadequate social relationships, exceptional object relationships, language disturbances and monotonously repetitive motor behavior; many children with autism will also be seriously impaired in general intellectual functioning; mental illness observed in young children characterized by severe withdrawal and inappropriate response to external stimulation.

Autoclave – an apparatus for sterilizing by superheated steam under pressure.

~~Auxiliary Personnel – all nursing personnel in intermediate care facilities and skilled nursing facilities other than licensed personnel.~~

Basement – when used in this Part, ~~means~~ any story or floor level below the main or street floor. Where, due to grade difference,~~ there are~~ two levels each qualify~~qualifying~~ as a street floor, a basement is any floor below the level of the two street floors. Basements shall not be counted in determining the height of a building in stories.

Behavior Modification – treatment to be used to establish or change behavior patterns.

Cerebral Palsy – a disorder dating from birth or early infancy, nonprogressive, characterized by examples of aberrations of motor function (paralysis, weakness, incoordination) and often other manifestations of organic brain damage such as sensory disorders, seizures, mental retardation, learning difficulty and behavior disorders.

Certification for Title XVIII and XIX – the issuance of a document by the Department to the U.S. Department of Health and Human Services or the Department of Healthcare and Family Services verifying compliance with applicable statutory or regulatory requirements for the purposes of participation as a provider of care and service in a specific Federal or State health program.

Certified Nursing Assistant – any person who meets the requirements of 77 Ill. Adm. Code 955 and who provides nursing care or personal care to residents of facilities, regardless of title, and who is not otherwise licensed, certified or registered by the Department of Financial and Professional Regulation to render medical care. Nursing assistants shall function under the supervision of a licensed nurse.

Charge Nurse – a registered professional nurse or a licensed practical nurse in charge of the nursing activities for a specific unit or floor during a tour of duty.

Chemical Restraint – any drug that is *used for discipline or convenience and* is *not required to treat medical symptoms* or behavior manifestations of mental illness. (Section 2-106 of the Act)

Child Care/Habilitation Aide – any person who provides nursing, personal or rehabilitative care to residents of licensed MC/DD~~Long-Term Care~~ Facilities~~ for Persons Under 22 Years of Age~~, regardless of title, and who is not otherwise licensed, certified or registered to render ~~such~~ care. Child care~~Care~~/habilitation~~Habilitation~~ aides shall~~must~~ function under the supervision of a licensed nurse.

Community Alternatives – service programs in the community provided as an alternative to institutionalization.

Continuing Care Contract – a contract through which a facility agrees to supplement all forms of financial support for a resident throughout the remainder

of the resident's life.

Contract – a binding agreement between a resident or the resident's guardian (or, if the resident is a minor, the resident's parent) and the facility or its agent.

Convenience – the use of any restraint by the facility to control resident behavior or maintain a resident that ~~, which~~ is not in the resident's best interest, and with less use of the facility's effort and resources than would otherwise be required by the facility. This definition is limited to the definition of chemical restraint and Section 390.1310~~ of this Part~~.

Corporal Punishment – painful stimuli inflicted directly upon the body.

Cruelty and Indifference to Welfare of the Resident – failure to provide a resident with the care and supervision he or she requires~~;~~ or, the infliction of mental or physical abuse.

Dentist – any person licensed by the State of Illinois to practice dentistry, includes persons holding a Temporary Certificate of Registration, as provided in the Illinois Dental Practice Act~~ [225 ILCS 25]~~.

Department~~Department~~ – *the Department of Public Health*~~as used in this Part means the Illinois Department of Public Health~~. (Section 1-109 of the Act)

Developmental Disabilities (DD) Aide – any person who provides nursing, personal or habilitative care to residents of Intermediate Care Facilities for the Developmentally Disabled, regardless of title, and who is not otherwise licensed, certified or registered to render medical care. Other titles often used to refer to DD Aides include, but are not limited to, Program Aides, Program Technicians and Habilitation Aides. DD Aides shall~~must~~ function under the supervision of a licensed nurse or a Qualified Mental Retardation Professional (QMRP).

Developmental Disability – means a severe, chronic disability of a person that~~which~~:

> *is attributable to a mental or physical impairment or combination of mental and physical impairments,* such as intellectual disability~~mental retardation~~, cerebral palsy, epilepsy, autism;

is manifested before the person attains age 22;

is likely to continue indefinitely;

results in substantial functional limitations in 3 or more of the following areas of major life activity:

self-care;~~,~~

receptive and expressive language;~~,~~

learning;~~,~~

mobility;~~,~~

self-direction;~~,~~

capacity for independent living;~~,~~ and

economic self-sufficiency; and

reflects the person's need for combination and sequence of special, interdisciplinary or generic care, treatment or other services that ~~which~~ are of lifelong or extended duration and are individually planned and coordinated. (Section 3-801.1 of the Act)

Dietetic Service Supervisor − a person who:

is a dietitian; ~~or~~

is a graduate of a dietetic technician or dietetic assistant training program, corresponding or classroom, approved by the American Dietetic Association; ~~or~~

is a graduate, prior to July 1, 1990, of a Department-approved course that provided 90 or more hours of classroom instruction in food service supervision and has had experience as a supervisor in a health care institution that~~, which~~ included consultation from a dietitian; ~~or~~

has successfully completed a Dietary Manager's Association approved dietary managers course; ~~or~~

is certified as a dietary manager by the Dietary Manager's Association; or

has training and experience in food service supervision and management in a military service equivalent in content to the programs in the second, third or fourth paragraph of this definition.

Dietitian – a person who is a licensed dietitian as provided in the Dietitian Nutritionist~~Dietetic and Nutrition Services~~ Practice Act~~ [225 ILCS 30]~~.

Direct Supervision – work performed under the guidance and direction of a supervisor who is responsible for the work, who plans work and methods, who is available on short notice to answer questions and deal with problems that are not strictly routine, who regularly reviews the work performed, and who is accountable for the results.

Director – the Director of ~~the Department of~~ Public Health or his or her designee. (Section 1-110 of the Act)

Director of Nursing Service – the full-time Professional Registered Nurse who is directly responsible for the immediate supervision of the nursing services.

Discharge – the full release of any resident from a facility. (Section 1-111 of the Act)

Discipline – any action taken by the facility for the purpose of punishing or penalizing residents.

Distinct Part – an entire, physically identifiable unit consisting of all of the beds within that unit and having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for a distinct part are established as set forth in the respective regulations governing the levels of services approved for the distinct part.

Emergency – a situation, physical condition or one or more practices, methods or operations that ~~which~~ present imminent danger of death or serious physical or mental harm to residents of a facility. (Section 1-112 of the Act)

Epilepsy – a chronic symptom of cerebral dysfunction, characterized by recurrent attacks, involving changes in the state of consciousness, sudden in onset, and of brief duration. Many attacks are accompanied by a seizure in which the person falls involuntarily.

Existing ~~Long-Term Care~~ Facility – any facility initially licensed as a health care facility or approved for construction by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, prior to March 1, 1980. Existing ~~long-term care~~ facilities shall meet the design and construction standards for existing facilities for the level of long-term care for which the license (new or renewal) is to be granted.

~~Facility, Intermediate Care – a facility which provides basic nursing care and other restorative services under periodic medical direction. Many of these services may require skill in administration. Such facilities are for residents who have long-term illnesses or disabilities which may have reached a relatively stable plateau.~~

~~Facility, Intermediate Care for the Developmentally Disabled – when used in this Part, is a facility of three or more persons, or distinct part thereof, serving residents of which more than 50 percent are developmentally disabled.~~

Facility or MC/DD~~Long-Term Care~~ Facility – a medically complex for the developmentally disabled facility, whether operated for profit or not, that provides, through its ownership or management, personal care or nursing for 3 or more persons not related to the applicant or owner by blood or marriage.~~private home, institution, building, residence, or any other place, whether operated for profit or not, or a county home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22 of the Counties Code~~ ~~[55 ILCS 5] or any similar institution operated by a political subdivision of the State of Illinois, which provides, through its ownership or management, personal care, sheltered care or nursing for three or more persons, not related to the applicant or owner by blood or marriage. It includes skilled nursing facilities and intermediate care facilities as those terms are defined in Title XVIII and Title XIX of the Federal Social Security Act~~ ~~(42 USCA 1395 et seq. and 1936 et seq.). It also includes homes, institutions, or other places operated by or under the authority of the Illinois Department of Veterans' Affairs.~~ A "facility" may consist of more than one building as long as the buildings are on the same tract, or adjacent tracts of

land. However, there shall be no more than one "facility" in any one building. *"Facility" does not include the following:*

A home, institution, or other place operated by the federal government or agency thereof, or by the State of Illinois other than homes, institutions, or other places operated by or under the authority of the Illinois Department of Veterans' Affairs;

A hospital, sanitarium, or other institution whose principal activity or business is the diagnosis, care, and treatment of human illness through the maintenance and operation as organized facilities therefor, which is required to be licensed under the Hospital Licensing Act ~~[210 ILCS 85]~~*;*

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

Any "community living facility" as defined in the Community Living Facilities Licensing Act ~~[210 ILCS 35]~~;

~~*Any "community residential alternative" as defined in the Community Residential Alternatives Licensing Act* [210 ILCS 140] ;~~

Any nursing home or sanatorium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed or tenets of any well-recognized church or religious denomination. However, the ~~*such*~~ *nursing home or sanatorium shall comply with all local laws and rules relating to sanitation and safety;*

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

Any facility licensed under the Nursing Home Care Act;

Any ID/DD facility under the ID/DD Community Care Act;

Any supportive residence licensed under the Supportive Residences

Licensing Act ~~[210 ILCS 65]~~*;*

Any supportive living facility in good standing with the demonstration project established under Section 5-5.01a of the Illinois Public Aid Code, *except only for purposes of the employment of persons in accordance with Section 3-206.01* of the Act~~[305 ILCS 5/5-5.01a]~~*;*

Any assisted living or shared housing establishment licensed under the Assisted Living and Shared Housing Act, *except only for purposes of the employment of persons in accordance with Section 3-206.01* of the Act~~[210 ILCS 9]~~*;* ~~*or*~~

An Alzheimer's disease management center alternative health care model licensed under the Alternative Health Care Delivery Act; *or* ~~[210 ILCS 3].~~ ~~(Section 1-113 of the Act)~~

A home, institution, or other place operated by or under the authority of the Illinois Department of Veterans' Affairs. (Section 1-113 of the Act)

~~Facility, Long-Term Care, for Residents Under 22 Years of Age – when used in this Part is synonymous with a long-term care facility for residents under 22 years of age, which facility provides total habilitative health care to residents who require specialized treatment, training and continuous nursing care because of medical or developmental disabilities.~~

~~Facility, Sheltered Care – when used in this Part is synonymous with a sheltered care facility, which facility provides maintenance, and personal care.~~

~~Facility, Skilled Nursing – when used in this Part is synonymous with a skilled nursing facility. A skilled nursing facility provides skilled nursing care, continuous skilled nursing observations, restorative nursing, and other services under professional direction with frequent medical supervision. Such facilities are provided for patients who need the type of care and treatment required during the post acute phase of illness or during recurrences of symptoms in long-term illness.~~

Financial Responsibility – having sufficient assets to provide adequate services such as: staff, heat, laundry, foods, supplies, and utilities for at least a two-month period of time.

Full-time – on duty a minimum of 36 hours, four days per week.

Goal – an expected result or condition that involves a relatively long period of time to achieve, that is specified in behavioral terms in a statement of relatively broad scope, and that provides guidance in establishing specific, short-term objectives directed toward its attainment.

Governing Body − the policy-making authority, whether an individual or a group, that exercises general direction over the affairs of a facility and establishes policies concerning its operation and the welfare of the individuals it serves.

Guardian – a person appointed as a guardian of the person or guardian of the estate, or both, of a resident under the Probate Act of 1975 ~~[755 ILCS 5]~~. (Section 1-114 of the Act)

Habilitation – an effort directed toward the alleviation of a disability or toward increasing a person's level of physical, mental, social or economic functioning. Habilitation may include, but is not limited to, diagnosis, evaluation, medical services, residential care, day care, special living arrangements, training, education, sheltered employment, protective services, counseling and other services.

Health Information Management Consultant – a person who is certified as a Registered Health Information Administrator (RHIA) or a Registered Health Information Technician (RHIT) by the American Health Information Management Association; or is a graduate of a school of health information management that is accredited jointly by the American Medical Association and the American Health Information Management Association.

Health Services Supervisor (Director of Nursing Service) – the full-time Registered Nurse who is directly responsible for the immediate supervision of the health services in an Intermediate Care Facility.

~~Home for the Aged – any facility which is operated: by a not-for-profit corporation incorporated under, or qualified as a foreign corporation under, the General Not For Profit Corporation Act of 1986 [805 ILCS 105]; or by a county pursuant to Division 5-22 of the Counties Code [55 ILCS 5]; or pursuant to a trust or endowment established for nonprofit, charitable purposes; and which provides~~

~~maintenance, personal care, nursing or sheltered care to three or more residents, 90 percent of whom are 60 or more years of age.~~

Hospitalization – the care and treatment of a person in a hospital as an inpatient.

Immediate Family – the spouse, an adult child, a parent, an adult brother or sister, or an adult grandchild of a person. (Section 1-114.1 of the Act)

Individual Education Program or IEP – a written statement for each resident that provides for specific education and related services. The Individual Education Program may be incorporated into the Individual Habilitation Plan (IHP).

Individual Habilitation Plan or IHP – a total plan of care that is developed by the interdisciplinary team for each resident, and that is developed on the basis of all assessment results.

Intellectual Disability – subaverage general intellectual functioning originating during the developmental period and associated with maladaptive behavior.

Interdisciplinary Team – a group of persons that represents those professions, disciplines, or service areas that are relevant to identifying an individual's strengths and needs, and designs a program to meet those needs. This team shall include at least a physician, a social worker and other professionals. ~~In Intermediate Care Facilities for the Developmentally Disabled (ICF/DD) at least one member of the team shall be a Qualified Mental Retardation Professional.~~ The Interdisciplinary Team includes the resident, the resident's guardian, the resident's primary service providers, including staff most familiar with the resident; and other appropriate professionals and caregivers as determined by the resident's needs. The resident or his or her guardian may also invite other individuals to meet with the Interdisciplinary Team and participate in the process of identifying the resident's strengths and needs.

Licensed Nursing Home Administrator – see "Administrator".~~a person who is charged with the general administration and supervision of a facility and licensed under the Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70].~~

Licensed Practical Nurse – a person with a valid Illinois license to practice as a practical nurse.

Licensee – the individual~~person~~ or entity licensed by the Department to operate the facility~~ as provided under the Act~~. (Section 1-115 of the Act)

Life Care Contract – a contract through which a facility agrees to provide maintenance and care for a resident throughout the remainder of the resident's life.

Maintenance – food, shelter, and laundry services. (Section 1-116 of the Act)

Maladaptive Behavior – impairment in adaptive behavior as determined by a clinical psychologist or by a physician. Impaired adaptive behavior may be reflected in delayed maturation, reduced learning ability or inadequate social adjustment.

~~Mentally Retarded and Mental Retardation – subaverage general intellectual functioning originating during the developmental period and associated with maladaptive behavior.~~

Misappropriation of a Resident's Property – the deliberate misplacement, exploitation, or wrongful temporary or permanent use of a resident's belongings or money without the resident's consent or the consent of a resident's guardian or representative. Misappropriation of a Resident's Property includes~~ – using a resident's cash, clothing, or other possessions without authorization by the resident or the resident's authorized representative;~~ failure to return valuables after a resident's discharge~~;~~ or failure to refund money after death or discharge when there is an unused balance in the resident's personal account. (Section 1-116.5 of the Act)

Mobile Nonambulatory – unable to walk independently or without assistance, but able to move from place to place with the use of a device such as a walker, crutches, a wheelchair, or a wheeled platform.

Mobile Resident – any resident who is able to move about, either independently or with the aid of an assistive device such as a walker, crutches, a wheelchair, or a wheeled platform.

Monitor – a qualified person placed in a facility by the Department to observe operations of the facility, assist the facility by advising it on how to comply with the State regulations, and report ~~who reports~~ periodically to the Department on the

operations of the facility.

Neglect – a failure in a facility to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. (Section 1-117 of the Act) ~~Neglect means the failure to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition.~~ This shall include any allegation in which~~where~~:

the alleged failure causing injury or deterioration is ongoing or repetitious; ~~or~~

a resident required medical treatment as a result of the alleged failure; or

the failure is alleged to have caused a noticeable negative impact on a resident's health, behavior or activities for more than 24 hours.

New ~~Long-Term Care~~ Facility – any facility initially licensed as a health care facility by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, on or after March 1, 1980. New ~~long-term care~~ facilities shall meet the design and construction standards for new facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Normalization – the principle of helping individuals to obtain an existence as close to normal as possible, by making available to them patterns and conditions of everyday life that are as close as possible to the norms and patterns of the mainstream of society.

Nurse – a registered nurse or a licensed practical nurse as defined in the Nurse~~Nursing and Advanced~~ Practice ~~Nursing~~ Act ~~[225 ILCS 65]~~. (Section 1-118 of the Act)

~~Nursing Assistant – any person who provides nursing care or personal care to residents of licensed long-term care facilities, regardless of title, and who is not otherwise licensed, certified or registered by the Department of Financial and Professional Regulation to render medical care. Other titles often used to refer to nursing assistants include, but are not limited to, nurse's aide, orderly and nurse~~

~~technician. Nursing assistants must function under the supervision of a licensed nurse.~~

Nursing Care – a complex of activities that~~which~~ carries out the diagnostic, therapeutic, and rehabilitative plan as prescribed by the physician; care for the resident's environment; observing symptoms and reactions and taking necessary measures to carry out nursing procedures involving understanding of cause and effect in order to safeguard life and health.

Nursing Unit – a physically identifiable designated area of a facility consisting of all the beds within the designated area, but having no more than 75 beds, none of which are more than 120 feet from the nurse's station.

Objective – an expected result or condition that involves a relatively short period of time to achieve, that is specified in behavioral terms, and that is related to the achievement of a goal.

Occupational Therapist, Registered or OTR – a person who is registered as an occupational therapist under the Illinois Occupational Therapy Practice Act ~~[225 ILCS 75]~~.

Occupational Therapy Assistant – a person who is registered as a certified occupational therapy assistant under the Illinois Occupational Therapy Practice Act.

Operator – the person responsible for the control, maintenance and governance of the facility, its personnel and physical plant.

Other Resident Injury – occurs when ~~where~~ a resident is alleged to have suffered physical or mental harm and the allegation does not fall within the definition of abuse or neglect.

Oversight – general watchfulness and appropriate reaction to meet the total needs of the residents, exclusive of nursing or personal care. Oversight shall include, but is not limited to, social, recreational and employment opportunities for residents who, by reason of mental disability, or in the opinion of a licensed physician, are in need of residential care.

Owner – the individual, partnership, corporation, association or other person

who owns a facility. In the event a facility is operated by a person who leases the physical plant, which is owned by another person, "owner" means the person who operates the facility, except that, if the person who owns the physical plant is an affiliate of the person who operates the facility and has significant control over the day-to-day operations of the facility, the person who owns the physical plant shall incur jointly and severally with the owner all liabilities imposed on an owner under the Act and this Part. (Section 1-119 of the Act)

Person – any individual, partnership, corporation, association, municipality, political subdivision, trust, estate or other legal entity ~~whatsoever~~.

Personal Care – assistance with meals, dressing, movement, bathing or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of an individual who is incapable of maintaining a private, independent residence or who is incapable of managing his or her person, whether or not a guardian has been appointed for that ~~such~~ individual. (Section 1-120 of the Act)

Pharmacist, Licensed ~~Registered~~ – a person who holds a license ~~certificate of registration~~ as a ~~registered~~ pharmacist, a local registered pharmacist or a registered assistant pharmacist under the Pharmacy Practice Act ~~of 1987 [225 ILCS 85]~~.

Physical Restraint – any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body that the resident~~, which the individual~~ cannot remove easily and that ~~which~~ restricts freedom of movement or normal access to one's body. (Section 2-106 of the Act)

Physical Therapist – a person who is licensed as a physical therapist under the Illinois Physical Therapy Act.

Physical Therapist Assistant – a person who has graduated from a two-year college level program approved by the American Physical Therapy Association.

~~Physical Therapist – a person who is registered as a physical therapist under the Illinois Physical Therapy Act [225 ILCS 90]~~.

Physician – any person licensed by the State of Illinois to practice medicine in all its branches as provided in the Medical Practice Act of 1987 ~~[225 ILCS 60]~~.

Probationary License – an initial license issued for a period of 120 days during which time the Department will determine the qualifications of the applicant.

Psychiatrist – a physician who has had at least three years of formal training or primary experience in the diagnosis and treatment of mental illness.

Psychologist – a person who is licensed to practice clinical psychology under the Clinical Psychologist Licensing Act ~~[225 ILCS 15]~~.

Qualified Mental Retardation Professional – a person who has at least one year of experience working directly with individuals with developmental disabilities and meets at least one of the following additional qualifications:

Be a physician as defined in this Section.

Be a registered nurse as defined in this Section.

Hold at least a bachelor's degree in one of the following fields: occupational therapy, physical therapy, psychology, social work, speech or language pathology, recreation (or a recreational specialty area such as art, dance, music, or physical education), dietary services or dietetics, or a human services field (such as sociology, special education, or rehabilitation counseling).

Qualified Professional – a person who:

meets the educational, technical and ethical criteria of a health care profession, as evidenced by eligibility for membership in an organization established by the profession for the purpose of recognizing those persons who meet this~~such~~ criteria; and

~~who~~ is licensed, registered, or certified by the State of Illinois, if required.

Reasonable Hour~~Visiting Hours~~ – any time between the hours of 10:00 a.m. and 8:00 p.m. daily. (Section 1-121 of the Act)

Registered Nurse – a person with a valid Illinois license to practice as a registered professional nurse under the Nurse~~Nursing and Advanced~~ Practice ~~Nursing~~ Act.

Repeat Violation – for purposes of assessing fines under Section 3-305 of the Act and this Part*, a violation that has been cited during one inspection of the facility for which* a subsequent inspection indicates that *an accepted plan of correction was not complied with,* within a period of not more than 12 ~~twelve~~ months from the issuance of the initial violation, or a new citation of the same rule if ~~*. A repeat violation shall not be a new citation of the same rule, unless*~~ *the licensee is not substantially addressing the issue routinely throughout the facility.* (Section 3-305(7) of the Act)

Reputable Moral Character – ~~having~~

having no history of a conviction:

of the applicant;~~,~~ or

if the applicant is :

a firm, partnership, or association, of any of its members;~~,~~ or

~~of~~ a corporation, of any of its officers~~,~~ or directors, or of the person designated to manage or supervise the facility;~~,~~

of a felony, or of two or more misdemeanors involving moral turpitude, as shown by a certified copy of the record of the court of conviction~~,~~ or, in the case of the conviction of a misdemeanor by a court not of record, as shown by other evidence; or

no other satisfactory evidence indicates that the moral character of the applicant, ~~or~~ manager, or supervisor of the facility is not reputable.

Resident – a person receiving personal or medical care, including, but not limited to, habilitation, psychiatric services, therapeutic services, and assistance with activities of daily living ~~residing in and receiving personal care~~ from a facility. (Section 1-122 of the Act)

Resident Services Director – the full-time administrator, or an individual on the professional staff in the facility, who is directly responsible for the coordination

and monitoring of the residents' overall plans of care in an intermediate care facility.

Resident's Representative – a person, other than the owner~~,~~ or an agent or employee of a facility, not related to the resident, designated in writing by a resident to be his or her representative;~~,~~ or the resident's guardian, or the parent of a minor resident for whom no guardian has been appointed. (Section 1-123 of the Act)

Restorative Care – a health care process designed to assist residents to attain and maintain the highest degree of function of which they are capable (physical, mental, and social).

Room – a part of the inside of a facility that is partitioned continuously from floor to ceiling with openings closed with glass or hinged doors.

Sanitization – the reduction of pathogenic organisms on a utensil surface to a safe level, which is accomplished through the use of steam, hot water, or chemicals.

~~Satisfactory – same as adequate.~~

Seclusion – the retention of a resident alone in a room with a door that the resident cannot open.

Self-Preservation – the ability to follow directions and recognize impending danger or emergency situations and react by avoiding or leaving the unsafe area.

~~*Sheltered Care – maintenance and personal care.* (Section 1-124 of the Act)~~

Social Worker – a person who is a licensed social worker or a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act ~~[225 ILCS 20]~~.

State Fire Marshal – ~~the Fire Marshal of the Office of~~ the *Illinois State Fire Marshal, who serves as the executive director of the Office of the State Fire Marshal.* (Section 1 of the State Fire Marshal Act) ~~Division of Fire Prevention~~.

Sterilization – the act or process of destroying completely all forms of microbial life, including viruses.

Stockholder of a Corporation – any person who, directly or indirectly, beneficially owns, holds or has the power to vote, at least 5%~~five percent~~ of any class of securities issued by the corporation. (Section 1-125 of the Act)

Story – when used in this Part, means that portion of a building between the upper surface of any floor and the upper surface of the floor above, except that the topmost story shall be the portion of a building between the upper surface of the topmost floor and the upper surface of the roof above.

Student Intern ~~– means~~ any person whose total term of employment in any facility during any 12-month period is equal to or less than 90 continuous days, and whose term of employment ~~is either~~:

> *is an academic credit requirement in a high school or undergraduate institution; or*
>
> *immediately succeeds a full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution, provided that such person is registered for another full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution, which quarter, semester or trimester will commence immediately following the term of employment.* (Section 1-125.1 of the Act)

Substantial Compliance – meeting requirements, except for variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the term ~~phrase~~ as used in Sections 390.140(a)(3) and 390.150(a)(3).

Substantial Failure – the failure to meet requirements other than a variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the term ~~phrase~~ as used in Section 390.165(b)(1).

~~Sufficient – same as adequate.~~

Supervision – authoritative procedural guidance by a qualified person for the accomplishment of a function or activity within his or her sphere of competence,

with initial direction and periodic inspection of the actual act of accomplishing the function or activity.

Therapeutic Recreation Specialist – a person who is certified by the National Council for Therapeutic Recreation Certification and who meets the minimum standards it has established for classification as a Therapeutic Recreation Specialist.

Time Out – removing an individual from a situation that results in undesirable behavior. It is a behavior modification procedure that ~~which~~ is developed and implemented under the supervision of a qualified professional.

Title XVIII – Title XVIII of the federal~~Federal~~ Social Security Act~~ as now or hereafter amended~~. (Section 1-126 of the Act)

Title XIX – Title XIX of the federal~~Federal~~ Social Security Act~~ as now or hereafter amended~~. (Section 1-127 of the Act)

Transfer – a change in status of a resident's living arrangements from one facility to another facility. (Section 1-128 of the Act)

Type AA Violation – a violation of the Act or this Part that creates a condition or occurrence relating to the operation and maintenance of a facility that proximately caused a resident's death. (Section 1-128.5 of the Act)

Type A Violation – a violation of the Act or this Part that~~ of the rules promulgated thereunder which~~ creates a condition or occurrence relating to the operation and maintenance of a facility that creates a substantial probability that the risk of death or serious mental or physical harm to a resident will result therefrom or has resulted in actual physical or mental harm to a resident. (Section 1-129 of the Act)

Type B Violation – a violation of the Act or this Part that~~ of the rules promulgated thereunder which~~ creates a condition or occurrence relating to the operation and maintenance of a facility that is more likely than not to cause more than minimal physical or mental harm to a resident or is specifically designated as a Type B violation in the Act or this Part~~*directly threatening to the health, safety or welfare of a resident*~~. (Section 1-130 of the Act)

Type C violation – a violation of the Act or this Part that creates a condition or occurrence relating to the operation and maintenance of a facility that creates a substantial probability that less than minimal physical or mental harm to a resident will result therefrom. (Section 1-132 of the Act)

Unit – an entire physically identifiable residence area having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for each distinct resident area are established as set forth in the respective rules governing the approved levels of service.

Universal Progress Notes – a common record with periodic narrative documentation by all persons involved in resident care.

Valid License – a license that~~which~~ is unsuspended, unrevoked and unexpired.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 390.340 Incorporated and Referenced Materials

a) The following regulations, guidelines, and standards are incorporated in this Part:

1) ANSI/ASME Standard No. A17.1-2007~~2000~~, Safety Code for Elevators and Escalators, which may be obtained from the American Society of Mechanical Engineers (ASME) International, 22 Law Drive, Box 2900, Fairfield, New Jersey 07007-2900.

2) American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE), Handbook of Fundamentals (2009~~2001~~), and Handbook of Applications (2007~~1999~~), which may be obtained from the American Society of Heating, Refrigerating, and Air Conditioning Engineers, Inc., 1791 Tullie Circle, N.E., Atlanta, Georgia 30329.

3) American Society for Testing and Materials (ASTM), International Standard No. E90-02 (2009~~1996~~): Standard Test Method for Laboratory Measurement of Airborne Sound Transmission Loss of Building Partitions and Elements, and Standard No. E84-16~~E84-08a~~, Standard Test Method for Surface Burning Characteristics of Building Materials (2006), which may be obtained from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, Pennsylvania 19428-2959.

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4) International Building Code (IBC) (2012~~2000~~), which may be obtained from Building Officials and Code Administrators (BOCA) International, 4051 W. Flossmoor Road, Country Club Hills, Illinois 60478-5795.

5) For existing facilities (see Subpart N), National Fire Protection Association (NFPA) ~~Standard No.~~ 101 (2012): Life Safety Code, Chapter 19 (Existing Health Care Occupancies), and all appropriate references under Chapter 12 (New Assembley Occupancies),~~Appendix B (1981) and the following additional standards,~~ which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02169.~~:~~

~~A) No. 10 (1978): Standards for Portable Extinguishers~~

~~B) No. 13 (1980): Standards for the Installation of Sprinkler Systems~~

~~C) No. 54 (1999): National Fuel Gas Code~~

~~D) No. 56F (1977): Standards for Non-Flammable Medical Gas Systems~~

~~E) No. 70 (1981): National Electric Code~~

~~F) No. 90A (1999): Standard for the Installation of Air Conditioning and Ventilating Systems~~

~~G) No. 96 (1998): Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations~~

~~H) No. 220 (1979): Standards Types of Building Construction~~

~~I) No. 253 (1978): Flooring Radiant Heat Energy Test~~

~~J) No. 255 (1972): Test of Surface Burning Characteristics of Building Materials~~

~~K) Appendix C (1981): Fire Safety Evaluation System for Health Occupancies~~

6) For new facilities (see Subpart M), NFPA 101 (2012): Life Safety Code, Chapter 18 (New Health Care Occupancies), including all appropriate references under Chapter 2 (Definitions) and Chapter 18, and excluding Chapter 5 (Performance Based Options), and all other references to performance based options. NFPA 101A: Alternative Approaches to Life Safety shall not apply to new construction. In addition to the publications referenced in Chapter 2, the following standards, ~~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, shall be applicable for all long-term facilities:

~~A) NFPA 17A, Standard for Wet Chemical Extinguishing Systems – 2002 Edition~~

A~~B~~) NFPA 20 (2010), Standard for the Installation of Stationary Pumps for Fire Protection~~ – 1999 Edition~~

B~~C~~) NFPA 22 (2008), Standard for Water Tanks for Private Fire Protection~~ – 1998 Edition~~

C~~D~~) NFPA 24 (2010), Standard for the Installation of Private Fire Service Mains and Their Appurtenances ~~– 2002 Edition~~

D~~E~~) NFPA 50 (2001), Standard for Bulk Oxygen Systems at Consumer Sites~~ – 2001 Edition~~

~~F) NFPA 54, National Fuel Gas Code – 1999 Edition~~

~~G) NFPA 70B, Recommended Practice for Electrical Equipment Maintenance – 2002 Edition~~

~~H) NFPA 70E, Standard for Electrical Safety Requirements for Employee Workplaces – 2000 Edition~~

~~I) NFPA 80A, Recommended Practice for Protection of Buildings from Exterior Fire Exposures – 2001 Edition~~

~~J)~~ ~~NFPA 90A, Standard for the Installation of Air Conditioning and Ventilating Systems – 1999 Edition~~

~~K)~~ ~~NFPA 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations – 1998 Edition~~

~~L)~~ ~~NFPA 101, Life Safety Code – 2000 Edition~~

~~M)~~ ~~NFPA 105, Recommended Practice for the Installation of Smoke-Control Door Assemblies – 1999 Edition~~

~~7)~~ ~~For new and existing facilities (see Section 300.1410), NFPA 99: Standard for Health Care Facilities – 2003 Edition.~~

7~~8~~) The following standards, which may be obtained from Underwriters Laboratories (UL), Inc., 333 Pfingsten Rd., Northbrook, Illinois 60062:

A) Fire Resistance Directory (2015~~2003~~ Edition)

B) Building Material Directory (2015~~2003~~ Edition)

8~~9~~) The following guidelines of the Center for Infectious Diseases, Centers for Disease Control and Prevention, United States Public Health Service, Department of Health and Human Services, which may be obtained from the National Technical Information Services (NTIS), 5301 Shawnee Rd., Alexandria, Virginia 22313, info@ntis.gov~~U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161~~:

A) Guideline for Prevention of Catheter-Associated Urinary Tract Infections (2009~~October 1981~~)

B) Guideline for Hand Hygiene in Health-Care Settings (~~October~~ 2002)

C) Guidelines for Prevention of Intravascular Catheter-Related Infections (2011~~2002~~)

D) Guideline for Prevention of Surgical Site Infection (1999)

E) Guideline for Preventing Healthcare-Associated Pneumonia (2003)~~Guideline for Prevention of Nosocomial Pneumonia (February 1994)~~

F) Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings (2007)~~Guideline for Isolation Precautions in Hospitals (February 18, 1997)~~

G) Guidelines for Infection Control in Health Care Personnel (1998)

9~~10~~) American College of Obstetricians and Gynecologists, Guidelines for Women's Health Care, Fourth~~Third~~ Edition (2014~~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 390.3220.)

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

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

1) Federal statutes:

A) Civil Rights Act of 1964 (42 USC 2000e et seq.)

B) Social Security Act (42 USC 301 et seq., 1395 et seq., and 1396 et seq.)

C) Controlled Substances Act (21 USC 802)

2) State of Illinois statutes:

A) ~~Illinois~~ Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301~~305~~]

B) Boiler and Pressure Vessel Safety Act [430 ILCS 75]

C) Child Care Act of 1969 [225 ILCS 10]

D) Code of Civil Procedure~~Civil Practice Act~~ [735 ILCS 5]

E) Court of Claims Act [705 ILCS 505]

F) Illinois Dental Practice Act [225 ILCS 25]

G) Election Code [10 ILCS 5]

H) Freedom of Information Act [5 ILCS 140]

I) General Not For Profit Corporation Act [805 ILCS 105]

J) Hospital Licensing Act [210 ILCS 85]

K) Illinois Controlled Substances Act [720 ILCS 570]

L) Illinois Health Facilities Planning Act [20 ILCS 3960]

M) Illinois Municipal Code [65 ILCS 5]

N) Life Care Facilities Act [210 ILCS 40]

O) Local Governmental and Governmental Employees Tort Immunity Act [745 ILCS 10]

P) Medical Practice Act of 1987 [225 ILCS 60]

Q) Mental Health and Developmental Disabilities Code [405 ILCS 5]

R) Nurse Practice Act [225 ILCS 65]

S) Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70]

T) Nursing Home Care Act [210 ILCS 45]

U) Illinois Occupational Therapy Practice Act [225 ILCS 75]

V) Pharmacy Practice Act [225 ILCS 85]

W) Illinois Physical Therapy Act [225 ILCS 90]

X) Private Sewage Disposal Licensing Act [225 ILCS 225]

Y) Probate Act of 1975 [755 ILCS 5]

Z) Illinois Public Aid Code [305 ILCS 5]

AA) Safety Glazing Materials Act [430 ILCS 60]

BB) School Code [105 ILCS 5]

CC) Illinois Administrative Procedure Act [5 ILCS 100]

DD) Clinical Psychologist Licensing Act [225 ILCS 15]

EE) Dietitian Nutritionist Practice~~Dietetic and Nutrition Services Practices~~ Act [225 ILCS 30]

FF) Health Care Worker Background Check Act [225 ILCS 46]

GG) Clinical Social Work and Social Work Practice Act [225 ILCS 20]

HH) Illinois Living Will Act [755 ILCS 35]

II) Powers of Attorney for Health Care Law [755 ILCS 45/Art. IV]

JJ) Health Care Surrogate Act [755 ILCS 40]

KK) Health Care Right of Conscience Act [745 ILCS 70]

LL) Abused and Neglected Long-Term Care Facility Residents Reporting Act [210 ILCS 30]

MM) Supportive Residences Licensing Act [210 ILCS 65]

NN) MC/DD Act [210 ILCS 46]~~Community Residential Alternatives Licensing Act [210 ILCS 40]~~

OO) Community Living Facilities Licensing Act [210 ILCS 35]

PP) Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135]

QQ) Counties Code [55 ILCS 5]

RR) Podiatric Medical Practice Act of 1987 [225 ILCS 100]

SS) Illinois Optometric Practice Act of 1987 [225 ILCS 80]

TT) Physician Assistant Practice Act of 1987 [220 ILCS 95]

UU) Alternative Health Care Delivery Act [225~~210~~ ILCS 3]

VV) Illinois Uniform Conviction Information Act [20 ILCS 2635]

WW) Wrongs to Children Act [720 ILCS 150]

~~XX) Criminal Jurisprudence Act [720 ILCS 115]~~

XX~~YY~~) Assisted Living and Shared Housing Act [210 ILCS 9]

YY~~ZZ~~) Language Assistance Services Act [210 ILCS 87]

ZZ) State Fire Marshal Act [20 ILCS 2905]

3) State of Illinois rules:

A) Office of the State Fire Marshal, Boiler and Pressure Vessel Safety (41 Ill. Adm. Code 2120~~120~~)

B) Capital Development Board, Illinois Accessibility Code (71 Ill. Adm. Code 400)

C) Department of Public Health

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i) Control of Communicable Diseases Code (77 Ill. Adm. Code 690)

ii) Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693)

iii) Food Service Sanitation Code (77 Ill. Adm. Code 750)

iv) Illinois Plumbing Code (77 Ill. Adm. Code 890)

v) Private Sewage Disposal Code (77 Ill. Adm. Code 905)

vi) Drinking Water Systems Code (77 Ill. Adm. Code 900)

vii) ~~Illinois~~ Water Well Construction Code (77 Ill. Adm. Code 920)

viii) Illinois Water Well Pump Installation Code (77 Ill. Adm. Code 925)

ix) Access to ~~Public~~ Records of the Department of Public Health (2 Ill. Adm. Code 1127)

x) Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)

xi) Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300)

xii) Sheltered Care Facilities Code (77 Ill. Adm. Code 330)

xiii) Intermediate Care for the Developmentally Disabled Facilities Code (77 Ill. Adm. Code 350)

xiv) Long-Term Care Assistants and Aides Training Programs Code (77 Ill. Adm. Code 395)

xv) Control of Tuberculosis Code (77 Ill. Adm. Code 696)

xvi) Health Care Worker Background Check Code (77 Ill. Adm. Code 955)

xvii) Language Assistance Services Code (77 Ill. Adm. Code 940)

D) Department of Financial and Professional Regulation:

i) Illinois Controlled Substances Act (77 Ill. Adm. Code 3100)

ii) Pharmacy Practice Act (68 Ill. Adm. Code 1330)

E) Department of Human Services, Alcoholism and Substance Abuse Treatment and Intervention Licenses (77 Ill. Adm. Code 2060)

F) Department of Natural Resources, Regulation of Construction within Flood Plains (17 Ill. Adm. Code 3706~~2706~~)

G) Department of Healthcare and Family Services, Medical Payment (89 Ill. Adm. Code 140)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

SUBPART M: DESIGN AND CONSTRUCTION STANDARDS FOR NEW FACILITIES

Section 390.2620 Codes and Standards

a) Each facility shall comply with the applicable provisions of the following codes and standards. Any incorporation by reference in this Section of federal regulations or of any standards of a nationally recognized organization or association refers to the regulations and standards on the date specified and does not include any amendments or editions subsequent to the date specified.

1) State of Illinois rules

A) Illinois Plumbing Code (77 Ill. Adm. Code 890), Department of Public Health

B) Illinois Accessibility Code (71 Ill. Adm. Code 400), Capital Development Board

C) Food Service Sanitation Code (77 Ill. Adm. Code 750), Department of Public Health

D) Boiler and Pressure Vessel Safety ~~Code~~ (41 Ill. Adm. Code 2120~~120~~), Office of the State Fire Marshal

2) Codes and standards

A) ~~National Fire Protection Association (~~NFPA~~) Standard No.~~ 101: Life Safety Code, Chapter 18 (New Health Care Occupancies)~~2000 Edition (New Health Care Occupancies)~~, including all appropriate references under Chapter 2 (Definitions)~~33~~, and excluding Chapter 5~~,~~ (Performance Based Options), and all other references to performance based options. NFPA 101A: Alternative Approaches to Life Safety shall not apply to~~be allowed to establish equivalencies for~~ new construction. In addition to the publications referenced in Chapter 2~~33~~, the following documents shall be applicable for all long-term care facilities.

~~i) NFPA 17A, Standard for Wet Chemical Extinguishing Systems – 2002 Edition~~

i~~i~~i) NFPA 20, Standard for the Installation of Stationary Pumps for Fire Protection~~– 1999 Edition~~

iii~~ii~~) NFPA 22, Standard for Water Tanks for Private Fire Protection~~– 1998 Edition~~

iii~~iv~~) NFPA 24, Standard for the Installation of Private Fire Service Mains and Their Appurtenances~~– 2002 Edition~~

iv~~v~~) NFPA 50, Standard for Bulk Oxygen Systems at Consumer Sites~~– 2001 Edition~~

~~vi) NFPA 70B, Recommended Practice for Electrical Equipment Maintenance – 2002 Edition~~

~~vii) NFPA 70E, Standard for Electrical Safety Requirements for Employee Workplaces – 2000 Edition~~

~~viii) NFPA 80A, Recommended Practice for Protection of Buildings from Exterior Fire Exposures – 2001 Edition~~

~~ix) NFPA 105, Recommended Practice for the Installation of Smoke-Control Door Assemblies – 1999 Edition~~

~~B) Underwriters Laboratories, Inc. (UL):~~

~~i) Fire Resistance Directory (2003 Edition)~~

~~ii) Building Material Directory (2003 Edition)~~

~~C) American Society for Testing and Materials (ASTM) International, Standard No. E90-02 (1996), Standard Test Method for Laboratory Measurement of Airborne Sound Transmission Loss of Building Partitions and Elements.~~

~~D) American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE):~~

~~i) Handbook of Fundamentals, 2001~~

~~ii) Handbook of Applications, 1999~~

~~E) International Building Code (2000)~~

~~F) American Society of Mechanical Engineers (ASME) International, ANSI/ASME Standard No. A17.1-2000, Safety Code for Elevators and Escalators~~

b) In addition to compliance with the requirements set forth in this Section, all building codes, ordinances and regulations that are enforced by city, county or other local jurisdictions in which the facility is, or will be, located shall be

observed.

c) When~~Where~~ no local building code exists, ~~the recommendations of the 2000 Edition of~~ the International Building Code shall apply.

d) The local building code or ~~the recommendations of the 2000 Edition of~~ the International Building Code shall apply insofar as neither is~~such recommendations are not~~ in conflict with the requirements set forth in this Part, or with the NFPA~~National Fire Protection Association Standard~~ 101~~: Life Safety Code, 2000~~.

~~e) Amendments to this Section effective November 15, 2003 supersede all other codes and standards incorporated in this Subpart M.~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

SUBPART N: DESIGN AND CONSTRUCTION STANDARDS FOR EXISTING FACILITIES

Section 390.2920 Codes and Standards

a) Nothing in this Part~~stated herein~~ shall relieve the sponsor from compliance with building codes, ordinances and regulations that~~which~~ are enforced by city~~City~~, county~~County~~ or other local jurisdictions. ~~(B)~~

b) NFPA 101: Life Safety Code, Chapter 19 (Existing Health Care Occupancies) and all appropriate references under Chapter 2 (Definitions)~~The 1981 Edition of the National Fire Protection Association (NFPA) Standard No. 101, Life Safety Code for existing structures and all appropriate references under Appendix B of that Code, but no subsequently amended edition of the Code,~~ shall apply to and become a part of this Part. In addition to the publications referenced in Chapter 2, the following documents shall be applicable for all long-term care facilities:~~these standards. (A, B)~~

1) NFPA 20, Standard for the Installation of Stationary Pumps for Fire Protection

2) NFPA 22, Standard for Water Tanks for Private Fire Protection

3) NFPA 24, Standard for the Installation of Private Fire Service Mains and

Their Appurtenances

4) NFPA 50, Standard for Bulk Oxygen Systems at Consumer Sites

~~c) Pursuant to the Medicare/Medicaid certification requirements of 42 CFR 405.1134(a) (1983), but no subsequently amended editions of these Federal regulations, any skilled nursing facility that on December 4, 1980 or on November 26, 1982, or any intermediate care facility that on November 26, 1982, complied with the requirements of the 1967 or 1973 edition of the Life Safety Code, rather than the 1981 edition of the Life Safety Code, will be accepted by the Department for licensure and certification as long as the facility continues to remain in compliance with the 1967 or 1973 edition of the Code.~~

c~~d~~) The following exceptions to the 2012~~1967~~ Life Safety Code are~~have been~~ established by the Department:

~~1) Facilities shall be of the heights and construction types with sprinkler requirements identified in Table E: (B)~~

1~~2~~) Dead-end corridors longer~~greater~~ than 50 feet ~~in length~~ shall be altered so that exits are accessible in at least two directions from all points in aisles, passageways, and corridors. ~~(B)~~

~~3) Exit discharge doors and resident sleeping doors must be at least 34 inches in width. Width required is the width of the door leaf.~~

2~~4~~) All corridors shall have a minimum wall-to-wall width of six feet.

~~e) The following equivalencies have been established by the Department: Where corridor partition walls are not continuous from the floor slab to the underside of the floor or roof slab above, through any concealed spaces such as those above the suspended ceilings and through interstitial structural and mechanical spaces, the following equivalencies are permitted: (B)~~

~~1) A membrane ceiling which may be lath and plaster or drywall or a lay-in ceiling with all tiles clipped down and will all clips remaining in place, or with all the tiles weighing at least one pound per square foot. The ceiling may be suspended but it must be constructed continually from exterior wall to exterior wall and must be part of a one-hour rated ceiling~~

~~assembly. All recessed lights, all duct outlets and all speaker outlets must be properly protected in accordance with Code. Plenums are not allowed unless each outlet is properly protected. This concept is applicable only to two-hour fire resistive and one-hour protected noncombustible construction.~~

~~2) A membrane ceiling of at least a one hour rating (such as two layers of five-eighths inch Fire Code drywall) is acceptable for noncombustible, one hour protected ordinary, ordinary, one hour protected wood frame, woodframe and heavy timber construction.~~

~~3) Corridor walls need not run up in two-hour fire resistive and one-hour protected noncombustible construction if automatic sprinklers are installed throughout.~~

~~4) Smoke detectors may be used in lieu of continuous corridor wall construction all building construction types which are equipped throughout with an automatic extinguishment system required by these Standards. Automatic heat detectors, in lieu of automatic smoke detectors, may be installed in kitchens, laundry rooms, boiler/furnace rooms and attic spaces.~~

~~f) The following rules which were effective at the date of approval by the Department of the final drawings and specifications or the final inspection of the building apply: (B)~~

~~1) Illinois Plumbing Code (77 Ill. Adm. Code 890), Department of Public Health~~

~~2) Illinois Accessibility Code (71 Ill. Adm. Code 400), Capitol Development Board~~

~~3) Fire Prevention and Safety (41 Ill. Adm. Code 100), Office of the State Fire Marshal~~

~~4) Food Service Sanitation (77 Ill. Adm. Code 750), Department of Public Health~~

~~5) Boiler and Pressure Vessel Safety (41 Ill. Adm. Code 120), Office of the~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

~~State Fire Marshal~~

~~g) The requirements of this Subpart govern in cases of differences between this Subpart and the Codes and Standards listed in this Section. (B)~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Manufactured Home Community Code

2) Code Citation: 77 Ill. Adm. Code 860

3)

Section Numbers:	Proposed Actions:
860.10	Amendment
860.20	Amendment
860.110	Amendment
860.120	Amendment
860.130	Amendment
860.140	Amendment
860.150	Amendment
860.160	Amendment
860.200	Amendment
860.210	Amendment
860.220	Amendment
860.230	Amendment
860.240	Amendment
860.250	Amendment
860.260	Amendment
860.270	Amendment
860.280	Amendment
860.290	Amendment
860.300	Amendment
860.310	Amendment
860.320	Amendment
860.330	Amendment
860.340	Amendment
860.350	Amendment
860.360	Amendment
860.370	Amendment
860.380	Amendment
860.390	Amendment
860.400	Amendment
860.410	Amendment
860.420	Amendment
860.430	Amendment
860.540	New Section
860.APPENDIX D	Repealed

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

4) Statutory Authority: Mobile Home Park Act [210 ILCS 115]

5) A Complete Description of the Subjects and Issues Involved: This rulemaking seeks to update several sections of the Part, including definitions, incorporated references and requirements for water supplies, sewage disposal systems, electrical systems and refuse disposal. A new Section related to enforcements is also added.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.

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

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

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

9) Does this rulemaking contain incorporations by reference? Yes

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

11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons should present their comments concerning this rulemaking within 45 days after the publication of this issue of the *Illinois Register* to:

Erin Conley
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th floor
Springfield IL 62761

217/782-2043

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

e-mail: dph.rules@illinois.gov

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Manufactured Home communities

B) Reporting, bookkeeping or other procedures required for compliance: Unknown

C) Types of professional skills necessary for compliance: Unknown

14) Regulatory Agenda on which this rulemaking was summarized: January 2018

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER q: MOBILE HOMES

PART 860
MANUFACTURED HOME COMMUNITY CODE

SUBPART A: DEFINITIONS AND INCORPORATED MATERIALS

Section
860.10 Definitions
860.20 Incorporated and Referenced Materials

SUBPART B: PERMITS

Section
860.100 Required Permits
860.110 Applications
860.120 Plans
860.130 Flood Plain Requirements
860.140 Occupancy of New Sites
860.150 Immobilization
860.160 Deletion of Sites

SUBPART C: REQUIREMENTS OF THE MANUFACTURED HOME COMMUNITY

Section
860.200 Layout of the Manufactured Home Community
860.210 Support Systems
860.220 Streets and Parking
860.230 Water
860.240 Sewage
860.250 Electrical
860.260 Fuel Supply
860.270 Fire Safety
860.280 Lighting
860.290 Pools and Beaches
860.300 Solid and Landscape Waste
860.310 Manufactured Home Community Appearance

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

860.320 Identification of Sites
860.330 Vector Control
860.340 Fences
860.350 Inspection Doors
860.360 Recreational Vehicles
860.370 Animal Control
860.380 Vacant Sites
860.390 Duplex Units

SUBPART D: ADDITIONAL RESPONSIBILITIES OF THE LICENSEE

Section
860.400 Required Documents
860.410 Manufactured Home Community Rules
860.420 Register
860.430 Inspections by Manufactured Home Community Management

SUBPART E: ADMINISTRATIVE ACTION BY THE DEPARTMENT

Section
860.500 Variance Procedures
860.510 Enforcement Action
860.520 Common Operation
860.530 Existing Communities
860.540 Administrative Monetary Penalties

860.ILLUSTRATION A Manufactured Home Community Layout For Sites Constructed After July 1, 1998
860.ILLUSTRATION B Typical Manufactured Home Site
860.ILLUSTRATION C Water Service Connection
860.ILLUSTRATION D Sewer Service Connection
860.ILLUSTRATION E Sample Register Information
860.ILLUSTRATION F Manufactured Home Community Electrical System
860.APPENDIX A Regional Offices of the Department
860.APPENDIX B Explanation of the 1996 National Electrical Code Requirements for Manufactured Home Communities (Repealed)
860.APPENDIX C Unlicensed Motor Vehicles
860.APPENDIX D Home Rule Units (Repealed)
860.TABLE A Minimum Road Width

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

860.TABLE B	Water Distribution Pipe Size
860.TABLE C	Minimum Size and Slope of Sewer Mains

AUTHORITY: Implementing and authorized by the Mobile Home Park Act [210 ILCS 115].

SOURCE: Adopted March 2, 1973; amended at 4 Ill. Reg. 46, p. 1286, effective January 1, 1981; old rules repealed, new rules adopted and codified at 8 Ill. Reg. 17520, effective September 11, 1984; old Part repealed and new Part adopted at 22 Ill. Reg. 8863, effective May 8, 1998; emergency amendment at 29 Ill. Reg. 10305, effective July 1, 2005, for a maximum of 150 days; emergency expired November 27, 2005; amended at 30 Ill. Reg. 13419, effective July 28, 2006; amended at 43 Ill. Reg. _____, effective _____.

SUBPART A: DEFINITIONS AND INCORPORATED MATERIALS

Section 860.10 Definitions

In addition to the definitions contained in the Mobile Home Park Act, the following definitions shall apply.

"Act" means the Mobile Home Park Act [210 ILCS 115].

"Applicant" means any person making application for a license or permit.

"Community ~~Public~~ Water ~~Supply~~ System" means a public water system that serves~~for the provision to the public of piped water for human consumption, if the system has~~ at least 15 service connections used by residents or regularly~~or~~ serves ~~an average of~~ at least 25 individuals daily for at least 60 days per year. ~~This includes any collection, treatment, storage and distribution facilities under control of the operator of such system and used primarily in connection with such system and any collection or pretreatment storage facilities not under such control which are used in connection with such system.~~

"Department" means the Illinois Department of Public Health.

"Director" means the Director of the Illinois Department of Public Health.

"License" means a certificate issued by the Department allowing a person to operate and maintain a manufactured home community under the provisions of the Act and this Part.

"Licensee" means any person to whom a license or permit has been issued under the Act.

"Manufactured Home" means a structure, transportable in one or more sections, which while in the traveling mode is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. Any home defined in the Act as a "mobile home" is defined as a "manufactured home" for the purposes of this Part.

"Manufactured Home Community" means a tract of land or two or more contiguous tracts of land that contain sites with the necessary utilities for five or more independent manufactured homes for permanent habitation either free of charge or for revenue purposes, and shall include any building, structure, vehicle, or enclosure used or intended for use as a part of the equipment of such manufactured home community. Separate ownership of contiguous tracts of land shall not preclude the tracts of land from common licensure as a manufactured home community if they are maintained and operated jointly. Neither an immobilized manufactured home nor a motorized recreational vehicle shall be construed as being part of a manufactured home community. Any community defined in the Act as a "mobile home park" is defined as a "manufactured home community" for the purposes of this Part.

"Non-Community Water System" means a public water system that is not a community water system that has at least 15 service connections used by non-residents, or regularly serves 25 or more non-resident individuals daily for at least 60 days a year and includes vending machines.

"Owner or Operator" means the licensee or any person operating a manufactured home community.

"Permit" means a certificate issued by the Department permitting the construction, alteration, or the reduction in number of sites of a manufactured home community under the provisions of the Act and this Part.

"Person" means any individual, group of individuals, association, trust,

partnership, corporation, limited liability company, persons doing business under an assumed name, county, municipality, the State of Illinois, or any political subdivision or department thereof, or any other entity.

"Pothole" means a void or depression in the roadway with a volume of or greater than 400 cubic inches in the surface of a roadway, as calculated by multiplying the surface area of the void or depression by the depth.

"Public Water System" means a system for the provision to the public of piped water for human consumption, if the system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days a year. A public water system includes any collection, treatment, storage and distribution facilities under the control of the operator of the system and used primarily in connection with the system, and any collection or pretreatment storage facilities not under the control used primarily in connection with the system.

"Resident" means any person who occupies a manufactured home site for dwelling purposes.

"Roadway" means any street, drive or parking area paved, graveled or any other surface for the purpose of vehicular traffic.

"Service equipment" means the necessary electrical equipment, usually consisting of circuit breaker, or switch and fuses, and meter located near the point of entrance of supply conductors to the home and intended to constitute the main control and means of cutoff of the electrical supply.

"Special Flood Hazard Area" means an area that would be inundated by the base flood and shown as such on an Illinois~~a Regulatory~~ Flood Plain Map (published by the Illinois Department of Natural Resources, Division of Water Resources), a Flood Insurance Rate Map or a Flood Hazard Boundary Map, both published by the Federal Insurance Administration or the Federal Emergency Management Agency.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 860.20 Incorporated and Referenced Materials

~~The following standards of nationally recognized organizations and federal and State regulations~~

~~are incorporated or referenced in this Part:~~

a) The following materials are incorporated by reference and include no later amendments or editions:

1) Standard Specifications for Water and Sewer Main Construction in Illinois, 2004 Edition. Illinois Society of Professional Engineers, 100 East Washington Street, Springfield IL 62706~~1996 Edition published by:~~

~~Illinois Society of Professional Engineers~~
~~1304 South Lowell Avenue~~
~~Springfield, Illinois 62704~~
~~Referenced in Section 860.230.~~

~~2) Flood Insurance Rate Map and Flood Hazard Boundary Map published by:~~

~~Federal Insurance Administration~~
~~Region V~~
~~300 Wacker Drive, 24th Floor~~
~~Chicago, Illinois 60606~~
~~Referenced in Section 860.130.~~

2~~3~~) National Electrical Code, 2014 Edition. National Fire Protection Association, 1 Batterymarch Park, Quincy MA 02269~~1996 Edition (NFPA 70-96) published by:~~

~~National Fire Protection Association~~
~~1 Batterymarch Park~~
~~Quincy, Massachusetts 02269~~
~~Referenced in Section 860.250.~~

~~4) National Electrical Code, 2002 Edition (NFPA 70-02) published by:~~

~~National Fire Protection Association~~
~~1 Batterymarch Park~~
~~Quincy, Massachusetts 02269~~
~~Referenced in Section 860.250.~~

3~~5~~) Installation of Oil Burning Equipment, 2016 Edition. National Fire

Protection Association, 1 Batterymarch Park, Quincy MA 02269~~2001 Edition (NFPA 31-01) published by:~~

~~National Fire Protection Association~~
~~1 Batterymarch Park~~
~~Quincy, Massachusetts 02269~~
~~Referenced in Section 860.260.~~

4~~6~~) National Fuel Gas Code, 2015 Edition. National Fire Protection Association, 1 Batterymarch Park, Quincy MA 02269~~1999 Edition (NFPA 54-99) published by:~~

~~National Fire Protection Association~~
~~1 Batterymarch Park~~
~~Quincy, Massachusetts 02269~~
~~Referenced in Sections 860.160 and 860.260.~~

5~~7~~) ~~Storage and Handling of~~ Liquefied Petroleum Gas Code, 2014 Edition. National Fire Protection Association, 1 Batterymarch Park, Quincy MA 02269~~Gases, 1998 Edition (NFPA 58-98) published by:~~

~~National Fire Protection Association~~
~~1 Batterymarch Park~~
~~Quincy, Massachusetts 02269~~
~~Referenced in Section 860.260.~~

6~~8~~) ASTM International (formerly American Society of Testing and Materials, Standard Method for Test for Surface Burning Characteristics of Building Materials), Standard E84-1998, ASTM International, 100 Barr Harbor Drive, P.O. Box C 700, West Conshohocken PA 19248-2959~~published by:~~

~~ASTM International~~
~~100 Barr Harbor Drive~~
~~P.O. Box C 700~~
~~West Conshohocken, Pennsylvania 19248-2959~~
~~Referenced in Section 860.270.~~

7~~9~~) Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards (49 CFR 192), February 1, 2017. United States

Department of Transportation, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue, SE, Washington DC 20590~~Revised October 1, 2003~~

~~United States Department of Transportation~~
~~Office of Pipeline Safety~~
~~400 7th Street S.W.~~
~~Washington, D.C. 20590~~
~~Referenced in Section 860.260.~~

b) The following materials are referenced in this Part:

1) State of Illinois statutes

A) Illinois Architectural Practice Act of 1989 [225 ILCS 305]
~~Referenced in Section 860.120.~~

B) Illinois Professional Engineering Act [225 ILCS 325]
~~Referenced in Section 860.120.~~

C) Illinois Vehicle Code [625 ILCS 5/4-203]
~~Referenced in Section 860.310 and Appendix C.~~

D) Mobile Home Park Landlord and Tenant Act [765 ILCS 745]
~~Referenced in Section 860.400.~~

E) Abandoned Mobile Home Act [210 ILCS 117]
~~Referenced in Section 860.310.~~

F) Private Sewage Disposal Licensing Act [225 ILCS 225]
~~Referenced in Section 860.240.~~

G) Smoke Detector Act [425 ILCS 60]
~~Referenced in Section 860.410.~~

H) Plumbing License Law [225 ILCS 320]
~~Referenced in Sections 860.230 and 860.240.~~

I) Swimming Facility ~~Pool and Bathing Beach~~ Act [210 ILCS 125]

~~Referenced in Sections 860.120 and 860.290.~~

J) Illinois Mobile Home Tiedown Act [210 ILCS 120]
~~Referenced in Section 860.400.~~

K) Illinois Municipal Code [65 ILCS 5/11-40-3]
~~Referenced in Appendix C.~~

L) Counties Code [55 ILCS 5/5-1092]
~~Referenced in Appendix C.~~

M) Townships Code [60 ILCS 1/30-130]
~~Referenced in Appendix C.~~

N) Manufactured Home Quality Assurance Act [430 ILCS 117]
~~Referenced in Section 860.210.~~

O) Carbon Monoxide Alarm Detector Act [430 ILCS 135]

2) Department of Public Health regulations

A) ~~Illinois~~ Swimming Facility~~Pool and Bathing Beach~~ Code (77 Ill. Adm. Code 820)
~~Referenced in Section 860.290.~~

B) Illinois Plumbing Code (77 Ill. Adm. Code 890)
~~Referenced in Sections 860.230, 860.240 and Appendix B.~~

C) Private Sewage Disposal Code (77 Ill. Adm. Code 905)
~~Referenced in Section 860.240.~~

D) Drinking Water Systems Code (77 Ill. Adm. Code 900)
~~Referenced in Section 860.230.~~

E) Illinois Water Well Construction Code (77 Ill. Adm. Code 920)
~~Referenced in Section 860.230.~~

F) Illinois Water Well Pump Installation Code (77 Ill. Adm. Code 925)

~~Referenced in Section 860.230.~~

G) Surface Source Water Treatment Code (77 Ill. Adm. Code 930)
~~Referenced in Section 860.230.~~

H) Public Area Sanitary Practice Code (77 Ill. Adm. Code 895)
~~Referenced in Section 860.230.~~

I) Manufactured Home Installation Code (77 Ill. Adm. Code 870)
~~Referenced in Sections 860.210, 860.360.~~

J) ~~Rules of~~ Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)
~~Referenced in Section 860.510.~~

3) Illinois Pollution Control Board regulations

A) Public Water Supplies (35 Ill. Adm. Code Subtitle F)
~~Referenced in Section 860.230.~~

B) Waste Disposal (35 Ill. Adm. Code Subtitle G)
~~Referenced in Section 860.240.~~

C) Solid Waste and Special Waste Hauling (35 Ill. Adm. Code Subtitle G, Subchapter i)
~~Referenced in Section 860.300.~~

4) Illinois Environmental Protection Agency regulations
Illinois Recommended Standards for Sewage Works (35 Ill. Adm. Code 370)

~~Referenced in Section 860.240.~~

5) Materials of Other State Agencies

A) Illinois~~Regulatory~~ Flood Plain Map published by:

Illinois Department of Natural Resources
Division of Water Resources

310 South Michigan, Room 1606
Chicago, Illinois 60604
~~Referenced in Section 860.130.~~

B) Statewide Permit Number 6, issued September 15, 1993 by:

Illinois Department of Transportation
Division of Water Resources
2300 South Dirksen Parkway
Springfield, Illinois 62764
~~Referenced in Section 860.130.~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

SUBPART B: PERMITS

Section 860.110 Applications

All permit applications shall be submitted ~~in triplicate~~ to the Department on a form furnished by the Department. The application shall indicate the number and identification of existing sites, new sites to be constructed, licensed sites to be altered or eliminated and the new total number of proposed licensed sites.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 860.120 Plans

Section 4(d) of the Act specifies that, for a new manufactured home community, plans must be prepared and sealed by an architect licensed under the authority of the Illinois Architectural Practice Act of 1989 or an engineer licensed under the authority of the Illinois Professional Engineering Act. The plans shall be drawn to scale. Two copies of the plans shall be submitted to the Department. The plans and application material shall contain, at a minimum, an overall manufactured home community plan and a typical site plan as follows:

a) The overall manufactured home community plan shall include the following details for all proposed construction:

1) The location and dimension of each proposed site;

2) The location, width, type of surface material and traffic flow of all streets;

3) The locations of all sidewalks and parking areas;

4) The existing and proposed contours of the area, including an indication of any area in a flood plain and drainage away from the homes;

5) The locations, types, sizes and identification numbers of all water pipes; details of any private or semi-private water sources, sufficient to indicate compliance, and if the manufactured home community is served by a community public water supply system, the name of the system;

6) The locations, types, sizes and identification numbers of all sewage pipes, details of all private sewage disposal systems sufficient to indicate compliance, and, if the manufactured home community is served by a public sewer system, the name of the system;

7) The locations, types and sizes of all electrical conductors and equipment;

8) The types, sizes, heights and locations of all proposed manufactured home community lighting;

9) The sizes, locations and types of all fuel pipes; the locations and sizes of all fuel storage tanks;

10) The locations of all recreational equipment, beaches, swimming pools, parks, and community buildings (Swimming pools and bathing beaches are subject to a separate construction permit as required by the Swimming Facility~~Pool and Bathing Beach~~ Act.);

11) The general locations of all existing manufactured home sites and a description of how proposed utility extensions for new sites will be connected;

12) The types, sizes and locations of all garbage containers and the frequency of garbage collection;

13) The types, sizes and locations of any storm drainage pipes;

14) The locations of fire hydrants and holding ponds and the name of the fire department that serves the manufactured home community; and

15) The locations of all easements.

b) The typical manufactured home site plan shall include the following:

1) Size, type and location of the foundation system for the home;

2) Details and locations of sewer, water and gas piping, showing the height of the risers, the distance between them, and any valves;

3) For private sewage disposal systems, detailed drawings of the proposed system showing the distances between components of the system and potable water systems or bodies of water, soil characteristics,~~type and/or percolation rates,~~ depth of ground water table, and size of system components (When a permit for construction of a private sewage disposal system has been obtained or is pending from a unit of local government, a copy of the permit or permit application shall be submitted.); and

4) Types, locations and ratings of electrical service equipment and conductors with indication of the method of grounding.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 860.130 Flood Plain Requirements

Prior to the issuance of a construction permit, the permit applicant shall submit with the application a completed "Special Flood Hazard Area Request Form" provided by the Department. If the site is within a Special Flood Hazard Area, the applicant shall forward the plans for the project to the Illinois Department of Natural Resources, Office~~Division~~ of Water Resources. No project to be located in a Special Flood Hazard Area shall be issued a permit without a copy of a statement from the Office~~Division~~ of Water Resources that the construction complies with the requirements of Executive Order 79-4, effective May 31, 1979. Construction of items such as water wells, septic tanks, underground utilities, light poles, pavilions, playground equipment, sidewalks and driveways as specified in Statewide Permit Number 6, issued by the Office~~Division~~ of Water Resources, ~~September 15, 1993,~~ are exempt from the requirements of this Section.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 860.140 Occupancy of New Sites

No manufactured home shall be placed on a site that has not been licensed by the Department. Upon the completion of the construction of new sites, the Department's regional office shall be contacted (see Section 860.Appendix A) to arrange for an inspection. After approval is granted by the inspector, the fee for the license for the new site(s) shall be submitted before the new site(s) shall be licensed or occupied. (Type A Violation)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 860.150 Immobilization

Sites with immobilized manufactured homes are exempt from licensure by the Department. In order for a home to be considered immobilized, the following conditions must be met:

a) The home shall be provided with individual utilities as defined in Section 2.8 of the Act.

b) The wheels, tongue, and hitch shall be removed and the home shall be supported by a continuous perimeter foundation of material such as concrete, mortared concrete block, or mortared brick which extends below the established frost depth. The home shall be secured in accordance with the Manufactured Home Quality Assurance Act and Manufactured Home Installation Code. (Type A Violation)~~to the continuous perimeter foundation with 1/2 inch foundation bolts spaced every 6 feet and within one foot of the corners. The bolts shall be imbedded at least 7 inches into concrete foundations or 15 inches into block foundations.~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 860.160 Deletion of Sites

Section 4.3 of the Act specifies the requirements that must be followed to reduce the number of licensed sites. In addition, the following conditions shall be met:

a) The utilities shall be disconnected as follows:

1) The water service shall be shut off and capped below the frost depth and the riser shall be removed (Type A Violation);

2) The sewer pipe shall be cut below the ground level and sealed to prevent sewer gas from escaping (Type A Violation);

3) The electrical supply to the site shall be disconnected and the service equipment shall be removed (Type A Violation);

4) Any natural gas to the site shall be disconnected below grade and sealed in accordance with the National Fuel Gas Code (Type A Violation); and

5) Any propane tanks and the piping thereto shall be removed. (Type A Violation)

b) The home shall be removed and the site shall be cleared of any debris or abandoned equipment. (Type A Violation)

c) The deletion shall not commence until an application for a permit to alter has been submitted and written approval has been issued by the Department. Upon completion of the deletion, the Department's regional office shall be contacted to determine compliance with the requirements of this Section. Upon approval, the next year's license shall reflect the new number of sites. If the reduction results in fewer than five licensed sites, the manufactured home community is no longer subject to licensure and the existing license shall automatically become void upon approval of the reduction. (Type A Violation)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

SUBPART C: REQUIREMENTS OF THE MANUFACTURED HOME COMMUNITY

Section 860.200 Layout of the Manufactured Home Community

a) All areas of the manufactured home community shall be drained to prevent ponding of water. Sites shall be graded to prevent surface water or drainage from accumulating or going under the home. If necessary, a storm drainage system shall be installed. (Type A Violation)

b) Section 9.3 of the Act specifies the minimum square footage of each site and the

location of the homes on the site. (See Section 860.Illustrations A and B.) There shall be a minimum street frontage of 25 linear feet for each site. (Type A Violation)

c) *No mobile home shall be parked closer than 5 feet to the side lot lines of a park, or closer than 10 feet to a public street, alley or building. Each individual site shall abut or face on a private or public street. All streets shall have unobstructed access to a public street. There shall be an open space of at least 10 feet adjacent to the sides of every mobile home and at least 5 feet adjacent to the ends of every mobile home*. [210 ILCS 115/9.3] Homes located on these sites shall not be closer to a private street than the previous home on that site. (Type A Violation)

d) Manufactured homes located on sites constructed after July 1, 1998 shall be located at least 10 feet from private streets or other manufactured homes, and shall not extend over a sidewalk. (Type A Violation)

e) All portions of sheds, carports, garages, porches and similar structures constructed after July 1, 1998 shall be at least 3 feet from the manufactured home community property line, 5 feet from any other structure on adjacent sites, and 10 feet from all streets. For corner sites, sheds shall be at least 3 feet from all streets. Existing portions of sheds, carports, garages, porches, and similar structures may be replaced at the same location without complying with the requirements of this subsection (e). (Type A Violation)

f) If any portion of a home, porch or step is within 5 feet of a private street, a speed limit of 10 miles per hour or less shall be posted for that street. (Type A Violation)

g) When questions arise concerning the property lines of the manufactured home community, the licensee shall be responsible for identifying the legal location. (Type A Violation)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 860.210 Support Systems

a) Sites on which homes were installed on or before July 1, 2005 shall have a support system in accordance with the requirements in effect at the time of the installation. (Type A Violation)

b) Manufactured home sites constructed after July 1, 2005 shall comply with the Manufactured Housing Quality Assurance Act ~~[430 ILCS 117]~~ and the Manufactured Home Installation Code ~~(77 Ill. Adm. Code 870)~~. (Type B Violation)

c) The owner or operator of a licensed manufactured home community must keep on file copies of the Installation Compliance Certificate required by the Manufactured Home Installation Code ~~(77 Ill. Adm. Code 870)~~. This information shall be made available by the owner or operator of the manufactured home community to the Department, the manufactured home owner and lessee, and the representative of the manufactured home owner and lessee. (Type A Violation)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 860.220 Streets and Parking

a) All streets shall be maintained ~~reasonably~~ free of potholes, snow, and dust. Streets constructed after July 1, 1998 shall be constructed of rock and oil, asphalt or concrete. (Type A Violation)

b) The minimum road width shall comply with Section 860.Table A. (Type A Violation)

c) At least two parking spaces shall be provided for each site constructed after July 1, 1998. At least one space shall be available for all other sites. Parking spaces on streets must be a minimum of 18 feet in length. (Type A Violation)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 860.230 Water

a) Potable water shall be provided at each site. The source of the water shall be either a community public water supply system regulated by the Illinois Environmental Protection Agency ~~(35 Ill. Adm. Code, Subtitle F)~~ or a system regulated by the Department. Systems regulated by the Department shall comply with one of the following:

1) The construction and water quality requirements of the Drinking Water

Systems Code ~~(77 Ill. Adm. Code 900)~~ shall be met. (Type B Violation)

2) Water wells shall be located and constructed in accordance with the Illinois Water Well Construction Code ~~(77 Ill. Adm. Code 920)~~ and water well pump installation shall comply with the Illinois Water Well Pump Installation Code ~~(77 Ill. Adm. Code 925)~~. (Type B Violation)

3) Surface water supply systems shall be constructed and operated in accordance with the Surface Source Water Treatment Code ~~(77 Ill. Adm. Code 930)~~. (Type B Violation)

b) The water distribution system shall be subject to the following requirements:

1) If the system is connected to a community public water supply system and has one main water meter, the distribution system beyond the main meter shall be subject to the requirements of the Drinking Water Systems Code and the Illinois Plumbing Code and shall be installed and maintained by a licensed Illinois plumber in accordance with the Illinois Plumbing License Law. (Type B Violation)

2) If the system is connected to a community public water supply system and the residents are billed by the manufactured home community owner for the water based on the readings from the meters at each site, the manufactured home community owner is considered a water supplier and is subject to the requirements of the Illinois Environmental Protection Agency. The distribution system up to the individual service line to each home shall be subject to the requirements of the Illinois Environmental Protection Agency. (Type B Violation)

3) If the park is served by its own community public water supply system, or the manufactured home community is connected to a community public water supply without a main meter for the manufactured home community, the distribution system up to the individual service line to each home shall be subject to the requirements of the Illinois Environmental Protection Agency. (Type B Violation)

c) Water distribution systems not subject to the requirements of the Illinois Environmental Protection Agency shall be designed and constructed in compliance with the requirements of the Drinking Water Systems Code and the

Illinois Plumbing Code and shall be installed and maintained by a licensed Illinois plumber in accordance with the Illinois Plumbing License Law. (Type B Violation)

1) The following additional requirements shall be met for all distribution systems:

A) The distribution system shall supply water to each site at a minimum pressure of 20 pounds per square inch during periods of peak usage. A pressure reducing valve shall be installed if the pressure exceeds 80 pounds per square inch. The distribution pipe shall be looped, whenever possible, and dead end mains shall be equipped with flush hydrants or equivalent. (Type A Violation)

B) All water lines under the home shall be protected from freezing. The manufactured home community rules (Section 860.410) shall address the resident's responsibility concerning protection of water lines from freezing. If heat tapes are used, they must be listed for use for manufactured homes and installed according to the manufacturer's instructions. (Type A Violation)

2) The following requirements shall be met for distribution systems constructed after July 1, 1998:

A) The water main distribution pipe shall be sized in accordance with Table B and be of approved material listed in the "Standard Specifications for Water and Sewer Main Construction in Illinois", 2014~~1996~~ Edition. (Type A Violation)

B) Water mains must include flush hydrants or equivalent at a minimum of every 600 feet and at dead ends of piping. Flushing hydrants shall be sized to provide flows that will give a mean velocity of at least 2½ feet per second in the distribution piping being flushed. (Type A Violation)

C) Each site shall be served with a separate minimum ¾ inch inside diameter service connection. (Type A Violation)

D) All water risers shall be at least ¾ inch inside diameter, terminate

at least 4 inches above the finished grade, and be separated at least 10 feet horizontally from the sewer riser. (Type B Violation)

E) An approved shut-off valve shall be provided near the street or site line for installations after July 1, 1998. (Type A Violation)

d) The manufactured home community owner shall be responsible for sampling of the water supply system and submitting the results as required by the Department. Routine water sampling will not be required by the Department for water supplies regulated by the Illinois Environmental Protection Agency. (Type A Violation)

e) If the water distribution system is not regulated by the Illinois Environmental Protection Agency, the following requirements shall be met. When a break occurs in the manufactured home community's distribution system or the pressure in the water distribution system is below the minimum 20 pounds per square inch, the Department's regional office (see Section 860.Appendix A) shall be notified by telephone within 24 hours or the next business day. The affected residents shall be notified immediately by the manufactured home community management of the need to boil their water for three minutes before drinking it. A sign shall be posted at the entrance(s) of the manufactured home community. The Department shall advise the manufactured home community when the boil order can be lifted.

f) All water leaks in the water distribution system, including those under the manufactured home, shall be repaired within 72 hours after notification from a resident or a Department representative. (Type A Violation)

g) Notification of planned water supply interruptions for periods greater than one hour shall be provided by the manufactured home community management to the residents affected by the interruption. (Type A Violation)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 860.240 Sewage

a) All sewage generated within a manufactured home community shall discharge into an approved sewage disposal system.

1) A sewage disposal system designed to discharge below ground, or to the ground surface with a flow of less than 1,500 gallons per day, shall be

regulated by the Department and must meet the requirements of the Private Sewage Disposal Code. (Type A Violation)

2) A sewage disposal system or group of systems installed after July 1, 1998 designed to discharge 1,500 or more gallons per day to the ground surface shall meet the requirements of the Illinois Pollution Control Board (35 Ill. Adm. Code 309.102(a) and (b)). (Type C Violation)

b) A sewage collection system shall meet the following requirements:

1) A minimum 4 inch inside diameter sewer riser extending at least 4 inches above the finished grade level shall be provided at each site. The material for the building drain and sewer riser must be approved building drainage pipe material as specified in Section 890.Table A of the Illinois Plumbing Code and shall be installed by an Illinois licensed plumber. The connection between the riser and the manufactured home sewer pipe shall be watertight and odor tight. A watertight and odor tight cap or plug shall be installed on all sewer risers that are not in use. Provisions shall be included to allow for vertical movement due to frost heave if the home is not supported below the frost depth. (See Section 860.Illustration D.) (Type A Violation)

2) The building sewer piping must be approved building sewer material as specified in Section 890.Table A of the Illinois Plumbing Code and meet the requirements of Section 860.Table C. (Type A Violation)

3) The construction and installation of the sewer mains and lift stations must meet the requirements of the Illinois Environmental Protection Agency (35 Ill. Adm. Code 370, Illinois Recommended Standards for Sewage Works) for construction after July 1, 1998. Manholes shall be provided at every change in direction or grade of every main sewer line, at the upper end of every main sewer line, at every junction of two or more branch sewers, and at intervals of not more than 400 feet. Cleanouts extending to grade level may be used instead of manholes on sewer lines less than 8 inches in diameter, and shall be at intervals of not more than 100 feet. (Type A Violation)

c) Malfunctioning sewage disposal systems shall be repaired and maintained in compliance with the requirements specified in subsection (a) of this Section.

Within 48 hours after notification from a resident or a Department representative, untreated sewage on the ground as a result of a malfunction shall be removed to the extent possible and the contaminated ground surface shall be covered with lime or similar material. (Type C Violation)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 860.250 Electrical

a) New Installations

1) All electrical distribution systems constructed or replaced after July 1, 1998 and before July 1, 2005 shall be designed and constructed to conform to the requirements of the National Electrical Code, 1996 Edition. Article 550-C of the National Electrical Code contains specific requirements for manufactured home communities. Design,~~After July 1, 2005, design,~~ construction, and replacement of electrical distribution systems shall be in accordance with the 2014 edition~~2002 Edition~~ of the National Electrical Code. (Type C Violation)

2) For homes installed after July 1, 1998, the manufactured home community licensee shall be responsible for providing electrical service equipment at least equivalent to the amperage capacity of the home which it serves. (Type A Violation)

b) Existing Installations
The following minimum requirements shall apply to electrical systems installed prior to July 1, 1998:

1) The electrical distribution system to the manufactured home sites shall be single phase, 120/240 volts nominal. (Type A Violation)

2) The type, size, installation and location of all conductors shall comply with their approved use as indicated in the edition of the National Electrical Code in effect at the time of construction. (Type A Violation)

3) The service equipment shall not be attached to the home, located under the home, or located anywhere that is not readily accessible. Obstructions such as bushes shall not be located within three feet of the front of the

service equipment. (Type A Violation)

4) All electrical equipment installed outdoors shall be the weatherproof type. Equipment located under the home shall be protected from the weather. (Type C Violation)

5) The service equipment and any other electrical devices shall be at least 12 inches above grade and secured to prevent any movement. (Type B Violation)

6) The manufactured home feeder conductor shall be either a cord which meets the requirements of the manufacturer of the home or a permanently installed feeder as specified by the National Electrical Code in effect at the time of installation. (Type C Violation)

7) All circuits at the service equipment shall be protected by over-current protection as required by the National Electrical Code in effect at the time of installation. (Type C Violation)

8) Overhead conductors shall provide an 18 feet vertical clearance over all streets, a 12 feet clearance over driveways, and a 10 feet clearance above grade in all other areas. Electrical conductors emerging from the ground shall be protected by enclosures or raceways for direct buried cable or to the approved buried depth for protected conductors and up to a point 8 feet above grade. Acceptable protection shall be rigid metal, intermediate metal or Schedule 80 non-metallic conduit or channel. Manufactured home power supply cords need not be enclosed in conduit or raceways. (Type C Violation)

c) Maintenance of All Systems

All electrical systems shall be maintained in a safe condition. All damaged or defective equipment shall be repaired or replaced, all loose equipment shall be secured, all faceplates and panel fronts shall be in place and all live parts shall be covered to prevent accidental contact. Tree~~Dead tree~~ branches that~~which~~ overhang distribution wiring shall be removed. All components of the manufactured home community electrical system shall be inspected by the manufactured home community management and it shall be the responsibility of the licensee to have any defects corrected. (Type C Violation)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 860.260 Fuel Supply

The distribution, storage, and use of natural gas, liquefied petroleum gas, fuel oil, or other fuels shall be in accordance with the following:

a) The National Fire Protection Association's Installation of Oil Burning Equipment, 2016~~2001~~ Edition. (Type A Violation)

b) The National Fire Protection Association's National Fuel Gas Code, 2015~~1999~~ Edition. (Type A Violation)

c) The National Fire Protection Association's ~~Storage and Handling of~~ Liquefied Petroleum Gas Code~~Gases~~, 2014~~1998~~ Edition. (Type A Violation)

d) The United States Department of Transportation's Pipeline Safety Regulations.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 860.270 Fire Safety

a) Bales of straw or other flammable materials that do not meet the requirements of subsection (b) of this Section shall not be used for skirting or insulation of the manufactured home. (Type B Violation)

b) Garages, carports, porches, awnings, sheds, skirting and other similar appurtenances shall be constructed of material designed for exterior use that meets the flame spread rating of 200 or less in accordance with the American Society of Testing and Materials, Standard Method of Test for Surface Burning Characteristics of Building Materials (Standard E84). (Type B Violation)

c) Fire Hydrants

1) If a manufactured home community has fire hydrants, the fire hydrant valves shall be tested annually and the flow rates documented annually by the local fire department, water department or other entity capable of analyzing the available flow from the hydrants. Such test results shall be available to the Department upon request. (Type A Violation)

2) The licensee shall provide notification in writing to the local fire department of the hydrants that have been deemed unsatisfactory, which includes an agreement to either remove the hydrants, reverse the top of the hydrant or provide some other identification acceptable to the fire department to indicate that the hydrant is not acceptable, or install a system that meets the requirements of subsection (d). (Type A Violation)

3) The residents of the manufactured home community shall be advised in writing by the licensee within 30 days when a manufactured home community licensee becomes aware that one or more hydrants in the community is inadequate. The location of these fire hydrants shall be specified in writing, along with a plan to correct the situation and an anticipated date for completion. The hydrant shall be repaired or replaced within 30 days. A copy of the notification shall be provided to the Department's Springfield office. (Type A Violation)

d) Manufactured home communities constructed after July 1, 2005 must be located in an area protected by a fire department or fire protection district and provided with fire hydrants within 500 feet of any structure in the manufactured home community. As an alternative to fire hydrants, a holding pond or other source of water of 100,000 gallons or more accessible to the fire department or fire protection district may be used, if the fire department or fire protection district is capable of pumping from the body of water. The minimum size water main for providing fire protection shall be six inches in diameter. The system shall be designed to maintain a minimum pressure of 20 psi at all points in the distribution system under normal conditions of flow. (See Table B.) (Type A Violation)

e) Flammable liquids and gasoline-powered equipment other than motorized vehicles shall not be stored within five feet of a manufactured home, except when stored in a shed or garage. (Type B Violation)

f) All intended means of egress shall not be obstructed. (Type C Violation)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 860.280 Lighting

Communities constructed after July 1, 1998 shall have an average illumination level of at least

0.6 foot candles and a minimum illumination level of 0.3 foot candles maintained for all streets in the manufactured home community. (Type A Violation)~~To achieve this level of illumination, the following are acceptable:~~

~~a) The use of a 175 watt mercury or sodium vapor lamp or a 600 watt tungsten lamp, at an elevation of 25 feet, every 250 feet.~~

~~b) Yard lights, at each site, having an average equivalent illumination of a 100 watt electric light bulb.~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 860.290 Pools and Beaches

Swimming pools and bathing beaches, if provided, shall be constructed and operated in accordance with the ~~Illinois~~ Swimming Facility~~Pool and Bathing Beach~~ Code. Separate construction permits and licenses are required in accordance with the Swimming Facility~~Pool and Bathing Beach~~ Act. (Type A Violation)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 860.300 Solid and Landscape Waste

a) All garbage and refuse shall be stored and disposed of so as not to create a nuisance or a health threat.

1) Garbage must be stored in rust resistant, watertight and fly-proof containers with the lids closed. (Type A Violation)

2) Bulk garbage~~Garbage~~ containers must be stored on a concrete or asphalt~~at least 6 inches off the ground~~ surface or on an impervious surface. (Type A Violation)

3) All~~Garbage~~ containers intended for garbage must be emptied at least once a week. (Type A Violation)

4) A minimum capacity of 40 gallons per occupied site per week shall be provided, according to the manufactured home community rules in Section 860.410. Sealed bags can be utilized to supplement the required containers

on the day of garbage collection only. A single 20 gallon container is acceptable if emptied twice a week. (Type A Violation)

5) Individual containers shall be available at each site or bulk containers shall be located within 250 feet of any home. Upon request, the Department shall grant a variance, under the provisions of Section 850.500, to allow bulk containers to be located more than 250 feet from a home, provided that the Department receives written assurance that the location of the containers is acceptable to the residents whose homes will be more than 250 feet from the containers. There is no distance limitation for bulk containers used by the manufactured home community management to empty individual containers. (Type A Violation)

6) Garbage and refuse shall be disposed of in accordance with the requirements of the Illinois Pollution Control Board (35 Ill. Adm. Code Subtitle G). (Type A Violation)

b) Landscape waste (leaves, brush, and grass) shall be stored separately from garbage in cans or bags if required by local authorities. Large branches do not need to be placed in a container prior to disposal. If landscape waste burning is permitted by the local jurisdiction, all fires must be located at least 30 feet from any structure. (Type A Violation)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 860.310 Manufactured Home Community Appearance

a) Household furniture and appliances, auto parts including tires and batteries, building materials, abandoned equipment, televisions, lawn mowers, and similar items shall not be stored within the manufactured home community except in sheds or garages with doors. If the above items are to be discarded, they must be removed from the manufactured home community within 7 days. Precautions shall be taken to prevent entrapment of children in or under any appliance that is being discarded. (Type A Violation)

b) Abandoned homes as defined in the Abandoned Mobile Home Act shall be removed from the manufactured home community. Damaged homes shall be repaired or removed within 60 days after the date damaged. The manufactured home community owner shall advise the Department's regional office in writing if

removal cannot be accomplished within 60 days, the reason for the delay and the expected date of compliance. (Type A Violation)

c) Trees and bushes shall not interfere with normal pedestrian and vehicular traffic. Branches shall not touch the roofs of any structure. Dead trees and branches shall be removed. (Type B Violation)

d) Any abandoned or unused automobile or piece of equipment having the appearance of being abandoned shall be removed from the manufactured home community. All automobiles, trailers and similar vehicles subject to licensure by the Secretary of State shall have current licenses displayed. The Illinois Vehicle Code specifies the penalty for abandoning automobiles and the provisions for their removal by the manufactured home community management. (See Section 860.Appendix B~~C~~.) (Type A Violation)

e) All open excavations must be barricaded to prevent access. (Type C Violation)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 860.320 Identification of Sites

All sites shall be identified with a legible reflective or contrasting number or letter a minimum of three inches in height. This identification shall be at the same location for each site and visible from the street. There shall be a logical order for the identification of the sites. Previous addresses on homes relocated to the manufactured home community shall be removed. Street signs shall identify all streets that have names. The licensee shall maintain a plan of the manufactured home community indicating the labeling system, a copy of which shall be available to the Department upon request. All electric and natural gas meters must be identified for the site for which they serve. If there is no identification for a vacant site, a temporary identification shall be provided. (Type A Violation)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 860.330 Vector Control

The management of the manufactured home community shall take the following measures to prevent insects and rodents in the manufactured home community in addition to requirements specified in other Sections of this Part:

a) Areas of ponding water and items which hold water such as tires shall be eliminated (Type A Violation);

b) Grass and weeds shall not exceed six inches in height (Type A Violation);

c) Firewood shall be stacked at least six inches above the ground or on an impervious surface such as concrete (Type A Violation); and

d) The manufactured home community shall be cleared daily of animal excrement. (Type A Violation)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 860.340 Fences

Fences on individual lots, if permitted by the manufactured home community owner and the local jurisdiction, shall meet the following provisions:

a) Fences shall not exceed six feet in height. (Type A Violation)

b) Fences shall be sturdy and not present a safety hazard. (Type A Violation)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 860.350 Inspection Doors

If manufactured home skirting is provided, the area under the home shall remain accessible with a sliding or hinged inspection door at least 24 inches wide and the approximate height of the skirting shall be provided near the utility connections to the home. Interlocking skirting with panels removable without the use of tools is acceptable. For homes installed prior to July 1, 1998 and not provided with an inspection door, the manufactured home community management, upon request from a Department representative, shall remove the skirting to allow for an inspection under the home. (Type A Violation)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 860.360 Recreational Vehicles

a) If approved by the manufactured home community owner, a non-motorized

recreational vehicle that meets the following criteria may be located in a manufactured home community as a residence:

1) The vehicle contains toilet and bathing facilities (Type A Violation);

2) The vehicle is connected to the required utilities in a permanent fashion as prescribed in this Part (Type A Violation);

3) The vehicle is intended to be occupied by the same person or persons for at least two consecutive months at one location (Type A Violation); and

4) If larger than 8 feet by 32 feet, the vehicle shall be secured as specified in the Mobile Home Tiedown Code (77 Ill. Adm. Code 870). (Type A Violation)

b) Motorized recreational vehicles shall not be located in a manufactured home community as a residence. (Type A Violation)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 860.370 Animal Control

All animals must be confined in a fenced area or on a cable or similar restraint at all times the animals are outdoors. (Type A Violation)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 860.380 Vacant Sites

When a home is moved from a site, the sewer riser shall be capped or plugged with a watertight and odor-tight fitting. The water shall be shut off and the water line plugged or capped. In freezing weather, the water line must be drained or insulated to prevent breakage. All lines for natural gas, propane and other fuels shall be shut off and plugged or capped. The secured plug or cap shall require a tool for removal. Section 860.160 contains the requirements for deletion of sites. (Type B Violation)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 860.390 Duplex Units

Duplex manufactured homes located in a manufactured home community must have separate water, sewer and electrical services for each resident and a one-hour, fire-rated assembly shall separate the units. Sites with a duplex unit shall be considered as two sites for licensure purposes. (Type A Violation)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

SUBPART D: ADDITIONAL RESPONSIBILITIES OF THE LICENSEE

Section 860.400 Required Documents

a) Upon initial admittance to the manufactured home community, a new resident shall be provided a copy of the manufactured home community rules (Section 860.410). (Type A Violation)

b) The manufactured home community owner or manager shall provide, either in print or via electronic means, a resident of each site with a copy of the Department's publication "Living in a Manufactured Home Community", which contains information regarding the requirements for installation~~tiedown~~ of homes, safety tips in the event of a tornado, and a copy of the Mobile Home Landlord and Tenants Rights Act. (Type A Violation)

c) A copy of the Mobile Home Park Act and the Manufactured Home Community Code shall be available from the manufactured home community owner or manager for inspection by manufactured home community residents. Copies may be obtained from any of the Department's offices indicated in ~~Section 860.~~Appendix A. (Type A Violation)

d) The name, address, and telephone number of the manufactured home community manager whom residents are to notify of a problem within the manufactured home community shall be provided to each resident. An answering machine or voicemail shall be connected to the manufactured home community manager's phone if someone is not normally available to answer the calls. Complaints shall be responded to within 24 hours. (Type A Violation)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 860.410 Manufactured Home Community Rules

The manufactured home community owner shall establish and enforce rules governing the resident's responsibilities for maintaining the manufactured home community. The rules established by the manufactured home community owner shall include the control of pets, the storage of garbage, the disposal of abandoned equipment and appliances, the construction of auxiliary structures and fences, the necessity of keeping all vehicles currently licensed, the policy for performing vehicle repairs, the control of the growth of weeds and grass, the storage of firewood, the control of insects and rodents, the need to provide access under the home, the protection of water pipes from freezing, the repair of the residents' water and sewage leaks, the maintenance of the electrical equipment, the maintenance of homes and auxiliary structures, the requirement for the resident to provide fire extinguishers in the home as required by Section 9 of the Act, the requirements for compliance with the Smoke Detector Act and the Carbon Monoxide Alarm Detector Act, and all other rules necessary to maintain the manufactured home community in compliance with the Act and this Part. Provisions shall be included in the manufactured home community rules to inform residents that the park management will correct violations that have not been corrected by the resident. (Type A Violation)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 860.420 Register

A manufactured home community register shall be maintained by the manufactured home community manager as specified in Section 13 of the Act. The register shall contain acknowledgment by the resident that the information required in Section 860.400 was provided. (See Section 860.Illustration E.) (Type A Violation)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 860.430 Inspections by Manufactured Home Community Management

The manufactured home community owner or manager shall inspect the manufactured home community at least weekly to determine the occurrence of any violations of the Department's requirements in the Act and this Part. The residents shall be required to correct any violations that are their responsibility. If the residents fail to make the corrections, the management shall be responsible for correcting the violations or initiating action against the resident to get the violation(s) corrected. If this is not possible, the manufactured home community manager shall advise the Department in writing of the action initiated against the resident and the anticipated date of correction of the violations. (Type A Violation)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 43 Ill. Reg. _____, effective _____)

SUBPART E: ADMINISTRATIVE ACTION BY THE DEPARTMENT

Section 860.540 Administrative Monetary Penalties

a) In addition to any other action authorized by the Mobile Home Park Act, the Manufactured Home Quality Assurance Act, the Manufactured Home Installation Code or this Part, if the Department finds violations at manufactured housing communities requiring licensure under the Mobile Home Park Act, the Department shall issue a written report or notice of the violations. In accordance with subsections (b), (c) and (d), each violation shall be categorized as either Type A, Type B, or Type C.

b) Type A Violation. The situation, condition or practice constituting a Type A violation shall be abated immediately, unless a fixed period of time, not exceeding 10 days, as determined by the Department and specified in the notice of violation or inspection report, is required for correction.

c) Type B Violation. A facility served with a notice of a Type B violation shall have 10 days after receipt of the notice to submit a plan of correction to the Department. The Department may extend the submission period when the corrective action involves significant capital expenditures. The plan shall include a fixed time period within which violations shall be corrected. If the Department rejects the plan of correction, it shall send notice of the rejection and the reason for the rejection to the facility. The facility shall have 10 days after receipt of the notice of rejection to submit a modified plan. If the modified plan is not timely submitted or if the modified plan is rejected, the facility shall follow an approved plan of correction imposed by the Department.

d) Type C violations. Type C violations include violations that may result in serious injury or death of patrons, employees, or the general public. Upon finding a Type C violation at a manufactured housing community, the Department will immediately take such actions as necessary to protect public health, which may include ordering the immediate closure of the facility, ordering the abatement of dangerous conditions, or ordering the cessation of any dangerous or improper practice.

e) Annotations and Penalties

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) Sections of this Part are annotated with "(Type A Violation)", "(Type B Violation)", or "(Type C Violation)", denoting the type of violation associated with that Section.

2) Type A violations shall carry no penalty provided they are corrected immediately, unless a fixed period of time, not exceeding 10 days, as determined by the Department and specified in the notice of violation or inspection report, is required for correction. If Type A violations are not corrected, they will be deemed Type B violations. Type B violations shall be assessed a penalty of $25 per violation per day for each day the violation persists. Type C violations shall be assessed a penalty of $100 per violation per day for each day the violation persists, in addition to any other penalties provided for by law.

(Source: Added at 43 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Section 860.APPENDIX D Home Rule Units (Repealed)

~~Section 26 of the Mobile Home Park Act exempts home rule units. All of Cook County and municipalities with a population of more than 25,000 are home rule units unless a specific referendum was passed. The following is a list of home rule units in Illinois as of November 1, 1997.~~

~~Addison~~
~~Alsip~~
~~Alton~~
~~Arlington Heights~~
~~Aurora~~
~~Barrington Hills~~
~~Bartlett~~
~~Bedford Park~~
~~Belleville~~
~~Berwyn~~
~~Bloomingdale~~
~~Bloomington~~
~~Bolingbrook~~
~~Bryant~~
~~Buffalo Grove~~
~~Burbank~~
~~Burnham~~
~~Cahokia~~
~~Calumet City~~
~~Calumet Park~~
~~Carbondale~~
~~Carpentersville~~
~~Carol Stream~~
~~Champaign~~
~~Channahon~~
~~Chicago~~
~~Chicago Heights~~
~~Chicago Ridge~~
~~Cicero~~
~~Countryside~~
~~Crystal Lake~~
~~Flora~~
~~Freeport~~
~~Galesburg~~
~~Glendale Heights~~
~~Glen Ellyn~~
~~Glenview~~
~~Glenwood~~
~~Golf~~
~~Granite City~~
~~Hanover Park~~
~~Harvey~~
~~Harwood Heights~~
~~Highland Park~~
~~Hoffman Estates~~
~~Joliet~~
~~Kankakee~~
~~Lake Barrington~~
~~Lansing~~
~~Lincolnshire~~
~~Lincolnwood~~
~~Manhattan~~
~~Marion~~
~~Mascoutah~~
~~Maywood~~
~~Mettawa~~
~~McCook~~
~~Moline~~
~~Monee~~
~~Morton Grove~~
~~Mound City~~
~~Mount Prospect~~
~~Park City~~
~~Park Forest~~
~~Park Ridge~~
~~Pekin~~
~~Peoria~~
~~Peoria Heights~~
~~Peru~~
~~Quincy~~
~~Rantoul~~
~~Rockdale~~
~~Rock Island~~
~~Rolling Meadows~~
~~Rosemont~~
~~Sauget~~
~~Schaumburg~~
~~Schiller Park~~
~~Sesser~~
~~Skokie~~
~~South Barrington~~
~~South Holland~~
~~Springfield~~
~~St. Charles~~
~~Standard~~
~~Stickney~~
~~Stone Park~~
~~Streamwood~~
~~Sycamore~~
~~Thornton~~
~~Tinley Park~~
~~University Park~~
~~Urbana~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

~~Danville~~
~~Decatur~~
~~Deerfield~~
~~DeKalb~~
~~Des Plaines~~
~~Dolton~~
~~Downers Grove~~
~~East Hazel Crest~~
~~East St. Louis~~
~~Elgin~~
~~Elk Grove Village~~
~~Elmhurst~~
~~Elmwood Park~~
~~Elwood~~
~~Evanston~~
~~Evergreen Park~~
~~Mt. Vernon~~
~~Muddy~~
~~Mundelein~~
~~Murphysboro~~
~~Naperville~~
~~Naples~~
~~National City~~
~~Niles~~
~~Normal~~
~~Norridge~~
~~North Chicago~~
~~Oak Forest~~
~~Oak Lawn~~
~~Oak Park~~
~~Orland Park~~
~~Palatine~~
~~Valmeyer~~
~~Watseka~~
~~Waukegan~~
~~West Dundee~~
~~Wheaton~~
~~Wheeling~~
~~Wilmette~~
~~Woodridge~~
~~Cook County~~

(Source: Repealed at 43 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Health Care Worker Background Check Code

2) Code Citation: 77 Ill. Adm. Code 955

3)

Section Numbers:	Proposed Actions:
955.110	Amendment
955.115	Amendment
955.120	Amendment
955.130	Amendment
955.135	Amendment
955.140	Amendment
955.145	Amendment
955.150	Amendment
955.160	Amendment
955.165	Amendment
955.170	Repealed
955.190	Amendment
955.260	Amendment
955.270	Amendment
955.285	Amendment
955.290	Amendment
955.300	New Section
955.310	New Section
955.320	New Section
955.APPENDIX A	Amendment
955.APPENDIX B	Amendment
955.APPENDIX C	Amendment

4) Statutory Authority: Health Care Worker Background Check Act [225 ILCS 46]

5) A Complete Description of the Subjects and Issues Involved: This rulemaking implements PA 100-432 which amended several statutes relating to the Health Care Worker Registry and PA 99-872 which amended the Nursing Home Care Act relating to accessible information in the Health Care Worker Registry.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

DEPARTMENT OF PUBLIC HEALTH

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The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.

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

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

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

9) Does this rulemaking contain incorporations by reference? Yes

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

11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

Erin Conley
Rules Coordinator
Department of Public Health
Division of Legal Services
535 W. Jefferson St., 5th Floor
Springfield IL 62761

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

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Long-term care facilities, hospitals, and other health care facilities

B) Reporting, bookkeeping or other procedures required for compliance: Regulated entities will be required to maintain accurate, current records of employees who are required to be on the Health Care Worker Registry.

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: July 2018

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER u: MISCELLANEOUS PROGRAMS AND SERVICES

PART 955
HEALTH CARE WORKER BACKGROUND CHECK CODE

Section
955.100 Applicability
955.110 Definitions
955.115 Initiation ~~Implementation~~ of Fingerprint-Based Criminal History Records Checks as a Fee Applicant Inquiry
955.120 Incorporated and Referenced Materials
955.130 Exceptions
955.135 Contracted or Subcontracted Workers
955.140 Policies Defining Employee Work Positions
955.145 Employment Verification
955.150 Employment Prohibition
955.160 Disqualifying Offenses
955.165 Fingerprint-Based Criminal History Records Check
955.170 Non-Fingerprint-Based UCIA Criminal History Records Check (Repealed)
955.180 Criminal History Records Checks after Implementation
955.190 Notification to Student, Applicant, or Employee
955.200 Submission of Criminal History Records Check Results to Nurse Aide Registry (Repealed)
955.210 Offer of Permanent Employment
955.220 Health Care Employer Files
955.230 Invalid Non-Fingerprint-Based Records Check (Repealed)
955.240 Fingerprint-Based UCIA Criminal History Records Check (Repealed)
955.250 Additional Conviction (Repealed)
955.260 Application for Waiver
955.270 Department Review of Waiver Application
955.275 Rehabilitation Waiver
955.280 Employment Pending Waiver
955.285 Livescan Vendor Authorization~~Vendors~~
955.290 Recovery of Back Pay
955.300 Health Care Worker Registry
955.310 Department Findings of Abuse, Neglect, or Misappropriation of Property
955.320 Removal from Registry of a Department Finding of Neglect

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

955.APPENDIX A	Offenses that Are Always Disqualifying Except Through the Appeal Process
955.APPENDIX B	Disqualifying Offenses that May Be Considered for a Rehabilitation Waiver
955.APPENDIX C	Disqualifying Offenses that May Be Considered for a Waiver by the Submission of a Waiver Application

AUTHORITY: Implementing and authorized by the Health Care Worker Background Check Act [225 ILCS 46].

SOURCE: Adopted at 28 Ill. Reg. 14133, effective October 15, 2004; amended at 33 Ill. Reg. 5378, effective March 26, 2009; amended at 43 Ill. Reg. _____, effective _____

Section 955.110 Definitions

The following terms have the meaning ascribed to them whenever the term is used in this Part:

"Act" – the Health Care Worker Background Check Act ~~[225 ILCS 46]~~.

"Applicant" – an individual seeking employment, whether paid or on a volunteer basis, with a health care employer who has received a bona fide conditional offer of employment. (Section 15 of the Act)

"Conditional offer of employment" – a bona fide offer of employment by a health care employer to an applicant, which is contingent upon the receipt of a report from the Department of Public Health indicating that the applicant does not have a record of conviction of any of the criminal offenses enumerated in Section 25 of the Act and Section 955.160 of this Part. (Section 15 of the Act)

"Contracted or Subcontracted Worker" – an individual who provides direct care for clients, patients, or residents or who works for a long-term care facility in a position that involves or may involve contact with residents or access to the living quarters or financial, medical, or personal records of long-term care residents under an arrangement other than as an employee.

"Demographic data" − information collected by a livescan vendor concerning an applicant, including, but not limited to, name, address, date of birth, race, height, and eye color.

DEPARTMENT OF PUBLIC HEALTH

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"Department" – the ~~Illinois~~ *Department of Public Health*. (Section 15 of the Act)

"Designee" − a person or committee designated in writing by the Director.

"Direct care" – the provision of nursing care or assistance with feeding, dressing, movement, bathing, toileting, or other personal needs, including home services as defined in the Home Health, Home Services, and Home Nursing Agency Licensing Act. (Section 15 of the Act)

"Director" – the Director of ~~the Department of~~ *Public Health*. (Section 15 of the Act)

"Disqualifying offenses~~*offense*~~*" – those offenses set forth* ~~an offense listed~~ *in Section 25 of the Act* and Section 955.160 of this Part. (Section 15 of the Act)

"Educational entity" – a community college, community agency, or private business that conducts educational programs in which individuals learn the skills to provide direct ~~health~~ care services to clients, residents, or patients.

"Employee" – any individual hired, employed, or retained, whether paid or on a volunteer basis, to which the Act and this Part apply ~~to whom the Act applies~~ as set forth in Section 10 of the Act and Section 955.100 of this Part. (Section 15 of the Act)

"Fee applicant inquiry" – a fingerprint-based criminal history records check requested by an agency of the State of Illinois (in this Part, the Department of Public Health) through the Department of State Police. The Department of State Police stores the fingerprints and provides notification back to the requesting State agency if there is a new conviction associated with the fingerprints.

"Finding" – the Department's determination of whether an allegation is verified and substantiated. (Section 15 of the Act)

"Fingerprint-based criminal history records check" – a livescan fingerprint-based criminal history records check ~~of the Illinois criminal history records information file with the Department as the requestor and~~ *submitted as a fee applicant inquiry in the form and manner prescribed by the Department of State Police*. (Section 15 of the Act)

"Health care employer":

the owner or licensee of any of the following:

a community living facility, as defined in the Community Living Facilities Licensing Act;

a life care facility, as defined in the Life Care Facilities Act;

a long-term care facility;

a home health agency, home services agency, or home nursing agency, as defined in the Home Health, Home Services, and Home Nursing Agency Licensing Act;

a hospice care program or volunteer hospice program, as defined in the Hospice Program Licensing Act;

a hospital, as defined in the Hospital Licensing Act;

a nurse agency, as defined in the Nurse Agency Licensing Act;

a respite care provider, as defined in the Respite Program Act;

an establishment licensed under the Assisted Living and Shared Housing Act;

a supportive living program, as defined in the Illinois Public Aid Code;

early childhood intervention programs as described in 89 Ill. Adm. Code 500*;*

the University of Illinois Hospital, Chicago;

programs funded by the Department on Aging through the Community Care Program;

programs certified to participate in the Supportive Living Program authorized by Section 5-5.01a of the Illinois Public Aid Code;

programs listed by the Emergency Medical Services (EMS) Systems Act as Freestanding Emergency Centers; or

locations licensed under the Alternative Health Care Delivery Act;~~.~~

a day training program certified by the Department of Human Services;

a community integrated living arrangement operated by a community mental health and developmental service agency, as defined in the Community-Integrated Living Arrangements Licensing and Certification Act; or

the State Long Term Care Ombudsman Program, including any regional long term care ombudsman programs under Section 4.04 of the Illinois Act on the Aging, only for the purpose of securing background checks. (Section 15 of the Act)

"Health Care Facility" – a facility owned or operated by a health care employer of the type to which the Act and this Part apply.

"Health Care Worker Registry" – a registry maintained by the Department of Public Health or its designee that includes a registry for certified nursing assistants ~~nurse aides~~ pursuant to Section 3-206.01 of the Nursing Home Care Act, Section 3-206.01 of the MC/DD Act, and Section 3-206.01 of the ID/DD Community Care Act, and that includes background check and training information for health care employees and students to whom the Act and this Part apply~~pursuant to the Act~~.

"Initiate" – obtaining from a student, applicant, or employee his or her social security number, demographics, a disclosure statement, and an authorization for a health care employer, an educational entity, or *the Department* ~~*of Public Health*~~ *or its designee to request a fingerprint-based criminal history records check; transmitting this information electronically to the Department* ~~*of Public Health*~~ or its designee*; conducting Internet searches on certain web sites* from links provided through the Health Care Worker Registry, *and having the student's,*

applicant's, or employee's fingerprints collected directly by a livescan vendor *and transmitted electronically to the Department of State Police.* (Section 15 of the Act)

"Livescan technician" − an individual who is trained to collect fingerprints on livescan equipment and who meets any licensing requirements of the State or federal government.

"Livescan vendor" – an entity whose equipment has been certified by the Department of State Police to collect an individual's demographics and inkless fingerprints and, in a manner prescribed by the Department of State Police and the Department of Public Health, electronically transmit the fingerprints and required data to the Department of State Police and a daily file of required data to the Department of Public Health and who has received authorization from the Department under a livescan vendor authorization contract to conduct fingerprinting pursuant to the Act and this Part. ~~*The Department of Public Health shall negotiate a contract with one or more vendors that effectively demonstrate that the vendor has 2 or more years of experience transmitting fingerprints electronically to the Department of State Police and that the vendor can successfully transmit the required data in a manner prescribed by the Department of Public Health.*~~ (Section 15 of the Act)

"Livescan vendor authorization contract" – a standardized *contract between the Department* and *a* fingerprinting *vendor who has two or more years of experience transmitting fingerprints electronically to the Department of State Police* by which the Department provides *authorization* to the vendor to conduct fingerprinting pursuant to the Act and this Part under the terms and conditions *defined* in Section 955.285. (Section 15 of the Act)

"Long-term care facility" – a facility licensed by the State or certified under federal law as a long-term care facility, including without limitation facilities licensed under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act of 2013, the ID/DD Community Care Act, or the MC/DD Act, a supportive living facility, an assisted living establishment, or a shared housing establishment or registered as a board and care home. (Section 15 of the Act)

"Parole; Mandatory Supervised Release" – except ~~Except~~ when a term of natural life is imposed, every sentence includes a term in addition to the term of imprisonment. For those sentenced under the law in effect before February 1,

1978, that term is a parole term. For those sentenced on or after February 1, 1978, that term is a mandatory supervised release term.

"Rehabilitation waiver" – a~~A~~ waiver that the Department grants based solely upon the results of a fingerprint-based criminal history records check without a waiver application being submitted to the Department.

"Resident" – a person, individual, client, consumer, *or patient under the direct care of a health care employer or who has been provided goods or services by a health care employer.* (Section 15 of the Act)

"Staffing agency" – any ~~*Any*~~ individual or business entity~~:~~ *whose profession is job counseling* (Section 60 of the Act),~~;~~ or that contracts or subcontracts its workers or services to a health care employer.

"UCIA criminal history records check" – a check of criminal history information conducted by the Department of State Police in accordance with the Illinois Uniform Conviction Information Act (UCIA) ~~[20 ILCS 2635]~~.

"Web application" – a computer program on the Department's intranet that is titled "HCW Background Check Registry" and is accessed by signing in through the Department's secure web portal. This program is used to initiate fingerprint-based criminal history records checks pursuant to the Act and this Part~~as a fee applicant inquiry~~.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 955.115 Initiation ~~Implementation~~ of Fingerprint-Based Criminal History Records Checks as a Fee Applicant Inquiry

~~a)~~Fingerprint-based criminal history records checks shall be initiated by educational entities and health care employers through the Department's web application used for the Health Care Worker Registry. *The* educational entity or health care ~~*direct care*~~ *employer, or its designee, must log into the Health Care Worker Registry through a secure login.* (Section 33(i) of the Act)

a~~1~~) Educational entities and health care employers shall gain access to the secure login by having an employee register for access to the Department's secure web portal. After the Department has authorized initial access, that employee may authorize other employees or a designee access to the secure web portal. A health

care employer may not be implemented into the process of initiating fingerprint-based criminal history records checks ~~as a fee applicant inquiry~~ through the Department's web application until the Department has authorized the initial access.

b~~2~~) When educational entities and health care employers are required in this Part to transmit information electronically to the Department, the data shall be entered into the Health Care Worker Background Check Registry web application. The information shall be electronically transmitted to the Department when the data record is saved.

c~~3~~) To better provide support and instruction, the Department will bring a limited number of educational entities and health care employers into the fingerprint process at one time. The Department will proceed across the State using such indicators as zip codes and county boundaries.

~~b) Educational entities and health care employers shall continue to conduct background checks using the non-fingerprint-based UCIA criminal history records check until the educational entity or health care provider is brought into the Department's fingerprint process (see Section 955.170).~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 955.120 Incorporated and Referenced Materials

a) The following State of Illinois statutes are referenced in this Part:

1) Community Living Facilities Licensing Act [210 ILCS 35]

2) Life Care Facilities Act [210 ILCS 40]

3) Nursing Home Care Act [210 ILCS 45]

4) Home Health, Home Services, and Home Nursing Agency Licensing Act [210 ILCS 55]

5) Hospice Program Licensing Act [210 ILCS 60]

6) Hospital Licensing Act [210 ILCS 85]

7) Assisted Living and Shared Housing Act [210 ILCS 9]

8) Emergency Medical Services (EMS) Systems Act [210 ILCS 50]

9) Alternative Health Care Delivery Act [210 ILCS 3]

10) Criminal Code of 1961 and Criminal Code of 2012 [720 ILCS 5]

11) Illinois Uniform Conviction Information Act [20 ILCS 2635]

12) Illinois Credit Card and Debit Card Act [720 ILCS 250]

13) Cannabis Control Act [720 ILCS 550]

14) Wrongs to Children Act [720 ILCS 150]

15) Illinois Controlled Substances Act [720 ILCS 570]

16) Nurse Practice Act [225 ILCS 65]

17) Specialized Mental Health Rehabilitation Act of 2013 [210 ILCS 49]

18) MC/DD Act [210 ILCS 46]

19) ID/DD Community Care Act [210 ILCS 47]

20) Adult Protective Services Act [320 ILCS 20]

21) Illinois Act on the Aging [20 ILCS 105]

22) Community-Integrated Living Arrangements Licensing and Certification Act [210 ILCS 135]

23) Nurse Agency Licensing Act [225 ILCS 510]

24) Respite Program Act [320 ILCS 10]

25) Illinois Public Aid Code [305 ILCS 5]

26) Unemployment Insurance Act [820 ILCS 405]

27) Drug Free Workplace Act [30 ILCS 580]

28) Code of Civil Procedure [735 ILCS 5]

29) Health Care Worker Background Check Act [225 ILCS 46]

30) Department of Human Services Act [20 ILCS 1305]

b) The following State regulation is referenced in this Part: Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100).

c~~b~~) The following federal guidelines are incorporated by reference:

Electronic Fingerprint Transmission Specification, Federal Bureau of Investigation, May 2, 2005~~January 29, 1999~~, which may be obtained from the Federal Bureau of Investigation, Criminal Justice Information Services Division, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306~~ at J. Edgar Hoover Building, 395 Pennsylvania Avenue, NW, Washington, D.C. 20535-0001 or online at http://www.fbi.gov/hq/cjisd/iafis/efts70/cover.htm~~.

d~~c~~) All incorporations of federal guidelines refer to the guidelines on the date specified and do not include any later editions or amendments.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 955.130 Exceptions

~~a)~~The Act and this Part shall not apply to:

a~~1~~) *An individual who is licensed by the Department of Financial and Professional Regulation or the Department of Public Health under another law of this State*;

b~~2~~) *An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State;*

c~~3~~) *A student in a* health care field licensed by the Department of Financial and Professional Regulation*, including, but not limited to, a student nurse, a physical therapy student, or a respiratory care student, unless he or she is employed by a health care employer in a position with duties involving direct care for clients, patients, or residents or employed by a long-term care facility in a position that involves or may involve contact with residents or access to the living quarters or the financial, medical, or personal records of residents* (Section 20 of the Act); or

d~~4~~) A person who is employed or under contract with a health care provider to provide infrequent or occasional services, such as delivering items to the provider, equipment maintenance, grounds keeping, construction, or other similar services that are not directly related to the care of a resident, client or patient.

~~b) As long as the individual is notified that the results of the fingerprint-based criminal history records check will be entered on the Health Care Worker Registry and the individual signs an authorization and disclosure form, nothing in this Section prohibits an educational entity, staffing agency, or health care employer from initiating a fingerprint-based criminal history records check for an individual who is:~~

~~1) Licensed by the Department of Financial and Professional Regulation;~~

~~2) Studying in a health care field licensed by the Department of Financial and Professional Regulation;~~

~~3) Licensed by the Department of Public Health under another law of this State; or~~

~~4) A volunteer.~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 955.135 Contracted or Subcontracted Workers

a) Any unlicensed contracted or subcontracted worker shall undergo a fingerprint-based criminal history records check through the processes established in the Act and this Part.

b) A staffing agency may request access to the secure web portal and initiate fingerprint-based criminal history records checks for staff that will be contracted or subcontracted to a health care employer in the same manner and following the same requirements as a health care employer.

c) If a staffing agency is unable to have access to the fingerprint process established through the Act, the health care employer may initiate the fingerprint-based criminal history records check for the staffing agency. The health care employer may require the staffing agency to reimburse the health care employer for any fingerprint-based criminal history records check expenses incurred.

d) *Any person whose profession is job counseling who knowingly counsels any person who has been convicted of committing or attempting to commit any of the offenses enumerated in Section 25(a) of the Act to apply for a position with duties involving direct contact with a client, patient, or resident of a health care employer or a position with duties that involve or may involve contact with residents or access to the living quarters or the financial, medical, or personal records of residents of a long-term care facility shall be guilty of a Class A misdemeanor unless a waiver is granted pursuant to the Act* or this Part.

e) *Subsection (d) does not apply to an individual performing official duties in connection with the administration of the State employment service described in Section 1705 of the Unemployment Insurance Act*. (Section 60 of the Act)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 955.140 Policies Defining Employee Work Positions

For purposes of the Act and this Part, the health care employer shall establish a policy defining which unlicensed employees provide direct care. If a long-term care employer has unlicensed employees who do not have access to long-term care residents or the living quarters or the financial, medical, or personal records of long-term care residents, the long-term care employer shall establish a policy defining those employee positions. In making these determinations, the health care employer shall consider the following:

a) For direct care employees:

1) The employee's assigned job responsibilities as set forth in the employee's job description;

2) Whether the employee is required to or has the opportunity to be alone with residents, patients, or clients to provide *nursing care* or to assist *with feeding, dressing, movement, bathing, toileting or other personal needs* ~~(Section 15 of the Act)~~, with the exception of infrequent or unusual occasions; (Section 15 of the Act) and

3) Whether the employee's responsibilities include physical contact with residents, patients, or clients, for example to provide therapy or to draw blood.

b) For employees in long-term care facilities:

1) The employee's assigned job responsibilities as set forth in the employee's job description; and

2) The employee's ingress and egress of the building to get to his or her normal work station.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 955.145 Employment Verification

a) Each health care ~~*direct care*~~ *employer or its designee shall* ~~*must*~~ *provide an employment verification* and update the demographic information *for each employee no less than annually*. (Section 33(i) of the Act)

1) The health care employer *or its designee shall* ~~*must*~~ *log into the Health Care Worker Registry through a secure login* in a method prescribed by the Department. (Section 33(i) of the Act)

2) *The health care employer or its designee shall* ~~*must*~~ *indicate employment and termination dates* (separation dates) *within 30 days after hiring or terminating an employee*. (Section 33(i) of the Act)

3) The health care employer shall provide the *employment category and type*. (Section 33(i) of the Act)

b) *Failure to comply with this* Section *constitutes a licensing violation.* *A* ~~*For health care employers that are not licensed or certified, a*~~ *fine of up to $500 may be imposed* upon a health care employer *for failure to maintain these records*. (Section 33(i) of the Act)

c) The *information* required in this Section *shall be used by the Department of Public Health to notify* any current *employer of any disqualifying offenses that are reported by the Department of State Police*. (Section 33(i) of the Act)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 955.150 Employment Prohibition

a) *A health care employer or long-term care facility may hire, employ, or retain,* whether on a paid or volunteer basis, *any individual in a position involving direct care for clients, patients, or residents*, and a long-term care facility may hire, employ, or retain, whether paid or on a volunteer basis, any individual in a position with duties that involve *access to the living quarters or the financial, medical, or personal records of clients, patients, or residents, who has been convicted of committing or attempting to commit one or more of the following offenses only with a waiver described in Section 40* of the Act and Section 955.160 of this Part~~A health care employer shall not *knowingly hire, employ, or retain any individual in a position with duties involving direct care for clients, patients, or residents, and no long-term care facility shall knowingly hire, employ, or retain any individual in a position with duties that involve or may involve contact with residents or access to the living quarters or the financial, medical, or personal records of residents who has been convicted of committing or attempting to commit one or more of the offenses* listed in Section 25 of the Act and Section 955.160 of this Part, *unless the applicant or employee obtains a waiver pursuant to this Part*~~. (Section 25(a) of the Act)

b) *A health care employer shall not hire, employ, or retain, whether paid or on a volunteer basis, any individual in a position with duties involving direct care of clients, patients, or residents, and no long-term care facility shall knowingly hire, employ, or retain, whether paid or on a volunteer basis, any individual in a position with duties that involve or may involve contact with residents or access to the living quarters or financial, medical, or personal records of residents, if the health care employer becomes aware that the individual has been convicted in another state of committing or attempting to commit an offense that has the same*

or similar elements as an offense listed in Section 25 of the Act and Section 955.160 of this Part *as verified by court records, records from a State agency* (e.g., Department of Corrections records), *or an FBI criminal history record check, unless the applicant or employee obtains a waiver pursuant to Section 40 of the Act* and this Part. *This shall not be construed to mean that a health care employer has an obligation to conduct a criminal history records check in other states in which an employee has resided.* (Section 25(b) of the Act)

c) *A health care employer shall not hire, employ, or retain, whether paid or on a volunteer basis, any individual in a position with duties involving direct care of clients, patients, or residents who has a finding by the Department of abuse, neglect, misappropriation of property, or theft denoted on the Health Care Worker Registry.* (Section 25(c) of the Act)

d) *A health care employer shall not hire, employ, or retain, whether paid or on a volunteer basis, any individual in a position with duties involving direct care of clients, patients, or residents if the individual has a verified and substantiated finding of abuse, neglect, or financial exploitation, as identified within the Adult Protective Service Registry established under Section 7.5 of the Adult Protective Services Act.* (Section 25(d) of the Act)

e) *A health care employer shall not hire, employ, or retain, whether paid or on a volunteer basis, any individual in a position with duties involving direct care of clients, patients, or residents who has a finding by the Department of Human Services of physical or sexual abuse, financial exploitation, or egregious neglect of an individual denoted on the Health Care Worker Registry.* (Section 25(e) of the Act)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 955.160 Disqualifying Offenses

The following offenses are disqualifying under the Act and this Part. Offenses are not considered disqualifying until the effective date of the legislation adding the offenses to the Act, regardless of the date an individual is convicted of the offense (see Appendix A through Appendix C ~~of this Part~~).

a) Violations under the Criminal Code of 1961 or 2012:

1) Solicitation of murder, solicitation of murder for hire [720 ILCS 5/8-1(b), ~~5/~~8-1.1, and 8-1.2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 8-1.1 and 8-1.2);

2) First degree murder, intentional homicide of an unborn child, second degree murder, voluntary manslaughter of an unborn child, involuntary manslaughter and reckless homicide, concealment of homicidal death, involuntary manslaughter and reckless homicide of an unborn child, and drug-induced homicide [720 ILCS 5/9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, ~~and~~ 9-3.3, and 9-3.4] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3; Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 3, 236, 358, 360, 361, 362, 363, 364, 364a, 365, 370, 373, 373a, 417, and 474);

3) Kidnapping, aggravated kidnapping, child abduction, and aiding and abetting child abduction [720 ILCS 5/10-1, 10-2, 10-5, and 10-7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-1, 10-2, 10-5, and 10-7; Ill. Rev. Stat. 1985, ch. 38, par. 10-6; Ill. Rev. Stat. 1961, ch. 38, pars. 384 to 386);

4) Unlawful restraint, aggravated unlawful restraint, and forcible detention [720 ILCS 5/10-3, 10-3.1, and 10-4] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-3, 10-3.1, and 10-4; Ill. Rev. Stat. 1961, ch. 38, pars. 252, 252.1, and 252.4);

5) Indecent solicitation of a child, sexual exploitation of a child, sexual misconduct with a person with a disability, exploitation of a child, and child pornography, promoting juvenile prostitution, custodial sexual misconduct, presence of a sex offender in a school zone, and presence of a sexual predator or sex offender near a public park [720 ILCS 5/11-6, 11-9.1, 11-9.2, 11-9.3, 11-9.4-1, 11-9.5, 11-14.4(a), 11-19.2, ~~and~~ 11-20.1, 11-20.1B, and 11-20.3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-6, 11-19.2, and 11-20.1; Ill. Rev. Stat. 1983, ch. 38, par. 11-20a; Ill. Rev. Stat. 1961, ch. 38, pars. 103 and 104);

6) Assault; aggravated assault; battery; battery of an unborn child; domestic battery; aggravated domestic battery; aggravated battery; heinous battery; aggravated battery with a firearm; aggravated battery with a machine gun or a firearm equipped with any device or attachment designed or used for

silencing the report of a firearm; aggravated battery of a child; aggravated battery of an unborn child; aggravated battery of a senior citizen; or drug-induced infliction of great bodily harm [720 ILCS 5/12-1, 12-2, 12-3, 12-3.05, 12-3.1, 12-3.2, 12-3.3, 12-4, 12-4.1, 12-4.2, 12-4.2-5, 12-4.3, 12-4.4, 12-4.6, and 12-4.7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7; Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 55, 56, and 56a to 60b);

7) Tampering with food, drugs, or cosmetics [720 ILCS 5/12-4.5]; (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-4.5).

8) Aggravated stalking [720 ILCS 5/12-7.4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-7.4);

9) Home invasion [720 ILCS 5/12-11] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-11);

10) Criminal sexual assault; aggravated criminal sexual assault; predatory criminal sexual assault of a child; criminal sexual abuse; aggravated criminal sexual abuse [720 ILCS 5/11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, and 12-16] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-1, 11-2, 11-3, 11-4, 11-5, 12-13, 12-14, 12-15, and 12-16; Ill. Rev. Stat. 1985, ch. 38, pars. 11-1, 11-4, and 11-4.1; Ill. Rev. Stat. 1961, ch. 38, pars. 109, 141, 142, 490, and 491);

11) Abuse and criminal neglect of a long-term care facility resident [720 ILCS 5/12-4.4a(a) and 12-19] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-19);

12) Criminal abuse or neglect of an elderly person or person with a disability [720 ILCS 5/12-4.4a(b) and 12-21] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-21);

13) Endangering the life or health of a child; child abandonment [720 ILCS 5/12C-5, 12C-10, 21.5, and 12-21.6] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354; Ill. Rev. Stat. 1961, ch. 38, par. 95);

14) Ritual mutilation, ritualized abuse of a child [720 ILCS 5/12-32 and 12-33] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-32 and 12-33);

15) Theft; theft of lost or mislaid property; retail theft; identity theft; aggravated identity theft; and credit and debit card fraud [720 ILCS 5/16-1, 16-2, 16-30, 16A-3, 16G-15, ~~and~~ 16G-20, 17-32(b), 17-33, 17-34, 17-36, and 17-44] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 16-1, 16-2, and 16A-3; Ill. Rev. Stat. 1961, ch. 38, pars. 62, 207 to 218, 240 to 244, 246, 253, 254.1, 258, 262, 262a, 273, 290, 291, 301a, 354, 387 to 388b, 389, 393 to 400, 404a to 404c, 438, 492 to 496);

16) Financial exploitation of an elderly person or a person with a disability [720 ILCS 5/16-1.3 and 17-56] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 16-1.3);

17) Forgery [720 ILCS 5/17-3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 17-3; Ill. Rev. Stat. 1961, ch. 38, pars. 151 and 277 to 286);

18) Robbery, armed robbery, aggravated robbery [720 ILCS 5/18-1, 18-2, and 18-5] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 18-1 and 18-2);

19) Vehicular hijacking, aggravated vehicular hijacking [720 ILCS 5/18-3 and 18-4];

20) Burglary, residential burglary, home invasion [720 ILCS 5/19-1, ~~and~~ 19-3, and 19-6] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 19-1 and 19-3; Ill. Rev. Stat. 1961, ch. 38, pars. 84 to 86, 88, and 501);

21) Criminal trespass to a residence [720 ILCS 5/19-4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 19-4);

22) Arson, aggravated arson, residential arson [720 ILCS 5/20-1, 20-1.1, and 20-1.2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 20-1 and 20-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 48 to 53 and 236 to 238);

23) Unlawful use of weapons, unlawful use or possession of weapons by felons or persons in the custody of Department of Corrections facilities; aggravated discharge of a firearm; aggravated discharge of a machine gun or a firearm equipped with a device designed or used for silencing the report of a firearm; reckless discharge of a firearm; aggravated unlawful use of a weapon; unlawful discharge of firearm projectiles; unlawful sale

or delivery of firearms on the premises of any school; possession of a stolen firearm [720 ILCS 5/24-1, 24-1.1, 24-1.2, 24-1.2-5, 24-1.5, 24-1.6, 24-3.2, ~~and~~ 24-3.3, and 24-3.8] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1, 24-1.1, 24-1.2, 24-1.2-5, 24-1.5, 24-1.6, 24-3.2, and 24-3.3; Ill. Rev. Stat. 1961, ch. 38, pars. 152, 152a, 155, 155a to 158b, 414a to 414c, 414e, and 414g);

24) Armed violence [720 ILCS 5/33A-2] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 33A-2);~~.~~

25) Dismembering a human body [720 ILCS 5/20.5].

b) Violations under the Wrongs to Children Act:

1) Endangering life or health of a child [720 ILCS 150/4] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354);

2) Permitting sexual abuse of a child [720 ILCS 5/11-9.1A and 720 ILCS 150/5.1] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2355.1).

c) Violations under the Illinois Credit Card and Debit Card Act:

1) Receiving a stolen credit or debit card [720 ILCS 250/4] (formerly Ill. Rev. Stat. 1991, ch. 17, par. 5917);

2) Receiving a lost or mislaid card with intent to use, sell, or transfer [720 ILCS 250/5] (formerly Ill. Rev. Stat. 1991, ch. 17, par. 5918);

3) Selling a credit card or debit card, without the consent of the issuer [720 ILCS 250/6] (formerly Ill. Rev. Stat. 1991, ch. 17, par. 5919);

4) Using a credit or debit card with the intent to defraud [720 ILCS 250/8] (formerly Ill. Rev. Stat. 1991, ch. 17, par. 5921);

5) Fraudulent use of electronic transmission [720 ILCS 250/17.02] (formerly Ill. Rev. Stat. 1991, ch. 17, par. 5930.2).

d) Violation of Section 53 of ~~under~~ the Criminal Jurisprudence Act: Cruelty to children [720 ILCS 115/53] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2368).

e) Violations under the Cannabis Control Act: Manufacture, delivery, or possession with intent to deliver or manufacture cannabis; cannabis trafficking; delivery of cannabis on school grounds; delivering cannabis to a person under 18; calculated criminal cannabis conspiracy [720 ILCS 550/5(c), (d), (e), (f), (g), 5.1, 5.2, 7, and 9] (formerly Ill. Rev. Stat. 1991, ch. 56½, pars. 705, 705.1, 705.2, 707, and 709).

f) Violations under the Illinois Controlled Substances Act: manufacture or delivery, or possession with intent to manufacture or deliver, a controlled substance other than methamphetamine, a counterfeit substance, or a controlled substance analog; controlled substance trafficking; manufacture, distribution, advertisement, or possession with intent to manufacture or distribute a look-alike substance; calculated criminal drug conspiracy; criminal drug conspiracy; delivering a controlled, counterfeit or look-alike substance to a person under 18; and engaging or employing a person under 18 to deliver a controlled, counterfeit or look-alike substance [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407, and 407.1] (formerly Ill. Rev. Stat. 1991, ch. 56½, pars. 1401, 1401.1, 1404, 1405, 1405.1, 1407, and 1407.1).

g) Violation under the Nurse Practice Act: practice of nursing without a license [225 ILCS 65/10-5 and 50-50 ~~(was 225 ILCS 65/10-5)~~] (formerly Ill. Rev. Stat. 1991, ch. 111, par. 3506).

h) Violations under the Methamphetamine Control and Community Protection Act [720 ILCS 646].

i) Violations under the Humane Care for Animals Act: cruel treatment, aggravated cruelty, and animal torture [510 ILCS 70/3.01(a), 3.02, and 3.03].

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 955.165 Fingerprint-Based Criminal History Records Check

a) Educational entities, other than secondary schools, and health care employers are required to check the Health Care Worker Registry before allowing a student to enter a training program or hiring an employee to determine:

1) Whether a fingerprint-based criminal history records check has previously been conducted, which is indicated by the identifier of "FEE_APP" or "CAAPP".

A) *As long as the* student, applicant or *employee has had* ~~such~~ a background check *and stays active on the Health Care Worker Registry, no further* fingerprint-based *criminal history record checks are required~~shall be deemed necessary~~*. (Section 33(g) of the Act)

B) If the individual has disqualifying convictions and a waiver has not been granted pursuant to this Part, the individual is not allowed to work as a direct care giver for a health care employer or as an individual with access to residents, the resident's living quarters, or the resident's financial, medical or personal records in a long-term care setting.

2) Whether the individual is active on the Health Care Worker Registry.

A) *If an individual is inactive on the Health Care Worker Registry, that individual is prohibited from being hired to work as a certified nursing assistant ~~nurse aide~~ if, since the individual's most recent completion of a competency test* or the date the individual was deemed competent by the Department of Public Health, *there has been a period of 24 consecutive months during which the individual has not provided nursing or nursing-related services for pay.* (Section 33(g) of the Act)

B) *If the individual can provide proof of having retained his or her certification by not having a 24-consecutive-month ~~24 consecutive month~~ break in service for pay, he or she may be hired as a certified nursing assistant ~~nurse aide~~ and that employment information shall be entered into the Health Care Worker Registry*. (Section 33(g) of the Act)

C) Not retaining his or her certification does not prevent that individual from being hired in a position that does not require the individual to be a certified nursing assistant~~nurse aide~~.

b) *If the individual has not had ~~such~~ a background check or is not active on the Health Care Worker Registry, then the health care employer shall ~~must~~ initiate a fingerprint-based* criminal history records *check*. (Section 33(g) of the Act)

c) Educational entities and health care employers shall conduct *Internet searches on certain web sites, including without limitation the Illinois Sex Offender Registry, the Department of Corrections' Sex Offender Search Engine, the Department of Corrections' Inmate Search Engine, the Department of Corrections Wanted Fugitives Search Engine, the National Sex Offender Public Registry, and the website of the Health and Human Services Office of Inspector General to determine if the applicant has been adjudicated a sex offender, has been a prison inmate, or has committed Medicare or Medicaid fraud, or* shall conduct *similar searches* as provided by the web-based application. (Section 15 of the Act)

d) *Any student, applicant, or employee* to whom the Act and this Part apply and *who desires to be included on the Department of Public Health's Health Care Worker Registry shall ~~must~~ authorize the Department of Public Health or its designee to request a fingerprint-based criminal history records check to determine if the individual has a conviction for a disqualifying offense* by completing and signing an authorization and disclosure form. *This authorization shall allow the Department of Public Health to request and receive information and assistance from any State or local governmental agency.* (Section 33(b) of the Act)

1) *A* health care *~~direct care~~ employer may initiate a fingerprint-based* criminal history records *check required by the Act* or this Part *for any of its employees* or volunteers to whom the Act and this Part apply*, but may not use this process to initiate background checks for residents* or for employees or volunteers not covered by the Act and this Part*. The results of any fingerprint-based* criminal history records *check* required by the Act and this Part *~~that is initiated with the Department as the requestor~~ shall be entered in the Health Care Worker Registry*. (Section 33(f) of the Act)

2) No educational entity or health care employer shall conduct a fingerprint-based criminal history records check for any purpose not authorized by the Act.

e) *An educational entity, other than a secondary school, conducting a* nursing assistant *~~nurse aide~~ training program shall ~~must~~ initiate a fingerprint-based*

criminal history records check required by the *Act* and this Part ~~*requested by the Department of Public Health*~~ *prior to entry of an individual into the training program.* (Section 33(c) of the Act)

f) *A health care employer who makes a conditional offer of employment to an applicant* who is not exempt under Section 955.130 ~~of this Part~~, *for a position as an employee, shall* ~~*must*~~ *initiate a fingerprint-based criminal history records check*~~*, requested by the Department of Public Health,*~~ *on the applicant, if such a background check has not been previously conducted.* A health care employer shall not use the fingerprint-based criminal history records check process provided in the Act and this Part to initiate background checks for applicants for employment positions to which the Act and this Part do not apply. (Section 33(d) of the Act)

g) *An educational entity or health care employer shall electronically submit to the Department of Public Health the student's, applicant's, or employee's social security number, demographics, disclosure and authorization information in a format prescribed by the Department of Public Health within 2 working days after the authorization is secured.* (Section 33 (e) of the Act)

h) *The student, applicant, or employee shall* ~~shall~~ go to a livescan vendor and *have his or her fingerprints collected electronically and transmitted to the Department of State Police within 10 working days* after signing the authorization and disclosure form. Each individual shall submit his or her fingerprints in an electronic manner prescribed by the Department of State Police. (Section 33(e) of the Act)

1) The student, applicant, or employee shall bring the portion of the livescan request form that is completed by the livescan vendor back to the educational entity or health care employer as proof that his or her fingerprints have been collected. The educational entity or health care employer shall provide the transaction control number, obtained from this portion of the livescan request form, whenever any follow-up inquiries are made about the progress of the background check being processed.

2) If the fingerprints are rejected by the Department of State Police, the student, applicant, or employee shall go to a livescan vendor and have his or her fingerprints collected electronically a second time.

3) If the fingerprints are rejected by the Department of State Police a second time, the educational entity or health care employer shall conduct a complete name-based UCIA criminal history records check through the Department of State Police and mail a copy of the results of the background check to the Department within 10 working days after receipt. The UCIA criminal history records check shall be requested as prescribed by the Department of State Police. The results of the UCIA criminal history records check shall have been issued by the Department of State Police no earlier than 31 days prior to hire. A UCIA name-based criminal history records check may be used only when there is proof that the individual's fingerprints have been rejected twice by the Department of State Police within the previous 12 months.

4) If the student, applicant, or employee does not go to a livescan vendor and have his or her fingerprints collected electronically within 10 working days, the individual shall be suspended from participating in a training program if a student, or suspended from working if an employee, until such time as proof is provided that the individual has had his or her fingerprints collected electronically from a livescan vendor.

5) If the student, applicant, or employee has not had his or her fingerprints collected electronically by a vendor within 30 days after being hired or beginning a training program, the employee shall be terminated or the student shall be dropped from the training program. The educational entity or health care employer shall withdraw the background check application from the Health Care Worker Registry.

i) *The educational entity or health care employer shall ~~must~~ transmit all necessary information and fees to the livescan vendor and Department of State Police within 10 working days after receipt of the authorization* for a criminal history records check. (Section 33(e) of the Act)

1) *Application fees shall include, but are not limited to, the amounts established by the Department of State Police to process a fingerprint-based criminal history records check* and the amount charged by the livescan vendor for collecting and transmitting the fingerprints.

2) Health care employers that are certified to participate in the Medicaid program are required to pay for certified nursing assistants' (CNA)

application fees. These fees shall be a direct pass-through on the cost report submitted by the employer to the Medicaid agency.

3) *Any student, applicant, or employee who is not a certified nursing assistant may be required to pay all related application fees.* (Section 45 of the Act)

j) *The results of the criminal history records checks shall be maintained by the Department of Public Health's Health Care Worker Registry* as long as the employee stays active on the Registry~~registry~~. (Section 33(e) of the Act)

k) *A health care employer*, other than one regulated under the Home Health, Home Services, and Home Nursing Agency Licensing Act, *or long-term care facility may conditionally employ an applicant for up to* three *months pending the results of a fingerprint-based criminal history records check* required by the Act and this Part~~*requested by the Department of Public Health*~~. During this time, the employee shall have adequate supervision, which is the type and frequency of supervision required to prevent abuse, neglect, or theft regarding patients, clients, or residents. A health care employer that is regulated under the Home Health, Home Services, and Home Nursing Agency Licensing Act shall not employ an applicant until it has received the results of a fingerprint-based criminal history records check required by the Act and this Part. (Section 33(l) of the Act)

l) *The livescan vendors may act as the designee for individuals, educational entities or health care employers in the collection of Department of State Police fees and deposit those fees into the State Police Services Fund.* (Section 33(b) of the Act)

m) *If the individual is not active on the Health Care Worker Registry, then the health care employer shall* ~~*must*~~ *initiate a fingerprint-based* criminal history record ~~*records*~~ *check* required by the Act and this Part~~*requested by the Department of Public Health*~~. (Section 33(g) of the Act)

n) *If the Department of State Police notifies the Department of Public Health that an employee has a new conviction of a disqualifying offense, based upon fingerprints that were previously submitted, then:*

1) *the Health Care Worker Registry shall notify the employee's last known employer of the offense* by sending an automatic e-mail to the health care employer;

2) *a record of the employee's disqualifying offense shall be entered on the Health Care Worker Registry; and*

3) *the individual shall no longer be eligible to work as an employee unless he or she obtains a waiver pursuant to* this Part. (Section 33(h) of the Act)

o) The Health Care Worker Registry will indicate only those criminal convictions that are disqualifying under the Act. Nothing in this Part shall prohibit the health care employer from developing policies concerning employment of individuals whose criminal history records checks indicate convictions for offenses that are not disqualifying.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 955.170 Non-Fingerprint-Based UCIA Criminal History Records Check (Repealed)

~~This Section applies to health care employers and educational entities that have not yet been brought into the Department's fingerprint process.~~

~~a) A health care employer who makes a conditional offer of employment to an applicant who is not exempt under Section 955.130 of this Part shall check the Health Care Worker Registry for the date of the applicant's last UCIA criminal history records check. If more than 12 months have passed since the records check, the health care employer shall initiate or have initiated on its behalf a UCIA criminal history records check for that applicant.~~

~~b) An educational entity, other than a secondary school, conducting a nurse aide training program must initiate a UCIA criminal history records check prior to entry of an individual into the training program.~~

~~c) The health care employer or educational entity shall transmit all necessary information and fees to the Department State Police within 10 working days after receipt of the authorization for a UCIA criminal history records check.~~

~~d) The health care employer may accept the results of an authentic UCIA criminal history records check that has been conducted within the last 12 months rather than initiating a check as required in subsection (a) of this Section.~~

~~e) The request for a UCIA criminal history records check shall be made as prescribed by the Department of State Police.~~

~~f) A health care employer may conditionally employ an employee for up to three months pending the results of a UCIA criminal history records check.~~

~~g) The health care employer shall inform the applicant or employee of his or her right to obtain a copy of the criminal records report from the health care employer, challenge the accuracy of the report, and request a waiver in accordance with this Part.~~

~~h) The health care employer shall send a copy of the results of the UCIA criminal history records check for any employee to the Health Care Worker Registry.~~

~~i) The health care employer shall develop policies concerning employment of individuals whose criminal history records checks indicate convictions for offenses that are not disqualifying.~~

~~j) If a student, applicant, or employee challenges the results of the non-fingerprint-based UCIA criminal history records check or if a non-fingerprint-based UCIA criminal history records check does not identify the individual's criminal history records due to multiple common names, a fingerprint-based UCIA criminal history records check shall be conducted.~~

~~k) The fingerprint-based UCIA criminal history records check will not be accepted for a waiver application after implementation of the process of initiating a fingerprint-based criminal history records check through the web application.~~

(Source: Repealed at 43 Ill. Reg. _____, effective _____)

Section 955.190 Notification to Student, Applicant, or Employee

a) *The student, applicant, or employee shall ~~must~~ be notified of each of the following whenever a fingerprint-based criminal history records check is* requested pursuant to the Act and this Part:

1~~a~~) *That the educational entity, health care employer or long-term care facility shall initiate a fingerprint-based criminal history records check*

~~*requested by the Department of Public Health*~~ *of the student, applicant, or employee* *required by the Act* and ~~*pursuant to*~~ this Part. (Section 33(k) of the Act)

2~~b~~) That *a* health care ~~*direct care*~~ *employer may initiate a fingerprint-based background check* *required by the Act* and this Part ~~*requested by the Department of Public Health*~~ *for any of its employees. The results of any fingerprint-based background check that is initiated* pursuant to the Act and this Part ~~*with the Department as the requestor*~~ *shall be entered in the Health Care Worker Registry.* (Section 33(f) of the Act)

3~~c~~) *That the student, applicant or employee has a right to obtain a copy of the criminal records report that indicates a conviction for a disqualifying offense and challenge the accuracy and completeness of the report through an established Department of State Police procedure for Access and Review, and request a waiver* in accordance with this Part. (Section 33(k) of the Act)

4~~d~~) *That the applicant, if hired conditionally, may be terminated if the criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in* Section 955.160 ~~of this Part~~, unless a waiver is obtained pursuant to this Part. (Section 33 (k) of the Act)

5~~e~~) *That the applicant, if not hired conditionally, shall not be hired if the criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in* Section 955.160 ~~of this Part~~, unless a waiver is obtained pursuant to this Part. (Section 33 (k) of the Act)

6~~f~~) *That the employee shall be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in* Section 955.160 ~~of this Part~~, unless a waiver is obtained pursuant to this Part. (Section 33 (k) of the Act)

7~~g~~) That *if, after the employee has originally been determined not to have disqualifying offenses, the employer is notified that the employee has a new convictions of any of the criminal offenses* in Section 25 of the Act and Section 955.160 of this Part, *then the employee shall be terminated.*

The employee may seek to obtain a waiver pursuant to this Part. (Section 33(h) of the Act)

b) *The Department of Public Health or an entity responsible for inspecting, licensing, certifying, or registering the health care employer or long-term care facility shall be immune from liability for notices given based on the results of a fingerprint-based criminal history record check.* (Section 33(m) of the Act)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 955.260 Application for Waiver

a) *Any student, applicant, or employee listed on the Health Care Worker Registry may request a waiver of the prohibition against employment by*:

1) *Completing a waiver application on a form prescribed by the Department of Public Health*:

A) If the applicant has previously been employed, the applicant shall provide an entire work history or attach a complete resumé;

B) If the applicant has been convicted in another state, the applicant shall provide information concerning those convictions or attach the complete results of a criminal history records check from the other states;

C) If the applicant has a federal conviction, the applicant shall provide information concerning that conviction or attach the complete results of a criminal history records check from the Federal Bureau of Investigation; and

D) If the applicant has been certified as a nursing assistant ~~nurse aide~~ in another state, the applicant shall attach certificates or verifications;

2) *Providing a written explanation of each conviction, to include:*

A) *what happened;*

B) *how many years have passed since the offense;*

C) *the individuals involved;*

D) *the age of the applicant at the time of the offense; and*

E) *any other circumstances surrounding the offense* (Section 40(a) of the Act);

3) Providing proof of completion of a rehabilitation program, if the use of alcohol or other drugs was involved in the offense, and the individual was ordered to participate in a rehabilitation program as part of the judgment;

4) *Providing official documentation showing that all fines have been paid, if applicable,* except in the instance of payment of court-imposed fines or restitutions in which the applicant is adhering to a payment schedule, *and the date probation* (or mandatory supervised release) *or parole was satisfactorily completed, if applicable* (Section 40(a) of the Act); and

5) Submitting the results of a fingerprint-based criminal history records check.

b) *The applicant may, but is not required to, submit employment and character references and any other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents, patients, or clients.* (Section 40(b) of the Act)

c) A request for a waiver will automatically be denied unless the applicant has met the time periods in Section 955.270(d).

d) Each request for waiver consideration shall be accompanied by a fully completed waiver application. The waiver application will not be deemed complete until the Department has received all of the information required by this Section.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 955.270 Department Review of Waiver Application

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

a) The Department will consider an application for a waiver from individuals who have been convicted of committing or attempting to commit one or more of the offenses listed in Appendix C ~~of this Part~~ upon receipt of a complete application and~~-~~ the results of a fingerprint-based criminal history records check in accordance with Sections 955.115 and 955.165~~ of this Part~~.

b) An application for a waiver shall be denied unless the applicant meets the following requirements and submits documentation thereof with the waiver application:

1) Except in the instance of payment of court-imposed fines or restitutions in which the applicant is adhering to a payment schedule, the applicant shall have met all obligations to the court and under terms of parole (i.e., probation or mandatory supervised release has been successfully completed); and

2) The applicant shall have satisfactorily completed a drug and/or alcohol recovery program, if drugs and/or alcohol were involved in the offense and the individual was ordered to participate in a rehabilitation program as part of the judgment.

c) The Department may grant a waiver based on the following information provided by the applicant or employee and the results of the fingerprint-based criminal history records check:~~.~~

1) *The age of the applicant* or employee *at the time of the offense* (Section 40(a) of the Act)*;*

2) *A written explanation of each conviction to include what happened, how many years have passed since the offense, the individuals involved, and any other circumstances surrounding the offense* (Section 40(a) of the Act);

3) The applicant's work history;

4) The applicant or employee's criminal history since the disqualifying conviction, to include the results of the Illinois criminal history records report, convictions in other states, and federal convictions;

5) The applicant's record on another state's registry for nursing assistants, ~~nurse aides~~ if the applicant was certified as a nursing assistant ~~nurse aide~~ in another state;

6) The applicant's completion of rehabilitation if ordered as part of the judgment to participate in a rehabilitation program;

7) *Official documentation showing that all fines have been paid, if applicable*; if on a court-imposed payment schedule for fines or restitution, whether the applicant is adhering to a payment schedule; *the date probation* or mandatory supervised release *or parole was satisfactorily completed, if applicable*; and whether all terms of parole (i.e., conditional discharge, probation or mandatory supervised release) have been successfully completed (Section 40(a) of the Act);

8) *Employment and character references,* if the applicant submits references (Section 40(b) of the Act)*; and*

9) Any other *evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents, patients, or clients* (Section 40(b) of the Act), if submitted by the applicant, which may include, but is not limited to, the applicant's or employee's participation in anger management or domestic violence prevention programs.

d) Waivers will not be granted to individuals who have not met the following time frames.

1) Single disqualifying misdemeanor conviction – no earlier than one year after the conviction date;

2) Two to three disqualifying misdemeanor convictions – no earlier than three years after the most recent conviction date;

3) More than three disqualifying misdemeanor convictions – no earlier than five years after the most recent conviction date;

4) Single disqualifying felony convictions – no earlier than three years after the conviction date;

5) Two to three disqualifying felony convictions – no earlier than five years after the most recent conviction date;

6) More than three disqualifying felony convictions – no earlier than 10 ~~ten~~ years after the most recent conviction date.

e) Waivers will not be granted to individuals who have been convicted of committing or attempting to commit one or more of the offenses listed in Appendix A ~~of this Part~~.

f) The Department will *inform health care employers if a waiver is being sought by entering a record* notation *on the Health Care Worker Registry that a waiver is pending and must act upon the waiver request within 30 days* after *receipt of all necessary information* pursuant to Section 955.260 ~~of this Part~~. If a waiver is granted, denied, or revoked, that information will be entered on the Health Care Worker Registry. (Section 40 of the Act)

g) Appeal Process for Convictions Listed in Appendix A ~~of this Part~~:

1) An appeal process is available for individuals who have been denied a waiver because of a conviction for committing or attempting to commit one or more offenses listed in Appendix A ~~of this Part~~. All of the following must be provided for an appeal to be considered:

A) A letter appealing the denial of the waiver, in which the applicant states his or her reasons for requesting the appeal;

B) The original waiver application that was completed pursuant to Section 955.260 and any additional information provided when the waiver was denied;

C) A copy of the police report generated at the time of arrest for all disqualifying convictions listed in Section 955.160; and

D) A transcript of the trial or court proceedings for all disqualifying convictions listed in Section 955.160.

2) An appeal will be denied unless the applicant meets the following requirements and submits documentation with the appeal:

A) Except in the instance of payment of court-imposed fines or restitutions in which the applicant is adhering to a payment schedule, the applicant shall have met all obligations to the court and under terms of parole (i.e., probation or mandatory supervised release has been successfully completed) 10 or more years prior to the submission of the appeal;

B) The applicant shall have satisfactorily completed a drug and/or alcohol recovery program 10 or more years prior to the submission of the appeal, if drugs and/or alcohol were involved in the disqualifying offense and the individual was ordered to participate in a rehabilitation program as part of the judgment. The applicant shall not have been ordered to participate in another drug and/or alcohol program during the 10 years prior to the submission of the appeal for any offense.

3) The Director or designee will consider the information submitted with the appeal application and the results of a fingerprint-based criminal history records check to determine whether to grant a waiver as a result of an appeal. If the Director or designee determines that the applicant does not pose a threat to the health or safety of residents, patients, or clients, the Director will issue a waiver.

h) Waiver Revocation

1) The Department will automatically revoke a waiver if the waiver recipient is convicted of any additional disqualifying offense.

2) The Department will automatically revoke a waiver granted for a conviction of an offense listed in Appendix A ~~of this Part~~ if the waiver recipient is convicted of any additional crimes, other than a minor traffic violation, regardless of whether the offense is disqualifying.

i) *The entity responsible for inspecting, licensing, certifying, or registering the health care employer and the Department of Public Health shall be immune from*

liability for any waivers granted or not granted under this Section. (Section 40(e) of the Act)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 955.285 Livescan Vendor Authorization~~Vendors~~

a) Any ~~The~~ livescan vendor authorized to provide *livescan* non-criminal fingerprinting services pursuant to a standardized livescan *vendor authorization* contract issued by the Department shall determine a fee for collecting fingerprints and shall determine an area of the State in which to provide service. (Section 15 of the Act)

b) Any livescan vendor that *has 2 or more years of experience transmitting fingerprints electronically to the Department of State Police* and that meets the requirements of the Department's standardized livescan *vendor authorization* contract ~~meeting the requirements of this Section~~ may individually enter into a livescan *vendor authorization* ~~standardized~~ contract with the Department. A livescan vendor authorized ~~contracted~~ to provide livescan non-criminal fingerprinting services pursuant to a standardized livescan *vendor authorization* contract~~, in a format consistent with a fee applicant inquiry,~~ shall meet the following requirements, which shall be included in the terms and conditions of the standardized livescan *vendor authorization* contract:

1) The livescan vendor shall use only *equipment* that *has been certified by the Department of State Police to collect inkless fingerprints* and software that is up to date and meets the requirements of the Department of State Police for the electronic submission of fingerprints~~fee applicant submissions~~. (Section 15 of the Act)

A) The livescan vendor shall maintain backup equipment to provide scheduled fingerprinting in case of livescan equipment failure.

B) For any applicant to whom the vendor agrees to provide service, no applicant shall be forced to exceed the 10-day limit of having his or her fingerprints collected due to equipment failure or the livescan vendor's lack of availability.

2) For any applicant to whom the livescan vendor agrees to provide service, the livescan vendor shall provide fingerprinting within seven calendar days after a request. Fingerprinting shall be performed at a location within the county of the applicant's residence for counties with a population more than 100,000 and for small counties either within the county of the applicant's residence or within 35 miles of the facility providing the Livescan Request Form. For any facility to which the livescan vendor agrees to provide service, the vendor will make available special on-site fingerprinting sessions for groups of 20 or more. The livescan vendor shall provide a reasonable amount of weekend and after 5:00 p.m. hours.

3) The livescan vendor shall *electronically transmit the fingerprints and required data to the Department of State Police* through a secure network within one business day after the fingerprints are collected. ~~(Section 15 of the Act)~~ The fingerprint image and demographic data shall comply with all Electronic Fingerprint Submission Specifications (EFSS) of the Department of State Police ~~(http://www.isp.state.il.us/docs/9-054.pdf)~~ and all Electronic Fingerprint Transmission Specifications standards of the Federal Bureau of Investigation. (Section 15 of the Act) ~~http://www.fbi.gov/hq/cjisd/iafis/efts70/cover.htm~~

4) The livescan vendor shall collect demographic data from the applicant and *electronically transmit a daily* file of required data successfully to the Department of Public Health in a manner prescribed by the Department within one business day after the fingerprints are collected. ~~(Section 15 of the Act)~~ All data records from one business day shall be transmitted in one data file to the Department of Public Health in the prescribed format. (Section 15 of the Act)

A) The daily file shall contain demographic data, including, but not limited to, name, address, social security number, transaction control number (TCN), state and city.

B) The livescan vendor shall provide the Department with access to the electronic file transmitted to the Department of State Police.

C) The livescan vendor shall be responsible for all costs of fingerprint collection equipment, processing, transmission, and data storage. The Department is under no obligation to change any of its

processes to coordinate with the vendor's equipment. The livescan vendor shall conform to the Department's requirements for receiving data.

5) The livescan vendor shall archive (store, back up, retrieve, etc.) the fingerprints transmitted to the Department of State Police and the daily files transmitted to the Department in a secure manner for the contract period so that the Department, an individual, educational entity or health care employer can verify at a later date that a specific print or daily file was submitted or can resubmit the print or daily file. Upon expiration or termination of the contract, the livescan vendor shall provide the stored data to the Department in the format requested by the Department.

6) The livescan vendor shall respond to any follow-up inquiries and provide any reports required by the Department.

7) The livescan vendor shall *effectively demonstrate*, through a verification provided by the Department of State Police, *that the* livescan vendor's business entity *has 2 or more years of* successful *experience transmitting fingerprints electronically to the Department of State Police*. (Section 15 of the Act)

8) Only livescan technicians who have had a fingerprint-based criminal history records check and no disqualifying convictions as listed in Section 25 of the Act and Section 955.160 of this Part shall ~~may~~ collect fingerprints and transmit the data files electronically to the Department of State Police~~a vendor~~.

9) The livescan vendor shall provide a means for users (i.e., individuals, educational entities or health care employers) to pay the livescan vendor the amount due to the Department of State Police for livescan fingerprints submitted for criminal history records checks.

A) The livescan vendor shall act as designee for the user in paying fees into the State Police Services Fund. The livescan vendor shall maintain or provide a means of prepayment. Charges for the vendor's livescan services and the amount due to the Department of State Police shall be charged against this prepaid account. The livescan vendor shall provide either an on-line or a paper record of

account transactions to a user at least monthly. The livescan vendor shall determine the amount of prepaid balance to be kept in the account by the user, based upon the frequency of the user's charges against the account.

B) The livescan vendor may charge an additional amount to compensate for maintaining the accounts. The livescan vendor may refrain from transmitting any prints to the Department of State Police if the user's account does not have funds to pay for the prints being submitted. The livescan vendor shall notify the Department of State Police, the Department and the educational entity, staffing agency, or health care employer when a fingerprint transmission is retained because of lack of funds in the user's account.

C) The livescan vendor may deny a prepaid account to any user that is unable to maintain the account with fewer than 60 days past due until the user pays the balance due in the account. If the user becomes more than 60 days past due on a second occasion, the livescan vendor is not required to offer the service of providing a prepaid account to the user.

D) The livescan vendor shall promptly transmit funds due to the Department of State Police.

E) All costs associated with the ~~fee applicant~~ fingerprint-based criminal history records check, including fees charged by ~~through~~ the Department of State Police, shall be paid ~~either~~ by the applicants, the educational entities, or the health care employers~~facilities~~.

10) The livescan vendor shall require the student, applicant or employee to present current, valid government-issued photo identification or other valid identification. The livescan vendor shall screen all applicants at the time of fingerprinting to ensure that the applicant is being fingerprinted for the purpose intended. Only individuals presenting a Livescan Request Form generated from the Health Care Worker Registry's web application shall be allowed to be fingerprinted under the ~~Department's~~ process of initiating fingerprint-based criminal history records checks required by the

Act and this Part as a fee applicant inquiry. The livescan vendor shall complete the bottom portion of the Livescan Request Form and return it to the applicant to confirm that the applicant was successfully fingerprinted. The livescan vendor may charge an amount in addition to the rate of the livescan services to compensate for credit card fees.

11) Fingerprints shall be collected directly from the student's, applicant's or employee's hand, consisting of 10 rolled impressions and 10 slap impressions in a format consistent with the requirements of the Department of State Police for ~~to fee applicant~~ submission. The livescan vendor shall collect only livescan fingerprints, not card scan fingerprints.

12) If an individual's fingerprints are rejected by the Department of State Police, the livescan vendor shall collect a second set of fingerprints. The livescan vendor shall not charge for collecting the second set of fingerprints.

13) If a livescan ~~A~~ vendor ~~that~~ has a rejection rate from the Department of State Police of 2% or greater during any 12-month period, the Department may terminate the vendor authorization contract. The rejection rate shall be calculated by dividing the number of fingerprints submitted electronically to ISP that were of such poor quality that the fingerprints could not be processed by the total number of fingerprints submitted by the livescan vendor electronically to ISP. Upon termination of the vendor authorization contract, the livescan vendor shall not continue to collect fingerprints required by the Act and this Part~~for the Department's process of fee applicant criminal history records check inquiries~~.

14) If a livescan ~~A~~ vendor ~~that~~ has a rejection rate from the Department of Public Health of 5% or greater during any 12-month period, the Department may terminate the vendor authorization contract. Upon termination of the vendor authorization contract, the livescan vendor shall not continue to collect fingerprints required by the Act and this Part~~for the Department's process of fee applicant criminal history records check~~.

15) The livescan vendor shall provide a single point of contact for applicants or facilities to schedule fingerprinting (such as a toll free number, website, etc.).

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 955.290 Recovery of Back Pay

a) *A health care employer shall not be liable for the failure to hire or to retain an applicant or* health care *employee who has been convicted of committing or attempting to commit one or more of the offenses enumerated in the Act* or this Part. (Section 55 of the Act)

b) *If a health care worker is suspended from employment based on the results of a criminal background check conducted under the* ~~the~~ *Act* and this Part *and the results prompting the suspension are subsequently found to be inaccurate, the health care worker is entitled to recover back pay from his or her health care employer for the suspension period provided that the employer is the cause of the inaccuracy*. (Section 55 of the Act)

c) *No health care employer shall be chargeable for any benefit charges that result from the payment of unemployment benefits to any claimant when the claimant's separation from that employer occurred because the claimant's criminal background included an offense enumerated in the* Act or this Part, *or the claimant's separation from that health care employer occurred as a result of the claimant violating a policy that the employer was required to maintain pursuant to the Drug Free Workplace Act*. (Section 55 of the Act)

d) *The Department of Public Health is not liable for any hiring decisions, suspensions, or terminations.* (Section 55 of the Act)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 955.300 Health Care Worker Registry

a) The Department will establish and maintain a Health Care Worker Registry of unlicensed individuals and employees who:

1) Are *employed or retained by a health care employer as home health care aides, nurse aides*, nursing assistants, *personal care assistants, private duty nurse aides, day training personnel, or an individual working in any similar health-related occupation where he or she provides direct care* (e.g., resident attendants, child care/habilitation aides/developmental

disabilities aides, and psychiatric rehabilitation services aides), *or* in positions where they have *access to long-term care residents or the living quarters or financial, medical, or personal records of long-term care residents*; (Section 10 of the Act)

2) *Have satisfactorily completed the training required by Section 3-206 of the Nursing Home Care Act, Section 3-206 of the MC/DD Act, or Section 3-206 of the ID/DD Community Care Act*; (Section 26 of the Act) or

3) *Have begun a current course of training as set forth in Section 3-206 of the Nursing Home Care Act, Section 3-206 of the MC/DD Act, or Section 3-206 of the ID/DD Community Care Act*. (Section 26 of the Act)

b) *Any individual* or employee *placed on the Health Care Worker Registry is required to inform the Department of any change of address within 30 days after the effective date of the change of address*. (Section 26 of the Act)

c) *The Health Care Worker Registry will include the information contained in the registries established under Section 3-206.01 of the Nursing Home Care Act, Section 3-206.01 of the MC/DD Act, and Section 3-206.01 of the ID/DD Community Care Act*. (Section 26 of the Act)

d) The Health Care Worker Registry *will document criminal history records check results pursuant to the requirements of the Act* and this Part. (Section 28(c) of the Act)

e) *The Health Care Worker Registry maintained by the Department exclusive to health care employers* and educational entities *will clearly indicate whether an applicant or employee is eligible for employment and will include the following*:

1) *The individual's or* employee's *name*;

2) *His or her current address;*

3) *Social Security number*;

4) *The date and location of the training course completed by the individual* or employee; (Section 3-206.01(a-5) of the Nursing Home Care Act)

5) *Information identifying where an individual received his or her clinical training*; (Section 3-206 of the Nursing Home Care Act)

6) *Whether the individual* or employee *has any of the disqualifying convictions listed in Section 25 of the Act from the date of the* training course completed by the individual or employee;

7) *The date of the individual's* or employee's *last criminal records check*; (Section 3-206.01(a-5) of the Nursing Home Care Act)

8) Whether the individual or employee has any *findings as reported by the Inspector General* of the Department of Human Services, *under Section 1-17(s) of the Department of Human Services Act*; (Section 27(g) of the Act)

9) *Whether the individual* or employee *has a waiver pending under Section 40 of the Act* (Section 3-206.01(a-5)(1) of the Nursing Home Care Act), and *the following language:*

> *"A waiver granted by the Department of Public Health is a determination that the applicant or employee is eligible to work in a health care facility. The Equal Employment Opportunity Commission provides guidance about federal law regarding hiring of individuals with criminal records."* (Section 3-206.01(a-10) of the Nursing Home Care Act); *and*

10) *A link to Equal Employment Opportunity Commission guidance regarding hiring of individuals with criminal records*. (Section 3-206.01(a-5)(2) of the Nursing Home Care Act)

f) *The publicly accessible* version of the Health Care Worker *Registry* will:

1) *Report that an individual* or employee *is ineligible to work, if he or she has a disqualifying offense under Section 25 of the Act and has not received a waiver under Section 40 of the Act*;

2) *Report that an applicant or employee is eligible to work*, if he or she *has received a waiver for one or more disqualifying offenses under Section 40 of the Act and he or she is otherwise eligible to work.* The publically accessible Health Care Worker Registry *shall not report information*

regarding the granting or denial of *a waiver*; (Section 3-206.01(a-10) of the Nursing Home Care Act)

3) Include findings as reported by the Department *that an employee, or former employee, has been guilty of abuse or neglect of a resident or misappropriation of resident property or* whether the Department *has made any other applicable finding as set forth* in this Part, including the *employee's, or former employee's, statement relating to the finding or a clear and accurate summary of the statement*; (Section 27(f) of the Act) and

4) Include *findings as reported by the Inspector General of the Department of Human Services, under Section 1-17(s)* of the Department of Human Services Act. (Section 27(g) of the Act)

(Source: Added at 43 Ill. Reg. _____, effective _____)

Section 955.310 Department Findings of Abuse, Neglect, or Misappropriation of Property

a) Definitions. As used in this Section:

1) *"Abuse" means any physical or mental injury or sexual assault inflicted on a* client, patient, or *resident, other than by accidental means, in a* health care *facility*. (Section 1-103 of the Nursing Home Care Act and Section 27(a) of the Act)

2) *"Neglect" means a* health care *facility's failure to provide, or willful withholding of, adequate medical care, mental health treatment, psychiatric rehabilitation, personal care, or assistance with activities of daily living that is necessary to avoid physical harm, mental anguish, or mental illness of a* client, patient, or *resident.* (Section 1-117 of the Nursing Home Care Act and Section 27(a) of the Act)

3) *"Misappropriate property of a resident" means the deliberate misplacement, exploitation, or wrongful temporary or permanent use of a* client's, patient's, or *resident's belongings or money without the* client's, patient's, or *resident's consent*. (Section 1-116.5 of the Nursing Home Care Act and Section 27(a) of the Act)

b) *If the Department finds that an employee or former employee has abused or neglected a resident or misappropriated property of a resident*, or any other applicable finding, *then the Department shall notify the employee or individual of this finding by certified mail sent to the address contained in the Health Care Worker Registry*. (Section 27(a) of the Act) Notices and citations sent by certified mail that have been returned to the Department as unclaimed or refused by the addressee shall be considered served. The notice of the finding issued by the Department may assert any of the following:

1) *The employee, or former employee, has abused a resident.*

2) *The employee, or former employee, has neglected a resident.*

3) *The employee, or former employee, has misappropriated resident property.*

4) *The employee, or former employee, has been convicted of*:

A) *A felony;*

B) *A misdemeanor, an essential element of which is dishonesty; or*

C) *Any crime that is directly related to the duties of an employee, a nursing assistant, habilitation aide, or child care aide.* (Section 28(a) of the Act)

c) The *notice shall include a clear and concise statement of the grounds denoting abuse, neglect, theft, or other applicable finding*. (Section 28(a) of the Act) Additionally, the notice shall:

1) *Give the employee or individual an opportunity to contest the finding in a hearing before the Department or to submit a written response to the findings in lieu of requesting a hearing*; (Section 27(a) of the Act) and

2) Comply with 77 Ill. Adm. Code 100, Subpart B.

d) The employee shall have 30 days after the date of receipt of the notice to request a hearing. The employee shall submit a written request for a hearing to the Department at the address identified in the notice. A failure to request a hearing

by the employee within this timeframe shall constitute a waiver of the right to a hearing.

e) *The Department* has *the authority to hold hearings* on contested findings of abuse, neglect, misappropriation of property, or any other applicable finding.

1) Hearings *shall be conducted by the Director, or by an individual designated by the Director as hearing officer to conduct the hearing.* (Section 27(b) of the Act)

2) *The procedure governing hearings* conducted under this Section *shall be in accordance with* 77 Ill. Adm. Code 100, Subpart B. In the event of a conflict between 77 Ill. Adm. Code 100, Subpart B and this Part, this Part shall prevail. (Section 27(c) of the Act)

3) *A full and complete record shall be kept of all proceedings, including the notice of hearing, and all other documents in the nature of pleadings, written motions filed in the proceedings, and the report and orders of the Director or the Director's designee.* (Section 27(c) of the Act)

4) *The Department may issue subpoenas requiring the attendance and the giving of testimony by witnesses, and subpoenas duces tecum requiring the production of books, papers, records, or memoranda.*

A) *All subpoenas and subpoenas duces tecum issued under the Act* and this subsection (e)(4) *may be served by mail or by any person of legal age.*

B) *The fees of witnesses for attendance and travel shall be the same as the fees of witnesses before the courts of this State. The fees will be paid when the witness is excused from further attendance.*

C) *When the witness is subpoenaed at the instance of the Department, the fees will be paid in the same manner as other expenses of the Department.*

D) *When the witness is subpoenaed at the instance of any other party to any such proceeding, the Department may require that the cost of service of the subpoena or subpoena duces tecum and the fee of*

the witness be borne by the party at whose instance the witness is summoned.

E) *A subpoena or subpoena duces tecum issued pursuant to this* subsection (e)(4) *shall be served in the same manner as a subpoena issued by a circuit court.* (Section 27(d) of the Act)

5) *All testimony will be reported but need not be transcribed unless the decision is sought to be reviewed under* Article III of the Code of Civil Procedure. *A copy or copies of the transcript and record of the proceedings may be obtained by any interested party subsequent to payment to the Department of the cost of preparing the copy or copies.* (Section 27(c) of the Act)

6) *On the basis of a hearing, or upon default of the employee, the Director will make a determination specifying his or her findings and conclusions. A copy of the determination will be sent by certified mail, return receipt requested, or served personally upon the employee to the address last provided by the employee to the Department.* (Section 27(b) of the Act)

7) *All final administrative decisions of the Department under the Act* and this Part *are subject to judicial review under* Article III of the Code of Civil Procedure *and* 77 Ill. Adm. Code 100.17. *For purposes of this subsection* (e)(7), *"administrative decision" has the meaning provided in Section 3-101 of the Code of Civil Procedure.* (Section 27(c) of the Act)

f) *If, after a hearing, or if the employee or former employee does not* timely *request a hearing, the Department finds that the employee or former employee abused a resident, neglected a resident, or misappropriated resident property or makes any other applicable finding as set forth* in this Section, *the finding shall be* denoted on *the Health Care Worker Registry. If the employee chooses to make a statement, a clear and accurate summary* shall also be denoted on the Registry. (Section 27(e) of the Act)

(Source: Added at 43 Ill. Reg. _____, effective _____)

Section 955.320 Removal from Registry of a Department Finding of Neglect

An employee or former employee may petition the Department for removal from the Registry *of*

a finding by the Department *of neglect* by *completing* and submitting *an application for removal of the finding on a form prescribe*d by the Department. (Section 28(d) of the Act)

a) The employee or former employee shall provide on, or with, the application form information concerning:

1) His or her entire employment history;

2) The finding of neglect, including:

A) The facts and circumstances related to the finding;

B) The number of years since the finding of neglect was imposed;

C) The individuals who witnessed, investigated, or possessed pertinent information regarding the violation, or set forth employment decisions based on the finding; and

D) The age of the employee or former employee at the time of the offense.

3) Any and all criminal convictions, including:

A) The facts and circumstances related to the conviction;

B) The number of years since the conviction;

C) The individuals who witnessed, investigated, or possessed pertinent information regarding the conviction; and

D) Any other information surrounding the offense;

4) Employment and character references, if the employee or former employee submits references; and

5) Any other evidence demonstrating that the employee or former employee does not pose a threat to the health or safety of residents, patients or clients.

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b) The employee or former employee shall submit, with the application form, the results of a livescan fingerprint-based criminal history records check completed within the past 30 days.

c) An application for removal of a finding may be submitted after no less than one year from the date identified within the Final Order affirming the finding, and not more often than once in every 24 months.

d) *The Department will remove the finding of neglect* from the Health Care Worker Registry, *unless the Department determines that removal of the finding is not in the public interest.* That determination will be based upon an analysis of the information provided by the applicant in the application for removal of the finding, including, but not limited to, the nature and gravity of the finding and the sufficiency and credibility of the submitted information, as required by this Section, including the results of the fingerprint-based criminal history records check. (Section 28(d) of the Act)

(Source: Added at 43 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

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Section 955.APPENDIX A Offenses that Are Always Disqualifying Except Through the Appeal Process

Illinois Compiled Statutes Citation 720 ILCS:	Offense	Additional Offense Added Effective
~~[720 ILCS~~ 5/8-1.1~~]~~	Solicitation of Murder	1/1/98
~~[720 ILCS~~ 5/8-1.2~~]~~	Solicitation of Murder for Hire	1/1/98
~~[720 ILCS~~ 5/9-1~~]~~	First Degree Murder	7/1/95
~~[720 ILCS~~ 5/9-1.2~~]~~	Intentional Homicide of an Unborn Child	7/1/95
~~[720 ILCS~~ 5/9-2~~]~~	Second Degree Murder	7/1/95
~~[720 ILCS~~ 5/9-2.1~~]~~	Voluntary Manslaughter of an Unborn Child	7/1/95
~~[720 ILCS~~ 5/9-3~~]~~	Involuntary Manslaughter and Reckless Homicide	7/1/95
~~[720 ILCS~~ 5/9-3.1; 5/9-3.4~~]~~	Concealment of Homicidal Death	7/1/95 8/25/17
~~[720 ILCS~~ 5/9-3.2~~]~~	Involuntary Manslaughter and Reckless Homicide of an Unborn Child	7/1/95
~~[720 ILCS~~ 5/9-3.3~~]~~	Drug Induced Homicide	7/1/95
~~[720 ILCS~~ 5/10-1~~]~~	Kidnapping	7/1/95
~~[720 ILCS~~ 5/10-2~~]~~	Aggravated Kidnapping	7/1/95
~~[720 ILCS~~ 5/11-6~~]~~	Indecent Solicitation of a Child	1/1/98
~~[720 ILCS~~ 5/11-9.1~~]~~	Sexual Exploitation of a Child	1/1/98
5/11-9.1A; 150/5.1	Permitting Sexual Abuse of a Child	8/25/17
5/11-9.2	Custodial Sexual Misconduct	8/25/17
5/11-9.3	Presence of Sex Offender in School Zone	8/25/17
5/11-9.4-1	Presence of Sexual Predator or Sex Offender near Public Park	8/25/17
~~[720 ILCS~~ 5/11-9.5~~]~~	Sexual Misconduct with a Person with a Disability	7/24/06
~~[720 ILCS~~ 5/11-19.2~~]~~	Exploitation of a Child	1/1/98
~~[720 ILCS~~ 5/11-20.1~~]~~	Child Pornography	1/1/98

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

~~[720 ILCS~~ 5/12-3.3~~]~~	Aggravated Domestic Battery	1/1/04
5/12-3.05; ~~[720 ILCS~~ 5/12-4~~]~~	Aggravated Battery	1/1/98 7/1/95
~~[720 ILCS~~ 5/12-4.1~~]~~	Heinous Battery	1/1/98
~~[720 ILCS~~ 5/12-4.2~~]~~	Aggravated Battery with a Firearm	7/1/95
~~[720 ILCS~~ 5/12-4.2-5~~]~~	Aggravated Battery with a Machine Gun or a Firearm Equipped with Any Device or Attachment Designed or Used for Silencing the Report of a Firearm	1/1/04
~~[720 ILCS~~ 5/12-4.3~~]~~	Aggravated Battery of a Child	7/1/95
~~[720 ILCS~~ 5/12-4.4~~]~~	Aggravated Battery of an Unborn Child	7/1/95
5/12-4.4a(a)	Abuse or Neglect of a Long Term Care Facility Resident	8/25/17
5/12-4.4a(b)	Criminal Abuse or Neglect of an Elderly Person or a Person with a Disability	8/25/17
~~[720 ILCS~~ 5/12-4.6~~]~~	Aggravated Battery of a Senior Citizen	7/1/95
~~[720 ILCS~~ 5/12-4.7~~]~~	Drug Induced Infliction of Great Bodily Harm	7/1/95
5/11-1.20; ~~[720 ILCS~~ 5/12-13~~]~~	Criminal Sexual Assault	7/1/95
5/11-1.30; ~~[720 ILCS~~ 5/12-14~~]~~	Aggravated Criminal Sexual Assault	7/1/95
5/11-1.40; ~~[720 ILCS~~ 5/12-14.1~~]~~	Predatory Criminal Sexual Assault of a Child	7/1/95
5/11-1.50; ~~[720 ILCS~~ 5/12-15~~]~~	Criminal Sexual Abuse	7/1/95
5/11-1.60; ~~[720 ILCS~~ 5/12-16~~]~~	Aggravated Criminal Sexual Abuse	7/1/95
~~[720 ILCS [~~5/12-19~~]~~	Abuse and Criminal Neglect of a LTC Facility Resident	7/1/95
5/12-20.5	Dismembering a Human Body	8/25/17
~~[720 ILCS~~ 5/12-21~~]~~	Criminal Abuse or Neglect of an Elderly Person or Person with a Disability	7/1/95
~~[720 ILCS~~ 5/16-1.3; 5/17-56~~]~~	Financial Exploitation of an Elderly Person or a Person with a Disability	7/1/95

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~~[720 ILCS~~ 5/18-2~~]~~	Armed Robbery	7/1/95
~~[720 ILCS~~ 5/18-4~~]~~	Aggravated Vehicular Hijacking	1/1/98
5/18-1(b); ~~[720 ILCS~~ 5/18-5~~]~~	Aggravated Robbery	1/1/98
5/19-6	Home Invasion	8/25/17
5/20-1.1	Aggravated Arson	7/1/95
150/5.1	Permitting Sexual Abuse of a Child	1/1/04

(Source: Amended at 43 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Section 955.APPENDIX B Disqualifying Offenses that May Be Considered for a Rehabilitation Waiver

Illinois Compiled Statutes Citation	Offense	Additional Offense Added Effective
[720 ILCS 5/16-1]	Theft (as a misdemeanor)	7/1/95
[720 ILCS 5/16-2]	Theft of Lost or Mislaid Property	1/1/04
[720 ILCS 5/16A-3]	Retail Theft (as a misdemeanor)	7/1/95
[720 ILCS 5/19-4]	Criminal Trespass to Residence	7/1/95
[720 ILCS 5/24-1.5]	Reckless Discharge of a Firearm	1/1/98
[225 ILCS 65/10-5]	Practice of Nursing without a License	1/1/04
~~[720 ILCS 115/53]~~	~~Cruelty to Children~~	~~1/1/98~~
[720 ILCS 250/4]	Receiving Stolen Credit Card or Debit Card	1/1/04
[720 ILCS 250/5]	Receiving a Credit or Debit Card that He Knows to Have Been Lost with Intent to Use, Sell, or Transfer	1/1/04
[720 ILCS 250/6]	Selling a Credit Card or Debit Card, without the Consent of the Issuer	1/1/04
[720 ILCS 250/8]	Using a Credit or Debit Card with the Intent to Defraud	1/1/04
[720 ILCS 250/17.02]	Fraudulent Use of Electronic Transmission	1/1/04

(Source: Amended at 43 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

Section 955.APPENDIX C Disqualifying Offenses that May Be Considered for a Waiver by the Submission of a Waiver Application

Illinois Compiled Statutes Citation	Offense	Additional Offense Added ~~To Act~~ Effective
225 ILCS 65/50-50	Practice of Nursing without a License	8/25/17
510 ILCS 70/3.01(a)	Beating, Cruelly Treating, Tormenting, Starving, Overworking, or Abusing an Animal	8/25/17
510 ILCS 70/3.02	Aggravated Cruelty to a Companion Animal	
510 ILCS 70/3.03	Animal Torture	8/25/17
~~[~~720 ILCS 5/10-3~~]~~	Unlawful Restraint	7/1/95
~~[~~720 ILCS 5/10-3.1~~]~~	Aggravated Unlawful Restraint	7/1/95
~~[~~720 ILCS 5/10-4~~]~~	Forcible Detention	7/1/95
~~[~~720 ILCS 5/10-5~~]~~	Child Abduction	7/1/95
~~[~~720 ILCS 5/10-7~~]~~	Aiding and Abetting Child Abduction	7/1/95
~~[~~720 ILCS 5/12-1~~]~~	Assault	7/1/95
~~[~~720 ILCS 5/12-2~~]~~	Aggravated Assault	7/1/95
~~[~~720 ILCS 5/12-3~~]~~	Battery	7/1/95
~~[~~720 ILCS 5/12-3.1~~]~~	Battery of an Unborn Child	7/1/95
~~[~~720 ILCS 5/12-3.2~~]~~	Domestic Battery	7/1/95
~~[~~720 ILCS 5/12-4.5~~]~~	Tampering with Food, Drugs or Cosmetics	1/1/98
~~[~~720 ILCS 5/12-7.4~~]~~	Aggravated Stalking	1/1/98
~~[~~720 ILCS 5/12-11~~]~~	Home Invasion	1/1/98
~~[~~720 ILCS 5/12-21.6; 720 ILCS 5/12C-5~~]~~	Endangering the Life or Health of a Child	1/1/98 8/25/17
720 ILCS 5/12C-10	Child Abandonment	8/25/17
~~[~~720 ILCS 5/12-32~~]~~	Ritual Mutilation	1/1/98
~~[~~720 ILCS 5/12-33~~]~~	Ritual Abuse of a Child	1/1/98
~~[~~720 ILCS 5/16-1~~]~~	Theft	7/1/95

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~~[~~720 ILCS 5/16-2~~]~~	Theft of Lost or Mislaid Property	1/1/04
~~[~~720 ILCS 5/16A-3~~]~~	Retail Theft	7/1/95
~~[~~720 ILCS 5/16G-15; 720 ILCS 5/16-30~~]~~	Identity Theft	1/1/04 8/25/17
~~[~~720 ILCS 5/16G-20~~]~~	Aggravated Identity Theft	1/1/04
~~[~~720 ILCS 5/17-3~~]~~	Forgery	1/1/98
720 ILCS 5/17-32(b)	Possession of Another's Credit or Debit Card	8/25/17
720 ILCS 5/17-33	Possession of Lost or Mislaid Credit or Debit Card	8/25/17
720 ILCS 5/17-34	Sale of Credit or Debit Card	8/25/17
720 ILCS 5/17-36]	Use of Counterfeited, Forged, Expired, Revoked, or Unissued Credit or Debit Card	8/25/17
720 ILCS 5/17-44	Fraudulent Use of Electronic Transmission	8/25/17
~~[~~720 ILCS 5/18-1~~]~~	Robbery	7/1/95
~~[~~720 ILCS 5/18-3~~]~~	Vehicular Hijacking	1/1/98
~~[~~720 ILCS 5/19-1~~]~~	Burglary	1/1/98
~~[~~720 ILCS 5/19-3~~]~~	Residential Burglary	7/1/95
~~[~~720 ILCS 5/19-4~~]~~	Criminal Trespass to Residence	7/1/95
~~[~~720 ILCS 5/20-1~~]~~	Arson	7/1/95
~~[720 ILCS 5/20-1.1]~~	~~Aggravated Arson~~	
~~[~~720 ILCS 5/20-1.2~~]~~	Residential Arson	1/1/04
~~[~~720 ILCS 5/24-1~~]~~	Unlawful Use of Weapons ~~a Weapon~~	7/1/95
~~[~~720 ILCS 5/24-1.1~~]~~	Unlawful Use or Possession of Weapons by Felons or Persons in the Custody of the Department of Corrections Facilities	1/1/04
~~[~~720 ILCS 5/24-1.2~~]~~	Aggravated Discharge of a Firearm	7/1/95
~~[~~720 ILCS 5/24-1.2-5~~]~~	Aggravated Discharge of a Machine Gun or a Firearm Equipped with a Device Designed or Used for Silencing the Report of a Firearm	7/18/03
~~[~~720 ILCS 5/24-1.5~~]~~	Reckless Discharge of a Firearm	1/1/98
~~[~~720 ILCS 5/24-1.6~~]~~	Aggravated Unlawful Use of a Weapon	1/1/04
~~[~~720 ILCS 5/24-3.2~~]~~	Unlawful Discharge of Firearm Projectiles	1/1/04

[720 ILCS 5/24-3.3]	Unlawful Sale or Delivery of Firearms on the Premises of Any School	1/1/04
720 ILCS 5/24-3.3	Aggravated Possession of a Stolen Firearm	8/25/17
[720 ILCS 5/33A-2]	Armed Violence	1/1/98
[225 ILCS 65/10-5]	Practice of Nursing without a License	1/1/04
[720 ILCS 150/4]	Endangering Life or Health of a Child	1/1/98
~~[720 ILCS 150/5.1]~~	~~Permitting Sexual Abuse of a Child~~	~~1/1/04~~
[720 ILCS 115/53; 740 ILCS 55/4]	Cruelty to Children	1/1/98 8/25/17
[720 ILCS 250/4]	Receiving Stolen Credit Card or Debit Card	1/1/04
[720 ILCS 250/5]	Receiving a Credit or Debit Card with Intent to Use, Sell, or Transfer	1/1/04
[720 ILCS 250/6]	Selling a Credit Card or Debit Card, without the Consent of the Issuer	1/1/04
[720 ILCS 250/8]	Using a Credit or Debit Card with the Intent to Defraud	1/1/04
[720 ILCS 250/17.02]	Fraudulent Use of Electronic Transmission	1/1/04
[720 ILCS 550/5(c), (d), (e), (f), (g)]	Manufacture, Delivery, or Possession with Intent to Deliver, or Manufacture, Cannabis	8/25/17
[720 ILCS 550/5.1]	Cannabis Trafficking	7/1/95
[720 ILCS 550/5.2]	Delivery of Cannabis on School Grounds	1/1/98
[720 ILCS 550/7]	Delivering Cannabis to a Person under 18	1/1/98
[720 ILCS 550/9]	Calculated Criminal Cannabis Conspiracy	7/1/95
[720 ILCS 570/401]	Manufacture or Delivery, or Possession with Intent to Manufacture or Deliver, a Controlled Substance Other than Methamphetamine, a Counterfeit Substance, or a Controlled Substance Analog	7/1/95
[720 ILCS 570/401.1]	Controlled Substance Trafficking	7/1/95
[720 ILCS 570/404]	Distribution, Advertisement, or Possession with Intent to Manufacture or Distribute a Look-alike Substance	7/1/95
[720 ILCS 570/405]	Calculated Criminal Drug Conspiracy	7/1/95
[720 ILCS 570/405.1]	Criminal Drug Conspiracy	7/1/95

{720 ILCS 570/407}	Delivering a Controlled, Counterfeit or Look-alike Substance to a Person under 18	7/1/95
{720 ILCS 570/407.1}	Engaging or Employing Person under 18 to Deliver a Controlled, Counterfeit or Look-alike Substance	7/1/95
{720 ILCS 646}	Violations under the Methamphetamine Control and Community Protection Act	9/11/05

(Source: Amended at 43 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Retailers' Occupation Tax

2) Code Citation: 86 Ill. Adm. Code 130

3)

Section Numbers:	Proposed Actions:
130.120	Amendment
130.321	Amendment
130.350	Amendment
130.351	Amendment

4) Statutory Authority: 35 ILCS 120/12; 20 ILCS 2505/2505-795

5) A Complete Description of the Subjects and Issues Involved: 130.120, Nontaxable Transactions, to extend the exemption for coal and aggregate exploration, mining, off-highway hauling, processing, maintenance, and reclamation equipment until July 1, 2023, pursuant to PA 100-594 (see 86 Ill. Adm. Code 130.120(cc)) and to clarify that the exemption for fuel and petroleum products used or consumed on international flights existed prior to the enactment of Section 2-70 of the Retailers' Occupation Tax Act and will not sunset;

130.321, Fuel Used by Air Common Carriers in Flights Engaged in Foreign Trade or Engaged in Trade Between the United States and any of its possessions, to clarify that the exemption for fuel and petroleum products used or consumed on international flights existed prior to the enactment of Section 2-70 of the Retailers' Occupation Tax Act and will not sunset;

130.350, Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment, to extend the exemption for this type of equipment until July 1, 2023, pursuant to PA 100-594; and

130.351, Aggregate Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment, to extend the exemption for this type of equipment until July 1, 2023, pursuant to PA 100-594.

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

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

DEPARTMENT OF REVENUE

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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? Yes

Section Numbers:	Proposed Actions:	*Illinois Register* Citations:
130.101	Amendment	42 Ill. Reg. 5172; March 23, 2018
130.111	Amendment	42 Ill. Reg. 5172; March 23, 2018
130.310	Amendment	42 Ill. Reg. 5172; March 23, 2018
130.321	Amendment	42 Ill. Reg. 5172; March 23, 2018
130.325	Repealed	42 Ill. Reg. 5172; March 23, 2018
130.331	Repealed	42 Ill. Reg. 5172; March 23, 2018
130.332	Repealed	42 Ill. Reg. 5172; March 23, 2018
130.335	Amendment	42 Ill. Reg. 5172; March 23, 2018
130.341	Repealed	42 Ill. Reg. 5172; March 23, 2018
130.345	Repealed	42 Ill. Reg. 5172; March 23, 2018
130.415	Amendment	42 Ill. Reg. 5172; March 23, 2018
130.535	Amendment	42 Ill. Reg. 5172; March 23, 2018
130.551	Amendment	42 Ill. Reg. 5172; March 23, 2018
130.552	Amendment	42 Ill. Reg. 5172; March 23, 2018
130.701	Amendment	42 Ill. Reg. 5172; March 23, 2018
130.901	Amendment	42 Ill. Reg. 5172; March 23, 2018
130.905	Amendment	42 Ill. Reg. 5172; March 23, 2018
130.1951	Amendment	42 Ill. Reg. 5172; March 23, 2018
130.1952	Amendment	42 Ill. Reg. 5172; March 23, 2018
130.1954	Amendment	42 Ill. Reg. 5172; March 23, 2018
130.1980	Amendment	42 Ill. Reg. 5172; March 23, 2018
130.1990	Amendment	42 Ill. Reg. 5172; March 23, 2018
130.2000	Amendment	42 Ill. Reg. 5172; March 23, 2018
130.2005	Amendment	42 Ill. Reg. 5172; March 23, 2018
130.2011	Amendment	42 Ill. Reg. 5172; March 23, 2018
130.2012	Amendment	42 Ill. Reg. 5172; March 23, 2018
130.2020	Amendment	42 Ill. Reg. 5172; March 23, 2018
130.2035	Amendment	42 Ill. Reg. 5172; March 23, 2018
130.2060	Amendment	42 Ill. Reg. 5172; March 23, 2018
130.2095	Repealed	42 Ill. Reg. 5172; March 23, 2018
130.2135	Amendment	42 Ill. Reg. 5172; March 23, 2018
130. Illustration A	Amendment	42 Ill. Reg. 5172; March 23, 2018

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130.320	Amendment	42 Ill. Reg. 8404; May 25, 2018
130.330	Amendment	42 Ill. Reg. 8404; May 25, 2018
130.501	Amendment	42 Ill. Reg. 8404; May 25, 2018
130.701	Amendment	42 Ill. Reg. 8404; May 25, 2018

11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

Debra M. Boggess
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield IL 62794

217/782-2844

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Small businesses that purchase fuel and petroleum products used or consumed on international flights may be affected.

Also, small businesses that purchase coal and aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment used in coal and aggregate exploration who will be able to purchase those types of equipment until July 1, 2023 may be affected.

B) Reporting, bookkeeping or other procedures required for compliance: Basic bookkeeping and accounting procedures

C) Types of professional skills necessary for compliance: Simple bookkeeping and computer skills

14) Regulatory Agenda on which this rulemaking was summarized: July 2018

DEPARTMENT OF REVENUE

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

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 130
RETAILERS' OCCUPATION TAX

SUBPART A: NATURE OF TAX

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

SUBPART B: SALE AT RETAIL

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

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section
130.305 Farm Machinery and Equipment
130.310 Food, Soft Drinks and Candy
130.311 Drugs, Medicines, Medical Appliances and Grooming and Hygiene Products
130.315 Fuel Sold for Use in Vessels on Rivers Bordering Illinois
130.320 Gasohol, Majority Blended Ethanol, Biodiesel Blends, and 100% Biodiesel
130.321 Fuel Used by Air Common Carriers in Flights Engaged in Foreign Trade or Engaged in Trade Between the United States and any of its Possessions
130.325 Graphic Arts Machinery and Equipment Exemption
130.330 Manufacturing Machinery and Equipment

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130.331 Manufacturer's Purchase Credit
130.332 Automatic Vending Machines
130.335 Pollution Control Facilities and Low Sulfur Dioxide Emission Coal-Fueled Devices
130.340 Rolling Stock
130.341 Commercial Distribution Fee Sales Tax Exemption
130.345 Oil Field Exploration, Drilling and Production Equipment
130.350 Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment
130.351 Aggregate Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment

SUBPART D: GROSS RECEIPTS

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

SUBPART E: RETURNS

Section
130.501 Monthly Tax Returns – When Due – Contents
130.502 Quarterly Tax Returns
130.505 Returns and How to Prepare
130.510 Annual Tax Returns
130.515 First Return
130.520 Final Returns When Business is Discontinued
130.525 Who May Sign Returns
130.530 Returns Covering More Than One Location Under Same Registration – Separate

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Returns for Separately Registered Locations
130.535 Payment of the Tax, Including Quarter Monthly Payments in Certain Instances
130.540 Returns on a Transaction by Transaction Basis
130.545 Registrants Must File a Return for Every Return Period
130.550 Filing of Returns for Retailers by Suppliers Under Certain Circumstances
130.551 Prepayment of Retailers' Occupation Tax on Motor Fuel
130.552 Alcoholic Liquor Reporting
130.555 Vending Machine Information Returns
130.560 Verification of Returns

SUBPART F: INTERSTATE COMMERCE

Section
130.601 Preliminary Comments (Repealed)
130.605 Sales of Property Originating in Illinois; Questions of Interstate Commerce
130.610 Sales of Property Originating in Other States (Repealed)

SUBPART G: CERTIFICATE OF REGISTRATION

Section
130.701 General Information on Obtaining a Certificate of Registration
130.705 Procedure in Disputed Cases Involving Financial Responsibility Requirements
130.710 Procedure When Security Must be Forfeited
130.715 Sub-Certificates of Registration
130.720 Separate Registrations for Different Places of Business of Same Taxpayer Under Some Circumstances
130.725 Display
130.730 Replacement of Certificate
130.735 Certificate Not Transferable
130.740 Certificate Required For Mobile Vending Units
130.745 Revocation of Certificate

SUBPART H: BOOKS AND RECORDS

Section
130.801 General Requirements
130.805 What Records Constitute Minimum Requirement
130.810 Records Required to Support Deductions
130.815 Preservation and Retention of Records

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130.820 Preservation of Books During Pendency of Assessment Proceedings
130.825 Department Authorization to Destroy Records Sooner Than Would Otherwise be Permissible

SUBPART I: PENALTIES AND INTEREST

Section
130.901 Civil Penalties
130.905 Interest
130.910 Criminal Penalties

SUBPART J: BINDING OPINIONS

Section
130.1001 When Opinions from the Department are Binding

SUBPART K: SELLERS LOCATED ON, OR SHIPPING TO, FEDERAL AREAS

Section
130.1101 Definition of Federal Area
130.1105 When Deliveries on Federal Areas Are Taxable
130.1110 No Distinction Between Deliveries on Federal Areas and Illinois Deliveries Outside Federal Areas

SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

Section
130.1201 General Information
130.1205 Due Date that Falls on Saturday, Sunday or a Holiday

SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

Section
130.1301 When Lessee of Premises Must File Return for Leased Department
130.1305 When Lessor of Premises Should File Return for Business Operated on Leased Premises
130.1310 Meaning of "Lessor" and "Lessee" in this Regulation

SUBPART N: SALES FOR RESALE

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Section
130.1401 Seller's Responsibility to Determine the Character of the Sale at the Time of the Sale
130.1405 Seller's Responsibility to Obtain Certificates of Resale and Requirements for Certificates of Resale
130.1410 Requirements for Certificates of Resale (Repealed)
130.1415 Resale Number – When Required and How Obtained
130.1420 Blanket Certificate of Resale (Repealed)

SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section
130.1501 Claims for Credit – Limitations – Procedure
130.1505 Disposition of Credit Memoranda by Holders Thereof
130.1510 Refunds
130.1515 Interest

SUBPART P: PROCEDURE TO BE FOLLOWED UPON SELLING OUT OR DISCONTINUING BUSINESS

Section
130.1601 When Returns are Required After a Business is Discontinued
130.1605 When Returns Are Not Required After Discontinuation of a Business
130.1610 Cross Reference to Bulk Sales Regulation

SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

Section
130.1701 Bulk Sales: Notices of Sales of Business Assets

SUBPART R: POWER OF ATTORNEY

Section
130.1801 When Powers of Attorney May be Given
130.1805 Filing of Power of Attorney With Department
130.1810 Filing of Papers by Agent Under Power of Attorney

SUBPART S: SPECIFIC APPLICATIONS

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Section	
130.1901	Addition Agents to Plating Baths
130.1905	Agricultural Producers
130.1910	Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage Stamps and Like Articles
130.1915	Auctioneers and Agents
130.1920	Barbers and Beauty Shop Operators
130.1925	Blacksmiths
130.1930	Chiropodists, Osteopaths and Chiropractors
130.1934	Community Water Supply
130.1935	Computer Software
130.1940	Construction Contractors and Real Estate Developers
130.1945	Co-operative Associations
130.1946	Tangible Personal Property Used or Consumed in Graphic Arts Production within Enterprise Zones Located in a County of more than 4,000 Persons and less than 45,000 Persons
130.1947	Tangible Personal Property Used or Consumed in the Process of Manufacturing and Assembly within Enterprise Zones or by High Impact Businesses
130.1948	Tangible Personal Property Used or Consumed in the Operation of Pollution Control Facilities Located within Enterprises Zones
130.1949	Sales of Building Materials Incorporated into the South Suburban Airport
130.1950	Sales of Building Materials Incorporated into the Illiana Expressway
130.1951	Sales of Building Materials Incorporated into Real Estate within Enterprise Zones
130.1952	Sales of Building Materials to a High Impact Business
130.1953	Sales of Building Materials to be Incorporated into a Redevelopment Project Area within an Intermodal Terminal Facility Area
130.1954	Sales of Building Materials Incorporated into Real Estate within River Edge Redevelopment Zones
130.1955	Farm Chemicals
130.1956	Dentists
130.1960	Finance Companies and Other Lending Agencies – Installment Contracts – Bad Debts
130.1965	Florists and Nurserymen
130.1970	Hatcheries
130.1971	Sellers of Pets and the Like
130.1975	Operators of Games of Chance and Their Suppliers
130.1980	Optometrists and Opticians
130.1985	Pawnbrokers

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130.1990	Peddlers, Hawkers and Itinerant Vendors
130.1995	Personalizing Tangible Personal Property
130.2000	Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers
130.2004	Sales to Nonprofit Arts or Cultural Organizations
130.2005	Persons Engaged in Nonprofit Service Enterprises and in Similar Enterprises Operated As Businesses, and Suppliers of Such Persons
130.2006	Sales by Teacher-Sponsored Student Organizations
130.2007	Exemption Identification Numbers
130.2008	Sales by Nonprofit Service Enterprises
130.2009	Personal Property Purchased Through Certain Fundraising Events for the Benefit of Certain Schools
130.2010	Persons Who Rent or Lease the Use of Tangible Personal Property to Others
130.2011	Sales to Persons Who Lease Tangible Personal Property to Exempt Hospitals
130.2012	Sales to Persons Who Lease Tangible Personal Property to Governmental Bodies
130.2013	Persons in the Business of Both Renting and Selling Tangible Personal Property – Tax Liabilities, Credit
130.2015	Persons Who Repair or Otherwise Service Tangible Personal Property
130.2020	Physicians and Surgeons
130.2025	Picture-Framers
130.2030	Public Amusement Places
130.2035	Registered Pharmacists and Druggists
130.2040	Retailers of Clothing
130.2045	Retailers on Premises of the Illinois State Fair, County Fairs, Art Shows, Flea Markets and the Like
130.2050	Sales and Gifts By Employers to Employees
130.2055	Sales by Governmental Bodies
130.2060	Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products
130.2065	Sales of Automobiles for Use In Demonstration (Repealed)
130.2070	Sales of Containers, Wrapping and Packing Materials and Related Products
130.2075	Sales To Construction Contractors, Real Estate Developers and Speculative Builders
130.2076	Sales to Purchasers Performing Contracts with Governmental Bodies
130.2080	Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel
130.2085	Sales to or by Banks, Savings and Loan Associations and Credit Unions
130.2090	Sales to Railroad Companies
130.2095	Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles
130.2100	Sellers of Feeds and Breeding Livestock
130.2101	Sellers of Floor Coverings

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130.2105 Sellers of Newspapers, Magazines, Books, Sheet Music and Musical Recordings, and Their Suppliers; Transfer of Data Downloaded Electronically
130.2110 Sellers of Seeds and Fertilizer
130.2115 Sellers of Machinery, Tools and Special Order Items
130.2120 Suppliers of Persons Engaged in Service Occupations and Professions
130.2125 Discount Coupons, Gift Situations, Trading Stamps, Automobile Rebates and Dealer Incentives
130.2130 Undertakers and Funeral Directors
130.2135 Vending Machines
130.2140 Vendors of Curtains, Slip Covers and Other Similar Items Made to Order
130.2145 Vendors of Meals
130.2150 Vendors of Memorial Stones and Monuments
130.2155 Tax Liability of Sign Vendors
130.2156 Vendors of Steam
130.2160 Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.
130.2165 Veterinarians
130.2170 Warehousemen

SUBPART T: DIRECT PAYMENT PROGRAM

Section
130.2500 Direct Payment Program
130.2505 Qualifying Transactions, Non-transferability of Permit
130.2510 Permit Holder's Payment of Tax
130.2515 Application for Permit
130.2520 Qualification Process and Requirements
130.2525 Application Review
130.2530 Recordkeeping Requirements
130.2535 Revocation and Withdrawal

130.ILLUSTRATION A Examples of Tax Exemption Cards
130.ILLUSTRATION B Example of Notice of Revocation of Certificate of Registration
130.ILLUSTRATION C Food Flow Chart

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

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SOURCE: Adopted July l, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June l, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July l, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874,

effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 24 Ill. Reg. 18376, effective December 1, 2000; amended at 25 Ill. Reg. 941, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1792, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 4674, effective March 15, 2001; amended at 25 Ill. Reg. 4950, effective March 19, 2001; amended at 25 Ill. Reg. 5398, effective April 2, 2001; amended at 25 Ill. Reg. 6515, effective May 3, 2001; expedited correction at 25 Ill. Reg. 15681, effective May 3, 2001; amended at 25 Ill. Reg. 6713, effective May 9, 2001; amended at 25 Ill. Reg. 7264, effective May 25, 2001; amended at 25 Ill. Reg. 10917, effective August 13, 2001; amended at 25 Ill. Reg. 12841, effective October 1, 2001; amended at 26 Ill. Reg. 958, effective January 15, 2002; amended at 26 Ill. Reg. 1303, effective January 17, 2002; amended at 26 Ill. Reg. 3196, effective February 13, 2002; amended at 26 Ill. Reg. 5369, effective April 1, 2002; amended at 26 Ill. Reg. 5946, effective April 15, 2002; amended at 26 Ill. Reg. 8423, effective May 24, 2002; amended at 26 Ill. Reg. 9885, effective June 24, 2002; amended at 27 Ill. Reg. 795, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 11099, effective July 7, 2003, for a maximum of 150 days; emergency expired December 3, 2003; amended at 27 Ill. Reg. 17216, effective November 3, 2003; emergency amendment at 27 Ill. Reg. 18911, effective November 26, 2003, for a maximum of 150 days; emergency expired April 23, 2004; amended at 28 Ill. Reg. 9121, effective June 18, 2004; amended at 28 Ill. Reg. 11268, effective July 21, 2004; emergency amendment at 28 Ill. Reg. 15193, effective November 3, 2004, for a maximum of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 7004, effective April 26, 2005; amended at 31 Ill. Reg. 3574, effective February 16, 2007; amended at 31 Ill. Reg. 5621, effective March 23, 2007; amended at 31 Ill. Reg. 13004, effective August 21, 2007; amended at 31 Ill. Reg. 14091, effective September 21, 2007; amended at 32 Ill. Reg. 4226, effective March 6, 2008; emergency amendment at 32 Ill. Reg. 8785, effective May 29, 2008, for a maximum of 150 days; emergency expired October 25, 2008; amended at 32 Ill. Reg. 10207, effective June 24, 2008; amended at 32 Ill. Reg. 17228, effective October 15, 2008; amended at 32 Ill. Reg. 17519, effective October 24, 2008; amended at 32 Ill. Reg. 19128, effective December 1, 2008; amended at 33 Ill. Reg. 1762, effective January 13, 2009; amended at 33 Ill. Reg. 2345, effective January 23, 2009; amended at 33 Ill. Reg. 3999, effective February 23, 2009; amended at 33 Ill. Reg. 15781, effective October 27, 2009; amended at 33 Ill. Reg. 16711, effective November 20, 2009; amended at 34 Ill. Reg. 9405, effective June 23, 2010; amended at 34 Ill. Reg. 12935, effective August 19, 2010; amended at 35 Ill. Reg. 2169, effective January 24, 2011; amended at 36 Ill. Reg. 6662, effective April 12, 2012; amended at 38 Ill. Reg. 12909, effective June 9, 2014; amended at 38 Ill. Reg. 17060, effective July 25, 2014; amended at 38 Ill. Reg. 17421, effective July 31, 2014; amended at 38 Ill. Reg. 17756, effective August 6, 2014; amended at 38

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Ill. Reg. 19998, effective October 1, 2014; amended at 39 Ill. Reg. 1793, effective January 12, 2015; amended at 39 Ill. Reg. 12597, effective August 26, 2015; amended at 39 Ill. Reg. 14616, effective October 22, 2015; amended at 40 Ill. Reg. 6130, effective April 1, 2016; amended at 40 Ill. Reg. 13448, effective September 9, 2016; amended at 41 Ill. Reg. 10721, effective August 1, 2017; amended at 42 Ill. Reg. 2850, effective January 26, 2018; amended at 43 Ill. Reg. _____, effective _____.

SUBPART A: NATURE OF TAX

Section 130.120 Nontaxable Transactions

The tax does not apply to receipts from sales:

a) of intangible personal property, such as shares of stocks, bonds, evidences of interest in property, corporate or other franchises and evidences of debt. These types of sales fall outside the scope of the Retailers' Occupation Tax Act;

b) of real property, such as lands and buildings that are permanently attached to the land. These types of sales fall outside the scope of the Retailers' Occupation Tax Act;

c) of tangible personal property for purposes of resale in any form as tangible personal property, provided that the purchaser (except in the case of an out-of-State purchaser who will always resell and deliver the property to his customers outside Illinois) has an active registration number or active resale number from the Department and gives the number to the vendor in connection with certifying to the vendor that the sale to the purchaser is nontaxable on the ground of being a sale for resale (see Subparts B and N of this Part). This exemption existed prior to the enactment of Section 2-70 and will not sunset;

d) of personal services, where rendered as such (see various rules relating to particular service occupations); however, for information concerning the tax on persons engaged in the business of making sales of service, see the Regulations pertaining to the Service Occupation Tax Act (86 Ill. Adm. Code 140). These types of sales fall outside the scope of the Retailers' Occupation Tax Act;

e) that are within the protection of the Commerce Clause of the Constitution of the United States (see Subpart F of this Part). These types of sales fall outside the scope of the Retailers' Occupation Tax Act;

f) that are isolated or occasional (see Section 130.110 of this Subpart). This exemption existed prior to the enactment of Section 2-70 and will not sunset;

g) of newspapers and magazines (see Section 130.2105 of this Part). This exemption existed prior to the enactment of Section 2-70 and will not sunset;

h) that are made to any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes, or any not-for-profit corporation, society, association, foundation, institution or organization that has no compensated officers or employees and that is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under this subsection only if the limited liability company is organized and operated exclusively for educational purposes (see Section 130.2005 of this Part). This exemption existed prior to the enactment of Section 2-70 and will not sunset;

i) that are made to any governmental body (see Section 130.2080 of this Part). This exemption existed prior to the enactment of Section 2-70 and will not sunset;

j) of low sulfur dioxide emission coal-fueled devices. This exemption existed prior to the enactment of Section 2-70 and will not sunset [35 ILCS 120/1a-1] (see Section 130.355 of this Part);

k) *of fuel consumed or used in the operation of ships, barges or vessels that are used primarily in or for the transportation of property or the conveyance of persons for hire on rivers bordering on this State if the fuel is delivered by the seller to the purchaser's barge, ship or vessel while it is afloat upon that bordering river* [35 ILCS 120/2-5(24)] (see Section 130.315 of this Part). This exemption existed prior to the enactment of Section 2-70 and will not sunset;

l) of tangible personal property to interstate carriers for hire for use as rolling stock moving in interstate commerce (see Section 130.340 of this Part). This exemption existed prior to the enactment of Section 2-70 and will not sunset;

m) except as otherwise provided in Section 130.605(b)(1)(C), of a motor vehicle in this State to a nonresident even though the motor vehicle is delivered to the nonresident in this State, if the motor vehicle is not to be titled in this State, and if a drive-away permit is issued to the motor vehicle as provided in Section 3-603 of

the Illinois Vehicle Code [625 ILCS 5/3-603], or if the nonresident purchaser has vehicle registration plates to transfer to the motor vehicle upon returning to his home state (see Section 130.605). This exemption existed prior to the enactment of Section 2-70 and will not sunset;

n) until December 31, 2001, of merchandise in bulk when sold from a vending machine for 1¢; on and after January 1, 2002, of merchandise in bulk when sold from a vending machine for 50¢ or less (see 35 ILCS 120/1 and Section 130.2135 of this Part). These types of sales fall outside the scope of the Retailers' Occupation Tax Act;

o) of food and beverages by a person who is the recipient of a grant or contract under Title VII of the Older Americans Act of 1965 (42 USC 3021) and serves meals to participants in the Federal Nutrition Program for the Elderly in return for contributions established in amount by the individual participant pursuant to a schedule of suggested fees as provided for in the Federal Act. This exemption existed prior to the enactment of Section 2-70 and will not sunset;

p) of farm chemicals (see Section 130.1955 of this Part). This exemption existed prior to the enactment of Section 2-70 and will not sunset;

q) of manufacturing machinery and equipment that qualifies for exemption under provisions of Section 130.330 of this Part. This exemption existed prior to the enactment of Section 2-70 and will not sunset;

r) of services included in gross receipts for purposes of the Retailers' Occupation Tax and that are designated mandatory service charges by vendors of meals to the extent that the proceeds of the service charge are in fact turned over to the employees who would normally have received tips had the service charge policy not been introduced. Service charges that are used to fund or pay wages, labor costs, employee benefits or employer costs of doing business are taxable gross receipts. This exemption existed prior to the enactment of Section 2-70 and will not sunset;

s) *of any petroleum product, if the seller is prohibited by federal law from charging tax to the purchaser* [35 ILCS 120/2-5(16)].

1) For example, federal law prohibits sellers from charging tax to Amtrak when it purchases petroleum products. However, federal law does not

relieve the seller of Retailers' Occupation Tax liability in these transactions. For that reason, the exemption set out in this subsection is necessary to relieve the seller of Retailers' Occupation Tax liability when making sales of petroleum products to Amtrak.

2) The nontaxable transaction set out above is also applicable to local Retailers' Occupation Taxes imposed by municipalities, counties, the Regional Transportation Authority and Metro East Mass Transit District. This exemption existed prior to the enactment of Section 2-70 and will not sunset;

t) *of farm machinery and equipment, both new and used including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture, or state or federal agricultural programs, including individual replacement parts for the machinery and equipment and including machinery and equipment purchased for lease* [35 ILCS 120/2-5(2)] (see Section 130.305). This exemption is statutorily exempt from the sunset provisions of Section 2-70;

u) through June 30, 2003, and beginning again on September 1, 2004 *through August 30, 2014, of graphic arts machinery and equipment, including repair and replacement parts* [35 ILCS 120/2-5(4)] (see Section 130.325);

v) through August 31, 2007, and beginning again on January 11, 2008:

1) any *motor vehicle of the first division that is used for automobile renting, as defined in the Automobile Renting Occupation and Use Tax Act; or*

2) *a motor vehicle of the second division that is used for automobile renting, as defined in the Automobile Renting Occupation and Use Tax Act, and which:*

A) *is a self-contained motor vehicle designed or permanently converted to provide living quarters for recreational, camping, or travel use, with direct walk through access to the living quarters from the driver's seat;*

B) *is of the van configuration designed for the transportation of not less than 7 nor more than 16 passengers, as defined in Section 1-146 of the Illinois Vehicle Code; or*

C) beginning on January 1, 2014, *has a Gross Vehicle Weight Rating, as defined in Section 1-124.5 of the Illinois Vehicle Code, of 8,000 pounds or less* [35 ILCS 120/2-5(5)]. This exemption is statutorily exempt from the sunset provisions of Section 2-70*;*

w) *of personal property sold by a teacher-sponsored student organization affiliated with an elementary or secondary school located in Illinois* [35 ILCS 120/2-5(6)] (see Section 130.2006). This exemption existed prior to the enactment of Section 2-70 and will not sunset;

x) *of personal property sold to an Illinois county fair association* for use in conducting, operating or promoting the *county fair* [35 ILCS 120/2-5(8)]. This exemption existed prior to the enactment of Section 2-70 and will not sunset;

y) *of personal property sold to any not-for-profit arts or cultural organization that establishes that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code (26 USCA 501) and that is organized and operated for the presentation or support of arts or cultural programming, activities, or services. On and after July 1, 2001, the qualifying organizations listed* in this subsection (y) *must also be organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations* [35 ILCS 120/2-5(9)] (see Section 130.2004 of this Part). This exemption existed prior to the enactment of Section 2-70 and will not sunset;

z) *of personal property sold by a corporation, society, association, foundation, institution or organization that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise* [35 ILCS 120/2-5(10)] (see Section 130.2008). This exemption existed prior to the enactment of Section 2-70 and will not sunset;

aa) *of legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America or the government of any foreign country and bullion* [35 ILCS 120/2-5(18)], unless the items are transferred as jewelry and therefore subject to tax. This exemption existed prior to the enactment of Section 2-70 and will not sunset;

bb) *of photoprocessing machinery and equipment, including repair and replacement parts* [35 ILCS 120/2-5(20)] (see Section 130.2000). This exemption existed prior to the enactment of Section 2-70 and will not sunset;

cc) beginning July 1, 2003, *of coal and aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Motor Vehicle Code. The Department, however, will not approve any claims or refunds on or after August 16, 2013, for taxes due or paid during the period beginning July 1, 2003 through August 16, 2013.* This exemption will terminate by operation of the sunset provisions of Section 2-70 of the Retailers' Occupation Tax Act on August 15, 2018. Effective June 29, 2018, the exemption provided in this subsection (cc) is extended until July 1, 2023 [35 ILCS 120/2-5(21)] (see Sections 130.350 and 130.351);

dd) ~~until June 30, 2013,~~ *of fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers. Beginning July 1, 2013, the exemption applies to fuel and petroleum products sold to or used by an air carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight that is engaged in foreign trade or is engaged in trade between the United States and any of its possessions and that transports at least one individual or package for hire from the city of origination to the city of final destination on the same aircraft, without regard to a change in the flight number of that aircraft.* This exemption existed prior to the enactment of Section 2-70 of the Retailers' Occupation Tax Act and will not sunset.~~This exemption will terminate by operation of the sunset provisions of Section 2-70 of the Retailers' Occupation Tax Act on August 15, 2018~~ [35 ILCS 120/2-5(22)] (See~~see~~ Section 130.321.);

ee) *of semen used for artificial insemination of livestock for direct agricultural production*. [35 ILCS 120/2-5(26)] Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, the purchaser's signature and date of signing and a statement that the semen purchased will be used for artificial insemination of livestock for direct agricultural production. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit. This exemption existed prior to the enactment of the sunset provisions of Section 2-70 and will not sunset;

ff) *of a transaction in which the purchase order is received by a florist who is located outside Illinois, but who has a florist located in Illinois deliver the property to the purchaser or the purchaser's donee in Illinois* [35 ILCS 120/2-5(23)]. This exemption existed prior to the enactment of Section 2-70 and will not sunset;

gg) of *horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This exemption applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after January 1, 2008 for taxes paid during the period beginning May 30, 2000 and ending January 1, 2008* [35 ILCS 120/2-5(27)]. This exemption is statutorily exempt from the sunset provisions of Section 2-70;

hh) *effective January 1, 1996 through December 31, 2000, and on and after August 2, 2001, of computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act* [35 ILCS 120/2-5(36)] (see Section 130.2011). This exemption is statutorily exempt from the sunset provisions of Section 2-70;

ii) *effective January 1, 1996 through December 31, 2000, and on and after August 2, 2001, of personal property sold to a lessor who leases the property, under a lease*

of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act [35 ILCS 120/2-5(37)] (see Section 130.2012). This exemption is statutorily exempt from the sunset provisions of Section 2-70;

jj) *of tangible personal property sold to a common carrier by rail or motor that receives the physical possession of the property in Illinois and that transports the property, or shares with another common carrier in the transportation of the property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of the property to a destination outside Illinois, for use outside Illinois* [35 ILCS 120/2-5(17)]. This exemption existed prior to the enactment of Section 2-70 and will not sunset;

kk) Game Birds

1) beginning July 1, 1999 through August 15, 2011, of game or game birds purchased at:

A) a game breeding and hunting preserve area licensed by the Department of Natural Resources (see Section 3.27 of the Wildlife Code [520 ILCS 5/3.27]);

B) an exotic game hunting area licensed by the Department of Natural Resources (see Section 3.34 of the Wildlife Code [520 ILCS 5/3.34]); or

C) a hunting enclosure approved through rules adopted by the Department of Natural Resources;

2) beginning August 16, 2011, of *game or game birds sold at a "game breeding and hunting preserve area" as that term is used in the Wildlife Code*. This exemption is statutorily exempt from the sunset provisions of Section 2-70;

ll) *beginning January 1, 2000,* of *personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists*

primarily of volunteers and includes parents and teachers of the school children. This subsection (ll) *does not apply to fundraising events:*

1) *for the benefit of private home instruction; or*

2) *for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity* [35 ILCS 120/2-5(34)]. This exemption is statutorily exempt from the sunset provisions of Section 2-70;

mm) *of machinery or equipment used in the operation of a high impact service facility located within an enterprise zone established pursuant to the Illinois Enterprise Zone Act. "High impact service facility" means a facility used primarily for the sorting, handling and redistribution of mail, freight, cargo, or other parcels received from agents or employees of the handler or shipper for processing at a common location and redistribution to other employees or agents for delivery to an ultimate destination on an item-by-item basis, and which:*

1) *will make an investment in a business enterprise project of $100,000,000 or more;*

2) *will cause the creation of at least 750 to 1,000 jobs or more in an enterprise zone established pursuant to the Illinois Enterprise Zone Act; and*

3) *is certified by the Department of Commerce and Economic Opportunity as contractually obligated to meet the requirements specified in* subsection (mm)(1) and (2) *within the time period as specified by the certification. The certificate of eligibility for exemption shall be presented by the business enterprise to its supplier when making the initial purchase of machinery and equipment for which an exemption is granted by Section 1j of the Act, together with a certification by the business enterprise that such machinery and equipment is exempt from taxation under Section 1j of the Act and by indicating the exempt status of each subsequent purchase on the face of the purchase order* [35 ILCS 120/1i]. This exemption existed prior to the enactment of Section 2-70 and will not sunset;

nn) *beginning August 23, 2001 and through June 30, 2016, of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article 5 of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act, or a licensed facility as defined in the ID/DD Community Care Act* [210 ILCS 47]*, the MC/DD Act* [210 ILCS 46]*, or the Specialized Mental Health Rehabilitation Act of 2013* [210 ILCS 49]. [35 ILCS 120/2-5(35-5)];

oo) *beginning July 1, 2007, of an aircraft, as that term is defined in Section 3 of the Illinois Aeronautics Act, if all of the following conditions are met:*

1) *the aircraft leaves this State within 15 days after the later of either the final billing for the sale of the aircraft or the approval for return to service, completion of the maintenance record entry, and completion of the test flight and ground test for inspection, as required by 14 CFR 91.407;*

2) *the aircraft is not based or registered in this State after the sale of the aircraft; and*

3) *the seller retains documents as required by the Department.* [35 ILCS 120/2-5(25-7)] (See Section 130.605). This exemption is statutorily exempt from the sunset provisions of Section 2-70;

pp) *effective October 11, 2007, of tangible personal property sold to a public-facilities corporation, as described in 65 ILCS 5/11-65-10, for purposes of constructing or furnishing a municipal convention hall. If, before* October 11, 2007*, a municipality has incorporated a public-facilities corporation and the public-facilities corporation complies with the requirements set forth in Section 11-65-10, then this exemption applies to that public-facilities corporation.* [65 ILCS 5/11-65-10, 15 and 25 and 35 ILCS 120/2-5(41)]. This exemption is statutorily exempt from the sunset provisions of Section 2-70;

qq) *beginning January 1, 2008, of tangible personal property used in the construction or maintenance of certain community water supplies* [35 ILCS 120/2-5(39)]. This exemption is statutorily exempt from the sunset provisions of Section 2-70;

rr) Aircraft Maintenance

beginning January 1, 2010, of *materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft as part of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft. This exemption includes consumable supplies used in the modification, refurbishment, completion, replacement, repair, and maintenance of aircraft, but excludes any materials, parts, equipment, components, and consumable supplies used in the modification, replacement, repair, and maintenance of aircraft engines or power plants, whether such engines or power plants are installed or uninstalled upon any such aircraft. "Consumable supplies" include, but are not limited to, adhesive, tape, sandpaper, general purpose lubricants, cleaning solution, latex gloves, and protective films. This exemption applies only to the sale of qualifying tangible personal property to persons who modify, refurbish, complete, replace, or maintain an aircraft and who:*

1) *hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration;*

2) *have a Class IV Rating; and*

3) *conduct operations in accordance with 14 CFR 145 (Federal Aviation Regulations). The exemption does not include aircraft operated by a commercial air carrier providing scheduled passenger air service pursuant to authority issued under 14 CFR 121 or 129.* This exemption sunset on December 31, 2014 by operation of law pursuant to the sunset provisions of Section 2-70 [35 ILCS 120/2-5(40)];

ss) *effective July 12, 2006, of building materials to be incorporated into real estate within a River Edge Redevelopment Zone in accordance with the River Edge Redevelopment Zone Act by remodeling, rehabilitating, or new construction may deduct receipts from those sales when calculating the tax imposed by* the *Act* [35 ILCS 120/2-54] (see Section 130.1954). This exemption is statutorily exempt from the sunset provisions of Section 2-70;

tt) *of electricity delivered to customers by wire; natural or artificial gas that is delivered to customers through pipes, pipelines, or mains; and water that is delivered to customers through pipes, pipelines, or mains. These provisions are declaratory of existing law as to the meaning and scope of the Retailers' Occupation Tax Act* [35 ILCS 120/2]. These types of sales fall outside the scope of the Retailers' Occupation Tax Act;

uu) *effective on January 1, 2002 through June 30, 2016, tangible personal property purchased from an Illinois retailer by a taxpayer engaged in centralized purchasing activities in Illinois who will, upon receipt of the property in Illinois, temporarily store the property in Illinois for the purpose of subsequently transporting it outside this State for use or consumption thereafter solely outside this State or for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property to be transported outside this State and thereafter used or consumed solely outside this State* [35 ILCS 120/2-5(38)] (see 86 Ill. Adm. Code 150.310);

vv) *beginning January 1, 2017, of menstrual pads, tampons, and menstrual cups* [35 ILCS 120/2-5(42)]. This exemption will terminate by operation of the sunset provisions of Section 2-70 of the Retailers' Occupation Tax Act on August 18, 2021.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section 130.321 Fuel Used by Air Common Carriers in Flights Engaged in Foreign Trade or Engaged in Trade Between the United States and any of its Possessions

a) Until June 30, 2013, notwithstanding the fact that sales may be at retail, *fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers* is exempt from tax. (Section 2-5 of the Act).

b) Exemptions Beginning July 1, 2013

1) *Beginning July 1, 2013*, notwithstanding the fact that sales may be at retail, tax does not apply to *fuel and petroleum products sold to or used by an air carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight that:*

A) *is engaged in foreign trade or is engaged in trade between the United States and any of its possessions; and*

B) *transports at least one individual or package for hire from the city of origination to the city of final destination on the same aircraft, without regard to a change in the flight number of that aircraft* [35 ILCS 120/2-5].

2) This exemption existed prior to the enactment of Section 2-70 of the Retailers' Occupation Tax Act and will not sunset.~~This exemption will terminate by operation of the sunset provisions of Section 2-70 of the Act on August 16, 2018.~~

c) Until July 1, 2013, flights destined for a destination outside the United States include flights which originate in Illinois or have a stopover in Illinois and which may have intermediate stops at other locations in the United States prior to arriving at the destination outside the United States. Beginning July 1, 2013, subject to the provisions in subsection (b), all fuel loaded for such flights shall be considered to be exempt, notwithstanding the fact that a portion of the fuel will be consumed within the United States or any of its possessions. If a flight is loaded with exempt fuel for a flight engaged in foreign trade or trade between the United States and any of its possessions, but for some reason does not meet the provisions of subsection (b), the fuel will be taxable.

d) In general, exempt international fuel shall be treated in the same manner as bonded fuel with respect to the sale, accountability and eligibility of tax exemption.

e) Aviation fuel used as provided in this Section may be commingled with other jet fuel within the hydrant systems at qualifying airports. However, accurate records must be maintained with respect to the purchaser, gallonage of fuel loaded, flight number, aircraft tail number, ultimate foreign destination and intermediate stops. Beginning July 1, 2013, records must also contain information that indicates that

the flight was engaged in foreign trade or trade between the United States or any of its possessions and transported at least one individual or package for hire from the city of origination to the city of final destination on the same aircraft, without regard to a change in flight number of that aircraft.

f) EXAMPLES:
Aircraft A, Aircraft B, and Aircraft C are operated by an air common carrier.

1) Situation 1. A flight originates in the United States and its final destination is outside the United States. Aircraft A fuels up in Chicago, Illinois for a flight bound for Vancouver, Canada. En route to Vancouver, Aircraft A stops in Seattle, Washington. The flight from Chicago to Seattle is designated Flight No. 111 and the flight from Seattle to Vancouver is designated Flight No. 333. Although the flight numbers change, the aircraft does not change. Aircraft A transports at least one person or package for hire from Chicago to Vancouver.

Determination 1. Aircraft A is engaged in foreign trade within the meaning of Section 2-5 of the Act. Aircraft A's flight originates within the United States (Chicago) bound for a destination outside the United States (Vancouver), and Aircraft A transports for hire at least one person or package from Chicago to Vancouver. The intermediate stop in Seattle, en route to Vancouver, does not negate the exemption. Thus, the fuel loaded into the aircraft in Chicago is exempt from tax. The change in the flight number does not affect the determination of whether the aircraft is engaged in foreign trade as long as the aircraft remains the same and at least one person or package was transported for hire from Chicago to Vancouver.

2) Situation 2. A flight originates outside the United States and its final destination is inside the United States. Aircraft B flies from Cancun, Mexico to New York City, New York. En route to New York City, Aircraft B stops in Chicago, Illinois to refuel. The flight from Cancun to Chicago is designated Flight No. 555 and the flight from Chicago to New York City is designated Flight No. 777. Although the flight numbers change, the aircraft does not change. Aircraft B transports at least one person or package for hire from Cancun to New York City.

Determination 2. Aircraft B is engaged in foreign trade within the meaning of Section 2-5 of the Act. Aircraft B's flight originates outside of the United States (Cancun) bound for a destination within the United States (New York City), and Aircraft B transports for hire at least one person or package from Cancun to New York City. The stop in Chicago is an intermediate stop in the United States, en route to New York City. Thus, the fuel loaded into the aircraft in Chicago is exempt from tax. The change in the flight numbers does not affect the determination of whether the aircraft is engaged in foreign trade as long as the aircraft remains the same and at least one person or package is transported for hire from Cancun to New York City.

3) Situation 3. A flight originates within the United States and its final destination is within the United States. Aircraft C fuels up in Chicago, Illinois for a flight destined for Dallas, Texas. Aircraft C transports persons for hire from Chicago to Dallas, some of whom will transfer to Aircraft A for a flight from Dallas to Acapulco, Mexico.

Determination 3. Aircraft C is not engaged in foreign trade or in trade between the United States and any of its possessions within the meaning of Section 2-5 of the Act. Aircraft C did not transport at least one person or package for hire from a city of origination within the United States bound for a city of final destination outside the United States or any of its possessions, even though some of the passengers' final destinations were outside the United States. Aircraft C's flight is only between two cities within the United States (Chicago to Dallas). Thus, the fuel loaded into the aircraft in Chicago is not exempt from tax.

4) Situation 4. A flight originates in the United States and its destination is a city in a possession of the United States. Aircraft B fuels up in Chicago, Illinois for a flight to San Juan, Puerto Rico. En route to San Juan, Aircraft B makes a stop in Savannah, Georgia. The flight from Chicago to Savannah is designated Flight No. 1122 and the flight from Savannah to San Juan is designated Flight No. 708. Although the flight number changes, the aircraft does not. Aircraft B transports two persons from Chicago to San Juan on the same plane.

Determination 4. Aircraft B is engaged in foreign trade between the United States and one of its possessions within the meaning of Section 2-5

of the Act. Aircraft B's flight originates in Chicago bound for San Juan, and Aircraft B transports for hire at least one person or package from Chicago to San Juan. The stop in Savannah is an intermediate stop within the United States during a flight to San Juan. The change in the flight number does not affect the determination of whether the flight is engaged in foreign trade as long as the aircraft remains the same. Thus, the fuel loaded into the aircraft in Chicago is exempt from tax.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 130.350 Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment

a) General. The exemption provided in this Section terminated on June 30, 2003, pursuant to P.A. 93-24. P.A. 98-456, effective August 16, 2013, reinstated the coal exemption retroactive to July 1, 2003. The Department, however, will not approve any claims or refunds on or after August 16, 2013, for taxes due or paid during the period beginning July 1, 2003 through August 16, 2013. The exemption for coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment will terminate by operation of the sunset provisions of Section 2-70 of the Retailers' Occupation Tax Act on August 16, 2018. Pursuant to P.A. 100-0594, effective June 29, 2018, the exemption provided in this Section is extended until July 1, 2023. The exemption does not apply to motor vehicles required to be registered pursuant to the Illinois Vehicle Code [625 ILCS 5]. This exemption applies only to equipment used primarily in coal exploration, mining, off highway hauling, processing, maintenance and reclamation. Equipment used 50% or less in exploration, mining, off highway hauling, processing, maintenance and reclamation will not qualify for this exemption. Excluded from this exemption are motor vehicles required to be registered pursuant to the Illinois Vehicle Code. Special mobile equipment other than motor vehicles may qualify for the exemption if it is used primarily in coal exploration, mining, off highway hauling, processing, maintenance and reclamation. This exemption does not include supplies (such as chemicals, rust inhibitors and adhesives), coolants, lubricants, inert limestone, magnetite and other materials added to the coal washing medium, reclamation materials (such as seed, plants and limestone), items of personal apparel (such as gloves, shoes, hats, helmets, coveralls, masks, mask air filters, belts, harnesses or holsters) or fuel of any type.

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

b) Definitions

1) "Coal" means a mineral deposit or finished product comprised of combustible, carbon based plant fossil matter used as fuel.

2) "Coal Exploration" means the search for coal. Exploration includes, but is not limited to, geophysical exploration, excavating and drilling to locate coal deposits.

3) "Kits" means commercially-packaged sets of parts that are ordered from a manufacturer, inventoried and sold by a retailer as a single item. An example would be a "tire assembly" comprised of the rim, tire, foam filling and valve stem.

4) "Maintenance" means keeping coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment in a state of repair and efficiency.

5) "Mining" means the extraction of coal from the earth by underground and surface mining and includes the extraction of coal by the mine owner or operator.

6) "Off Highway Hauling" means carrying or transporting and would include transport of overburden, waste material, including gob from the processing facility for disposal, and coal from the coal seam to the processing facility by conveyors or unlicensed vehicles, and conveying coal from the beginning of the processing cycle through the last stage of coal production, which ends at the time the coal is stored.

7) "Processing" means preparation activities performed directly on the coal which are necessary for converting coal into a finished product so that it is ready for sale or the reprocessing of coal mine waste to extract and recycle coal from the waste by the mine owner, operator or a third party contractor or successor. Processing includes, but is not limited to, sizing, crushing, drying and washing.

8) "Reclamation" means conditioning areas affected by mining operations. Examples of reclamation activities include, but are not limited to, backfilling, grading, seeding and planting.

9) "Replacement Parts" means parts that are used to replace parts of qualifying equipment and that require periodic replacement. To be considered a replacement part, the part must be purchased for the purpose of being installed and must, in fact, become a physical component part of coal exploration, mining, off highway hauling, processing, maintenance or reclamation equipment.

10) "Used primarily" means equipment that is used more than 50% of the time in coal exploration, mining, off highway hauling, processing, maintenance and reclamation.

c) Exempt Activities
By way of illustration and not limitation, the following activities will be considered to constitute coal exploration, mining, off highway hauling, processing, maintenance and reclamation:

1) Coal is produced in a surface mining operation that begins with locating the coal deposit to be mined, clearing of surface obstacles and overburden from the land above the coal deposit to be mined, continues with the removal of waste material and with the extraction of the coal, continues with the transportation from the coal seam to the processing facility, continues further with the refilling and grading of the mined area with overburden and waste material from a subsequently mined area, continues further with the processing of the coal, and ends with the stockpiling of the coal to allow moisture to drain and evaporate from the washed coal. By way of illustration and not limitation, the following equipment is exempt:

A) Geophysical surveying, excavating, dredging and drilling machinery and equipment used primarily to locate surface mine coal deposits (e.g., data logger transducer; photoionization detector; optical televiewer; acoustic televiewer; petrographic survey equipment; and inclinometer survey equipment).

B) Equipment used primarily to drill and load holes for blasting material to dislodge the overburden, blasting agents (such as ammonium nitrate and fuel oil or ANFO); equipment used primarily to ignite blasting agents, including, but not limited to,

high explosives, detonators, lead-in lines and blasting machines; and equipment used primarily to transport the blasting material.

C) Equipment used primarily to remove overburden and other waste materials from the pit to be mined.

D) Equipment used primarily to modify the energy purchased for the surface mining process if the equipment is used to modify the energy for use on exempt equipment (e.g., transformers, capacitors and other equipment used to reduce, increase, stabilize or otherwise control the amperage, voltage or frequency of the electric current and transmit the electrical current to coal mining and processing equipment).

E) Pumps and hoses used primarily to remove water or to divert water from the active pit area.

F) Equipment used primarily to load the overburden, waste material or coal to be transported to the processing facility into off highway haulage trucks or onto a conveyor system.

G) Equipment used primarily to extract coal from the earth.

H) Unlicensed off highway haulage trucks or a conveyor system to transport overburden, waste material or coal to the processing facility.

I) Equipment used primarily to backfill, grade, seed, plant or otherwise reclaim previously mined land.

J) Equipment used primarily in a coal wash plant to clean the coal prior to sale to customers. Equipment used primarily in the cleaning, sizing or grading of coal in a coal preparation plant may qualify as manufacturing machinery and equipment (see Section 130.330).

K) Equipment used primarily to blend different grades of coal together so that the final product meets customer specifications regarding quality and sulfur content.

L) Electrical cable that is part of an electrical distribution system supplying electricity to exempt equipment in the field (e.g., draglines and shovels that move and load overburden and shovels that load coal in the pit).

M) Computers and electrical control panels integral to and used primarily to operate exempt equipment used in coal exploration, mining, off highway hauling, processing, maintenance and reclamation.

N) Remote audio visual equipment integral to and used primarily in connection with coal exploration, mining, off highway hauling, processing, maintenance and reclamation.

O) Electric generators used primarily to power exempt coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment.

P) Communication equipment integral to and used primarily in production and operation activities in connection with coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment.

2) Coal is produced in an underground mining operation that begins with locating the coal deposit to be mined, continues with the boring of a shaft from the surface to the coal deposit to be mined, continues with the removal of waste material and the extraction of coal, continues further with the transportation from the coal seam to the processing facility, continues further with the installation of roof supports and the coating of walls with rock dust to prevent mine explosions and collapse, continues further with the processing of coal and disposal of waste material from the mine and processing facility, and ends with the stockpiling of coal to allow moisture to drain and evaporate from the washed coal. By way of illustration and not limitation, the following equipment is exempt:

A) Geophysical surveying, excavating and drilling machinery and equipment used primarily to locate underground mine coal deposits (e.g., data logger transducer; photoionization detector; optical

televiewer; acoustic televiewer; petrographic survey equipment; and inclinometer survey equipment).

B) Equipment used primarily to create access to the coal deposit (e.g., a rotary drill or a track drill), equipment used primarily to sever coal from the deposit (e.g., continuous miners and long wall mining equipment), and equipment used primarily to load coal onto conveyor belts, into trucks or other conveyances used to transport coal from the deposit to the processing operation (e.g., shuttle cars and battery powered haulers).

C) Shuttle cars used primarily to transport the coal from the point of severance to the feeder-breaker at the end of a conveyor belt or other transportation system.

D) The feeder-breaker which breaks the large lumps of coal and feeds the coal onto the conveyor belt which carries the coal outside the mine where it is temporarily stockpiled or transported to the processing facility.

E) Equipment used primarily to modify the energy purchased for the underground mining process if the equipment is used to modify the energy for use on exempt equipment, e.g., transformers, capacitors and other equipment used to reduce, increase, stabilize or otherwise control the amperage, voltage or frequency of the electrical current and transmit the electrical current to mining and processing equipment.

F) Pumps and hoses, piping and discharge apparatus used primarily in the movement or removal of water or to divert water from the underground mine area.

G) Equipment used primarily to install roof bolts, roof bolt supports and side rib bolt supports and in scaling (e.g., the removal of loose rock and slabs of rock) prior to roof bolting to prevent mine collapse.

H) Roof bolts and plates, side rib bolts and plates, and epoxy resin cartridges used primarily to secure roof bolts and side rib bolts installed to prevent mine collapse.

I) Equipment used primarily to coat mine walls with inert limestone as the coal is removed to prevent explosions caused by the escape of volatile materials.

J) Equipment installed as improvements to real estate in underground mining such as elevators, rail, ventilating and illuminating systems, including the foundations for that equipment as long as those foundations are located within the underground mine.

K) Equipment used primarily in the construction, reconstruction, alteration, remodeling, servicing, repairing, maintenance or improvement of underground mine structures. Materials, such as lumber, steel, concrete, rock and other building materials, qualify for the exemption only when used in underground mine structures, including use as roof support to prevent mine collapse.

L) Additions to exempt underground rail conveyors, ventilating and illumination systems due to the progression of mining.

M) Longwall equipment consisting of shields, shearers, face conveyors and equipment used primarily for recovery, handling and transportation of longwall equipment.

N) Machinery and equipment used primarily to transport coal to aboveground facilities.

O) Machinery and equipment used primarily to convey coal from the beginning of the processing cycle through the last stage of coal production.

P) Equipment used primarily in a coal wash plant to clean the coal prior to sale to customers. Equipment used primarily in the cleaning, sizing, or grading of coal in a coal preparation plant may qualify as manufacturing machinery and equipment (see Section 130.330).

Q) Equipment used primarily to blend different grades of coal together so that the final product meets customer specifications regarding quality and sulfur content.

R) Equipment, other than motor vehicles required to be registered pursuant to the Illinois Vehicle Code, used primarily to transport miners into and out of an underground mine (e.g., mantrips, utility vehicles, mobile equipment and scoops).

S) Electrical cable that is part of an electrical distribution system supplying electricity to exempt equipment at the mine site (e.g., draglines and shovels that move and load overburden and shovels that load coal in the pit).

T) Computers and electrical control panels integral to and used primarily to operate exempt equipment used in coal exploration, mining, off highway hauling, processing, maintenance and reclamation.

U) Remote audio visual equipment integral to and used primarily in connection with exempt coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment.

V) Electrical generators used primarily to power exempt coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment.

W) Communication equipment integral to and used primarily in production and operation activities in connection with exempt coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment.

3) By way of illustration and not limitation, the following maintenance equipment is exempt:

A) Unlicensed maintenance and welding trucks used primarily for field repair of exempt equipment.

B) Lathes, drill presses, air compressors and welders used primarily to build, modify or rework exempt repair parts or equipment.

C) Mobile and overhead cranes and manlifts used primarily in connection with exempt coal exploration, mining, off highway hauling, processing, maintenance and reclamation.

4) By way of illustration and not limitation, the following coal exploration equipment is exempt unless registered pursuant to the Illinois Vehicle Code:

A) Drill rigs used primarily to drill exploration core holes.

B) Water trucks used primarily in the drilling process.

C) Winch and casing trucks used primarily in the drilling process.

D) Field maintenance trucks used primarily to make repairs on exempt field equipment.

E) Air compressors used in connection with exempt coal exploration, mining, off highway hauling, processing, maintenance and reclamation.

d) Nonexempt Activities
By way of illustration and not limitation, the following activities will not be considered to constitute coal exploration, mining, off highway hauling, processing, maintenance and reclamation:

1) The use of equipment in the construction, reconstruction, alteration, remodeling, servicing, repairing, maintenance or improvement of real estate except for underground mine structures. Material, such as lumber, steel, concrete, rock and other building materials, will not qualify for the exemption except when used in underground mine structures, such as roof support to prevent mine collapse;

2) the use of equipment in research and development for new uses of coal;

3) the use of equipment, trailers, sheds or structures in management, sales or other nonproduction, nonoperational activities including production or extraction scheduling, purchasing, receiving, accounting, fiscal management, communications equipment (e.g., radios and phones), security, marketing, product exhibition and promotion, personnel recruitment, selection or training;

4) the use of equipment to prevent or fight fires or other mining hazards, protective supplies such as face masks, gas masks, helmets, gloves, coveralls, goggles, or first aid equipment and supplies, rescue chambers, self-rescuers, protective mine shelters or tracking devices (e.g., Global Positioning Systems or similar devices) even though such equipment and supplies may be required by law;

5) the use of equipment for general ventilation, heating, cooling, climate control or general illumination not specifically required for the exploration, mining, off highway hauling, processing, maintenance and reclamation operation;

6) the use of facilities for storing coal after extraction and processing;

7) the use of front-end loaders, cranes, equipment used to load coal onto trucks, railcars or barges for delivery to customers;

8) the use of concrete foundations and support structures for ventilation equipment used aboveground.

e) Sales to Lessors of Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment

1) For the exemption to apply, the purchaser need not, himself, employ the equipment in coal exploration, mining, off highway hauling, processing, maintenance and reclamation. If the purchaser leases the equipment to a lessee who uses it primarily in a qualified manner, the sale to the purchaser-lessor will be eligible for the exemption. A supplier may exclude these sales from taxable gross receipts if the purchaser-lessor provides the supplier with a properly completed certificate and the information contained in the certificate would support an exemption if the sale were made directly to the lessee.

2) Should a purchaser-lessor subsequently lease the equipment to a lessee who does not use it primarily in a way that would qualify for the exemption, the purchaser-lessor will become liable for the tax he or she previously did not pay.

f) Purchaser Certification
Certificates must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address and a statement that the property purchased will be used primarily for coal exploration, mining, off highway hauling, processing, maintenance and reclamation. If a purchaser can claim either the exemption under this Section or the Manufacturing Machinery and Equipment exemption, the purchaser must specify on the certificate which exemption the purchaser is claiming. Manufacturer's Purchase Credit can only be earned on purchases of qualifying Manufacturing Machinery and Equipment (see Sections 130.330 and 130.331). Purchasers claiming the exemption under this Section cannot earn Manufacturer's Purchase Credit. Sellers may accept blanket certificates, but have the responsibility to obtain and keep all certificates as part of their books and records. If a retailer accepts the certificate and the purchaser does not, in fact, use the equipment in a qualifying manner, the purchaser will be liable to the Department for the tax. Equipment that is initially used primarily in a qualifying manner and, having been so used for less than one-half of its useful life, is converted to nonqualified uses, will become subject to tax at the time of conversion. Replacement parts purchased initially for use in a qualifying manner and used in a nonqualifying use will become subject to tax at the time of use.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 130.351 Aggregate Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment

a) General. The exemption provided in this Section terminated on June 30, 2003, pursuant to P.A. 93-24. P.A. 98-456, effective August 16, 2013, reinstated the aggregate exemption retroactive to July 1, 2003. The Department, however, will not approve any claims or refunds on or after August 16, 2013, for taxes due or paid during the period beginning July 1, 2003 through August 16, 2013. The exemption for aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment will terminate by operation of the sunset provisions of Section 2-70 of the Retailers' Occupation Tax Act on August 16,

2018. Pursuant to P.A. 100-0594, effective June 29, 2018, the exemption provided in this Section is extended until July 1, 2023. Notwithstanding the fact that the sales may be at retail, the Retailers' Occupation Tax Act does not apply to sales of aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment used primarily for the exploration and mining of mineral deposits and for the manufacture of resultant aggregate products. The exemption also applies to individual replacement parts for exempt aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment. The exemption also applies to equipment and replacement parts purchased for lease if those items are used primarily in the activities noted in this subsection. The exemption does not apply to motor vehicles required to be registered pursuant to the Illinois Vehicle Code [625 ILCS 5]. This exemption applies only to equipment used primarily in aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation. Use of the equipment in any other exploration, mining, off highway hauling, processing, maintenance and reclamation will not qualify for this exemption. Excluded from this exemption are motor vehicles required to be registered pursuant to the Illinois Vehicle Code. Special mobile equipment other than motor vehicles may qualify for the exemption if it is used primarily in aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation. This exemption does not include supplies (such as chemicals, rust inhibitors, and adhesives), coolants, lubricants, reclamation materials (such as seed, plants and limestone), items of personal apparel (such as gloves, shoes, hats, helmets, coveralls, masks, mask air filters, belts, harnesses or holsters) or fuel of any type.

b) Definitions

1) "Aggregate" means any mineral deposit or finished product, including but not limited to sand, gravel, stone, clay, industrial minerals, composites or other mineral solids, except coal.

2) "Aggregate Exploration" means the search for aggregate. Exploration includes, but is not limited to, geophysical exploration, excavating, dredging, and drilling to locate aggregate deposits.

3) "Kits" means commercially-packaged sets of parts that are ordered from a manufacturer, inventoried and sold by a retailer as a single item. An

example would be a "tire assembly" comprised of the rim, tire, foam filling and valve stem.

4) "Maintenance" means keeping aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment in a state of repair and efficiency.

5) "Mining" means the extraction of aggregate from the earth by underground and surface mining and includes the extraction of aggregate by the mine owner or operator.

6) "Off Highway Hauling" means carrying or transporting and would include transport of overburden or waste material, including byproduct materials from the processing facility for disposal, transporting aggregates from the aggregate deposit to the processing facility by conveyors or unlicensed vehicles, and conveying aggregates from the beginning of the processing cycle through the last stage of aggregate production, which ends at the time the aggregate is ready for sale.

7) "Processing" means preparation activities performed directly on the aggregate that are necessary for converting aggregate into a finished product so that it is ready for sale or the reprocessing of aggregate fines to extract and recycle construction aggregates by the mine owner, operator, or third party contractor or successor. Processing includes, but is not limited to, sizing, crushing, drying and washing.

8) "Reclamation" means conditioning areas affected by mining operations. Examples of reclamation activities include, but are not limited to, backfilling, grading, seeding and planting.

9) "Replacement Parts" means parts that are used to replace parts of qualifying equipment that require periodic replacement. To be considered a replacement part, the part must be purchased for the purpose of being installed and must, in fact, become a physical component part of aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment.

10) "Used primarily" means that the equipment and replacement parts must be used more than 50% of the time in aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation.

c) Exempt Activities. By way of illustration and not limitation, the following activities will be considered to constitute aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation:

1) Aggregate is produced in a surface mining operation that begins with locating the aggregate deposit to be mined, clearing of surface obstacles and overburden from the land above the aggregate deposit to be mined, continues with the removal of waste material and with the extraction of the aggregate, continues with the transportation from the aggregate deposit to the processing facility, continues further with the refilling and grading of the mined area with overburden and waste material, continues further with the processing of the aggregate, and ends with the stockpiling of the aggregate. By way of illustration and not limitation, the following equipment is exempt:

A) Geophysical surveying, excavating, dredging and drilling machinery and equipment used primarily to locate surface mine aggregate deposits (e.g., data logger transducer; photoionization detector; optical televiewer; acoustic televiewer; petrographic survey equipment; and inclinometer survey equipment).

B) Equipment used primarily to remove overburden and other waste materials from the deposit to be mined.

C) Equipment used primarily to drill and load holes for blasting material used to fracture aggregate for extraction; blasting agents used primarily for surface aggregate mine blasting, including, but not limited to, ammonium nitrate and fuel oil or ANFO; equipment used primarily to ignite blasting agents, including, but not limited to, high explosives, detonators, lead-in lines and blasting machines; and equipment used primarily to transport the blasting material.

D) Equipment used primarily to modify the energy purchased for the surface mining process if the equipment is used to modify the

energy for use on exempt equipment (e.g., transformers, capacitors and other equipment used to reduce, increase, stabilize or otherwise control the amperage, voltage or frequency of the electric current and transmit the electrical current to aggregate surface mining and processing equipment).

E) Pumps, hoses, piping and discharge apparatus, used primarily in the movement or removal of water or to divert water from the active mine area.

F) Equipment used primarily to load the overburden, waste material or aggregate to be transported to the processing facility into off highway haulage trucks or onto a conveyor system.

G) Equipment used primarily to extract aggregate from the earth.

H) Unlicensed off highway haulage trucks or a conveyor system used primarily to transport overburden, waste material or aggregate to the processing facility.

I) Equipment used primarily to backfill, grade, seed, plant or otherwise reclaim previously mined land.

J) Crushing, screening and other equipment used primarily to beneficiate and size aggregate products.

K) Equipment used primarily in an aggregate wash plant to clean the aggregate prior to sale to customers.

L) Equipment used primarily to blend different grades of aggregate together so that the final product meets customer specifications.

M) Electrical cable that is part of an electrical distribution system supplying electricity to exempt equipment in the field (e.g., draglines and shovels that move and load overburden and shovels that load aggregate in the pit).

N) Computers and electrical control panels integral to and used primarily to operate exempt equipment used primarily in aggregate

exploration, mining, off highway hauling, processing, maintenance and reclamation.

O) Remote audio visual equipment integral to and used primarily in connection with exempt aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation.

P) Electrical generators used primarily to power exempt aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment.

Q) Communication equipment integral to and used primarily in production and operation activities in connection with exempt aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment.

2) Aggregate is produced in an underground mining operation that begins with locating the aggregate deposit to be mined, creating access from the surface to the aggregate deposit to be mined, continues further with the installation of roof supports, continues with the removal of waste material and the extraction of aggregate, continues further with the transportation from the aggregate deposit to the processing facility, continues further with the processing of aggregate and disposal of waste material from the mine and processing facility, and ends with the stockpiling of aggregate. By way of illustration and not limitation, the following equipment is exempt:

A) Geophysical surveying, excavating, and drilling machinery and equipment used primarily to locate underground mine aggregate deposits (e.g., data logger transducer; photoionization detector; optical televiewer; acoustic televiewer; petrographic survey equipment; and inclinometer survey equipment).

B) Equipment used primarily to create access to the aggregate deposit (e.g., drills, equipment to deliver blasting agents, excavators, loaders and tunnel boring equipment) and equipment used primarily to load aggregate on to conveyor belts, trucks or other conveyances used primarily to transport aggregate from the deposit to the processing operation (e.g., loaders).

C) Equipment used primarily to drill and load holes for blasting material used to fracture aggregate for extraction; blasting agents (such as ammonium nitrate and fuel oil or ANFO) used for underground aggregate mine blasting; equipment used primarily to ignite blasting agents, including, but not limited to, high explosives, detonators, lead-in lines and blasting machines; and equipment used primarily to transport the blasting material.

D) Equipment, other than motor vehicles required to be registered pursuant to the Illinois Vehicle Code, used primarily to transport miners into and out of an underground mine (e.g., mantrips, utility vehicles, mobile equipment and scoops).

E) Conveyor belts, trucks or other conveyances primarily used to transport aggregate from the deposit to the processing operation.

F) The feeder and crusher used primarily to break large pieces of aggregate.

G) Equipment used primarily to modify the energy purchased for the underground mining process if the equipment is used to modify the energy for use on exempt equipment (e.g., transformers, capacitors and other equipment used to reduce, increase, stabilize or otherwise control the amperage, voltage or frequency of the electric current and transmit the electrical current to aggregate underground mining and processing equipment).

H) Pumps, hoses, piping and discharge apparatus, used primarily in the movement or removal of water or to divert water from the underground mine area.

I) Equipment used primarily to install roof bolts, roof bolt supports and side rib bolt supports, and scaling prior to roof bolting, to prevent mine collapse.

J) Roof bolts and plates, side rib bolts and plates, and epoxy resin cartridges used primarily to secure roof bolts and side rib bolts installed to prevent mine collapse.

K) Equipment used primarily to coat mine walls with inert material for loose rock safety.

L) Equipment installed as improvements to real estate for mining, such as elevators and rail, ventilating and illuminating systems, including the foundations for that equipment as long as those foundations are located within the underground mine.

M) Additions to exempt underground rail conveyors and ventilating and illumination systems due to the progression of mining.

N) Crushing, screening and other equipment used primarily to beneficiate and size aggregate products.

O) Machinery and equipment used primarily to convey aggregates from the beginning of the processing cycle through the last stage of aggregate production, which ends at the time the aggregate is ready for sale.

P) Equipment used primarily in an aggregate wash plant to clean the aggregate prior to sale to customers.

Q) Equipment used primarily to blend different grades of aggregate together so that the final product meets customer specifications.

R) Electrical cable that is part of an electrical distribution system supplying electricity to exempt equipment in the field (e.g., draglines and shovels that move and load overburden and shovels that move and load aggregate in the pit).

S) Computers and electrical control panels integral to and used primarily to operate exempt equipment used in aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation.

T) Remote audiovisual equipment integral to and used primarily in connection with exempt aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation.

U) Electrical generators used primarily to power exempt aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment.

V) Communication equipment integral to and used primarily in production and operation activities in connection with exempt aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment.

3) By way of illustration and not limitation, the following maintenance equipment is exempt:

A) Unlicensed maintenance and welding trucks used primarily for field repair of exempt equipment.

B) Lathes, drill presses, air compressors and welders used primarily to build, modify or rework exempt repair parts or equipment.

C) Mobile and overhead cranes and manlifts used primarily in connection with exempt aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation.

D) Equipment used primarily for dust suppression.

E) Equipment and machinery used primarily to clean areas around off-highway conveying and processing machinery and equipment.

4) By way of illustration and not limitation, the following aggregate exploration equipment is exempt unless registered pursuant to the Illinois Vehicle Code:

A) Drill rigs used primarily to drill exploration core holes.

B) Water trucks used primarily in the drilling process.

C) Winch and casing trucks used primarily in the drilling process.

D) Field maintenance trucks used primarily to make repairs on exempt

field equipment.

E) Air compressors used primarily in connection with exempt aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation.

d) Nonexempt Activities
By way of illustration and not limitation, the following activities will not be considered to constitute aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation:

1) The use of equipment in the construction, reconstruction, alteration, remodeling, servicing, repairing, maintenance or improvement of real estate except for underground mine structures. Material, such as lumber, steel, concrete, rock and other building materials, will not qualify for the exemption except when used in underground mine structures, such as roof supports to prevent mine collapse;

2) the use of equipment in research and development for new uses of aggregate;

3) the use of equipment, trailers, sheds or structures in management, sales or other nonproduction, nonoperational activities including production of extraction scheduling, purchasing, receiving, accounting, fiscal management, communications equipment (e.g., radios and phones), security, marketing, product exhibition and promotion, and personnel recruitment, selection or training;

4) the use of equipment to prevent or fight fires or other mining hazards and protective supplies such as face masks, gas masks, helmets, gloves, coveralls, goggles, or first aid equipment and supplies, rescue chambers, self-rescuers, protective mine shelters or tracking devices (e.g., Global Positioning Systems or similar devices) even though such equipment and supplies may be required by law;

5) the use of equipment for general ventilation, heating, cooling, climate control or general illumination not specifically required for the exploration, mining, off highway hauling, processing, maintenance and reclamation operation;

6) the use of facilities for storing aggregate after extraction and processing;

7) the use of front-end loaders, cranes, conveyors and equipment used primarily to load aggregate onto trucks, railcars or barges for delivery to customers;

8) the use of concrete foundations and support structures for ventilation equipment used aboveground.

e) Sales to Lessors of Aggregate Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment

1) For the exemption to apply, the purchaser need not, himself or herself, employ the equipment in aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation. If the purchaser leases the equipment to a lessee who uses it primarily in a qualified manner, the sale to the purchaser-lessor will be eligible for the exemption. A supplier may exclude those sales from taxable gross receipts if the purchaser-lessor provides the supplier with a properly completed certificate and the information contained in the certificate would support an exemption if the sale were made directly to the lessee.

2) Should a purchaser-lessor subsequently lease the equipment to a lessee who does not use it primarily in a way that would qualify for the exemption, the purchaser-lessor will become liable for the tax that he or she previously did not pay. The tax will be assessed upon the fair market value of the equipment at the time of conversion.

f) Purchaser Certification

Certificates must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address and a statement that the property purchased will be used primarily for aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation. If a purchaser can claim either the exemption under this Section or the Manufacturing Machinery and Equipment exemption, the purchaser must specify on the certificate which exemption the purchaser is claiming. Manufacturer's Purchase Credit can only be earned on purchases of qualifying Manufacturing Machinery and Equipment (see 86 Ill. Adm. Code 130.330 and 130.331). Purchasers claiming the exemption

under this Section cannot earn Manufacturer's Purchase Credit. Sellers may accept blanket certificates, but have the responsibility to obtain and keep all certificates as part of their books and records. If a retailer accepts the certificate and the purchaser does not, in fact, use the equipment in a qualifying manner, the purchaser will be liable to the Department for the tax. Equipment that is initially used primarily in a qualifying manner and, having been so used for less than one-half of its useful life, is converted to nonqualified uses, will become subject to tax at the time of conversion. Replacement parts purchased initially for use in a qualifying manner and used in a nonqualifying use will become subject to tax at the time of use.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Public Schools Evaluation, Recognition and Supervision

2) Code Citation: 23 Ill. Adm. Code 1

3)

Section Numbers:	Proposed Actions:
1.30	Amendment
1.50	Amendment

4) Statutory Authority: 105 ILCS 5/2-3.64a-5

5) A Complete Description of the Subjects and Issues Involved: The proposed rules represent a holistic set of changes to the rules guiding assessment in response to a number of legislative changes. Numerous technical changes are being made to remove references to No Child Left Behind, update language to reflect the Every Student Succeeds Act, remove references to specific assessments, and align the effected Sections to current ISBE practices.

This rulemaking will remove the prohibition on promotion to grade 12 without having taken the grade 11 assessment. It adds guidelines for how a district may request a waiver of the requirement to take the State's final accountability assessment in order to graduate for a small number of students. School districts must provide ISBE with an explanation of why the student was unable to take the State accountability assessment, justification for granting the waiver, and evidence that granting the waiver does not represent systemic exclusion of students from accountability. Schools are limited to waiving 1 percent of the graduating class without providing additional evidence that granting the waiver does not contribute to systemic exclusion of groups of students from accountability.

Additionally, this rulemaking will allow ISBE to identify schools to participate in studies and pilot programs more frequently than once every four years as needed to ensure sufficient sample size. It clarifies that students with an Individualized Education Program (IEP) who receive an alternative diploma must take the State's accountability assessment during the years of compulsory attendance; however, a student can be exempted after he/she takes the State's final accountability assessment.

Finally, PA 100-465 created the Invest in Kids Scholarship Program. Students who receive scholarships to attend nonpublic schools are required by PA 100-465 to take the State's accountability assessment. This rulemaking adds language clarifying that these students are required to take the State's accountability assessment.

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

7) Will this rulemaking replace any emergency rule 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? Yes

Section Numbers:	Proposed Actions:	*Illinois Register* Citations:
1.530	Amendment	42 Ill. Reg. 3871; March 2, 2018
1.760	Amendment	42 Ill. Reg. 3871; March 2, 2018
1.Appendix D	Amendment	42 Ill. Reg. 9177; June 8, 2018

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

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days of the publication of this Notice to:

Cara Wiley
Director of Regulatory Support and Wellness
Illinois State Board of Education
100 North First Street, E-222
Springfield IL 62777-0001

217/782-5270
rules@isbe.net

13) Initial Regulatory Flexibility Analysis:

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

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

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C) Types of professional skills necessary for compliance: None

14) This rulemaking was not included on the most recent Regulatory Agenda: July 2018

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER a: PUBLIC SCHOOL RECOGNITION

PART 1
PUBLIC SCHOOLS EVALUATION, RECOGNITION AND SUPERVISION

SUBPART A: RECOGNITION REQUIREMENTS

Section
1.10 Public School Accountability Framework
1.20 Operational Requirements
1.30 State Assessment
1.40 Adequate Yearly Progress
1.50 Calculation of Participation Rate
1.60 Subgroups of Students; Inclusion of Relevant Scores
1.70 Additional Indicators for Adequate Yearly Progress
1.75 Student Information System
1.77 Educator Licensure Information System (ELIS)
1.79 School Report Card
1.80 Academic Early Warning and Watch Status
1.85 School and District Improvement Plans; Restructuring Plans
1.88 Additional Accountability Requirements for Districts Serving Students of Limited English Proficiency under Title III
1.90 System of Rewards and Recognition − The Illinois Honor Roll
1.95 Appeals Procedure
1.97 Survey of Learning Conditions
1.100 Waiver and Modification of State Board Rules and School Code Mandates
1.110 Appeal Process under Section 22-60 of the School Code

SUBPART B: SCHOOL GOVERNANCE

Section
1.210 Approval of Providers of Training for School Board Members under Section 10-16a of the School Code
1.220 Duties of Superintendent (Repealed)
1.230 Board of Education and the School Code (Repealed)
1.240 Equal Opportunities for all Students

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NOTICE OF PROPOSED AMENDMENTS

1.242 Temporary Exclusion for Failure to Meet Minimum Academic or Attendance Standards
1.245 Waiver of School Fees
1.250 District to Comply with 23 Ill. Adm. Code 180 (Repealed)
1.260 Commemorative Holidays to be Observed by Public Schools (Repealed)
1.270 Book and Material Selection (Repealed)
1.280 Discipline
1.285 Requirements for the Use of Isolated Time Out and Physical Restraint
1.290 Absenteeism and Truancy Policies

SUBPART C: SCHOOL DISTRICT ADMINISTRATION

Section
1.310 Administrative Qualifications and Responsibilities
1.320 Evaluation of Licensed Educators
1.330 Toxic Materials Training

SUBPART D: THE INSTRUCTIONAL PROGRAM

Section
1.410 Determination of the Instructional Program
1.420 Basic Standards
1.422 Electronic Learning (E-Learning) Days Pilot Program
1.423 Competency-Based High School Graduation Requirements Pilot Program
1.425 Additional Criteria for Physical Education
1.430 Additional Criteria for Elementary Schools
1.440 Additional Criteria for High Schools
1.442 State Seal of Biliteracy
1.443 Illinois Global Scholar Certificate
1.445 Required Course Substitute
1.450 Special Programs (Repealed)
1.460 Credit Earned Through Proficiency Examinations
1.462 Uniform Annual Consumer Education Proficiency Test (Repealed)
1.465 Ethnic School Foreign Language Credit and Program Approval
1.470 Adult and Continuing Education
1.480 Correctional Institution Educational Programs

SUBPART E: SUPPORT SERVICES

STATE BOARD OF EDUCATION

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Section
1.510 Transportation
1.515 Training of School Bus Driver Instructors
1.520 Home and Hospital Instruction
1.530 Health Services
1.540 Undesignated Epinephrine Auto-injectors; Opioid Antagonists

SUBPART F: STAFF LICENSURE REQUIREMENTS

Section
1.610 Personnel Required to be Qualified
1.620 Accreditation of Staff (Repealed)
1.630 Paraprofessionals; Other Unlicensed Personnel
1.640 Requirements for Different Certificates (Repealed)
1.650 Transcripts of Credits
1.660 Records of Professional Personnel

SUBPART G: STAFF QUALIFICATIONS

Section
1.700 Requirements for Staff Providing Professional Development
1.705 Requirements for Supervisory and Administrative Staff
1.710 Requirements for Elementary Teachers
1.720 Requirements for Teachers of Middle Grades
1.730 Minimum Requirements for Secondary Teachers and Specified Subject Area Teachers in Grades 6 and Above through June 30, 2004
1.735 Requirements to Take Effect from July 1, 1991, through June 30, 2004
1.736 Requirements to Take Effect from July 1, 1994, through June 30, 2004
1.737 Minimum Requirements for the Assignment of Teachers in Grades 9 through 12 Beginning July 1, 2004
1.740 Standards for Reading through June 30, 2004
1.745 Requirements for Reading Teachers and Reading Specialists at all Levels as of July 1, 2004

1.750 Standards for Media Services through June 30, 2004
1.755 Requirements for Library Information Specialists Beginning July 1, 2004
1.760 Standards for School Support Personnel Services
1.762 Supervision of Speech-Language Pathology Assistants
1.770 Standards for Special Education Personnel

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1.780	Standards for Teachers in Bilingual Education Programs
1.781	Requirements for Bilingual Education Teachers in Prekindergarten, Kindergarten and any of Grades 1-12
1.782	Requirements for Teachers of English as a Second Language in Prekindergarten, Kindergarten and any of Grades 1-12
1.783	Requirements for Administrators of Bilingual Education Programs
1.790	Substitute Teacher

1.APPENDIX A	Professional Staff Educator Licensure
1.APPENDIX B	Competency-Based High School Graduation Requirements Pilot Program Criteria for Review
1.APPENDIX C	Glossary of Terms (Repealed)
1.APPENDIX D	State Goals for Learning
1.APPENDIX E	Evaluation Criteria – Student Performance and School Improvement Determination (Repealed)
1.APPENDIX F	Criteria for Determination – Student Performance and School Improvement (Repealed)
1.APPENDIX G	Criteria for Determination – State Assessment (Repealed)
1.APPENDIX H	Guidance and Procedures for School Districts Implementing the Illinois Global Scholar Certificate

AUTHORITY: Implementing Sections 2-3.25, 2-3.25g, 2-3.44, 2-3.64a-5, 2-3.96, 2-3.159, 10-17a, 10-20.14, 10-21.4a, 10-22.43a, 21B-5, 21B-20, 22-30, 22-60, 24-24, 26-13, 27-3.5, 27-6, 27-12.1, 27-13.1, 27-20.3, 27-20.4, 27-20.5, 27-22, 27-23.3 and 27-23.8 and authorized by Section 2-3.6 of the School Code [105 ILCS 5/2-3.6, 2-3.25, 2-3.25g, 2-3.44, 2-3.64a-5, 2-3.96, 2-3.159, 10-17a, 10-20.14, 10-21.4a, 10-22.43a, 21B-5, 21B-20, 22-30, 22-60, 26-13, 27-3.5, 27-6, 27-12.1, 27-13.1, 27-20.3, 27-20.4, 27-20.5, 27-22, 27-23.3 and 27-23.8].

SOURCE: Adopted September 21, 1977; codified at 7 Ill. Reg. 16022; amended at 9 Ill. Reg. 8608, effective May 28, 1985; amended at 9 Ill. Reg. 17766, effective November 5, 1985; emergency amendment at 10 Ill. Reg. 14314, effective August 18, 1986, for a maximum of 150 days; amended at 11 Ill. Reg. 3073, effective February 2, 1987; amended at 12 Ill. Reg. 4800, effective February 26, 1988; amended at 14 Ill. Reg. 12457, effective July 24, 1990; amended at 15 Ill. Reg. 2692, effective February 1, 1991; amended at 16 Ill. Reg. 18010, effective November 17, 1992; expedited correction at 17 Ill. Reg. 3553, effective November 17, 1992; amended at 18 Ill. Reg. 1171, effective January 10, 1994; emergency amendment at 19 Ill. Reg. 5137, effective March 17, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 6530, effective May 1, 1995; amended at 19 Ill. Reg. 11813, effective August 4, 1995; amended at 20 Ill. Reg. 6255, effective April 17, 1996; amended at 20 Ill. Reg. 15290, effective November 18, 1996; amended

at 22 Ill. Reg. 22233, effective December 8, 1998; emergency amendment at 24 Ill. Reg. 6111, effective March 21, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 12985, effective August 14, 2000; amended at 25 Ill. Reg. 8159, effective June 21, 2001; amended at 25 Ill. Reg. 16073, effective November 28, 2001; amended at 26 Ill. Reg. 1157, effective January 16, 2002; amended at 26 Ill. Reg. 16160, effective October 21, 2002; amended at 28 Ill. Reg. 8486, effective June 1, 2004; emergency amendment at 28 Ill. Reg. 13637, effective September 27, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 1891, effective January 24, 2005; amended at 29 Ill. Reg. 11811, effective July 13, 2005; amended at 29 Ill. Reg. 12351, effective July 28, 2005; amended at 29 Ill. Reg. 15789, effective October 3, 2005; amended at 29 Ill. Reg. 19891, effective November 23, 2005; amended at 30 Ill. Reg. 8480, effective April 21, 2006; amended at 30 Ill. Reg. 16338, effective September 26, 2006; amended at 30 Ill. Reg. 17416, effective October 23, 2006; amended at 31 Ill. Reg. 5116, effective March 16, 2007; amended at 31 Ill. Reg. 7135, effective April 25, 2007; amended at 31 Ill. Reg. 9897, effective June 26, 2007; amended at 32 Ill. Reg. 10229, effective June 30, 2008; amended at 33 Ill. Reg. 5448, effective March 24, 2009; amended at 33 Ill. Reg. 15193, effective October 20, 2009; amended at 34 Ill. Reg. 2959, effective February 18, 2010; emergency amendment at 34 Ill. Reg. 9533, effective June 24, 2010, for a maximum of 150 days; amended at 34 Ill. Reg. 17411, effective October 28, 2010; amended at 35 Ill. Reg. 1056, effective January 3, 2011; amended at 35 Ill. Reg. 2230, effective January 20, 2011; amended at 35 Ill. Reg. 12328, effective July 6, 2011; amended at 35 Ill. Reg. 16743, effective September 29, 2011; amended at 36 Ill. Reg. 5580, effective March 20, 2012; amended at 36 Ill. Reg. 8303, effective May 21, 2012; amended at 38 Ill. Reg. 6127, effective February 27, 2014; amended at 38 Ill. Reg. 11203, effective May 6, 2014; amended at 39 Ill. Reg. 2773, effective February 9, 2015; emergency amendment at 39 Ill. Reg. 12369, effective August 20, 2015, for a maximum of 150 days; amended at 39 Ill. Reg. 13411, effective September 24, 2015; amended at 40 Ill. Reg. 1900, effective January 6, 2016; amended at 40 Ill. Reg. 2990, effective January 27, 2016; amended at 40 Ill. Reg. 4929, effective March 2, 2016; amended at 40 Ill. Reg. 12276, effective August 9, 2016; emergency amendment at 40 Ill. Reg. 15957, effective November 18, 2016, for a maximum of 150 days; amended at 41 Ill. Reg. 126, effective December 27, 2016; amended at 41 Ill. Reg. 4430, effective April 5, 2017; amended at 41 Ill. Reg. 6924, effective June 2, 2017; emergency amendment at 41 Ill. Reg. 8932, effective June 28, 2017, for a maximum of 150 days; amended at 41 Ill. Reg. 14044, effective November 3, 2017; amended at 42 Ill. Reg. 11512, effective June 8, 2018; amended at 43 Ill. Reg. _____, effective _____.

SUBPART A: RECOGNITION REQUIREMENTS

Section 1.30 State Assessment

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

The State Superintendent of Education shall develop and administer assessment instruments and other procedures in accordance with Section 2-3.64a-5 of the School Code [105 ILCS 5~~/2-3.64~~]. In addition, school districts shall collaborate with the State Superintendent in the design and implementation of special studies.

a) Development and Participation

1) Assessment instruments and procedures shall meet generally accepted standards of validity and reliability as stated in "Standards for Educational and Psychological Testing" (2014~~2013~~), published by the American Educational Research Association, 1430 K St., N.W., Suite 1200, Washington, D.C. 20005. (No later amendments to or editions of these standards are incorporated.)

2) Districts shall participate in special studies, tryouts, and/or pilot testing of these assessment procedures and instruments when one or more schools in the district are selected to do so by the State Superintendent.

3) A school shall generally be selected for participation in these special studies, tryouts~~,~~ and/or pilot testing no more than once every four years, except that participation may be required more frequently as needed to ensure sufficient sample size for validity~~twice every four years in the case of the Illinois Alternate Assessment~~.

4) *All pupils enrolled in a public or State-operated elementary school, secondary school, or cooperative or joint agreement with a governing body or board of control, a charter school operating in compliance with the Charter Schools Law* [105 ILCS 5/Art. 27A], *a school operated by a regional office of education under Section 13A-3 of the School Code* [105 ILCS 5/13A-3], *or a public school administered by a local public agency or the Department of Human Services* and students receiving scholarships to attend nonpublic schools under the Invest in Kids Act [35 ILCS 40] shall be required to participate in the State's accountability assessments~~State assessment~~, whether by taking the regular assessment, with or without accommodations, or by participating in the State's approved alternate assessment~~an alternate form of the assessment~~ (Sections 2-3.25a and 2-3.64 of the School Code). Assessments in English/language arts and mathematics are administered annually in

grades 3 through 11, and, for science, in grades 5, 8 and at least once in high school.

A) Students who are served in any locked facility that has a State-assigned ~~RCDTS (~~region/county/district/type/school (RCDTS) code, ~~students who attend public university laboratory schools under Section 18-8.05(K) of the School Code,~~ and students beyond the age of compulsory attendance ~~(other than students with IEPs)~~ whose programs do not culminate in the issuance of regular high school diplomas are not required to participate in the State's accountability~~State~~ assessment. Students with an IEP who receive an alternate diploma are required to participate in the State's accountability assessment during years of compulsory attendance. These students can be exempted only after participating in the State's final accountability assessment.

B) It is the responsibility of each district or other affected entity (e.g., nonpublic school or special education cooperative) to ensure that all students required to participate in the State's accountability~~State~~ assessment do so. (See also Section 1.50~~ of this Part~~.)

5) Each district or other affected entity shall ensure the availability of reasonable accommodations for participation in the State's accountability~~State~~ assessment by students with disabilities, as reflected in those students' IEPs, ISPs, or plans developed under Section 504 of the Rehabilitation Act of 1973 (29 USC 794), or limited English proficiency.

b) Assessment Procedures

1) All assessment procedures and practices shall be based on fair testing practice, as described in "Code of Fair Testing Practices in Education" (2004), published by the Joint Committee on Testing Practices of the American Educational Research Association, American Psychological Association, and National Council on Measurement in Education, 750 First Avenue, N.E., Washington~~,~~ D.C. 20002-4242. (No later amendments to or editions of this code are incorporated.)

2) Districts and other affected entities shall protect the security and confidentiality of all assessment questions and other materials that are

considered part of the State's accountability assessments~~approved State assessment~~, including but not necessarily limited to test items, reading passages, charts, graphs, and tables.

3) Districts shall promptly report to the State Superintendent all complaints received by the district of testing irregularities. A district shall fully investigate the validity of any ~~such~~ complaint and shall report to the State Superintendent the results of its investigation.

4) Districts shall administer the State's final accountability assessment or its approved alternate assessment~~the Prairie State Achievement Examination (PSAE) or the Illinois Alternate Assessment (IAA)~~, if applicable under subsection (d)~~ of this Section~~, to students in grade 11. (See Section 2-3.64 of the School Code.) For the purpose of this subsection (b)(4), "grade 11" means the point in time when a student has earned the number of credits necessary for enrollment in grade 11, as determined by his or her school district in accordance with Sections 1.420(b) and 1.440~~ of this Part~~.~~ A district shall not promote a student to grade 12 status until that student has taken either the PSAE or IAA, as applicable.~~

5) Districts shall ensure that students who have not taken the State's final accountability assessment at the highest grade or level assessed shall not graduate or receive a regular high school diploma. In accordance with Section 2-3.64a-5 of the School Code, districts, with approval from the State Board of Education, may issue a regular high school diploma or graduate a student who has not met this requirement.

6) To request approval to graduate a student who has not taken the State's final accountability assessment, the school must submit to the State Board:

A) Explanation of why the student was not able to be assessed on the State's final approved accountability assessment in either grade 11 or 12, or in the commensurate final stage of a competency-based program.

B) Justification that granting the exemption does not represent systemic exclusion from accountability based on gender, race, disability, English Learner status, income or other demographic factors.

7) Schools within a district that exercise this exemption for less than 1 percent of the graduating cohort of that school year (i.e., all students receiving a regular diploma from that school within a single school year) will have these exemption requests approved without requiring additional evidence.

8) Schools within a district that exercise this exemption for more than 1 percent of the graduating cohort of that school year will be asked to submit additional evidence in support of subsection (b)(6)(B) and may receive additional support, monitoring or audits.

c) Accommodations
Students who have been identified at the local level as having limited proficiency in English as provided in 23 Ill. Adm. Code 228.15 (Identification of Eligible Students), including students not enrolled in programs of bilingual education, may participate in an accommodated setting for the State's accountability~~State~~ assessment, subject to the limitations set forth in Section 2-3.64 of the School Code**.** A student with limited proficiency in English shall be afforded extra time for completion of the State's accountability~~State~~ assessment when, in the judgment of the student's teacher, extra time is necessary in order for the student's performance to reflect his or her level of achievement more accurately, provided that each test must be completed in one session. See also Section 1.60(b) of this Part.

d) Illinois Alternate Assessment
The 1 percent of students~~Students~~ with the most significant cognitive~~intellectual~~ disabilities whose IEPs identify the State's regular accountability~~State~~ assessment as inappropriate for them even with accommodations shall participate in the State's approved alternative accountability assessment~~Illinois Alternate Assessment (IAA)~~, based on ~~alternate~~ achievement standards aligned to the Illinois Learning Standards, for all subjects tested. (See also Section 1.60(c)~~ of this Part~~.)

e) Review and Verification of Information
Each school district, ~~and each~~ charter school and nonpublic school participating in the Invest in Kids Act shall have an opportunity to review and, if necessary, correct the preliminary data generated from the administration of the State's

accountability~~State~~ assessment, including information about the participating students as well as the scores achieved.

1) Within 10 business days after the preliminary data from the accountability assessments is~~for the Illinois Standards Achievement Test (ISAT) and the IAA are~~ made available~~ and within five days after preliminary data for the PSAE are made available~~, each district or charter school shall make any necessary corrections to its ~~demographic and score~~ data and then use a means prescribed by the State Board to indicate either:

A) that both its demographic and preliminary data are correct; or

B) that it is requesting rescoring of some or all portions of the assessment for specific students, if available.

2) When districts request rescoring, staff of the State Board and/or its contractor shall have an additional period of 21 days within which to work with the affected district or charter school to make any resulting corrections.

3) At the end of the 21-day period discussed in subsection (e)(2)~~ of this Section~~, all districts' and charter schools' data shall stand as the basis for the applicable school report cards and determination of status. Any inaccuracies that are believed to persist at that time shall be subject to the appeal procedure set forth in Section 1.95~~ of this Part~~.

f) Reports of the State's Accountability~~State~~ Assessment Results

1) Following verification of the data under subsection (e)~~ of this Section~~, the State Board shall send each school and district a report containing final information from the results of each administration of the State's accountability~~State~~ assessment.

A) The scores of students who are served by cooperatives or joint agreements, in Alternative Learning Opportunities Programs established under Article 13B of the School Code, by regional offices of education under Section 13A-3 of the School Code, by local agencies, or in schools operated by the Department of Human Services, scores of students who are served in any other program

or school not operated by a school district and who are scheduled to receive regular high school diplomas, all scores of students who are youth in care~~wards~~ of the State, and all scores of students who have IEPs, shall be reported to the students' respective districts of residence and to the schools within those districts that they would otherwise attend.

B) The scores of students enrolled in charter schools shall be reported to the chief administrator of the charter school and to any school district serving as a chartering entity for the charter school.

C) The scores of students who were enrolled in nonpublic schools through the Invest in Kids Act scholarship program shall be reported to the students' nonpublic schools of record.

2) Each report shall include, as applicable to the receiving entity:

A) results for each student to whom the State assessment was administered (excluding any scores deemed by the State Board to be invalid due to testing irregularities); and

B) summary data for the school and/or district and the State, including but not limited to raw scores, scale scores, comparison scores, including national comparisons when available, and distributions of students' scores among the applicable proficiency classifications (see subsection (h)~~ of this Section~~).

g) Each school district and each charter school shall receive notification from the State Board of Education as to the status of each affected school with respect to accountability~~and the district based on the attainment or non-attainment of adequate yearly progress~~ as reflected in the final data.~~ These determinations shall be subject to the appeal process set forth in Section 1.95 of this Part.~~

h) Classification of Scores
Each score achieved by a student on the State's~~a~~ regular or alternate accountability~~State~~ assessment shall be classified among a set of performance levels, as reflected in score ranges that the State Board shall disseminate at the time of testing, for the purpose of identifying scores that "demonstrate proficiency".

1) Each score achieved by a student on a regular State assessment ~~(i.e., the ISAT or the PSAE)~~ shall be classified among categories such as "did not yet meet", "partially meet", "approaching", "meet standards",~~"academic warning", "below standards", "meets standards",~~ or "exceeds standards". Among these scores, those identified as either meeting or exceeding standards shall be considered as demonstrating proficiency.

2) Each score achieved by a student on the State's approved alternate accountability assessment~~IAA~~ shall be classified among categories such as "emerging", "approaching", "at target",~~"entry", "foundational", "satisfactory",~~ or "advanced"~~"mastery"~~. Among these scores, those identified as "at target"~~"satisfactory"~~ or "advanced"~~"mastery"~~ shall be considered as demonstrating proficiency.

i) Scores Relevant to Accountability~~Adequate Yearly Progress~~
For purposes of determining a school's annual summative accountability rating,~~whether a district or a school has made adequate yearly progress,~~ scores achieved and measures of growth calculated from those scores on the State's accountability~~a State~~ assessment in reading or mathematics from students who attended the "same school within a local educational agency for at least half of a school year" (see section 1111(c)(4)(F)(i) of the Elementary and Secondary Education Act (20 USC 6301 et seq.)), shall be "relevant scores". For schools without grades higher than 2 and 3 (that is, for schools where the State's accountability~~no State~~ assessment is not administered, and administered such that student growth can be calculated for attending students), the "relevant scores" used to determine the annual summative accountability rating~~determination as to whether a school in this group has made adequate yearly progress~~ shall be current year data of students who were enrolled at the impacted school in the nearest year to have current applicable assessment data (i.e., a kindergarten-grade 3 school would map its 2016 grade 3 enrollments to use those students' 2017 grade 4 growth scores; a prekindergarten-grade 2 school would map its 2016 grade 2 enrollments to use those students' 2017 grade 3 English language arts and math proficiency scores, and would map its 2015 grade 2 enrollments to use those students' 2017 growth scores)~~the determination applicable to the school where the largest number of students go on into the third grade~~.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 1.50 Calculation of Participation Rate

a) A ~~district's or a~~ school's accountability score~~adequate yearly progress~~ for a particular year is generally contingent upon participation in the State's accountability~~State~~ assessment by at least 95 percent of the district's or the school's students, both in the aggregate and within each subgroup represented. ~~However, a district or a school that has not achieved 95 percent participation in a given year shall be considered to have had a participation rate sufficient for adequate yearly progress if, for each affected subgroup or the entity as a whole, as applicable:~~

~~1) the average of the participation rate for the year in question and the participation rate for the immediately preceding year is at least 95%; or~~

~~2) the average of the participation rate for the year in question and the participation rates for the two immediately preceding years is at least 95%.~~

b) Students who, at the time of administration of the State's accountability~~State~~ assessment, are participating in residential programs that provide psychological treatment or treatment for drug or alcohol abuse, are jailed or in a locked-down facility, are residing in or attending facilities out of state or out of country, or are hospitalized because of medical emergencies or procedures shall not be required to participate in the State's accountability~~State~~ assessment. For students who are homebound, districts shall examine the circumstances of each case individually to determine whether administration of the State's accountability~~State~~ assessment is feasible and appropriate. A student not tested pursuant to this subsection (b) may be excluded from the enrollment counts of the affected schools and districts for purposes of calculating accountability ratings~~the participation rate~~.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

OFFICE OF THE STATE TREASURER

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Procurement

2) Code Citation: 44 Ill. Adm. Code 1400

3)

Section Numbers:	Proposed Actions:
1400.520	Amendment
1400.530	Amendment
1400.2020	Amendment
1400.2035	Amendment
1400.2525	New Section
1400.4015	Amendment
1400.4565	Amendment

4) Statutory Authority: Implementing and authorized by Section 1-30 of the Illinois Procurement Code [30 ILCS 525/1-30].

5) A Complete Description of the Subjects and Issues involved: This rulemaking updates the Part to propose the small purchase limit of $100,000 included in PA 100-43, effective August 9, 2017. Additionally, professional and artistic contracts are brought into the same small purchase limit and are no longer held to a separate limit. Furthermore, the rulemaking allows for multiple awards, specifies that the Treasurer's office may procure goods and services from vendors selected by the federal General Services Administration, and incorporates preference guidelines from Senate Bill 2363 which was passed by the General Assembly on May 23, 2018.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

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NOTICE OF PROPOSED AMENDMENTS

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

Chris Flynn
Assistant General Counsel
Illinois State Treasurer
400 W. Monroe St., Suite 401
Springfield IL 62704

217/558/0115
fax: 217/785-2777
e-mail: CFlynn@illinoistreasurer.gov

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

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Small businesses seeking procurement opportunities from the Treasurer's office will benefit from the increased small purchase limit established by PA 100-43, and Section 4565 will provide increased opportunities to small businesses owned by minorities, women, veterans and disabled persons.

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: July 2018

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 44: GOVERNMENT CONTRACTS, GRANTMAKING, PROCUREMENT AND PROPERTY MANAGEMENT
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES
CHAPTER XXI: TREASURER

PART 1400
PROCUREMENT

SUBPART A: GENERAL

Section
1400.505 Title
1400.510 Policy
1400.515 Applicability
1400.520 Definition of Terms
1400.525 Property Rights
1400.530 Governmental Joint Purchasing Act

SUBPART B: PROCUREMENT AUTHORITY

Section
1400.1005 Chief Procurement Officer
1400.1010 Purchasing Officer
1400.1015 Small Business Specialist

SUBPART C: PUBLICATION, SOLICITATION AND DOCUMENTATION

Section
1400.1505 Publication
1400.1510 Solicitation
1400.1515 Documentation

SUBPART D: PROCUREMENT METHODS

Section
1400.2005 Competitive Sealed Bidding
1400.2010 Multi-Step Sealed Bidding
1400.2015 Competitive Sealed Proposals
1400.2020 Small Purchases

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NOTICE OF PROPOSED AMENDMENTS

1400.2025 Sole Source Procurements
1400.2030 Emergency Procurements
1400.2035 Procurement of Professional and Artistic Services
1400.2040 Procurement of Real Property Leases
1400.2045 Other Methods of Source Selection

SUBPART E: GENERAL PROCUREMENT GUIDELINES

Section
1400.2505 General Provisions
1400.2510 Tie Bids and Proposals
1400.2515 Correction or Withdrawal of Proposals
1400.2520 Cancellation of Solicitations and Rejection of Offers
1400.2525 Multiple Awards

SUBPART F: SPECIFICATIONS AND SECURITY REQUIREMENTS

Section
1400.3005 Specifications
1400.3010 Security Requirements

SUBPART G: CONTRACTS

Section
1400.3505 Types of Contracts
1400.3510 Duration of Contracts
1400.3515 Contract Pricing
1400.3520 Contract Provisions
1400.3525 Prevailing Wage Requirements

SUBPART H: DISPUTES, PROTESTS AND CONTROVERSIES

Section
1400.4005 Disputes and Protests Regarding Solicitations and Awards
1400.4010 Contract Controversies
1400.4015 Remedies
1400.4020 Suspension

SUBPART I: PREFERENCES

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NOTICE OF PROPOSED AMENDMENTS

Section
1400.4505 Procurement Preferences
1400.4510 Resident Vendor Preference
1400.4515 Soybean Oil-based Ink
1400.4520 Recycled Supplies
1400.4525 Recycled Paper
1400.4526 Environmentally Preferable Procurement
1400.4530 Special Sources
1400.4535 Sheltered Workshops for the Disabled (Repealed)
1400.4540 Vehicles
1400.4545 Illinois Agricultural Products
1400.4550 Corn-based Plastics
1400.4555 Vehicles Powered by Agricultural Commodity-based Fuel
1400.4560 Small Businesses
1400.4565 Preferences for Veterans, Minorities, Women~~Females~~, and Persons with Disabilities

SUBPART J: ETHICS

Section
1400.5005 Purpose
1400.5010 Bribery
1400.5015 Felons
1400.5020 Conflicts of Interest
1400.5025 Negotiations for Future Employment
1400.5030 Revolving Door
1400.5035 Disclosure of Financial Interests and Potential Conflicts of Interest
1400.5037 Vendor Registration and Certification and Prohibition on Political Contributions
1401.5040 Reporting Anticompetitive Practices
1400.5045 Confidentiality
1400.5050 Insider Information
1400.5055 Additional Provisions
1400.5060 Other Violations
1400.5065 Supply Inventory

SUBPART K: CONCESSIONS

Section

OFFICE OF THE STATE TREASURER

NOTICE OF PROPOSED AMENDMENTS

1400.5505 Concessions

SUBPART L: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

Section
1400.6005 Severability
1400.6010 Government Furnished Property (Repealed)
1400.6015 Inspections
1400.6020 No Waiver of Sovereign Immunity
1400.6025 Postage Stamps
1400.6030 Printing
1400.6035 Annual Reports

AUTHORITY: Implementing and authorized by Section 1-30 of the Illinois Procurement Code [30 ILCS 525/1-30].

SOURCE: Adopted by emergency rule at 22 Ill. Reg. 13169, effective July 1, 1998, for a maximum of 150 days; adopted at 22 Ill. Reg. 15644, effective August 24, 1998; amended by emergency rule at 24 Ill. Reg. 358, effective January 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 8393, effective May 30, 2000; recodified Title of the Part at 39 Ill. Reg. 5903; amended at 40 Ill. Reg. 13847, effective September 23, 2016; amended at 43 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 1400.520 Definition of Terms

Each term listed in this Section has the meaning below unless its use clearly requires a different meaning. Terms may be defined in particular Sections for use in those Sections.

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

"Bid" − A response to an Invitation for Bids.

"Bidder" − The person or entity submitting a bid.

"Brand Name or Equal Specification" − A specification that uses one or more

manufacturer's names or catalogue numbers to describe the standard of quality, performance, and other characteristics needed to meet Treasurer's office requirements, and that allows the submission of equivalent products.

"Brand Name Specification" − A specification limited to one or more items by manufacturer's names or catalogue numbers.

"Code" means the Illinois Procurement Code [30 ILCS 500].

"Chief Legal Counsel" − An attorney for the Treasurer's office who reports directly to the Chief of Staff and is primarily responsible for the legal functioning of the Treasurer's office.

"Chief of Staff" − The Chief of Staff for the Treasurer's office.

"Chief Procurement Officer" − The employee of the Treasurer's office who is appointed by the Treasurer to be primarily responsible for the procurement of all goods and services by the Treasurer's office.

"Contract" − *All types of State agreements, regardless of what they may be called*:

> *for the procurement, use or disposal of supplies, services, professional or artistic services, or construction; or for leases of real property when the State is the lessee; or* for *capital improvements; and*
>
> *including renewals, master contracts, contracts for financing through use of installment or lease-purchase arrangements, renegotiated contracts, amendments to contracts, and change orders.* [30 ILCS 500/1-15.30]

The term contract, as used in this Part, does not include supplies or services for which the governing terms are established by tariff of the Illinois Commerce Commission or the Federal Communications Commission and for which there is no authorized competition.

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

"Day" − Calendar day as opposed to business day. In computing any period of

time, the day of the event from which the designated period of time begins to run is not included, but the last day of the period is included unless it is a Saturday, Sunday, or a State holiday, in which event the period runs to the end of the next business day.

"Deputy Treasurer" – An individual with the title Deputy Treasurer, appointed by the Treasurer, who reports directly to the Treasurer.

"Invitation for Bids" or "IFB" − A document prepared and distributed by the Treasurer's office soliciting bids for the provision of goods or services to the Treasurer's office.

"Multiple Award" − An award that is made to 2 or more bidders or offerors for similar supplies, services, or construction-related services. [30 ILCS 500/1-15.48]

"Offer" − A bid, proposal, or response solicited by the Treasurer's office.

"Offeror" − The person or entity submitting a bid, proposal or response solicited by the Treasurer's office.

"Procurement Review Board" − A board composed of the Chief of Staff, the Chief Legal Counsel, and the Deputy Treasurer for the Treasurer's office.

"Professional and Artistic Services" − Those services provided under contract to the Treasurer's office *by a person or business, acting as an independent contractor, qualified by education, experience, and technical ability*. [30 ILCS 500/1-15.60]

"Proposal" − A response to a Request for Proposals.

"Proposer" − The person or entity submitting a proposal.

"Purchasing Officer" − One or more employees of the Treasurer's office that serve at the direction of the Chief Procurement Officer and are responsible for coordinating the procurement activity of the Treasurer's office.

"Request for Information" or "RFI" − The process of requesting information from interested parties to aid the Treasurer in decision making. This type of RFI is not

a procurement method and will not result in a participant receiving a contract.

"Request for Information for Real Property" or "RFI-Real Property Leases" − The process of seeking proposals for leases of real property or capital improvements.

"Request for Proposals" or "RFP" − The process by which the Treasurer's office requests information from offerors, including all documents, whether attached or incorporated by reference, used for soliciting proposals for the provision of goods or services to the Treasurer's office.

"Respondent" − The person or entity submitting a response to a Request for Information or a Request for Proposals from the Treasurer's office.

"Response" − A response to a Request for Information.

"Responsible Bidder, Proposer or Respondent" − A person or entity that is capable in all respects of performing fully the contract requirements and has the integrity and reliability that will assure good faith performance.

"Responsive Bidder" − A person or entity that has submitted a bid conforming in all material respects to an Invitation for Bids or Request for Proposal.

"Small Business Specialist" − An employee of the Treasurer's office who is responsible for assisting small businesses in submitting offers to the Treasurer's office for the provision of goods and services.

"Solicitation" − An Invitation for Bids, Request for Proposals or Request for Information.

"Solicitation Date" − The date that bids or proposals are solicited for the provision of goods or services to the Treasurer's office by communicating the solicitation orally, depositing the solicitation in the U.S. Mail or posting the solicitation electronically, whichever occurs first.

"Specification" − Any description of the physical, functional or performance characteristics or of the nature of a supply, a service, or construction items. A specification includes, as appropriate, requirements for inspecting, testing, or preparing a supply, a service, or construction item for delivery.

"Subcontract" *means a contract between a person and a person who has a contract subject to this* Part*, pursuant to which the subcontractor provides to the contractor, or, if the contract price exceeds $50,000, another subcontractor, some or all of the goods, services, real property, remuneration, or other monetary forms of consideration that are the subject of the primary contract and includes, among other things, subleases from a lessee of a State agency. For purposes of this* Part*, a "subcontract" does not include purchases of goods or supplies that are incidental to the performance of a contract by a person who has a contract subject to* the *Code.* [30 ILCS 500/1-15.107]

"Subcontractor" *means a person or entity that enters into a contractual agreement with a total value of $50,000 or more with a person or entity who has a contract subject to this* Part *pursuant to which the person or entity provides some or all of the goods, services, real property, remuneration, or other monetary forms of consideration that are the subject of the primary State contract, including subleases from a lessee of a State contract. For purposes of this* Part*, a person or entity is not a "subcontractor" if that person only provides goods or supplies that are incidental to the performance of a contract by a person who has a contract subject to this* Part. [30 ILCS 500/1-15.108]

"Treasurer's Web Site" − The Web Site of the Office of the Illinois State Treasurer at www.illinoistreasurer.gov or successor.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 1400.530 Governmental Joint Purchasing Act

a) The Treasurer's office may, without soliciting independent bids, proposals or responses, procure goods and services from vendors selected by the Department of Central Management Services (CMS), the federal General Services Administration, or another governmental unit in accordance with a competitive selection process established pursuant to the Governmental Joint Purchasing Act [30 ILCS 525].

b) The Treasurer's office may enter into agreements to make joint purchases pursuant to the Governmental Joint Purchasing Act and may act as a lead state or a participant state. *The purchases of all personal property, supplies and services under* the Governmental Joint Purchasing Act *shall be based on competitive,* sealed *bids. All purchases, orders or contracts shall be awarded to the lowest*

responsible bidder, taking into consideration the qualities of the articles or services supplied, their conformity with the specifications, their suitability to the requirements of the participating governmental units and the delivery terms. [30 ILCS 525/4]

(Source: Amended at 43 Ill. Reg. _____, effective _____)

SUBPART D: PROCUREMENT METHODS

Section 1400.2020 Small Purchases

a) Application
Any individual procurement of supplies or services that does not exceed $100,000~~$80,000~~ may, at the discretion of the Chief Procurement Officer, be made without notice, competition, publication, or use of any prescribed method of source selection. Each July 1 the small purchase maximum shall be subject to the annual cost of living increases set forth in subsection (b). Procurements of less than $100,000~~$20,000~~ for professional and artistic services, and that have a nonrenewable term of one year or less, may, at the discretion of the Chief Procurement Officer, be made without advance notice, competition or use of any prescribed method of source selection.

b) Adjustment
The small purchase maximums may be adjusted for inflation as determined by the Consumer Price Index for All Urban Consumers as determined by the United States Department of Labor and rounded to the nearest $100. In determining the annual small purchase maximums, the CPO may rely upon a published adjustment of the small purchase limits announced by the Chief Procurement Office for General Services pursuant to the procedure found at 44 Ill. Adm. Code 1.2020.

c) In determining whether a contract is under the limit, the value of the contract for the full term and any optional renewals, as well as the stated value of the goods or services plus any optional goods and services, determined in good faith, must be utilized. Where the term is calculated month-to-month or in a similar fashion, the amount must be calculated for a 12-month period.

d) Procurement requirements must not be artificially divided to avoid using one of the other source selection methods described in this Part.

e) If, after signing the contract, the actual need is determined to be more than the limits provided in this Section, and the Chief Procurement Officer determines that reprocurement is not appropriate, the Chief Procurement Officer may follow the procedures for sole source or emergency procurement, if applicable, to obtain the additional supplies or services.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 1400.2035 Procurement of Professional and Artistic Services

a) The provisions of this Section apply to the procurement of professional and artistic services with the exception of the following:

1) sole source procurements;

2) emergency procurements;

3) any procurement of professional and artistic services less than $100,000~~$20,000~~ for a nonrenewable term of less than one year made as a small purchase; and

4) architect, engineering and land surveying services procured pursuant to the procedures of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act [30 ILCS 535].

b) Written Determinations Required Prior to Request for Proposals
Prior to announcing the need for professional or artistic services, the Chief Procurement Officer shall make a written determination that explains the nature of the services and how the Chief Procurement Officer reached the determination that the services are professional or artistic. The written determination must be made part of the procurement file.

c) Professional and artistic services shall be procured using a Request for Proposals.

1) Contents. The RFP must be drafted or approved by the Chief Procurement Officer and must contain at least the following information:

A) the type and scope of services required;

B) a date by which proposals for the performance of the services must be submitted;

C) the type of information and data required of each offeror;

D) how the price should be presented;

E) the factors to be used in the evaluation and selection process and their relative importance (all evaluation factors stated will be considered equally unless otherwise indicated in the RFP); and

F) when practicable, a draft contract with a notice to the vendors that by submitting a response they are consenting to the terms and conditions of the draft agreement and agree to be bound by a final agreement that is substantially similar to the draft.

2) Evaluation. Proposals must be evaluated only on the basis of evaluation factors stated in the Request for Proposals. The relative importance of the evaluation factors will vary according to the type of services being procured. Factors may include:

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.

3) Publication and Filing. The Request for Proposal must be published as provided in Section 1400.1505 and must be made part of the procurement file.

d) Bidders' Conferences

Bidders' conferences may be conducted to enhance understanding of the procurement requirements. The conference may be designated as attendance mandatory or attendance optional. The conference should be held long enough after the Request for Proposals has been issued to allow proposers to become familiar with it, but sufficiently before the opening of proposals to allow consideration of the conference results in preparing their proposals. Any questions posed in a bidders' conference shall be subsequently submitted in writing and, along with the answers, shall be published on the Treasurer's Web Site as provided in Section 1400.1505. Nothing stated in the bidders' conference changes the Request for Proposals unless a change is made by written amendment to the Request for Proposals. The Chief Procurement Officer shall cause a listing of all attendees at a bidders' conference to be prepared and made a part of the procurement file.

e) Amendments to Requests for Proposals

1) Form. Amendments to Requests for Proposals must be published as provided in Section 1400.1505 and must be made part of the procurement file.

2) Distribution. Amendments must be sent to all prospective proposers known to have received a Request for Proposal.

3) Timeliness. Amendments must be published within a reasonable time to allow prospective bidders to consider them in preparing their bids. If necessary, the Chief Procurement Officer may extend the response time by amending the RFP as provided for in this subsection (e)(3).

f) Receipt and Handling of Proposals

Proposals and modifications must be sent to the Chief Procurement Officer where they must be recorded upon receipt, but not opened, and held in a secure place until the established due date and time, at which time they will be opened by the Chief Procurement Officer. Proposals must not be opened publicly nor disclosed to unauthorized persons and must be opened in the presence of at least one witness. A record of proposals that includes the following must be established for all proposals: the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the services offered. The record of proposals must be open to public inspection only after award of the contract and must be made part of the procurement file at that time.

g) Discussions

1) Discussions Permissible. The Chief Procurement Officer shall evaluate all proposals submitted and may conduct discussions with any proposer. The purposes of the discussions are to:

A) determine in greater detail the proposer'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.

2) No Disclosure of Information. No information derived from proposals submitted by an offeror may be disclosed to any other proposer.

3) Best and Final Offers. The Chief Procurement Officer may request best and final offers with a common date and time for submission of the proposals. The Chief Procurement Officer may conduct additional discussions or change the specifications or other contract requirements and require another submission of best and final proposals. If a proposer does not submit either a notice of withdrawal or another best and final offer, the proposer's immediate previous proposal will be construed as its best and final proposal.

h) Negotiation and Award of Contract

1) General. The Chief Procurement Officer, in conjunction with the Chief Legal Counsel or designee, shall negotiate a contract with the best qualified proposer, based on the evaluation factors in the request for proposals, for the required services at compensation determined in writing to be fair and reasonable.

2) Successful Negotiation of Contract with Best-Qualified Proposer. If compensation, contract requirements, and contract documents can be agreed upon with the best-qualified proposer, the contract must be awarded to that proposer, unless the procurement is cancelled.

3) Failure to Negotiate Contract with Best-Qualified Offeror

A) If compensation, contract requirements, or contract documents cannot be agreed upon with the best qualified proposer, a written record stating the reasons must be made part of the procurement file and the Chief Procurement Officer shall advise that proposer of the termination of negotiations.

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

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

A~~1~~) If the low price is submitted by the most qualified vendor, the CPO may award to that vendor.

B~~2~~) If the price of the most qualified vendor is not low and if it does not exceed $100,000~~$30,000~~, the CPO may award to that vendor.

C~~3~~) If the price of the best qualified vendor exceeds $100,000~~$30,000~~, the CPO must state why a vendor other than the low priced vendor was selected and that determination shall be published as provided in Section 1400.1505 and must be made part of the procurement file.

5) Notice of Award. Written notice of award must be promptly provided to the successful offeror, published as provided in Section 1400.1505 and made a part of the procurement file. The notice must provide, at a minimum, the following:

A) the name of the Chief Procurement Officer;

B) the successful vendor;

C) the type of services to be provided; and

D) the amount of the contract, which may be an amount not-to-

exceed, along with any applicable rates.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

SUBPART E: GENERAL PROCUREMENT GUIDELINES

Section 1400.2525 Multiple Awards

a) Policy
When determined by the Chief Procurement Officer to be in the best interest of the State, the Treasurer's office may make multiple awards under any solicitation.

b) Specific Goods and Services Following Multiple Awards
Subject to this subsection, specific goods and services may be purchased following multiple awards:

1) When the solicitation identified the specific good or service sought but led to multiple awardees, the specific good or service may be procured from the lowest bidder or best qualified proposer with whom relevant terms can be successfully negotiated.

2) When the solicitation did not list the specific good or service sought but led to multiple awards to vendors similarly qualified to provide the good or service, the specific good or service may be purchased from one of the multiple awardees; provided, however, that for the purchase of that good or service:

A) the Chief Procurement Officer seeks to maximize competition among the multiple awardees;

B) the determination allows for additional competition when the original solicitation produced insufficient information on the awardees' pricing for, or abilities to provide, the specific good or service sought; and

C) following any such competition, the Chief Procurement Officer awards to the lowest bidder or best qualified proposer with whom relevant terms can be successfully negotiated.

OFFICE OF THE STATE TREASURER

NOTICE OF PROPOSED AMENDMENTS

(Source: Added at 43 Ill. Reg. _____, effective _____)

SUBPART H: DISPUTES, PROTESTS AND CONTROVERSIES

Section 1400.4015 Remedies

a) In all of the following cases the Chief Procurement Officer may, with the approval of the Treasurer and subject to the determination of the Chief Legal Counsel under subsection (b), terminate or rescind any contract entered into under this Part in the event:

1) The successful bidder or proposer fails to furnish a satisfactory performance or performance bond within the time specified.

2) The vendor fails to make delivery at the place or within the time specified in the contract or as ordered.

3) Any goods or services provided under the contract are:

A) rejected (for not meeting the specification, not conforming to sample, or not being in good condition when delivered) and are not promptly replaced or corrected by the vendor; or

B) repeatedly rejected, even though the vendor offers to replace or correct the goods or services promptly.

4) There is sufficient evidence to show that the contract was obtained by fraud, collusion, conspiracy or other unlawful means.

5) The vendor is guilty of misrepresentation in connection with another contract for the sale of goods or services to the State.

6) The vendor is insolvent, is the subject of a bankruptcy filing, is adjudged bankrupt, or enters into a general assignment for the benefit of his or her creditors or receivership due to insolvency.

7) The vendor disregards laws and ordinances, rules or instructions of a contracting officer or acts in violation of any provision of the contract or this Part, or the contract conflicts with any statutory or constitutional

provision of the State of Illinois or of the United States.

8) Any other material breach of contract or other unlawful act by the vendor occurs.

b) Determination of Right to Terminate or Rescind Contract
The Chief Legal Counsel shall determine in writing that a violation listed in subsection (a) has occurred prior to the termination or rescission of a contract under this Section.

c) Contracts that are terminated under this Section will be terminated at no cost to the State.

d) Withholding Money to Compensate State for Damages
If a contract is terminated or rescinded under this Section, the State may deduct from whatever is owed the vendor on that or any other contract an amount sufficient to compensate the State of Illinois for any damages suffered by it because of the vendor's breach of contract or other unlawful act on his or her part on which the cancellation is based.

e) Damages
The damages for which the State may be compensated as provided in this Section or by a suit on the vendor's performance bond or by other legal remedy include, but are not limited to, the following:

1) the additional cost of goods or services bought elsewhere;

2) cost of repeating the procurement procedure;

3) any expenses incurred because of delay in receipt of goods or services; and

4) any other damages caused by the vendor's breach of contract or unlawful act.

f) Effect of Declaring a Contract Null and Void
In all cases where a contract is voided, the Treasurer's office will endeavor to return those supplies delivered under the contract that have not been used or distributed. No further payments will be made under the contract.

g) In lieu of terminating or rescinding the contract, when appropriate the Chief Procurement Officer may seek to negotiate an alternative resolution that is at least as beneficial to the State as termination or rescission, but the Chief Procurement Officer must not waive the right to terminate or rescind the contract if the situation does not improve.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

SUBPART I: PREFERENCES

Section 1400.4565 Preferences for Veterans, Minorities, Women~~Females~~, and Persons with Disabilities

This Part is subject to the applicable provisions of the Veterans Preference Act [330 ILCS 55], ~~and~~ the Business Enterprise for Minorities, Women~~Females~~, and Persons with Disabilities Act [30 ILCS 575], and the State Treasurer Act [15 ILCS 505]. ~~*It is the goal of the State to promote and encourage the continued economic development of small businesses owned and controlled by qualified veterans and that qualified service-disabled veteran-owned small businesses (referred to as SDVOSB) and veteran-owned small businesses (referred to as VOSB) participate in the State's procurement process as both prime contractors and subcontractors.* [30 ILCS 500/45-57] Upon direction of the CPO, the Treasurer's office may establish goals and other such preferences for contracting or subcontracting with certified SDVOSB and VOSB.~~ The Chief Procurement Officer shall do whatever is reasonably necessary to enable veterans, minorities, women~~females~~ and persons with disabilities to participate in the procurement process. The Chief Procurement Officer may rely on the determination of CMS and/or the Department of Veterans' Affairs that a person or business qualifies for a preference under these Acts. *It is hereby declared to be the policy of the State Treasurer to promote and encourage the use of businesses owned by or under the control of qualified veterans of the armed forces of the United States, qualified service-disabled veterans, minority persons, women, or persons with a disability in the area of goods and services. Furthermore, the State Treasurer shall utilize such businesses to the greatest extent feasible within the bounds of financial and fiduciary prudence, and take affirmative steps to remove any barriers to the full participation of such firms in the procurement and contracting opportunities afforded.* [15 ILCS 505/30(b)]

a) Definitions
For the purposes of this Section:

1) any *terms "minority person", "woman", "person with a disability", "minority-owned business", "women-owned business", "business owned by a person with a disability", and "control" have the meanings provided in Section 1 of the Business Enterprise for Minorities, Women, and Persons with Disabilities Act; and*

2) *the terms "veteran", "qualified veteran-owned small business", "qualified service-disabled veteran-owned small business", "qualified service-disabled veteran", and "armed forces of the United States" have the meanings provided in* Section 45-57 *of the Illinois Procurement Code*. [15 ILCS 505/30(a)]

b) Procurement of Goods and Services
When the State Treasurer procures goods and services, whether through a request for proposal or otherwise, the Chief Procurement Officer *is authorized to incorporate preferences in the scoring process for:*

1) any of the following:

A) *a minority-owned business;*

B) *a women-owned business;*

C) *a business owned by a person with a disability;*

D) *a qualified veteran-owned small business; or*

E) *a qualified service-disabled veteran-owned small business; and*

2) *businesses having a record of support for increasing diversity and inclusion in board membership, management, employment, philanthropy, and supplier diversity, including investment professionals and investment sourcing.* [15 ILCS 505/30(d)]

c) Utilization of Financial Institutions
When the State Treasurer utilizes a financial institution or determines the eligibility of a financial institution to participate in a banking contract, investment contract, investment activity, or other financial program of the State Treasurer, he or she shall review the financial institution's Community Reinvestment Act (29

USC 2901) *rating, record, and current level of financial commitment to the community prior to making a decision to utilize or determine the eligibility of such financial institution*. [15 ILCS 505/30(d)]

d) Reporting
Beginning with fiscal year 2019, and at least annually thereafter, the State Treasurer shall report on his or her utilization of minority-owned businesses, women-owned businesses, businesses owned by a person with a disability, qualified veteran-owned small businesses, or qualified service-disabled veteran-owned small businesses. The report shall be published on the State Treasurer's official website. [15 ILCS 505/30(e)]

(Source: Amended at 43 Ill. Reg. _____, effective _____)

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Administration of the Illinois Public Community College Act

2) Code Citation: 23 Ill. Adm. Code 1501

3)

Section Numbers:	Adopted Actions:
1501.102	Amendment
1501.105	Amendment
1501.113	Amendment
1501.114	Amendment
1501.301	Amendment
1501.302	Amendment
1501.304	Amendment
1501.305	Amendment
1501.309	Amendment
1501.401	Repealed
1501.402	Amendment
1501.501	Amendment
1501.502	Amendment
1501.801	Amendment
1501.802	Amendment

4) Statutory Authority: Implementing and authorized by Articles II and III and Section 6-5.3 of the Public Community College Act [110 ILCS 805/Arts. II and III and 6-5.3].

5) Effective Date of Rules: October 3, 2018

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

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 5624; March 30, 2018; A notice of correction was filed at 42 Ill. Reg. 7558; April 20, 2018

10) Has JCAR issued a Statement of Objection to this rulemaking? No

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF ADOPTED AMENDMENTS

11) Differences between Proposal and Final Version: Non-substantive changes suggested by the Joint Committee on Administrative Rules have been 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 an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? Yes

Section Numbers:	Proposed Actions:	*Illinois Register* Citations:
1501.101	Amendment	42 Ill. Reg. 7990; May 18, 2018
1501.108	Repealed	42 Ill. Reg. 7990; May 18, 2018
1501.109	Repealed	42 Ill. Reg. 7990; May 18, 2018
1501.115	New Section	42 Ill. Reg. 7990; May 18, 2018
1501.116	New Section	42 Ill. Reg. 7990; May 18, 2018
1501.117	New Section	42 Ill. Reg. 7990; May 18, 2018
1501.118	New Section	42 Ill. Reg. 7990; May 18, 2018
1501.201	Amendment	42 Ill. Reg. 7990; May 18, 2018
1501.301	Amendment	42 Ill. Reg. 7990; May 18, 2018
1501.309	Amendment	42 Ill. Reg. 7990; May 18, 2018
1501.311	New Section	42 Ill. Reg. 7990; May 18, 2018
1501.501	Amendment	42 Ill. Reg. 7990; May 18, 2018
1501.505	Amendment	42 Ill. Reg. 7990; May 18, 2018
1501.507	Amendment	42 Ill. Reg. 7990; May 18, 2018
1501.520	Amendment	42 Ill. Reg. 7990; May 18, 2018
1501.APPENDIX A	New Section	42 Ill. Reg. 7990; May 18, 2018

15) Summary and Purpose of Rulemaking: The amendments to this Part include non-substantive wording changes, clarification of processes or terms, changes to current processes, elimination of outdated processes, and addition of new rules. The amendments focus on rules pertaining to the administration of the Board, academic affairs and student services. Illinois Community College Board staff has undertaken a thorough review of its Administrative Rules with a focus on reducing data collection redundancy and streamlining administrative processes. This review ensures that the rules are still relevant and up to date. The Administrative Rules had not been formally reviewed for more than five years.

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

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF ADOPTED AMENDMENTS

Matt Berry
Deputy Director for Legislative and External Affairs
Illinois Community College Board
401 East Capitol Ave.
Springfield IL 62701-1711

217/785-7411
matt.berry@illinois.gov

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

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER VII: ILLINOIS COMMUNITY COLLEGE BOARD

PART 1501
ADMINISTRATION OF THE ILLINOIS PUBLIC COMMUNITY COLLEGE ACT

SUBPART A: ILLINOIS COMMUNITY COLLEGE BOARD ADMINISTRATION

Section
1501.101 Definition of Terms and Incorporations by Reference
1501.102 Advisory Groups
1501.103 Rule Adoption (Recodified)
1501.104 Manuals
1501.105 Advisory Opinions
1501.106 Executive Director
1501.107 Information Request (Recodified)
1501.108 Organization of ICCB
1501.109 Appearance at ICCB Meetings
1501.110 Appeal Procedure
1501.111 Reporting Requirements (Repealed)
1501.112 Certification of Organization (Repealed)
1501.113 Administration of Detachments and Subsequent Annexations
1501.114 Recognition

SUBPART B: LOCAL DISTRICT ADMINISTRATION

Section
1501.201 Reporting Requirements
1501.202 Certification of Organization
1501.203 Delineation of Responsibilities
1501.204 Maintenance of Documents or Information
1501.205 Recognition Standards (Repealed)

SUBPART C: PROGRAMS

Section
1501.301 Definition of Terms
1501.302 Units of Instruction, Research, and Public Service

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF ADOPTED AMENDMENTS

1501.303 Program Requirements
1501.304 Statewide and Regional Planning
1501.305 College, Branch, Campus, and Extension Centers
1501.306 State or Federal Institutions (Repealed)
1501.307 Cooperative Agreements and Contracts
1501.308 Reporting Requirements
1501.309 Course Classification and Applicability
1501.310 Acceptance of Private Business Vocational School Credits by Community Colleges in Select Disciplines

SUBPART D: STUDENTS

Section
1501.401 Definition of Terms (Repealed)
1501.402 Admission of Students
1501.403 Student Services
1501.404 Academic Records
1501.405 Student Evaluation
1501.406 Reporting Requirements

SUBPART E: FINANCE

Section
1501.501 Definition of Terms
1501.502 Financial Planning
1501.503 Audits
1501.504 Budgets
1501.505 Student Tuition
1501.506 Published Financial Statements
1501.507 Credit Hour Claims
1501.508 Special Populations Grants (Repealed)
1501.509 Workforce Preparation Grants (Repealed)
1501.510 Reporting Requirements
1501.511 Chart of Accounts
1501.514 Business Assistance Grants (Repealed)
1501.515 Advanced Technology Equipment Grant (Repealed)
1501.516 Capital Renewal Grants
1501.517 Retirees Health Insurance Grants (Repealed)
1501.518 Uncollectible Debts (Repealed)

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF ADOPTED AMENDMENTS

1501.519 Special Initiatives Grants
1501.520 Lincoln's Challenge Scholarship Grants
1501.521 Technology Enhancement Grants (Repealed)
1501.522 Deferred Maintenance Grants (Repealed)
1501.523 Foundation Matching Grants (Repealed)

SUBPART F: CAPITAL PROJECTS

Section
1501.601 Definition of Terms
1501.602 Approval of Capital Projects
1501.603 State Funded Capital Projects
1501.604 Locally Funded Capital Projects
1501.605 Project Changes (Repealed)
1501.606 Progress Reports (Repealed)
1501.607 Reporting Requirements
1501.608 Approval of Projects from 110 ILCS 805/3-20.3.01
1501.609 Completion of Projects from 110 ILCS 805/3-20.3.01
1501.610 Demolition of Facilities

SUBPART G: STATE COMMUNITY COLLEGE

Section
1501.701 Definition of Terms (Repealed)
1501.702 Applicability (Repealed)
1501.703 Recognition (Repealed)
1501.704 Programs (Repealed)
1501.705 Finance (Repealed)
1501.706 Personnel (Repealed)
1501.707 Facilities (Repealed)

SUBPART H: PERSONNEL

Section
1501.801 Definition of Terms
1501.802 Sabbatical Leave~~Leaves~~

AUTHORITY: Implementing and authorized by Articles II and III and Section 6-5.3 of the Public Community College Act [110 ILCS 805/Arts. II and III and 6-5.3].

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF ADOPTED AMENDMENTS

SOURCE: Adopted at 6 Ill. Reg. 14262, effective November 3, 1982; codified at 7 Ill. Reg. 2332; amended at 7 Ill. Reg. 16118, effective November 22, 1983; Sections 1501.103, 1501.107 and 1501.108 recodified to 2 Ill. Adm. Code 5175 at 8 Ill. Reg. 6032; amended at 8 Ill. Reg. 14262, effective July 25, 1984; amended at 8 Ill. Reg. 19383, effective September 28, 1984; emergency amendment at 8 Ill. Reg. 22603, effective November 7, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 24299, effective December 5, 1984, for a maximum of 150 days; amended at 9 Ill. Reg. 3691, effective March 13, 1985; amended at 9 Ill. Reg. 9470, effective June 11, 1985; amended at 9 Ill. Reg. 16813, effective October 21, 1985; amended at 10 Ill. Reg. 3612, effective January 31, 1986; amended at 10 Ill. Reg. 14658, effective August 22, 1986; amended at 11 Ill. Reg. 7606, effective April 8, 1987; amended at 11 Ill. Reg. 18150, effective October 27, 1987; amended at 12 Ill. Reg. 6660, effective March 25, 1988; amended at 12 Ill. Reg. 15973, effective September 23, 1988; amended at 12 Ill. Reg. 16699, effective September 23, 1988; amended at 12 Ill. Reg. 19691, effective November 15, 1988; amended at 13 Ill. Reg. 1182, effective January 13, 1989; amended at 13 Ill. Reg. 14904, effective September 12, 1989; emergency amendment at 14 Ill. Reg. 299, effective November 9, 1989, for a maximum of 150 days; emergency amendment expired on April 9, 1990; amended at 14 Ill. Reg. 4126, effective March 1, 1990; amended at 14 Ill. Reg. 10762, effective June 25, 1990; amended at 14 Ill. Reg. 11771, effective July 9, 1990; amended at 14 Ill. Reg. 13997, effective August 20, 1990; expedited correction at 18 Ill. Reg. 3027, effective August 20, 1990; amended at 15 Ill. Reg. 10929, effective July 11, 1991; amended at 16 Ill. Reg. 12445, effective July 24, 1992; amended at 16 Ill. Reg. 17621, effective November 6, 1992; amended at 17 Ill. Reg. 1853, effective February 2, 1993; amended at 18 Ill. Reg. 4635, effective March 9, 1994; amended at 18 Ill. Reg. 8906, effective June 1, 1994; amended at 19 Ill. Reg. 2299, effective February 14, 1995; amended at 19 Ill. Reg. 2816, effective February 21, 1995; amended at 19 Ill. Reg. 7515, effective May 26, 1995; amended at 21 Ill. Reg. 5891, effective April 22, 1997; amended at 22 Ill. Reg. 2087, effective January 12, 1998; amended at 22 Ill. Reg. 17472, effective July 10, 1998; amended at 24 Ill. Reg. 249, effective December 21, 1999; amended at 24 Ill. Reg. 17522, effective November 20, 2000; amended at 25 Ill. Reg. 7161, effective May 18, 2001; emergency amendment at 25 Ill. Reg. 12863, effective September 28, 2001, for a maximum of 150 days; emergency expired February 24, 2002; amended at 26 Ill. Reg. 646, effective January 7, 2002; amended at 27 Ill. Reg. 17204, effective October 31, 2003; amended at 28 Ill. Reg. 14092, effective October 18, 2004; amended at 29 Ill. Reg. 6239, effective April 25, 2005; amended at 30 Ill. Reg. 2755, effective February 21, 2006; amended at 32 Ill. Reg. 16396, effective September 23, 2008; amended at 40 Ill. Reg. 14054, effective September 29, 2016; amended at 41 Ill. Reg. 11274, effective August 28, 2017; amended at 41 Ill. Reg. 15723, effective December 18, 2017; amended at 42 Ill. Reg. 2819, effective January 24, 2018; amended at 42 Ill. Reg. 18869, effective October 3, 2018.

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF ADOPTED AMENDMENTS

SUBPART A: ILLINOIS COMMUNITY COLLEGE BOARD ADMINISTRATION

Section 1501.102 Advisory Groups

a) Advisory Organizations. Independent organizations may be considered by the ICCB to be advisory upon petition to the State Board. Independent organizations so recognized by the ICCB as "advisory" will have the opportunity to bring matters before the ICCB during a~~each~~ regular ICCB meeting and will have an opportunity to provide advice to the ICCB on proposed rule and policy adoptions and matters of interest to community colleges. An advisory organization may have its recognition status withdrawn by action of the ICCB or by request of the organization. Advisory organization recognition may be granted by the ICCB at the request of an organization which meets the following criteria:

1) The organization exists independently of the ICCB and any individual college;

2) A primary purpose of the organization is to deal with matters of systemwide importance; and

3) Representatives of Illinois community college districts are included as voting members of the organization.

b) Advisory Committees. Advisory~~ -- Standing. Standing advisory~~ committees to the ICCB may~~will~~ be authorized and appointed by the ICCB. Membership and terms of appointment shall be established at the time of authorization.

~~c) Advisory Committee -- Ad Hoc. The Executive Director is authorized to appoint ad hoc advisory committees to advise the ICCB staff on specific projects. The terms of appointment shall be for one year or less.~~

c~~d~~) Student Advisory Committee

1) Purpose. The purposes of this committee are to:

A) Review proposed ICCB policies;~~.~~

B) Inform the ICCB of systemwide issues that impact the education of community college students; and~~.~~

C) Select the ICCB Student Member.

2) Membership. Each member of the Student Advisory Committee shall be the nonvoting student member of the local district board of trustees. In the case of multi-college districts, the student trustee of the district shall automatically be designated as the voting member for the individual college where he or she attends. If ~~or a student designated by the district's chief executive officer if~~ the student member of the local district board of trustees cannot ~~is unable to~~ serve and, for colleges that are part of a multi-college district not represented by the district's student member, the district's president or chief executive officer may designate a student as a voting member. No community college shall have more than one voting member per college. The ICCB Student Member will serve ex officio.

3) Officers. The Student Advisory Committee shall annually select the following officers from its membership to serve a one-year term: a Chair to conduct the meeting of the Committee; a Vice Chair to assist the Chair, to conduct the meeting if the Chair is absent, and to represent the SAC on the IBHE Student Advisory Committee; and a Recording Officer to record the minutes of all SAC meetings.

~~4) SAC shall elect one representative from its membership annually to serve one-year terms on each of the ICCB advisory committees (Program, Finance, Legislative, and MIS/Research) by a majority vote of members present.~~

4~~5~~) The Executive Director of ~~the~~ ICCB shall call SAC meetings as necessary~~at least once each quarter~~ and notify each local district board of trustees at least 30 days in advance.

~~6) Reimbursement. Reimbursement for actual and necessary meeting expenses of SAC members will be in accordance with Section 2-7 of the Act.~~

5~~7~~) ICCB Meetings. The SAC report shall be given at regular ICCB meetings

d~~e~~) Selection of ICCB Student Member. The SAC will seek nominations for the ICCB Student Member from all Illinois public community colleges. A~~Each~~

college district can nominate one candidate for this position. The nomination shall include information such as personal information (name and address), number of credit hours (current and expected), college and community activities, resume, letters of reference, and rationale for desiring the position. The ICCB Student Member shall be elected before June 1 by a majority vote of SAC members present from all nominations who meet ICCB student membership requirements as delineated in subsection (e~~f~~) ~~below~~.

e~~f~~) Membership Requirements of ICCB Student Member. The ICCB Student Member shall be enrolled in an Illinois public community college for a minimum course load of six semester or quarter credit hours during both the fall and spring semesters (fall/winter/spring quarters) for each term of his/her appointment. If the course load of the ICCB Student Member falls below the minimum credit hours, that member shall be replaced by a majority vote of the SAC members present at the next SAC meeting.

f~~g~~) Length of Term of ICCB Student Member. The ICCB Student Member shall serve for a term of one year beginning on July 1 and expiring on June 30. No ICCB Student Member shall serve for more than two terms. Service during a partial term shall not be considered as one term.

(Source: Amended at 42 Ill. Reg. 18869, effective October 3, 2018)

Section 1501.105 Advisory Opinions

~~The~~ ICCB will provide advisory opinions regarding interpretation of the Act to community colleges upon request of the district's chief executive officer~~President~~ or Chair of the board~~Board~~ and with the approval of the ICCB Chair and Executive Director. These~~Such~~ opinions also will be provided to recognized advisory organizations upon request of the chair of each group, subject to the approval of the ICCB Chair and Executive Director.

(Source: Amended at 42 Ill. Reg. 18869, effective October 3, 2018)

Section 1501.113 Administration of Detachments and Subsequent Annexations

a) ICCB decisions concerning approval or disapproval of requested detachments and subsequent annexations are required by Section 6-5.3 of the Act to be based on the criteria of being ~~"~~*in the best interests~~interest~~ of the schools in the general area and the educational welfare of the students residing within the territory.*~~"~~ These

criteria are defined as follows:

1) *In the best interests of schools* – The effect of the proposed annexation/new district formation on:

A) Reasonableness of cost to taxpayers of the territory being annexed to an existing community college district or becoming part of a new community college district, that is,~~i.e.,~~ whether the operating tax rate of the community college district exceeds the chargeback levy of the nondistrict~~non-district~~ territory;

B) Finances of the existing or new community college district, that is,~~i.e.,~~ the equalized assessed valuation of the nondistrict territory is examined to determine how much tax revenue will be generated for the community college district to which the nondistrict territory could annex; and

C) Enrollments of the existing district,

i) which community college the nondistrict~~non-district~~ territory students have been attending; and

ii) effect of additional enrollments when the nondistrict~~non-district~~ territory is annexed to a community college district.

2) *Educational welfare of students* – The effect of the proposed annexation/new district formation on:

A) Program availability to students of the territory being annexed to an existing community college district, that is,~~i.e.,~~ will the program be more available to students should annexation be approved?

B) Physical access of students to the campus(es) of the existing or new community college district, that is,~~i.e.,~~ what is the distance and time which the students must travel to attend?

C) Cost to students to attend the existing or new community college district, that is,~~i.e.,~~ what are the tuition and fees and commuting costs associated with attending that community college district?

D) And participation by students in their normal economic, cultural, and social activities, that is,~~i.e.,~~ where do potential students shop, work, and attend religious and cultural events?

b) In addition to the criteria identified in subsection (a)~~a~~, consideration will be given to the expressed wishes of local residents. The~~, such~~ expression shall~~to~~ be in the form of signatures on a petition submitted in accordance with ~~the provisions of~~ Section 6-5.3 of the Act.

(Source: Amended at 42 Ill. Reg. 18869, effective October 3, 2018)

Section 1501.114 Recognition

a) Recognition Provisions

1) Recognition Status. A district will be granted a status of recognition continued, recognition continued − with conditions, or recognition interrupted.

2) Effect of Recognition Continued. A district that~~which~~ has been granted the status of recognition continued will be entitled to receive ICCB grants for which it is otherwise entitled and eligible.

3) Effect of Recognition Continued-With Conditions. A district that~~which~~ has been granted~~assigned~~ the status of recognition continued − with conditions will be entitled to receive ICCB grants for which it is otherwise entitled and eligible, but it will be given a specified time to resolve the conditions that~~which~~ led to its assignment to that status. A follow-up visit will be scheduled not sooner than three nor later than nine months after ICCB action on the assignment to determine the district's progress in resolving the conditions.

4) Effect of Recognition Interrupted. A district that~~which~~ has been granted~~assigned~~ a status of recognition interrupted may apply for recognition when~~at such time as~~ all requirements set forth by ~~the~~ ICCB have been satisfied. A district on recognition interrupted status will have State~~state~~ funding suspended on a prorata, per diem basis for the period ~~of time~~ for that~~which~~ such status is in effect.

5) Recognition Action. Recognition is considered to be continuous unless action is taken to interrupt it. The ICCB will act on the recognition status of a~~each~~ district at the meeting subsequent to the ICCB recognition report being received. A district that~~which~~ previously has not been granted a recognition status by the ICCB may apply for a recognition status at any time. A district that~~which~~ has the status of recognition continued shall apply for continuation of that status at least 30 days before~~prior to~~ a scheduled recognition team visit.

b) Evaluation. The ICCB staff recognition team will conduct an in-depth evaluation of a~~each~~ district at least once every 5 years. Additional or alternate~~alterate~~ focused evaluations may be conducted to review circumstances of alleged gross noncompliance with ICCB standards. The purpose of the evaluation will be to determine compliance with ICCB standards. The evaluation may include an on-site visit. No district will be granted~~assigned~~ a recognition status without having received a prior in-depth evaluation. A district will receive a draft report of the recognition team's findings no later than 30 days after the conclusion of the evaluation. The district will have 30 days to review the draft report, respond to compliance recommendations, and return the responses to ICCB. A final report will be presented to the ICCB at its next regularly scheduled meeting and will include the district's responses to the draft report's findings. Accompanying the final report will be the evaluating team's recommendation for recognition status.

c) Review and Appeal. The ICCB may place a district on a recognition interrupted status for failure to meet ICCB standards after being granted~~assigned~~ a status of recognition continued − with conditions and receiving a follow-up evaluation if the district has not resolved the conditions within the stated time allowed. Any district whose recognition is interrupted may file a written request with the ICCB for a hearing on the decision in accordance with Section 1501.110. Pending the hearing and decision, any consequences of recognition interrupted will be suspended.

d) Recognition Standards. The recognition standards by which a district will be evaluated for recognition purposes will be the applicable statutes within the Public Community College Act and applicable ICCB rules.

(Source: Amended at 42 Ill. Reg. 18869, effective October 3, 2018)

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SUBPART C: PROGRAMS

Section 1501.301 Definition of Terms

"Adult Basic Education" means basic skills courses designed to bring students to a competency of Grade 8 equivalency, including English as a Second Language.

"Adult Secondary Education" means courses designed to bring students to a competency of Grade 12 equivalency, including English as a Second Language, and the high school equivalency examination preparation.

~~Associate Degree. An~~ "Associate Degree" means~~is~~ an award for satisfactory completion of a curriculum of 60 semester credit hours or more.

~~Associate in Applied Science Degree. An~~ "Associate in Applied Science Degree" means~~is~~ an award for the satisfactory completion of a prescribed curriculum intended to prepare individuals for employment in a specific field.

~~Associate in Arts Degree. An~~ "Associate in Arts Degree" means~~is~~ an award for the satisfactory completion of a prescribed curriculum intended to transfer to baccalaureate degree programs in one of the arts, humanities, or social or behavioral sciences or one of the professional fields with these disciplines as a base.

"Associate in Engineering Science Degree" means an award for the satisfactory completion of a prescribed curriculum intended to transfer to baccalaureate degree programs in engineering.

~~Associate in Fine Arts Degree. An~~ "Associate in Fine Arts Degree" means~~is~~ an award for the satisfactory completion of a prescribed curriculum intended to transfer to baccalaureate degree programs in one of the fine arts: art, music, or theater.

~~Associate in Engineering Science Degree. An "Associate in Engineering Science Degree" an award for the satisfactory completion of a prescribed curriculum intended to transfer to baccalaureate degree programs in engineering.~~

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~~Associate in General Studies Degree. An~~ "Associate in General Studies Degree" means~~is~~ an award for the satisfactory completion of a curriculum that has been individually designed by mutual agreement between the student and his/her college-appointed advisor to meet the student's educational intent.

~~Associate in Science Degree. An~~ "Associate in Science Degree" means~~is~~ an award for the satisfactory completion of a prescribed curriculum intended to transfer to baccalaureate degree programs in one of the mathematical, biological, or physical sciences or one of the professional fields with these disciplines as a base.

"Baccalaureate/Transfer Education" means coursework intended to prepare individuals for transfer into a baccalaureate curriculum in a related field of study.

"Branch" means~~Branch. A "branch" is~~ an administrative unit of a college that has a continuing educational mission and serves as a secondary instructional site for the college.

"Bridge Instruction" means coursework in adult education, remedial education, career and technical education, vocational skills education, or a combination of these types of education, to prepare individuals for entering credit courses and curricula.

"Campus" means~~Campus. A "campus" is~~ an organized administrative unit of a college that has a continuing educational mission and serves as a primary instructional site for the college.

"Career and Technical Education" means organized educational programs of study that prepare students for employment in a specific field and should be aligned with related secondary and/or upper-division programs that require a common knowledge and skill set.

"Certificate" means~~Certificate. A "certificate" is~~ an award for satisfactory completion of a series of courses or curriculum of ~~50 semester credit hours or~~ less than 59 semester credit hours.

"General Certificate" means a noncredit~~General certificate. A "general certificate" is an~~ award for satisfactory completion of a series of courses of

30 semester credit hours or less in adult basic education, adult secondary education, remedial education, vocational skills, or general studies.

"Occupational or Career and Technical Certificate" means a credit~~certificate. An "occupational certificate" is an~~ award for satisfactory completion of a prescribed curriculum intended to prepare an individual for employment in a specific field.

"College" means~~. A "college" is~~ a district's administrative unit that is authorized by the Illinois Board of Higher Education to grant postsecondary-level degrees and certificates, is recognized by the ICCB, and provides a comprehensive program of instruction in accordance with Section 101-2(e) of the Act.

"Contact Hour" means instructional time based on a 50-60 minute clock hour of instructional activity that may include classroom, online, laboratory, clinical or work-based instruction or any combination of those instructional methods.

"Course" means~~. A "course" is~~ a sequential presentation, through one or more instructional modes, of subject matter in a particular field to meet specific objectives within a designated time period, such as a semester or a quarter.

"Curriculum" means~~. A "curriculum" is~~ an approved unit of instruction consisting of a series of courses designed to lead to an associate degree or a certificate.

~~Adult Basic Education. An "Adult Basic Education" curriculum consists of basic skills courses designed to bring students to a competency of eighth-grade equivalency, including English as a Second Language instruction to a level of eighth-grade equivalency.~~

~~Adult Secondary Education. An "Adult Secondary Education" curriculum consists of courses designed to bring students to a competency of twelfth-grade equivalency, including English as a Second Language courses through the twelfth-grade equivalency and General Educational Development (GED) examination preparation.~~

"District Curriculum" means~~. A "district curriculum" is~~ a curriculum approved for offering within a district, on the basis of student interest, employment demand, and available resources within the district.

"General Studies Curriculum" means a curriculum~~General Studies. A "General Studies" curriculum consists of courses~~ designed to meet individual student goals, in the promotion of personal improvement and self-understanding.

"Regional Curriculum" means~~. A "regional curriculum" is~~ a curriculum approved for offering within a particular region of the State~~state~~, on the basis of student interest and employment demand within the region. An institution holding authority to offer a regional curriculum shall not exclude additional districts, including those within the defined region or regional consortia of colleges, from requesting approval to offer the same curriculum in its district.

~~Remedial Education. A "Remedial Education" curriculum consists of courses in computation, communication (i.e., writing and speaking), and reading, designed to improve the competency of high school graduates, or those persons achieving high school equivalency through standardized testing, to the level necessary for placement into communication and mathematics courses required of first-year college students. Remedial courses reiterate basic skills that students were expected to have mastered prior to entry into post-secondary education.~~

"Statewide Curriculum" means~~. A "statewide curriculum" is~~ a curriculum approved for offering on the basis of student interest and employment demand statewide. An institution holding authority to offer a statewide curriculum shall not exclude additional districts from requesting approval to offer the same curriculum statewide, regionally or in its district.

"Educational Agency" means~~. An "educational agency" is~~ an agency, corporation, or other defined legal entity that~~which~~ offers instruction.

"Electronic Exchange System" means an online tool for organizing ICCB proposals and tracking their status.

"Extension Center" means~~. An "extension center" is~~ an instructional site for the college that is used for offering some of the college's courses and/or programs for a limited duration.

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"Instructional Activity" means classroom, online, laboratory, clinical or work-based instruction or any combination of those instructional methods.

~~Higher Learning Commission or HLC.~~ "Higher Learning Commission" or "HLC" means an independent corporation that serves as one of six regional institutional accreditors in the U.S. and accredits degree-granting post-secondary educational institutions in the North Central Region, which includes Illinois.

"Internship/Practicum" means~~. An "internship/practicum" is~~ a course of planned and supervised training that~~which~~ allows the application of theory to actual practice and prepares a student for working independently in a specific career. The internship/practicum generally occurs after the student has completed 12 credit hours. It takes place~~palace~~ at a regular worksite and instruction/supervision is shared by a college instructor/supervisor and a qualified employee at the worksite. Clinical practicums take place in a hospital or other medical/health facility and require close supervision/instruction/monitoring by a qualified college instructor.

"Laboratory" means~~. A "laboratory" is~~ a course of planned and supervised training in which students learn new methods or principles through experimentation, observation, and/or practice. A lab class can occur at the beginning, middle, or end of a particular course of study and may be a specially equipped room designed for experimentation, observation, and/or practice on the college campus or at the worksite.

"Lecture" means a course presented in an oral or related format that allows for content to be discussed among class participants.

~~PBVS Program of Study.~~ "PBVS Program of Study" means any of the programs listed in Section 10 of the Career and Workforce Transition Act [110 ILCS 151].

"Principal Site" means~~. The principal site is~~ the official mailing address of the college.

~~Private Business Vocational School or PBVS.~~ "Private Business Vocational School" or "PBVS" means a non-degree granting institution that is regulated and approved by the Board of Higher Education under the Private Business and Vocational Schools Act of 2012 [105 ILCS 426] and that is nationally accredited by an accreditor approved by the U.S. Department of Education.

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"Public Service" means~~. "Public service" consists of~~ noncredit classes and other activities of an educational nature, such as workshops, seminars, forums, exhibits, and the provision of college facilities and expertise to the community, designed to be of service to the public.

"Remedial Education" means courses in computation, communication (that is, writing and speaking), and reading, designed to improve the competency of high school graduates, or those persons achieving high school equivalency through standardized testing, to the level necessary for placement into communication and mathematics courses required of first-year college students. Remedial courses reiterate basic skills that students were expected to have mastered before entry into postsecondary education.

"Research" means~~. "Research" consists of~~ investigations or experiments to discover or interpret facts, to revise accepted theories, or to apply those~~such~~ revised theories.

"Secondary School" means a~~. A "secondary school" shall be used to mean~~ private or parochial secondary school, public secondary school district, or public unit school district.

"Unit of Instruction" means~~. A "unit of instruction" is~~ any one of the following:

An organized program of study consisting of a sequence of courses that results in the award to a student of a certificate or an associate degree.

Any existing organized program of study offered at a new geographical location outside of the college district.

Any organized administrative entity that would have a continuing instructional mission, including but not limited to a college, campus~~,~~ or branch.

"Unit of Research or Public Service" means~~. A "unit of research or public service" is~~ a college's subdivision, such as a division, institute~~,~~ or center, that administers one ~~(~~or more~~)~~ research or public service programs~~program~~.

"Vocational Skills Education" means~~. "Vocational Skills" consists of~~ courses

designed to provide short-term job entry training, to upgrade the skills of persons already employed, or to review skills for career re-entry.

(Source: Amended at 42 Ill. Reg. 18869, effective October 3, 2018)

Section 1501.302 Units of Instruction, Research, and Public Service

a) Approval of New Units of Instruction. An application for approval of a~~Each~~ proposed new unit of instruction shall be submitted to the ICCB on forms provided by ICCB~~for approval~~. The criteria for approval of new units of instruction, which also apply to existing programs offered by community colleges, are:

1) Mission and Objectives~~.~~

A) The objectives of the unit of instruction are consistent with the mission of the college as set forth in Section 1-2(e) of the ~~Public Community College~~ Act.

B) The objectives of the unit of instruction are consistent with what the title of the unit of instruction implies.

2) Academic Control~~.~~

A) The design, conduct~~,~~ and evaluation of the unit of instruction are under the direct and continuous control of the college's established processes for academic planning and quality maintenance, and clear provision is made for ensuring a high level of academic performance of faculty and students.

B) The admission, course placement, and graduation requirements for the unit of instruction are consistent with the stated objectives of the unit of instruction and with Section 3-17 of the Act, when~~where~~ applicable.

3) Curriculum. The content of the curriculum ensures that the objectives of the unit of instruction will be achieved.

A) The range of total number of credit hours required for completion

of an associate degree curriculum shall be within the following parameters:

i) For the Associate in Arts degree and the Associate in Science degree, a total requirement of not less than 60 semester credit hours nor more than 64 semester credit hours or the quarter credit hour equivalent;

ii) For the Associate in Fine Arts and the Associate in Engineering Science degree, a total requirement of not less than 60 semester credit hours nor more than 68 semester credit hours or the quarter credit hour equivalent;

iii) For the Associate in Applied Science degree, a total requirement of not less than 60 semester credit hours nor more than 72 semester credit hours or the quarter credit hour equivalent, except in such occupational fields in which accreditation or licensure by a state or national organization requires additional coursework; and

iv) For the Associate in General Studies degree, a total requirement of not less than 60 semester credit hours nor more than 64 semester credit hours or the quarter credit hour equivalent.

B) An~~Each~~ associate degree curriculum shall include a specific general education component consisting of coursework in communication, arts and humanities, social and behavioral sciences, and mathematics and science within the following parameters:

i) For the Associate in Arts degree and the Associate in Science degree, the general education component required will represent at least 37 semester credit hours or the quarter hour equivalent for completion;

ii) For the Associate in Fine Arts degree, the general education component required will represent at least 25 semester credit hours or the quarter hour equivalent for completion;

iii) For the Associate in Engineering Science degree, the general education component required will represent at least 19 semester credit hours or the quarter hour equivalent for completion;

iv) For the Associate in Applied Science degree, the general education component required will represent at least 15 semester credit hour or the quarter hour equivalent for completion; and

v) For the Associate in General Studies degree, the general education component required will represent no less than 20 semester credit hours or the quarter hour equivalent for completion.

4) Faculty and Staff.

A) The academic preparation and experience of faculty and staff ensure that students receive education consistent with the objectives of the unit of instruction.

B) The involvement of faculty in the unit of instruction is sufficient to cover the various fields of knowledge encompassed by the curriculum, to sustain scholarship appropriate to the unit of instruction, and to ensure curriculum continuity.

C) Support personnel, including counselors, administrators, clinical supervisors, and technical staff, have the educational background and experience necessary to carry out their assigned responsibilities.

5) Support Services.

A) Facilities, equipment, and instructional resources (e.g., laboratory supplies and equipment, instructional materials, computation equipment) necessary to provide quality instruction will be available and maintained.

B) Library holdings and acquisitions necessary to support quality instruction and scholarship are available, accessible~~,~~ and maintained.

C) Provision is made for the guidance and counseling of students, the evaluation of student performance, the continuous monitoring of progress of students toward their degree or certificate objectives, the placement of completers of the unit of instruction, and appropriate academic record keeping.

6) Financing~~.~~

A) The financial commitments to support the unit of instruction are sufficient to ensure that the stated objectives can be attained and that the faculty, staff~~,~~ and support services necessary to offer the unit of instruction can be acquired and maintained.

B) Projections of revenues necessary to support the unit of instruction are based upon supportable estimates of general revenue, student tuition and fees, private gifts, and/or governmental grants and contracts.

7) Public Information~~.~~
The information that the college provides to students and the public accurately describes: the unit of instruction offered; the objectives of the unit of instruction; length of the unit of instruction; residency requirements, if any; schedule of tuition, fees~~,~~ and all other charges and expenses necessary for completion of the unit of instruction; cancellation and refund policies; and such other material facts concerning the college and the unit of instruction as are likely to affect the decision of the student to enroll.

8) Accreditation and Credentialing~~.~~

A) Appropriate steps have been taken to ensure that accreditation of the proposed new unit of instruction will be granted in a reasonable ~~period of~~ time.

B) The proposed new unit will provide the skills required to obtain

individual credentialing (certification, licensure, registration) needed for entry into an occupation as specified in the objectives of the proposed new unit of instruction.

9) Program Needs and Priorities~~.~~

A) The unit of instruction must be educationally and economically justified based on the educational priorities and needs of the citizens of Illinois and the college's district.

B) The unit of instruction meets a need that is not currently met by units of instruction that~~which~~ are offered by other institutions in the district.

b) Approval of New Administrative Units of Research or Public Service. An application for approval of a~~each~~ proposed new administrative unit of research or public service shall be submitted to the ICCB on forms provided by ~~the~~ ICCB. The criteria for approval of new administrative units of public service or research are:

1) The proposed new administrative unit shall be authorized by the board of trustees;~~.~~

2) The objectives of the proposed new administrative unit are consistent with the mission of the college (see 110 ILCS/~~Section~~ 1-2(e)~~ of the Act~~);~~.~~

3) The proposed new administrative unit shall meet a district's need to deliver a public service or research program which cannot be met through the district's current structure as indicated by an organizational chart;~~.~~

4) The proposed new administrative unit shall administer at least one public service or research program;~~.~~

5) The needs assessment demonstrates that the demand for the public service or research program to be administered by the proposed new unit shall be continuous for at least three years; and~~.~~

6) The district shall provide evidence that the resources for the facilities, equipment and materials, and staff necessary to provide a quality program

or service shall be made available to the proposed new administrative unit.

c) Withdrawal. An approved unit of instruction, public service, or research may be withdrawn by the college when it decides to suspend operation of the unit. The withdrawal request shall be submitted to~~reported on forms supplied by the~~ ICCB through an electronic exchange system. Withdrawal of a curriculum will require reassignment of related courses.

d) Reasonable and Moderate Extensions~~.~~

1) An approved unit of instruction, public service, or research may be modified or extended by the college within the parameters listed in subsections (d)(2) through (4). The college shall notify ~~the~~ ICCB of the~~such~~ extensions on forms provided by ~~the~~ ICCB.

2) Reasonable and moderate extensions of previously approved units of instruction include:

A) The addition, modification~~,~~ or withdrawal of courses within an approved unit of instruction that~~which~~ does not alter the objectives of the unit of instruction.

B) A change in minimum credit hours for completion of an approved unit of instruction that does not affect the instructional level of the unit of instruction.

C) A change in title of an approved unit of instruction that does not indicate a different objective of the unit than that previously approved.

D) The creation of an option (major, concentration~~,~~ or specialization) within an approved unit of instruction in which:

i) the option created is within the same general academic discipline or occupational field as the previously approved unit of instruction;~~,~~

ii) the option created within a previously approved associate degree curriculum shares a common core of first-year

courses with the previously approved unit of instruction;~~,~~ and

iii) the option created does not substitute more than 15 semester credit hours of other courses for courses previously approved as part of an associate degree curriculum or cluster of closely related curricula, e.g., from the same four-digit CIP code or substitute more than 9 semester credit hours of other courses for courses previously approved as part of a certificate curriculum (or closely related cluster) of 30 semester credit hours or more.

E) The creation of certificate curricula from previously approved associate degree curricula and certificate curricula, including closely related curricula; e.g., from the same four-digit CIP code, providing no more than 6 semester credit hours are substituted for certificates of up to 30 semester credit hours or no more than 9 semester credit hours are substituted in certificates of 30 semester credit hours or more.

F) The creation of ~~a~~ certificate curricula of less than seven semester credit hours from previously approved associate degree curricula and certificate curriculum from the same two-digit CIP code.

G) Modifications. An approved unit of instruction, public service or research may be modified by the colleges within the parameters listed in subsection (d). The college shall notify ICCB of the modifications through an electronic exchange system. Modifications to existing units of instruction include:

i) The addition, modification or withdrawal of courses within an approved unit of instruction that does not alter the objectives of the unit of instruction;

ii) A change in minimum credit hours for completion of an approved unit of instruction that does not affect the instructional level of the unit of instruction;

iii) A change in title of an approved unit of instruction that does not indicate a different objective of the unit than that previously approved; or

iv) A change in program/course classification code that does not alter the objectives of the unit of instruction.

3) Reasonable and moderate extensions of previously approved units of research or public service include units with an annual operating expenditure from whatever source of less than $250,000 or an annual operating expenditure from state appropriations of less than $50,000.

4) Reasonable and moderate extensions of previously approved units of administration include any administrative reorganization of a college.

e) Approval in a Multi-College District. Approval of new units of instruction, research, or public service in a multi-college district will be for a specific college. Transfer of a unit to, or duplication of a unit by, other colleges within the district constitutes a new unit requiring approval by the ICCB. However, up to 9 hours of a program approved at one college may be offered by any other college in the district at the option of the Board.

f) Inactivation. When a college no longer offers an approved unit of instruction to additional new students, that unit of instruction shall be reported to the ICCB and shall be removed from the college catalog and other documents advertising the program offerings to the public. ~~1)~~An inactive unit of instruction shall be maintained on the ICCB Curriculum Inventory File with the date that it became inactive for a period of at least 10~~ten~~ years. The effective date that a unit of instruction becomes inactive shall be determined by the college.

g) Reactivation. A unit of instruction that has been inactivated by a college may be reactivated by submitting the materials outlined in subsection (a) for review and approval by ICCB.

1~~2~~) A unit of instruction that has been inactive for less than three years may be reactivated by the college once it has completed the following:

A) Obtained approval to reactivate the program from its chief executive administrator;~~.~~

B) Obtained approval to reactivate the program from agencies that license, certify, or accredit the program, if appropriate; and.

C) Submitted a request for reactivation and an updated copy of the curriculum to ICCBSubmitted a notification to the ICCB.

23) A unit of instruction that has been inactive for three to 10ten years may be reactivated by the ICCB Executive Director of the ICCB if the college has completed the following:

A) Obtained approval to reactivate the program from its chief executive administrator;.

B) Obtained approval to reactivate the program from agencies that license, certify, or accredit the program, if appropriate;.

C) Demonstrated through local surveys or Statestate labor market data that the labor market demand and supply shows a need for graduates of the program;.

D) Conducted a review of the program with representatives from business and industry including on-site visits and advice regarding current technologies and equipment;.

E) Demonstrated, in accordance with subsections (a)(5) and (a)(6) of this Section and Section 1501.510, that the college has adequate facilities, equipment and financial resourcesresource to offer a quality program;.

F) Demonstrated, in accordance with Section 1501.303(f), that the college has available qualified faculty to provide the instruction for the program; and.

G) Submitted a request for the reactivation and an updated copy of the curriculum to the ICCB.

34) A unit of instruction that has been inactive for over 10ten years may be reactivated by following the new unit approval process described in

subsection (a)~~ of this Section~~.

h~~g~~) Discontinuation of Programs. The ICCB may discontinue programs that~~which~~ fail to reflect the educational~~education~~ needs of the area being served as follows~~follow~~:

1) Programs that do not meet standards of need, quality~~,~~ and cost effectiveness may be discontinued by the ICCB. This determination shall be made based on review and collective findings of information available to the ICCB through ICCB and Illinois Board of Higher Education~~IBHE~~ program review, evaluation~~,~~ and productivity processes; the ICCB Management Information System; and other sources of pertinent information on the following criteria:

A) Program need, including educational priorities of the district, accessibility, credit hours generated, enrollments, completions, and labor market supply and demand.

B) Program quality, including job placement or education continuation, program content, academic control, faculty qualifications, and accreditation and credentialing.

C) Program costs, including adequacy of financial support and unit costs.

2) ~~The~~ ICCB will use~~utilize~~ special State~~state~~-level analyses to identify programs that appear to be of questionable need, cost~~,~~ or quality based on State~~state~~ data. Programs identified through State~~state~~-level analysis will be referred to the colleges to enable them to evaluate the programs in detail in their normal process and to obtain the results and comments from the local level.

3) ~~The~~ ICCB will notify college districts of programs being considered for discontinuation and shall grant the district 60 days to respond to concerns regarding the program in question before~~prior to~~ action by the Board. This information shall be taken into account in determining if a program should be discontinued by the ICCB.

4) Once a program is discontinued by the ICCB and the appeal process is

concluded, the college must inactivate the program by not enrolling any additional new students and develop a plan for an orderly discontinuation of the program for students currently enrolled. Programs discontinued by the ICCB may be reestablished by obtaining approval as a new unit of instruction under subsection (a)~~ of this Section~~.

(Source: Amended at 42 Ill. Reg. 18869, effective October 3, 2017)

Section 1501.304 Statewide and Regional Planning

a) Program planning is based on an assessment of program needs within districts, regions, and the State~~state~~ as a whole. Program approval shall be based, in part, on the labor market and economic needs of the district or regional consortium of colleges requesting authority to offer specific curricula.~~Regions may comprise a community college district and one or more adjacent districts; e.g., some or all surrounding districts or the regional university/community college consortium.~~

b) Admission of Students to Regional Curricula. Regions, or regional consortia of colleges, may comprise a community college district and one or more adjacent districts; e.g., some or all surrounding districts or the regional university/community college consortium. A college that~~which~~ offers approved regional curricula shall admit qualified students from throughout the Region on the same priority basis as in-district students.

c) Admission of Students to Statewide Curricula. A college that~~which~~ offers approved statewide curricula shall admit qualified students from throughout the State~~state~~ on the same priority basis as in-district students.

(Source: Amended at 42 Ill. Reg. 18869, effective October 3, 2018)

Section 1501.305 College, Branch, Campus, and Extension Centers

a) Approval of a New College. An application for approval for a~~each~~ proposed new college shall be submitted to ICCB on forms provided by ICCB. The criteria for approval of a new college are:

1) The proposed college shall be authorized by the Board of Trustees.

2) The proposed college shall meet educational needs that cannot be met

within that area of the district as demonstrated by a needs assessment. The needs assessment shall include identification of all other educational institutions providing postsecondary education within a 30~~thirty~~-mile radius of the proposed college, identification of student demand for postsecondary education by program area within the service area of the proposed college, a statement on how the establishment of the proposed college will impact the enrollments on these postsecondary educational institutions within a 30~~thirty~~-mile radius of the proposed college, a statement on how the establishment of the proposed college will impact the current enrollments of the district's present colleges~~college(s)~~, and of student enrollments for the proposed college.

3) The proposed college shall provide a comprehensive program of instruction as specified in Section 101-2(e) of the Act.

4) The district shall certify that the resources for the facilities, equipment, instructional materials, library holdings, and faculty and staff necessary to provide quality instruction pursuant to Section 1501.302 shall be made available to the proposed college.

5) The needs assessment substantiates that the student enrollment for the proposed college shall be at least 1,000 full-time equivalent students (30,000 semester credit hours) per year by the second full year of operation.

6) The district shall have at least $150 million of assessed valuation for each of its colleges, including the proposed college.

7) The proposed college shall serve a population of at least 60,000 or a geographic area of at least three entire counties.

8) The plans to obtain regional accreditation for the proposed college have been developed.

b) Approval of a Branch or Campus. An application for approval of a~~each~~ proposed branch or campus shall be submitted to ICCB on forms provided by ICCB. The criteria for approval of a branch or campus are:

1) The proposed branch or campus shall be authorized by the Board of

Trustees.

2) The proposed branch or campus shall meet educational needs that cannot be met in that area of the district as demonstrated by a needs assessment.

3) The college shall certify that resources for facilities, equipment, instructional materials, library holdings, and faculty and staff necessary to provide quality instruction pursuant to Section 1501.302 shall be made available to the proposed branch or campus.

4) The proposed branch or campus shall provide student and academic support services on site that are adequate pursuant to Section 1501.302 to support the curricula offered and the students in attendance at the branch or campus.

c) To qualify for a grant of up to $100,000 for the establishment of a college, campus~~,~~ or branch once approval has been granted by the ICCB ~~and the Illinois Board of Higher Education~~, all of the following conditions must be met:

1) The college, campus~~,~~ or branch shall meet the conditions specified in Section 3-12.2 of the Act.~~Ill. Rev. Stat. 1989, ch. 122, par. 103-12.2~~

2) The college district shall request the ICCB to include the grant in its budget request submitted to ~~the~~ IBHE and shall include a justification of the need and proposed use of the grant.

3) Funds for the college, campus~~,~~ or branch shall have been appropriated.

d) Extension Centers. An extension center located within the community college district is a reasonable and moderate extension of a college and may be established at the discretion of the district's Board of Trustees. An extension center located outside the community college district requires ICCB approval under Section 1501.307.

(Source: Amended at 42 Ill. Reg. 18869, effective October 3, 2018)

Section 1501.309 Course Classification and Applicability

a) Course Classification. Information on courses for which credit is to be awarded

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shall be submitted to ICCB through an electronic exchange system~~on forms provided by ICCB~~ in order for the courses to be classified into appropriate instructional and funding categories and added to the college's Management Information System (MIS) Course Master File.

b) Course Credit Hour Determination~~.~~

1) Credit hours for courses for which ICCB credit hour grants are to be claimed shall be determined on the basis of an expected 45 hours of combined classroom/laboratory and study time for each semester hour or 30 hours of that~~such~~ time for each quarter credit hour.

2) Lecture Courses. Courses with students participating in lecture/discussion oriented instruction shall~~will~~ be assigned one semester credit hour or equivalent for each 15 classroom contact hours, at a minimum, of instruction per semester or equivalent. It is assumed that two hours of outside study will be invested for each classroom contact hour.

3) Laboratory Courses. Courses in which students participate in laboratory/clinical-laboratory oriented instruction shall~~will~~ be assigned one semester credit hour or equivalent for each 30-45 classroom contact hours, at a minimum, of instruction per semester or equivalent. It is assumed that one hour of outside study will be invested for each two laboratory contact hours.

4~~3~~) Clinical Practicum courses. Courses in which students participate in clinical practical experiences shall receive one semester credit hour or equivalent each 30-60 contact hours, at a minimum, per semester or equivalent. It is expected that one hour of outside study time will be invested for each two clinical practicum contact hours.

5~~4~~) Internship Courses. Courses in which students~~Students who~~ participate in nonclinical internship, practicum, or on-the-job supervised instruction shall receive one semester credit hour or equivalent for each 75-149 contact hours, at a minimum, per semester credit hour or equivalent~~ and students who participate in clinical practicums shall receive one semester hour credit or equivalent for each 30-60 contact hours per semester or equivalent. It is assumed that one hour of outside study time will be invested from each two clinical practicum contact hours~~.

c) Course Syllabus. A syllabus shall be developed and maintained for a~~each~~ credit course and shall be available to the public and students upon request. A syllabus contains the description of the course, specific objectives of the course, a topical outline, and the method for evaluating student performance.

d) Course Applicability. All credit courses must be part of an approved unit of instruction (pursuant to Section 1501.302), and the approved unit of instruction for a~~each~~ course shall be indicated on the college's ICCB MIS Course Master File.

1) Lower-division Baccalaureate Courses. Courses designed to meet lower-division baccalaureate degree requirements shall be applicable to associate transfer degrees. For each baccalaureate course offered, the college shall either obtain approval for the course to be listed as a statewide~~Statewide~~ articulated transfer course by a general education or baccalaureate major panel of the Illinois Articulation Initiative or maintain current written articulation agreements or transfer equivalency documents with:

A) at least three Illinois public universities;~~, or~~

B) at least three baccalaureate degree-granting institutions to which a majority (51%) of the college's students transfer;~~,~~ or

C) one or more baccalaureate degree-granting institutions to which a majority (51%) of the college's students, majoring in the field for which the course is required, transfer.

2) Remedial Course Credit. No remedial course credit shall be applicable to associate degrees designed for transfer to institutions granting baccalaureate degrees.

3) Adult Basic Education Course Credit. No adult basic education course credit applies~~is applicable~~ to degrees or to certificates, except the Adult Basic Education Certificate.

4) Adult Secondary Education Course Credit. No adult secondary or college preparatory education course credit applies~~is applicable~~ to degrees or certificates, except the Adult Secondary Education Certificate.

5) Career and Technical Education Course Credit. Courses designed to prepare individuals with a technical skill shall be applicable towards the requirements or electives for completion of an associate's degree (applied or transfer) or a career and technical education certificate.

6~~5~~) General Studies Course Credit. General studies course credit applies~~is applicable~~ only to the Personal Development; Homemaking; Improving Family Circumstances; Intellectual and Cultural Studies; Community and Civic Development; and Health, Safety and Environment Certificates.

e) Special Upper-Division Courses~~.~~

1) A college may offer any course that is offered by a university, regardless of numbering system, if the university normally permits its own students to take the course as lower-division students. These~~Such~~ courses will be eligible for ICCB grants, if they meet all other criteria.

2) If at least three public universities in Illinois agree, or if a public university that~~which~~ is the principal recipient of transfers from the community college agrees, certain special courses taught at the upper-division level may be offered by a college and be eligible for ICCB grants, provided they meet all other criteria.

f) Independent Study. Independent Study course credit shall not exceed 25 percent of the credit hour requirements for a student to earn an associate degree. The topic of an independent study course shall be listed on the student's permanent academic record.

g) Internships. An internship experience for credit that is designed to provide the student an opportunity to put into practice the theories and techniques learned in the classroom/laboratory shall be applicable to an associate degree or certificate, provided at least 12 semester credit hours or equivalent in the corresponding curriculum are completed by the student before~~prior to~~, or are taken by the student concurrently with, the~~such~~ experience.

h) Courses Approved as Repeatable~~.~~

1) Courses in which the content varies from term to term or from student to

student (e.g., independent study, special topics, and internship courses) or in which a student is expected to gain increased depth of knowledge and skill through repetition ~~(e.g., music, speech, theatre, and journalism performance or production courses)~~ shall, at the request of the college, be approved for repeatability under the following conditions:

A) The number of times the course may be taken for credit does not exceed four times, or the semester or quarter equivalent, e.g., a single course can be taken one time and repeated no more than three times per student~~semesters (or six quarters)~~;

B) The method of determining the amount of credit to be awarded for each section of the course, for each term, or for each student is specified in the college's catalog, on the course syllabus, and on the course classification form, and the subject matter and number of credits for which the student enrolled is specified on the student's permanent academic record;

C) The college's catalog, the course syllabus, and the course classification form requesting approval of repeatability by the ICCB indicate the number of such credits that will apply to degree or certificate completion for a single course or a combination of related courses; and

D) The total number of credit hours for a single course or for a combination of related courses that are applicable to degree or certificate completion does not exceed the maximums established in ~~subsection (e) governing independent study,~~ subsection (b) governing credit hour determination, subsection (f) governing independent study, or Section 1501.507(b)(10) governing the maximum rate of credit hour production.

2) Vocational~~A vocational~~ skill courses~~course~~ that must be retaken periodically by law for persons employed in an occupation or vocation ~~must retake periodically by law in order~~ to maintain employment shall, at the request of the college, be approved for repeatability beyond the limits described in subsection (h)(1)(A) under the following conditions:

A) The content of the course is determined by law and does not

change from one year to the next;~~,~~ and

B) A copy of the law (or regulation administering it) and a course syllabus accompany the course classification form requesting repeatability.

3) An adult basic, adult secondary, or a remedial education course that is organized into discrete modules and offered for variable credit shall, at the request of the college, be approved for repeatability under the following conditions:

A) No discrete module is repeated more than three times;~~,~~

B) The title of a~~each~~ module completed and the grade received is permanently recorded on the student's permanent academic record;~~,~~ and

C) The content and number of credit hours for a~~each~~ discrete module is shown on the course syllabus and on the course classification form requesting approval of repeatability by the ICCB.

4) An adult basic, adult secondary or ~~a~~ remedial education course that is not organized into discrete modules shall, at the request of the college, be approved for repeatability under the following~~,~~ conditions:

A) The number of times the course may be taken for credit does not exceed four times, or the semester or quarter equivalent; e.g., a single course can be taken one time and repeated no more than three times per student.~~i.e., repeatable three times.~~

B) The variety of skill levels included in the course and the methods used to accommodate individual differences based on an assessment of student skills is specified in the course syllabus; and~~.~~

C) The course title and the grade received is permanently recorded on the student's academic record each time that the course is taken.

(Source: Amended at 42 Ill. Reg. 18869, effective October 3, 2018)

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SUBPART D: STUDENTS

Section 1501.401 Definition of Terms (Repealed)

~~Gifted Student. A "gifted student" is a student who is judged to possess exceptionally high academic ability by both the secondary school in which the student is enrolled and the college district.~~

(Source: Repealed at 42 Ill. Reg. 18869, effective October 3, 2018)

Section 1501.402 Admission of Students

a) Students Whose Connection With a Secondary School is Severed. Any student who is 16 or 17 years of age and has severed connection with a secondary school, as certified in writing by the chief executive officer of the secondary school in which the student has legal residence, is eligible to attend a college in accordance with policies of the Board. Courses taken by those~~such~~ students are eligible for ICCB grants.

b) Students Currently Enrolled in a Secondary School Program. Students currently enrolled in a secondary school program may be accepted into ~~a~~ college courses~~course(s)~~. If the~~such~~ courses are offered during the regular school day established by the secondary school or are offered for secondary school credit, prior approval of the chief executive officer of the secondary school must be received.

c) Admission of Students in Programs~~ for Special Groups~~. Students shall be admitted to instructional programs supported by State funds for which they are otherwise qualified without regard to race, religion, sex, ethnic origin, sexual orientation, disability, or membership in any profession, group, organization~~,~~ or association.

1) Designating Specific Sections. Course enrollments shall be open to those individuals identified in this subsection (c). However, the nature of the instructional unit may make it desirable to offer specific sections for students with certain common backgrounds, experiences, and future aspirations.

2) Organizations' Standards Not Applicable. While it is recognized that

certain organizations, groups, fraternities~~,~~ and associations have standards that~~which~~ must be met to become employed in a particular field, those~~such~~ standards shall not be applicable to the continuing participation of students in college courses receiving ICCB grants.

(Source: Amended at 42 Ill. Reg. 18869, effective October 3, 2018)

SUBPART E: FINANCE

Section 1501.501 Definition of Terms

"Annual Financial Statement" means an annual financial report and an annual program report that are~~. The "annual financial statement", which is~~ required to be published by a district.~~, consists of two parts:~~ An~~an~~ annual financial report~~, which~~ includes a statement of revenues and expenditures, along with other basic financial data. An~~; and an~~ annual program report includes~~, which provides~~ a narrative description of programs offered, goals of the district, and student and staff data.

"Attendance at Midterm"~~.~~ means a~~A~~ student is "in attendance at midterm" in a course if the student is currently enrolled in and actively pursuing completion of the course.

"Auditor" means~~. An auditor is~~ a person who enrolls in a class without intent to obtain academic credit and whose status as an auditor is declared by the student, approved by college officials, and identified on college records before~~prior to~~ the end-of-registration date of the college for that particular term.

"Capital Renewal Grants" means~~. Capital renewal grants are~~ State grants allocated proportionally to a~~each~~ community college district based on the latest fall on-campus nonresidential gross square feet of facilities as reported to ~~the~~ ICCB. These~~Such~~ grants are to be used~~utilized~~ for miscellaneous capital improvements such as rehabilitation, remodeling, improvement~~,~~ and repair; architect/engineer services; supplies, fixed equipment and materials; and all other expenses required to complete the work.

"Lincoln's Challenge Scholarship Grants" means scholarships provided to a community college for graduates of the~~. The~~ Lincoln's Challenge Program is administered by the Illinois Department of Military Affairs.~~ Upon successful~~

~~completion of that program, students qualify for a scholarship to a community college. The Lincoln's Challenge Scholarship Grant is a special appropriation received by the ICCB from the Governor and the General Assembly. These scholarships provide an opportunity for graduates of Lincoln's Challenge to transition easily into higher education by enrolling in one of the 48 public community colleges. The scholarship grants can be used to cover the cost of education, which includes tuition, books, fees and required educational supplies.~~

"Midterm Class List Certification" means the college's process for certifying to ICCB students in attendance at the midterm as~~. As~~ part of the proof~~verification~~ that a student's credit hours are eligible for State funding.~~, the college shall establish a process for certifying students in attendance at the midterm.~~ The district shall file with ~~the~~ ICCB a document outlining the process (including but not limited to specific steps and/or procedures, steps for obtaining an electronic midterm certification signature, etc.) it follows as part of that certification and the district shall file an amended process any time changes are made, but not less than once every five years.

"Midterm Certification Signature" means midterm class lists obtained and maintained by the college that are manually signed and dated by faculty or electronic signature of the faculty. ~~The college may either obtain and maintain midterm class lists manually signed and dated by faculty or accept electronic signature of the faculty.~~

If the college chooses to accept an electronic signature of faculty, then the college must include in the midterm class list certification process a written summary explaining what steps are in place that ensure~~assure~~:

Appropriate administrative and operational controls are in place to ensure faculty only have access to midterm class lists they teach;

Appropriate controls are in place to only allow an electronic signature at the midpoint of the class during a specified period (that is,~~i.e.,~~ one or two weeks before and one or two weeks after the midpoint of the class);

A~~Each~~ faculty member's identity is authenticated and attributed to the midterm certification signature;

The integrity of the electronically signed midterm class list of a~~each~~ course section has been secured and verified; and

The college has the capability of generating signed printed midterm class lists that support the ICCB credit hour claim submission.

A final grade sheet electronic signatures process, if adopted, should be implemented in the same manner as the electronic midterm certification signature.

"Residency − Applicability Proof" means~~ − Verification of Status. As~~ the college's processes, in accordance with Section 2-16.02 of the Act, for verifying to ICCB the residency status of its students as part of the proof~~verification~~ that its credit hours are eligible to receive ICCB grants.~~, each community college district shall submit its process for verifying the residency status of its students to the ICCB each year with its certification of credit hours in accordance with 110 ILCS 805/2-16.02 as part of the annual external audit.~~ The process shall include the methods for verifying residency as defined in the general provisions, special State provisions, and district provisions of this Section. A~~Each~~ district shall file descriptions of any revisions to its process with ~~the~~ ICCB before~~prior to~~ their implementation.

"Residency − General Provisions". The following provisions apply both to State and district residency definitions:

To be classified as a resident of the State of Illinois or of the community college district, a~~each~~ student shall have occupied a dwelling within the State or district for at least 30 days immediately before~~prior to~~ the date established by the district for classes to begin.

The district shall maintain documentation verifying State or district residency of students.

Students occupying a dwelling in the State or district who fail to meet the 30-day residency requirement may not become residents simply by attending classes at a community college for 30 days or more.

Students who move from outside the State or district and who obtain residence in the State or district for reasons other than attending the

community college shall be exempt from the 30-day requirement if they demonstrate through documentation a verifiable interest in establishing permanent residency.

"Residency − District Provisions". Students shall not be classified as residents of the district where attending even though they may have met the general 30-day residency provision if they are:

federal job corps workers stationed in the district;

inmates of State or federal correctional/rehabilitation institutions located in the district;

full-time students attending a postsecondary educational institution in the district who have not demonstrated through documentation a verifiable interest in establishing permanent residency; or~~and~~

students attending under ~~the provisions of~~ a chargeback or contractual agreement with another community college.

"Residency − Special State Provisions". Students shall be classified as residents of the State without meeting the general 30-day residency provision if they are:

federal job corps workers stationed in Illinois;

members of the armed services stationed in Illinois;

inmates of State correctional/rehabilitation institutions located in Illinois; or

employed full time in Illinois.

"Special Initiatives Grants" means~~. Special initiatives grants provide~~ funds for conducting special initiatives activities. Special initiatives activities are based upon criteria specified in a grant agreement between the college or vendor and ICCB.

~~Special Initiatives Activities. Special initiatives activities are defined each year in a request for proposal process. All colleges will have the opportunity to apply for~~

~~funds to conduct such approved special initiatives activities. Special initiatives activities are based upon criteria as specified in terms outlined in a grant agreement between the college and the ICCB.~~

(Source: Amended at 42 Ill. Reg. 18869, effective October 3, 2018)

Section 1501.502 Financial Planning

Financial planning~~Planning~~ for current and future operation shall provide for both a sound educational program and prudent use of public funds.

(Source: Amended at 42 Ill. Reg. 18869, effective October 3, 2018)

SUBPART H: PERSONNEL

Section 1501.801 Definition of Terms

"Sabbatical Leave" means~~. A sabbatical leave is~~ a leave of absence granted by the Board of Trustees to eligible employees to provide~~for the purpose of providing~~ opportunities for those~~such~~ employees to engage in activities ~~which are~~ aimed at developing the employees professionally and improving their abilities to perform their contractual responsibilities.

(Source: Amended at 42 Ill. Reg. 18869, effective October 3, 2018)

Section 1501.802 Sabbatical Leave~~Leaves~~

Any Board of Trustees policy providing for sabbatical leave~~leaves~~ for its employees shall contain ~~at least~~ the following provisions:

a) A statement of purpose and/or objectives;~~.~~

b) A description of the types of leaves (e.g., professional development, project, exchange) that may be granted;~~.~~

c) A statement of employee eligibility;~~.~~

d) A procedure for making application;~~.~~

e) A listing of criteria used~~utilized~~ in evaluating applications;~~.~~

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f) A procedure for selection;~~.~~

g) A statement of limitations concerning the granting of leave (e.g., how many employees in a given year and subject to what, if any, financial limitations);~~.~~

h) A schedule of compensation, if any, to be granted and for what period; ~~of time.~~

i) A statement of employee obligations (e.g., reporting requirements, returning to work after the leave); and~~.~~

j) Other conditions ~~which~~ the Board believes~~feels~~ may affect the employee-employer relationship as a result of a leave being granted.

(Source: Amended at 42 Ill. Reg. 18869, effective October 3, 2018)

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NOTICE OF ADOPTED REPEALER

1) Heading of the Part: Grant Accountability And Transparency Act

2) Code Citation: 44 Ill. Adm. Code 7000

3)

Section Numbers:	Adopted Actions:
7000.10	Repealed
7000.20	Repealed
7000.30	Repealed
7000.40	Repealed
7000.50	Repealed
7000.60	Repealed
7000.70	Repealed
7000.80	Repealed
7000.100	Repealed
7000.110	Repealed
7000.120	Repealed

4) Statutory Authority: Implementation of rules is authorized by the Grant Accountability and Transparency Act [30 ILCS 708].

5) Effective Date of Repealer: October 5, 2018

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 repealer, including all 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 the *Illinois Register*: 41 Ill. Reg. 12219; October 6, 2017

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 JCAR and the Agency been made as indicated in the agreements issued by JCAR? None were made.

13) Will this rulemaking replace an emergency rule currently in effect? No

GOVERNOR'S OFFICE OF MANAGEMENT AND BUDGET

NOTICE OF ADOPTED REPEALER

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: Part 7000 rules govern the implementation of the federal and federal pass-through rules for the Grant Accountability and Transparency Act (Act). The Act is intended to comply with the General Assembly's directives to: a) develop a coordinated, non-redundant process for the provision of effective and efficient oversight of the selection and monitoring of grant recipients, thereby ensuring quality programs and limiting fraud, waste and abuse; and b) define the purpose, scope, applicability and responsibilities in the life cycle of a grant.

The Act is also intended to increase the accountability and transparency in the use of grant funds from whatever source and to reduce administrative burdens on both State agencies and grantees by adopting federal guidance and regulations applicable to those grant funds; specifically, the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for federal Awards (Uniform Requirements).

The Act is consistent with the State's focus on improving performance and outcomes while ensuring transparency and the financial integrity of taxpayer dollars through such initiatives as the Management Improvement Initiative created by Section 1-37a of the Department of Human Services Act [20 ILCS 1305], the State's prioritized goals created under Section 50-25 of the State Budget Law [15 ILCS 20] (also known as "Budgeting for Results"), and the Grant Information Collection Act [30 ILCS 707].

The Act establishes uniform administrative requirements, cost principles, and audit requirements for federal and federal pass-through awards to non-federal entities. It leverages the federal model, focusing on program outcomes and establishing a uniform process throughout the entire grant life cycle.

The Act and this Part provide the basis for a systematic and periodic collection and uniform submission to the Governor's Office of Management and Budget of information of all State and federal financial assistance programs by State grant-making agencies. The Act and this Part also establish policies related to the delivery of this information to the public, including through the use of electronic media.

16) Name, address and telephone number of the person to whom information and questions regarding this adopted rule shall be directed:

Jennifer Butler, Deputy Director

GOVERNOR'S OFFICE OF MANAGEMENT AND BUDGET

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Grant Accountability and Transparency Unit
Governor's Office of Management and Budget
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GOVERNOR'S OFFICE OF MANAGEMENT AND BUDGET

NOTICE OF ADOPTED RULES

1) Heading of the Part: Grant Accountability And Transparency Act

2) Code Citation: 44 Ill. Adm. Code 7000

3)

Section Numbers:	Adopted Actions:
7000.10	New Section
7000.20	New Section
7000.30	New Section
7000.40	New Section
7000.50	New Section
7000.60	New Section
7000.70	New Section
7000.80	New Section
7000.90	New Section
7000.95	New Section
7000.100	New Section
7000.110	New Section
7000.120	New Section
7000.200	New Section
7000.210	New Section
7000.220	New Section
7000.230	New Section
7000.240	New Section
7000.250	New Section
7000.260	New Section
7000.300	New Section
7000.310	New Section
7000.320	New Section
7000.330	New Section
7000.340	New Section
7000.350	New Section
7000.360	New Section
7000.370	New Section
7000.400	New Section
7000.410	New Section
7000.420	New Section
7000.430	New Section
7000.440	New Section
7000.450	New Section

GOVERNOR'S OFFICE OF MANAGEMENT AND BUDGET

NOTICE OF ADOPTED RULES

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5) Effective Date of Rules: October 5, 2018

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 rule, including all 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 the *Illinois Register*: 41 Ill. Reg. 12265; October 6, 2017

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: Added the Grantee Compliance Enforcement System and Merit Based Review Policy documents, both of which are available on the GATU website into rule text. Various technical corrections/textual clarifications.

12) Have all the changes agreed upon by JCAR and the Agency 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 rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: Part 7000 rules govern the implementation of the federal and federal pass-through rules for the Grant Accountability and Transparency Act (Act). The Act is intended to comply with the General Assembly's directives to: a) develop a coordinated, non-redundant process for the provision of effective and efficient oversight of the selection and monitoring of grant recipients, thereby ensuring quality programs and limiting fraud, waste and abuse; and b) define the purpose, scope, applicability and responsibilities in the life cycle of a grant.

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agencies and grantees by adopting federal guidance and regulations applicable to those grant funds; specifically, the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for federal Awards (Uniform Requirements).

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16) Name, address and telephone number of the person to whom information and questions regarding these adopted rules shall be directed to:

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

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TITLE 44: GOVERNMENTAL CONTRACTS, GRANTMAKING, PROCUREMENT AND PROPERTY MANAGEMENT
SUBTITLE F: GRANTMAKING
CHAPTER I: GOVERNOR'S OFFICE OF MANAGEMENT AND BUDGET

PART 7000
GRANT ACCOUNTABILITY AND TRANSPARENCY ACT

SUBPART A: GENERAL

Section
7000.10 Purpose and Applicability
7000.20 Grant Accountability and Transparency Unit (GATU)
7000.30 Definitions
7000.40 Incorporations and Referenced Materials
7000.50 Catalog of State Financial Assistance (CSFA)
7000.60 Program-specific Exceptions and Exemptions to UR and GATA
7000.70 Grantee Qualification Status
7000.80 Grantee Compliance Enforcement System; Illinois Stop Payment List
7000.90 Auditing Standards
7000.95 Annual Report and 5-Year Review

SUBPART B: GOVERNOR'S OFFICE OF MANAGEMENT AND BUDGET (GOMB) RESPONSIBILITIES

7000.100 GOMB Responsibilities
7000.110 GOMB Adoption of Supplemental Rules for Multi-year Grants
7000.120 GOMB Adoption of Supplemental Rules for Grant Payment Methods

SUBPART C: STATE AGENCY RESPONSIBILITIES AND IMPLEMENTATION

7000.200 State Agency Responsibilities
7000.210 State Agency Implementation
7000.220 State Cognizant Agency Responsibilities and Implementation
7000.230 Institution of Higher Education Responsibilities and Implementation
7000.240 Subrecipient/Contractor Determinations
7000.250 CSFA Maintenance
7000.260 Maintenance and Use of the Illinois Stop Payment List

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SUBPART D: STATE AND FEDERAL PASS-THROUGH PRE-AWARD REQUIREMENTS

7000.300 Grant, Cooperative, Interagency and Intergovernmental Agreements
7000.310 Public Notice of Grant Programs
7000.320 Grantee Registration and Pre-qualification
7000.330 Uniform Grant Application and Budget Template
7000.340 Grantee Risk Assessments – Financial and Administrative (ICQ) and Programmatic
7000.350 Merit Based Review of Grant Application
7000.360 Notice of State Award (NOSA)
7000.370 Uniform Grant Agreement

SUBPART E: STATE POST-AWARD REQUIREMENTS

7000.400 GATA Performance Measurement
7000.410 Awardee Performance Measures
7000.420 Centralized Indirect Cost Rate Negotiation
7000.430 Records Retention
7000.440 Grant Closeout
7000.450 Continuing Responsibilities

AUTHORITY: Implementing and authorized by the Grant Accountability and Transparency Act [30 ILCS 708].

SOURCE: Adopted at 39 Ill. Reg. 10777, effective July 24, 2015; former Part repealed at 42 Ill. Reg. 18913 and new Part adopted at 42 Ill. Reg. 18916, effective October 5, 2018.

SUBPART A: GENERAL

Section 7000.10 Purpose and Applicability

a) The Act and This Part

1) The Grant Accountability and Transparency Act (Act or GATA) *is intended to comply with the General Assembly's directives to*:

A) *develop a coordinated, nonredundant process for the provision of effective and efficient oversight of the selection and monitoring of*

grant recipients, thereby ensuring quality programs and limiting fraud, waste and abuse; and

B) *define the purpose, scope, applicability and responsibilities in the life cycle of a grant.* [30 ILCS 708/5(a)]

2) *GATA is* also *intended to increase the accountability and transparency in the use of grant funds from whatever source and to reduce administrative burdens on both State agencies and grantees by adopting federal guidance and regulations applicable to those grant funds; specifically, the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Requirements (UR)). [30 ILCS 708/5(b)]

3) *GATA is consistent with the State's focus on improving performance and outcomes while ensuring transparency and the financial integrity of taxpayer dollars through such initiatives as the Management Improvement Initiative Committee created by Section 1-37a of the Department of Human Services Act, the State prioritized goals created under Section 50-25 of the State Budget Law (also known as "Budgeting for Results"), and the Grant Information Collection Act*. [30 ILCS 708/5(c)]

4) Supersession of GATA
Section 80 of GATA states that, *on and after July 1, 2015, in the event of a conflict with the Grant Funds Recovery Act, the provisions of GATA shall control.*

b) Purpose

1) *The purpose of GATA is to establish uniform administrative requirements, cost principles, and audit requirements for* State grants *and federal pass-through awards to non-federal entities. State* grantmaking *agencies shall not impose additional or inconsistent requirements, except as provided in* UR section 200.102, *unless specifically required by State or federal statute. GATA and this Part do not apply to private awards.*

2) *GATA and this Part provide the basis for a systematic and periodic collection and uniform submission to the Governor's Office of Management and Budget of information of all State and federal financial assistance programs by grantmaking agencies. GATA* and this Part *also*

establish policies related to the delivery of this information to the public, including through the use of electronic media. [30 ILCS 708/10] (Refer to Section 7000.50 and 7000.250 for State agency responsibilities associated with the Catalog of State Financial Assistance.)

c) Applicability

1) *The requirements established under GATA apply to State grantmaking agencies that make State and federal pass-through awards to nonfederal entities. These requirements apply to all costs related to* federal and *federal pass-through awards. The requirements established under GATA do not apply to private awards.* [30 ILCS 708/45(a)]

2) *Nothing in GATA shall prohibit the use of State funds for purposes of federal match or maintenance of effort.* [30 ILCS 708/45(a-5)]

3) *The terms and conditions of* State, *federal and* federal *pass-through awards apply to subawards and subrecipients unless a particular Section of GATA or the terms and conditions of the award specifically indicate otherwise. Non-federal entities* receiving State or federal funds *shall comply with requirements of GATA regardless of whether the non-federal entity is a recipient or subrecipient of the award*/grant. *Pass-through entities shall comply with the requirements set forth under this Part, but not to any requirements in GATA directed towards State* grantmaking agencies *or federal awarding agencies, unless the requirements of the federal awards indicate otherwise.* [30 ILCS 708/45(b)]

4) *When a non-federal entity is awarded a cost-reimbursement contract, only UR sections 200.330 through 200.332 are incorporated by reference into the contract. However, when the Cost Accounting Standards are applicable to the contract, they take precedence over the requirements of GATA unless they are in conflict with UR subpart F. In addition, costs that are made unallowable under 10 USC 2324(e) and 41 USC 4304(a), as described in the Federal Acquisition Regulations, subparts 31.2 and 31.603, are always unallowable. For requirements other than those covered in UR subpart D, the terms of the contract and FAR apply.* [30 ILCS 708/45(b)]

5) *With the exception of UR subpart F, which is required by the* federal *Single Audit Act, in any circumstances in which the provisions of federal statutes or regulations differ from the provisions of the Act, the federal statutes or regulations govern.* [30 ILCS 708/45(b)]

6) *State grantmaking agencies may apply UR subparts A through E to for-profit entities, foreign public entities, or foreign organizations, except when the* grantmaking *agency determines that the application of these subparts would be inconsistent with the international obligations of the United States or the statutes or regulations of a foreign government.* [30 ILCS 708/45(c)]

7) *Except for UR sections 200.202 and 200.330 through 200.332, the requirements of UR subparts C, D and E do not apply to the programs listed in UR section 200.101 and Section 45(d) of the Act.* [30 ILCS 708/45(d)]

8) Section 5(b) of GATA applies to State funded grants any federal guidance and regulations that are applicable to those grants.

Section 7000.20 Grant Accountability and Transparency Unit (GATU)

a) Under Section 55(b) of the Act, the Governor's Office of Management and Budget (GOMB) shall establish a centralized unit within GOMB known as the Grant Accountability and Transparency Unit.

b) GATU will be responsible for adopting rules, implementing a State-wide grants management framework for compliance with the rules, and monitoring the implemented framework.

c) GATU will be funded with a portion of the administrative funds provided under existing and future State, federal pass-through and federal grants. State agency charges will be allocated through a revolving fund named the GATA Fund. State agency charges will be based on the actual cost of the services provided in accordance with applicable federal cost principles contained in the Uniform Requirements. The GATA Fund may include catch-up billings for prior fiscal year amounts due. State agencies can utilize appropriations from the fiscal year in which the catch-up billing is issued.

d) GATA will not cause a reduction in the amount of State or federal awards that have been or will be directed to State agencies or public institutions of higher education.

Section 7000.30 Definitions

The following definitions shall apply to this Part:

"Acquisition Cost" means the cost of the asset, including the cost to ready the asset for its intended use. Acquisition cost for equipment, for example, means the net invoice price of the equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Acquisition costs for software includes those development costs capitalized in accordance with generally accepted accounting principles (GAAP). Ancillary charges, such as taxes, duties, protective in-transit insurance, freight and installation may be included in or excluded from the acquisition cost in accordance with the awardee's regular accounting practices.

"Act" or "GATA" means the Grant Accountability and Transparency Act [30 ILCS 708].

"Administrative Rules" means the administrative rules codified in the Illinois Administrative Code.

"Advance Payment" means a payment that a State grantmaking agency, federal awarding agency or pass-through entity makes by any appropriate payment mechanism, including a predetermined payment schedule, before the awardee disburses the funds for program purposes.

"A/E" means architectural and engineering services.

"AICPA" means the American Institute of Certified Public Accountants.

"Allocation" means the process of assigning a cost, or a group of costs, to one or more cost objectives, in reasonable proportion to the benefit provided or other equitable relationship. The process may entail assigning a cost directly to a final cost objective or through one or more intermediate cost objectives.

"Allowable Cost" means a cost allowable to a project (i.e., that can be paid for *using* award *funds*). *Costs* will be considered to be allowable if they:

are reasonable and necessary for the performance of the award;

are allocable to the specific project;

are treated consistently in like circumstances to federally-financed, State-financed, *and other activities of the* awardee;

conform to any limitations of the cost principles or the sponsored agreement;

are accorded consistent treatment (a cost may not be assigned to a State *or federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the award as an indirect cost);*

are determined to be in accordance with generally accepted accounting principles;

are not included as a cost or used to meet federal cost-sharing or matching requirements of any other program in either the current or prior period;

are not used to meet the match requirements of another State *or federal grant; and*

are adequately documented.

"Audit Finding" means deficiencies the auditor is required, by UR section 200.516(a), to report in the schedule of findings and questioned costs.

"Auditee" means any awardee *that expends State, federal* or federal pass-through *awards that must be audited* as provided in UR Subpart F (Audit Requirements).

"Auditor" means an auditor who is an Illinois licensed *public accountant or a federal, State, or local government audit organization that meets the general standards specified* for external auditors *in generally-accepted government*

auditing standards (GAGAS). *"Auditor" does not include internal auditors of nonprofit organizations.*

"Auditor General" means the Auditor General of the State of Illinois.

"Award" means financial assistance that provides support or stimulation to accomplish a public purpose. "Awards" include grants and other agreements in the form of money, or property in lieu of money, by the State agency or federal government to an eligible recipient. "Award" does not include: technical assistance that provides services instead of money; other assistance in the form of loans, loan guarantees, interest subsidies or insurance; direct payments of any kind to individuals; or contracts that must be entered into and administered under State or federal procurement laws and regulations. In this Part, the term "Award" is used interchangeably with "Grant".

"Awardee" *or "Non-Federal Entity"* means a State, local government, institution of higher education, or organization, whether nonprofit or for-profit, that carries out a State, federal or federal pass-through award/grant as a recipient or subrecipient.

"Awarding Agency" means a State or federal agency or pass-through entity that has grant making authority.

"Billing Rate" means a temporary indirect cost rate applicable to a specified period that is used for funding, interim reimbursement, and reporting indirect costs on federal or federal pass-through awards pending the establishment of a final rate for the period. (See also the definition of provisional rate.)

"Budget" means the financial plan for the project or program that the State grantmaking agency or federal *awarding agency or pass-through entity approves during the award/grant process or in subsequent amendments to the award/grant. It may include the State or federal and non-federal share or only the State or federal share, as determined by the awarding agency or pass-through entity*.

"Call to Action" means a communication that includes any one or more of the following:

The communication states that the recipient should contact a member or employee of a legislative body, or any other government official or

employee who may participate in the formulation of legislation, when the principal purpose of the contact is lobbying.

The communication states the address, telephone number or similar information of a legislator or an employee of a legislative body.

The communication provides a petition, a tear-off postcard or similar material for the recipient to communicate with any such individual.

The communication specifically identifies one or more legislators who will vote on the legislation, indicating that the legislator will:

oppose the organization's view with respect to the legislation;

be undecided with respect to the legislation;

be the recipient's representative in the legislature; or

be a member of the legislative committee or subcommittee that will consider the legislation.

Naming the main sponsors of the legislation for purposes of identifying the legislation does not independently constitute a call to action.

"Capital Assets" means tangible or intangible assets used in operations having a useful life of more than one year that are capitalized in accordance with GAAP. Capital assets include:

Land, buildings (facilities), equipment and intellectual property (including software); and whether acquired by purchase, construction, manufacture, lease-purchase or exchange, or through capital leases; and

Additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations or alterations to capital assets that materially increase their value or useful life (not ordinary repairs and maintenance).

"Capital Expenditures" means expenditures to acquire capital assets or expenditures to make additions, improvements, modifications, replacements,

rearrangements, reinstallations, renovations or alterations to capital assets that materially increase their value or useful life.

"CAS" means the Cost Accounting Standards established by the Federal Cost Accounting Standards Board.

"Catalog of Federal Domestic Assistance" or "CFDA" means the *database,* accessible at http://www.cfda.gov, *that helps the federal government track all programs it has domestically funded.*

"Cash Management Improvement Act of 1990" or "CMIA" means the rules and procedures for the efficient transfer of federal financial assistance between the federal agencies and the states. The implementing regulations are in 31 CFR 205.

"Catalog of Federal Domestic Assistance Number" or "CFDA Number" means the number assigned to a federal program in the CFDA.

"Catalog of State Financial Assistance" or "CSFA" means the single, authoritative, Statewide, comprehensive source document of State financial assistance program information maintained by the Governor's Office of Management and Budget (available at http://grants.illinois.gov).

"Catalog of State Financial Assistance Number" or "CSFA Number" means the number assigned to a State program in the CSFA. The first 3 digits represent the State agency number and the last 4 digits represent the program.

"Central Service Cost Allocation Plan" means the documentation identifying, accumulating and allocating or developing billing rates based on the allowable costs of services provided by the State or local government on a centralized basis to its departments and agencies. The costs of these services may be allocated or billed to users.

"CFDA Program Title" means the title of the program under which the federal award was funded in the CFDA.

"Chief Accountability Officer" or "CAO" means the individual appointed by the grantmaking agency to serve as its liaison to GATU. The CAO is responsible for the State agency's implementation of and compliance with grant management

rules. All grantmaking agencies are required to appoint a CAO in accordance with Section 50(b) of the Act.

"Claim" means, depending on the context, either:

A written demand or written assertion by one of the parties to a State award or federal or federal pass-through award seeking, as a matter of right:

The payment of money in a sum certain;

The adjustment or interpretation of the terms and conditions of the award/grant; or

Other relief arising under or relating to a State, federal or federal pass-through award/grant; or

A request for payment that is not in dispute when submitted.

"Class (of Awards)" means a group of State awards or federal awards either awarded under a specific program or group of programs or to a specific type of awardee or group of awardees to which specific provisions or exceptions may apply.

"Closeout" means the process by which the State grantmaking or federal awarding agency or pass-through entity determines that all applicable administrative actions and all required work of the federal award or State grant have been completed and takes actions as described in UR section 200.343 or Section 7000.440 of this Part.

"Cluster of Programs" means a grouping of closely related programs that share common compliance requirements. The types of clusters of programs are research and development, student financial aid, and other clusters. A "cluster of programs" shall be considered as one program for determining major programs and, with the exception of research and development, whether a program-specific audit may be elected.

"CMIA" means the federal Cash Management Improvement Act and the Department of the Treasury's Rules and Procedures for Efficient Federal-State Funds Transfers.

"CMS" means the Illinois Department of Central Management Services.

"CFO Council" means the federal Chief Financial Officer Council (see http://cfo.gov/grants).

"Compliance Supplement" means UR appendix XI (previously known as the OMB Circular A-133 Compliance Supplement).

"Comprehensive Annual Financial Report" or "CAFR" means the financial report of a governmental entity. The report contains basic financial statements, notes to the basic financial statements, and required supplementary information (RSI), plus voluntarily provided supplementary information (SI) such as an introductory section, supporting schedules with more detailed financial information than is found in the financial statements, and a statistical section.

"Computing Devices" means machines used to acquire, store, analyze, process and publish data and other information electronically, including accessories (or peripherals) for printing, transmitting and receiving, or storing electronic information. (See also the definitions of "Information technology systems" and "Supplies".)

"Conflict of Interest" means a situation that arises when a person in a position of authority over an organization, such as an officer, director or manager, may benefit financially from a decision he or she could make in that capacity, including indirect benefits such as to family members or businesses with which the person is closely associated.

"Conflict of Interest Policy" means a policy that defines conflict of interest, identifies the classes of individuals within an organization covered by the policy, facilitates disclosure of information that may help identify conflicts of interest, and specifies procedures to be followed in managing conflicts of interest.

"Contract" means a legal instrument by which an awardee *purchases property or services needed to carry out the project or program under an award/grant. "Contract" does not include a legal instrument, even if the awardee considers it a contract, when the substance of the transaction meets the definition of an award or subaward*.

"Contractor" means a person or *entity that receives a contract* funded through grant funds awarded by a State grantmaking agency or IHE.

"Cooperative Agreement" means a legal instrument of financial assistance between a State grantmaking agency, federal awarding *agency or pass-through entity and* an awardee consistent with 31 USC 6302 through 6305 *that*:

is used to enter into a relationship with the principal purpose of transferring anything of value from the awarding agency or pass-through entity to the awardee *to carry out a public purpose authorized by law, but is not used to acquire property or services for the awarding agency's* or *pass-through entity*'s direct b*enefit or use; and*

is distinguished from a grant in that it provides for substantial involvement between the awarding agency or pass-through entity and the awardee *in carrying out the activity contemplated by the award*.

"Cooperative Audit Resolution" means the use of audit follow-up techniques that promote prompt corrective action by improving communication, fostering collaboration, promoting trust, and developing an understanding between the State or federal agency and the awardee. This approach is based upon:

a strong commitment, by State, federal and federal pass-through entity and awardee leadership, to program integrity;

State, federal and federal pass-through entities strengthening partnerships and working cooperatively with awardees and their auditors, and awardees and their auditors working cooperatively with State, federal and pass-through entities;

a focus on current conditions and corrective action going forward;

State, federal and federal pass-through entities offering appropriate relief for past noncompliance when audits show prompt corrective action has occurred; and

State, federal and federal pass-through agency leadership sending a clear message that continued failure to correct conditions identified by audits

that are likely to cause improper payments, fraud, waste or abuse is unacceptable and will result in sanctions.

"Corrective Action" means action taken by the auditee that:

corrects identified deficiencies;

produces recommended improvements; or

demonstrates that audit findings are either invalid or do not warrant auditee action.

"COSO" means the Committee of Sponsoring Organizations of the Treadway Commission, a joint initiative of the Institute of Management Accountants (IMA), the American Accounting Association (AAA), the American Institute of Certified Public Accountants (AICPA), the Institute of Internal Auditors (IIA) and Financial Executives International (FEI). COSO has established an internal control model that companies and organizations use to assess their control systems.

"Cost Allocation Plan" means a central service cost allocation plan or public assistance cost allocation plan.

"Cost Objective" means a program, function, activity, award, organizational subdivision, contract or work unit for which cost data is desired and for which provision is made to accumulate and measure the cost of processes, products, jobs and capital projects. A "cost objective" may be a major function of the awardee*, a particular service or project, an award, or an indirect cost activity*.

"Cost Sharing" means the portion of project costs, including third party in-kind contributions, not paid by State, federal or federal pass-through *funds, unless otherwise authorized by statute.* (See also the definition of matching.)

"Data Universal Numbering System Number" or "DUNS number" means the 9-digit number established and assigned by Dun and Bradstreet, Inc. to uniquely identify entities and that*, under federal law, is required for non-federal entities to apply for, receive, and report on a federal award* as a unique identifier. Entities required to have a DUNS number for the purpose of State or federal contracts or grants can obtain one for free at http://fedgov.dnb.com/webform.

"Development" is the systematic use of knowledge and understanding gained from research directed toward the production of useful materials, devices, systems or methods, including design and development of prototypes and processes.

"Direct Costs" means costs that can be identified specifically with a particular final cost objective, such as a State, federal or federal pass-through award or a particular sponsored project, an instructional activity, or any other institutional activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy.

"Direct Lobbying" means any attempt to influence legislation or executive action through communications with:

any member or staff of a legislative or executive body;

any governmental official or employee (other than a member or employee of a legislative or executive body) who may participate in formulating legislation, but only if the principal purpose of the communication is to influence legislation or executive action; or

the general public.

The communications must refer to specific legislation or executive action and must reflect a view on the legislation or executive action. (See 26 CFR 56.4911-2(b).)

"Disallowed Costs" means charges to a State, federal or federal pass-through award determined by the awarding agency or pass-through entity to be unallowable, in accordance with the applicable State or federal statutes or regulations, or the terms and conditions of the State, federal or federal pass-through award.

"Discretionary Grant" means an award for which the State or federal agency or pass-through entity may exercise judgment (discretion) in determining the recipient and/or the amount of the award and may be issued under a competitive application process.

"Eligible Applicant" means any organization that meets the eligibility requirements listed in the Notice of Funding Opportunity.

"Equipment" means tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost that equals or exceeds the lesser of the capitalization level established by the awardee for financial statement purposes or $5,000.

"Exception" means a statute- or regulation-driven deviation from the grant requirements specified in the UR. The awarding agency's requirements may be more restrictive but cannot be less restrictive than the UR. Exceptions are program-specific and authorized on a case-by-case basis in accordance with Section 7000.60.

"Executive" means, with respect to an organization, the officers, managing partners, or any other employees in management positions. "Executive" means, with respect to the federal government, the executive branch.

"Executive Branch" means that branch of State or federal *government that is under the jurisdiction of the Governor* or the President, respectively.

"Exemption" means an exclusion from the UR authorized by UR section 200.101 and affirmed by the statutory or regulatory terms of the federal awarding agency. All grants are subject to Internal Controls, Subrecipient Monitoring and Management, Cost Principles, and Audit Requirements. Exemptions are program-specific and authorized on a case-by-case basis in accordance with Section 7000.60.

"Expenditures" means charges made by an awardee to a project or program for which a State, federal or federal pass-through award was received.

The charges may be reported on a cash or accrual basis, as long as the methodology is disclosed and is consistently applied.

For reports prepared on a cash basis, expenditures are the sum of:

Cash disbursements for direct charges for property and services;

The amount of indirect expense charged;

The value of third-party in-kind contributions applied; and

The amount of cash advance payments and payments made to subrecipients.

For reports prepared on an accrual basis, expenditures are the sum of:

Cash disbursements for direct charges for property and services;

The amount of indirect expense incurred;

The value of third-party in-kind contributions applied; and

The net increase or decrease in the amounts owed by the awardee for:

Goods and other property received;

Services performed by employees, contractors, subrecipients and other payees; and

Programs for which no current services or performance are required, such as annuities, insurance claims or other benefit payments.

"FAIN" means the unique federal award identification number assigned to each federal award issued to a particular awardee.

"FAR" means the Federal Acquisition Regulation (48 CFR 1).

"F&A Costs" means facilities and administrative costs (see also the definition of indirect costs).

"Federal Agency" means each authority of the government of the United States, regardless of whether it is within or subject to review by another agency. "Agency" includes any executive department, military department, government corporation, government controlled corporation, or other establishment in the executive branch of the government (including the Executive Office of the

President), or any independent regulatory agency, but does not include the Congress, U.S. courts, or the governments of the District of Columbia or U.S. territories and possessions. (See 5 USC 551(1) and 552(f).)

"Federal Award" means:

the federal financial assistance that an awardee *receives directly from a federal awarding agency or indirectly from a pass-through entity*;

the cost-reimbursement contract under the Federal Acquisition Regulations that an awardee *receives directly from a federal awarding agency or indirectly from a pass-through entity*; *or*

the instrument setting forth the terms and conditions when the instrument is the Grant Agreement, Cooperative Agreement, other agreement for assistance, or cost-reimbursement contract awarded under FAR.

"Federal Award" does not include other contracts that a federal agency uses to buy goods or services from a contractor or a contract to operate federal government owned, contractor-operated facilities. (See also definitions of financial assistance, Grant Agreement and Cooperative Agreement.)

"Federal Awarding Agency" means the federal agency that provides a federal award directly to an awardee.

"Federal Award Date" means the date the federal award is signed by the authorized official of the federal awarding agency.

"Federal Debarred and Suspended List" means the list of those persons and entities who are identified as excluded on the System for Award Management (https://www.sam.gov), as described in UR appendix II, paragraph (i).

"Federal Financial Assistance" means financial assistance, as defined in this Section, offered to an awardee by a federal agency.

"Federal Fiscal Year" means the period beginning on October 1 and ending on September 30.

"Federal Interest" means, when used in connection with the acquisition or improvement of real property, equipment or supplies under a federal or federal pass-through *award, the dollar amount that is the product of the federal share of total project costs and current fair market value of the property, improvements, or both to the extent the costs of acquiring or improving the property were included as project costs.*

"Federal Program" means all federal awards that are assigned a single number in the CFDA. When no CFDA number is assigned, all federal awards made for the same purpose from the same agency to awardees should be combined and considered one program. "Federal program" can also mean a cluster of programs, as defined in this Section.

"Federal Share" means the portion of the total project costs that are paid by federal funds.

"Fee-for-Service" means payments for Medicaid services that are made on the basis of a rate, unit cost or allowable cost incurred and is based on a statement or bill as required by the administering State or federal agency.

"FFATA" means the Federal Funding Accountability and Transparency Act.

"Final Cost Objective" means a cost objective that has allocated to it both direct and indirect costs and, in the awardee's *accumulation system, is one of the final accumulation points, such as a particular award, internal project or other direct activity of* an awardee.

"Final Rate" means an indirect cost rate applicable to a specified past period that is based on the actual costs of the period. A final rate is not subject to adjustment.

"Financial Assistance" means the following:

For grants and Cooperative Agreements, "Financial Assistance" means assistance that non-federal entities receive or administer in the form of:

grants;

Cooperative Agreements;

non-cash contributions or donations of property, including donated surplus property;

direct appropriations;

food commodities; and

other financial assistance, except Cooperative Agreements.

For auditing purposes and for purposes of publication in the CFDA, *"Financial Assistance" also includes assistance that non-federal entities receive or administer in the form of loans, loan guarantees, interest subsidies and insurance.*

"Financial Assistance" does not include amounts received as reimbursement for services rendered to individuals.

"Fixed Amount Award" means a type of Grant Agreement under which the federal or State awarding agency or pass-through entity provides a specific level of support without regard to actual costs incurred under the award. "Fixed Amount Awards" reduce some of the administrative burden and recordkeeping requirements for both the awardee and awarding agency or pass-through entity. Accountability is based primarily on performance and results.

"Fixed Rate" means an indirect cost rate that has the same characteristics as a predetermined rate, except that the difference between the estimated costs and the actual costs of the period covered by the rate is carried forward as an adjustment to the rate computation of a subsequent period. (See UR appendix VII, subsection B.)

"Fixed-Rate Grant" means a type of Grant Agreement for non-Medicaid services in which reimbursement is made on the basis of a rate, unit cost or allowable cost incurred and is supported by a bill or statement.

"FOIA" means the Illinois Freedom of Information Act or the federal Freedom of Information Act, as applicable.

"Foreign Organization" means an entity that is:

a public or private organization, located in a country other than the United States and its territories, that is subject to the laws of the country in which it is located, irrespective of the citizenship of project staff or place of performance;

a private nongovernmental organization, located in a country other than the United States, that solicits and receives cash contributions from the general public;

a charitable organization, located in a country other than the United States, that is nonprofit and tax exempt under the laws of its country of domicile and operation, but is not a university, college, accredited degree-granting institution of education, private foundation, hospital, organization engaged exclusively in research or scientific activities, church, synagogue, mosque, or other similar entity organized primarily for religious purposes; or

an organization, located in a country other than the United States, not recognized as a foreign public entity.

"Foreign Public Entity" means:

a foreign government or foreign governmental entity;

a public international organization that is entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act;

an entity owned, in whole or in part, or controlled by a foreign government; or

any other entity consisting wholly or partially of one or more foreign governments or foreign governmental entities.

"Formula-Based Grant" means a grant or award that is determined by a formula established in federal or State statute or rule.

"FR" means the Federal Register (http://www.federalregister.gov).

"GASB" means the Governmental Accounting Standards Board.

"GATA" means the Grant Accountability and Transparency Act [30 ILCS 708].

"GATA Fund" means the revolving fund administered by GOMB to allocate expenses to State agencies for costs incurred to comply with the UR and GATA and Budgeting for Results (BFR). The GATA Fund allocation to State agencies is based on a proportionate share of GATU expenses incurred, as determined by the CSFA program and award/grant data and the proportionate share of BFR expenses incurred, as determined by the Illinois Performance Reporting System (IPRS). The GATA Fund is established pursuant to Section 55(b) of the Act.

"GATU" means the Grant Accountability and Transparency Unit within the Illinois Governor's Office of Management and Budget.

"General Purpose Equipment" means equipment that is not limited to research, medical, scientific or other technical activities. Examples include office equipment and furnishings, modular offices, telephone networks, information technology equipment and systems, air conditioning equipment, reproduction and printing equipment, and motor vehicles. (See also the definitions of equipment and special purpose equipment.)

"Generally Accepted Accounting Principles" or "GAAP" means accounting standards issued by the Government Accounting Standards Board and the Financial Accounting Standards Board.

"Generally Accepted Auditing Standards" or "GAAS" means the accounting standards issued by the Public Company Accounting Oversight Board.

"Generally Accepted Government Auditing Standards" or "GAGAS", also known as the Yellow Book, *means generally accepted government auditing standards issued by the Comptroller General of the United States that are applicable to financial audits.*

"GFRA" means the Illinois Grant Funds Recovery Act.

"GOCO" means a State or federal government-owned, contractor-operated facility.

"GOMB" means the Illinois Governor's Office of Management and Budget.

"Grant" means financial assistance that provides support or stimulation to accomplish a public purpose. "Grant" includes grants and other agreements in the form of money, or property in lieu of money, by State government to an eligible recipient. "Grant" does not include: technical assistance that provides services instead of money; other assistance in the form of loans, loan guarantees, interest subsidies or insurance; direct payments of any kind to individuals; or contracts that must be entered into and administered under State procurement laws and regulations. In this Part, the term "Grant" is used interchangeably with "Award".

"Grant Agreement" means a legal instrument of financial assistance between a federal or State awarding agency or pass-through entity and an awardee *that*:

> *is used to enter into a relationship, the principal purpose of which is to transfer anything of value from the awarding agency or pass-through entity to the* awardee *to carry out a public purpose authorized by law and not to acquire property or services for the awarding agency's or pass-through entity's direct benefit or use; and*
>
> *is distinguished from a Cooperative Agreement in that it does not provide for substantial involvement between the awarding agency or pass-through entity and the awardee in carrying out the activity contemplated by the award.*

"Grant Agreement" does not include an agreement that provides only direct cash assistance to an individual, a subsidy, a loan, a loan guarantee or insurance.

"Grant Application" means a specified form that is completed by a potential grantee *in connection with a request for a specific funding opportunity or a request for financial support of a project or activity.*

"Grantee" or "Non-Federal Entity" means a State, local government, institution of higher education, or organization, whether nonprofit or for-profit, that carries out a State, federal or federal pass-through grant/award as a recipient or subrecipient.

"Grantee Compliance Enforcement System" or "GCES" means the statewide, uniform framework for grantmaking agencies to manage occurrences of non-compliance with grant requirements by using the Illinois Stop Payment List. The GCES is available in the Resource Library at www.grants.illinois.gov.

"Grantee Portal" means the internet-based platform used by the State to conduct registration, pre-qualification and fiscal and administrative risk assessments of entities that seek to receive an award from a State grantmaking agency. Awardees utilize the Grantee Portal to monitor and maintain qualified status.

"Grassroots Lobbying" means a call to action that attempts to influence legislation or executive action by influencing public opinion. To be considered grassroots lobbying, the communication must:

refer to specific legislation or specific executive action;

reflect a view on the legislation or executive action; and

encourage the recipient to take action with respect to that legislation or executive action.

"HFS Suspended List" means the list, maintained by the Illinois Department of Healthcare and Family Services, of persons and entities who are debarred, suspended or otherwise excluded from the receipt of federally financed Medicaid. The list may be viewed on the HFS website at http://www.state.il.us/agency/oig/sanctionlist.asp.

"Hospital" means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.

"IHE" means an Institution of Higher Education as defined at 20 USC 1001(a).

"Illinois Stop Payment List" *means the list maintained by the Governor's Office of Management and Budget that contains the names of those individuals and entities that are ineligible, either temporarily or permanently, to receive grant funds,* regardless of source, *from a State grantmaking agency*. The Illinois Stop Payment List is internally available to authorized State of Illinois personnel. It is a centralized repository for cross-agency information sharing for the purpose of

improving the grantee risk assessment process and enhancing fiscal management transparency. The Illinois Stop Payment List is a component of the GCES.

"ILSAC" means the Illinois Single Audit Commission.

"Improper Payment" means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements. "Improper payment" includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except when these payments are authorized by federal statute), any payment that does not account for credit for applicable discounts, and any payment in which insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

"In Relation to Opinion" means required auditing standards for Supplemental Information Accompanying Audited Financial Statements. Statements on Auditing Standards No. 118 sets forth the auditor's responsibilities when the auditor of financial statements is engaged to perform audit procedures and report on whether the supplemental information accompanying the financial statement is fairly stated, in all material respects, in relation to the financial statements as a whole (for a copy of these standards, see https://www.aicpa.org/research/standards/auditattest/clarifiedsas.html).

"*Indirect* (Facilities & Administrative (F&A)) *Costs*" or "Indirect Facilities and Administrative Costs" *means those costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted without effort disproportionate to the results achieved*. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect costs. Indirect cost pools must be distributed to benefitted cost objectives on bases that will produce an equitable result in consideration of relative benefits derived. (See also the definition of F&A costs.)

"Indirect Cost Rate Negotiator" means the vendor contracted with the Governor's Office of Management and Budget to review indirect cost rate proposals, collaborate with State agency subject matter experts and the Grant Accountability and Transparency Unit to establish awardee indirect cost rates and elections.

"Indirect Cost Rate Proposal" means the documentation prepared by an awardee to substantiate its request for the establishment of an indirect cost rate for the reimbursement of indirect costs. This proposal provides the basis for the review and negotiation leading to the establishment of an organization's indirect cost rate.

"Indirect Cost Rate System" means the internet-based, centralized, statewide framework for awardees to negotiate an indirect cost rate and/or make an indirect cost rate election.

"Information Technology Systems" means computing devices, ancillary equipment, software, firmware, and similar procedures, services (including support services), and related resources.

"Inspector General" means the Office of Executive Inspector General for Illinois.

"Institution of Higher Education" means an educational institution of the State that:

admits as regular students only persons who have a certificate of graduation from a school providing secondary education, or the recognized equivalent;

is legally authorized within the State to provide a program of education beyond secondary education;

provides an education program for which the institution awards a bachelor's degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree, or awards a degree acceptable for admission to a graduate or professional degree program;

is a public or other nonprofit institution; and

is accredited by a nationally recognized accrediting agency or associate, or is an institution that has been granted pre-accreditation status by such an agency or association. (See 20 USC 1001.)

"Intangible Property" means property having no physical existence, such as trademarks, copyrights, patents and patent applications and property, such as

loans, notes and other debt instruments, lease agreements, stock and other instruments of property ownership (whether the property is tangible or intangible).

"Intermediate Cost Objective" means a cost objective that is used to accumulate indirect costs or service center costs that are subsequently allocated to one or more indirect cost pools or final cost objectives. (Also see the definitions of cost objective and final cost objective.)

"Internal Controls" means a process, implemented by an awardee, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

Effectiveness and efficiency of operations;

Reliability of reporting for internal and external use; and

Compliance with UR sections 200.62 and 200.303 and the Illinois Fiscal Control and Internal Auditing Act.

"Internal Control Over Compliance Requirements for State, Federal or Federal Pass-Through Awards" means a process implemented by an awardee designed to provide reasonable assurance regarding the achievement of the following objectives for State, federal or federal pass-through awards:

Transactions are properly recorded and accounted for, in order to:

Permit the preparation of reliable financial statements and State, federal and federal pass-through reports;

Maintain accountability over assets; and

Demonstrate compliance with State and federal statutes, regulations, and the terms and conditions of the award;

Transactions are executed in compliance with:

State and federal statutes, regulations, and terms and conditions of the award/grant that could have a direct and material effect on a federal or federal pass-through program;

Any other State or federal statutes and regulations that are identified in the Compliance Supplement; and

Funds, property and other assets are safeguarded against loss from unauthorized use or disposition.

"Internal Control Questionnaire" or "ICQ" means the financial and administrative risk assessment tool centrally used to assess an organization's fiscal and administrative risk profile. The automated ICQ is available through the Grantee Portal.

"IRC" means the Internal Revenue Code.

"Legislation" means action by the Congress, any state legislature, any local council, or similar legislative body, or by the public in a referendum, ballot initiative, constitutional amendment, or similar procedure. "Legislation" includes a proposed treaty required to be submitted by the President to the U.S. Senate for its advice and consent from the time the President's representative begins to negotiate its position with the prospective parties to the proposed treaty. (See 26 CFR 56.4911-2(d)(1)(i).)

"Lobbying" means communication that is intended to influence legislation or executive action. (See the definitions of legislation, specific legislation, direct lobbying and grassroots lobbying and 26 CFR 56.4911-2.)

"Local Government" means any entity defined as a unit of local government by Article VII, Section 1 of the Illinois Constitution and includes school districts.

"Maintenance of Effort" means a requirement contained in a program's authorizing legislation or program regulations stating that, in order to receive federal grant funds, a recipient must agree to maintain a specified level of financial effort for the grant from its own resources and other non-federal sources.

"Major Program" means a State or *federal program determined by the auditor to be a major program in accordance with* UR section 200.518 *or a program*

identified as a major program by a State or *federal awarding agency or pass-through entity in accordance with UR section 200.503(e)*.

"Management Decision" means the evaluation by the State or federal awarding agency or pass-through entity of the audit findings and corrective action plan and the issuance of a written decision to the auditee as to what corrective action is necessary.

"Mandatory Formula-Based Grant" or "Mandatory Grant" means noncompetitive grant funding that is allocated to recipients based upon a set of pre-existing criteria, such as population and/or other census criteria; all applicants who meet the minimum requirements of the application process are entitled to receive money.

"Matching" means third-party in-kind contributions and the portion of project costs not paid by federal funds, unless otherwise authorized by statute. (See the definition of cost sharing.)

"Merit Based Review Policy" means the federally required application review process mandated for all competitive State and federal pass-through awards (UR section 200.204).

"Micro-Purchase" means a purchase of supplies or services using simplified acquisition procedures (see Section 7000.30), the aggregate amount of which does not exceed the micro-purchase threshold. Micro-purchase procedures comprise a subset of an awardee's small purchase procedures. The awardee uses these procedures in order to expedite the completion of its lowest-dollar small purchase transactions and minimize the associated administrative burden and cost. The micro-purchase threshold for federally-funded grants is set under FAR in 48 CFR subpart 2.1. It is $3,000 except as otherwise discussed in subpart 2.1, but this threshold is periodically adjusted for inflation. The Illinois small purchase threshold is set by the appropriate Chief Procurement Officer (CPO) under Section 20-20(c) of the Illinois Procurement Code and published in this Title 44 by each CPO. Micro-purchase rules are applicable to local government and non-profit awardees. State agencies are subject to the Illinois Procurement Code.

"Modified Total Direct Cost" or "MTDC" means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and subawards up to the first $25,000 of each subaward (regardless of the period of performance

of the subawards under the award). MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs and the portion of each subaward in excess of $25,000. Other items may only be excluded when necessary to avoid a serious inequity in the distribution of indirect costs, and with the approval of the cognizant agency for indirect costs.

"Negotiated Rate" means the indirect (F&A) cost rate negotiated with and accepted by the federal or State awarding agency. Under the rate agreement, negotiated rates include final, fixed and predetermined rates and exclude provisional rates.

"NOFO" means the Notice of Funding Opportunity generated from the CSFA.

"Non-Federal Entity" means a state, local government, institution of higher education, or organization, whether nonprofit or for-profit, that carries out a State, federal or federal pass-through *award as a recipient or subrecipient*. (See also the definition of awardee.)

"Nonprofit Organization" means any corporation, trust, association, cooperative or other organization, not including institutions of higher education, that:

is operated primarily for scientific, educational, service, charitable or similar purposes in the public interest;

is not organized primarily for profit; and

uses net proceeds to maintain, improve or expand the operations of the organization.

"NOSA" means the Notice of State Award issued by a State grantmaking agency.

"Notice of Funding Opportunity" or "NOFO" means an agency's formally issued announcement of the availability of State, federal or federal pass-through funding through one of its financial assistance programs. The announcement provides eligibility and evaluation criteria, funding preferences/priorities, the submission deadline, and information on how to obtain an application for the funding opportunity.

"Obligations", when used in connection with an awardee's *utilization of funds under an award, means:*

orders placed for property and services;

contracts and subawards; and

similar transactions, during a given period that require payment by the awardee during the same or future period.

"Office of Management and Budget" or "OMB" means the federal *Office of Management and Budget of the Executive Office of the President.*

"Oversight Agency for Audit", for federally-funded awards, *means the federal awarding agency that provides the predominant amount of funding directly to an awardee not assigned a cognizant agency for audit. When there is no direct funding, the awarding agency that is the predominant source of pass-through funding must assume the oversight responsibilities. The duties of the oversight agency for audit and the process for any reassignments are described in* UR section 200.513(b). For State-funded awards, "oversight agency for audit" is the State Cognizant Agency.

"Participant Support Costs" means direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with conferences or training projects.

"Pass-Through Entity" means a non-federal entity that provides a subaward to a subrecipient to carry out part of a program.

"Performance Goal" means a target level of performance expressed as a tangible, measurable objective or as a qualitative standard, value or rate. A performance goal includes a performance indicator, a target, and a time period, and must be expressed in an objective, quantifiable or measurable form when possible. When necessary, a grantmaking agency and an awardee shall use an alternative performance goal (such as a set of milestones) described in a way that makes it possible to discern whether progress is being made toward that goal.

"Period of Performance" means the time during which the awardee may incur new obligations to carry out the work authorized under the State, federal or federal pass-through award. The State grantmaking agency, federal awarding agency or federal pass-through entity must include start and end dates of the period of performance in the award (see, as applicable, Section 7000.370(a)(1) of this Part, UR section 200.210(a)(5), and UR section 200.331(a)(1)(D)).

"Personal Property" means property other than real property. It may be tangible, having physical existence, or intangible.

"Personally Identifiable Information" or "PII" means information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual. Some information that is considered to be PII is available in public sources such as telephone books, public websites and university listings. This type of information is considered to be public PII and includes, for example, first and last name, address, work telephone number, email address, home telephone number, and general educational credentials. The definition of PII is not anchored to any single category of information or technology. Rather, it requires a case-by-case assessment of the specific risk that an individual can be identified. Non-PII can become PII whenever additional information is made publicly available, in any medium and from any source that, when combined with other available information, could be used to identify an individual.

"Predetermined Rate" means an indirect cost rate, applicable to a specified current or future period, usually the organization's fiscal year. The rate is based on an estimate of the costs to be incurred during the period. A predetermined rate is not subject to adjustment.

"Prior Approval" or "Prior Written Approval" means an authorization by one party, provided in writing to another party, to proceed in a specified manner.

"Private Award" means an award from a person or entity other than a State or federal entity or federal pass-through entity. *Private awards are not subject to GATA.*

"Program Income" means gross income received by the awardee directly generated by a supported activity, or earned only as a result of the federal award during the period of performance, except as provided in UR section 200.307(f) or

Section 7000.120(c)(4) of this Part, as applicable (also see the definition of period of performance). "Program income" includes, but is not limited to, income from:

fees for services performed;

the use or rental of real or personal property acquired under State, federal or federal pass-through entity awards;

the sale of commodities or items fabricated under a State, federal or federal pass-through entity award;

license fees and royalties on patents and copyrights; and

principal and interest on loans made with State, federal or federal pass-through entity award funds.

Interest earned on advances of State, federal or federal pass-through entity award funds is not program income. Except as otherwise provided in State or federal statutes, regulations, or the terms and conditions of the federal award, program income does not include rebates, credits, discounts or interest earned on any rebates, credits or discounts.

"Project Cost" means total allowable costs incurred under an award and all required cost sharing and voluntary committed cost sharing, including third-party contributions.

"Property" means real property or personal property.

"Protected Personally Identifiable Information" or "Protected PII" means an individual's first name or first initial and last name in combination with any one or more types of information, including, but not limited to, the following:

social security number;

passport number;

credit card numbers;

security clearances;

bank numbers;

biometrics;

date and place of birth;

mother's maiden name;

criminal, medical and financial records; and

educational transcripts.

"Protected PII" does not include PII that is required by law to be disclosed. (See also the definition of Personally Identifiable Information.)

"Provisional Rate" means a temporary indirect cost rate applicable to a specified period that is used for funding, interim reimbursement, and reporting indirect costs on State, federal or federal pass-through entity awards pending the establishment of a final rate for the period.

"Public Institutions of Higher Education" means *the University of Illinois, Southern Illinois University, Chicago State University, Eastern Illinois University, Governors State University, Illinois State University, Northeastern Illinois University, Northern Illinois University, Western Illinois University,* and *the public colleges of the State* (Section 1 of the Board of Higher Education Act).

"Questioned Cost" means a cost that is questioned by the auditor because of an audit finding:

That resulted from a violation or possible violation of a statute, regulation, or the terms and conditions of a State or federal award, including for funds used to match State or federal funds;

When the costs, at the time of the audit, are not supported by adequate documentation; or

When the costs incurred appear unreasonable and do not reflect the actions a prudent person would take in the circumstances.

"Real Property" means land, including land improvements, structures and appurtenances thereto, but excludes moveable machinery and equipment.

"Recipient" means an entity that receives a State or federal award *directly from* a State or federal *agency to carry out an activity under an* award *program. "Recipient" does not include subrecipients.* (See the definition of non-federal entity.)

"Research and Development " or "R&D" *means all research activities, both basic and applied, and all development activities that are performed by awardees*. The term "research" also includes activities involving the training of individuals in research techniques when these activities utilize the same facilities as other research and development activities and when these activities are not included in the instruction function. "Research" is defined as a systematic study directed toward fuller scientific knowledge or understanding of the subject studied. "Development" is the systematic use of knowledge and understanding gained from research directed toward the production of useful materials, devices, systems or methods, including design and development of prototypes and processes.

"SAM" means the federal System for Award Management (https://www.sam.gov). Illinois utilizes SAM.gov as the federal clearing house for qualification verification of potential awardees.

"SAIN" means the unique State award identification number assigned to each State award. The SAIN is system generated through the CSFA.

"Simplified Acquisition Threshold" means the dollar amount below which an awardee may purchase property or services using small purchase methods. Awardees adopt small purchase procedures to expedite the purchase of items costing less than the simplified acquisition threshold. The simplified acquisition threshold is set by 48 CFR subpart 2.1 (Definitions) and adjusted for inflation in accordance with 41 USC 1908. The current simplified acquisition threshold for federal and federal pass-through entity awardees is $150,000. The simplified acquisition threshold is applicable to local government and non-profit awardees receiving direct federal funding or federal pass-through funding. State agencies and awardees receiving State funding are subject to the Illinois Procurement Code. (See the definition of micro-purchase.)

"Single Audit Act" means the federal Single Audit Act Amendments of 1996.

"Special Purpose Rquipment" means equipment that is used only for research, medical, scientific or other technical activities. Examples of special purpose equipment include microscopes, x-ray machines, surgical instruments and spectrometers.

"Specific Legislation" means both legislation that has already been introduced in a legislative body and a specific legislative proposal that an organization either supports or opposes. In the case of a referendum, ballot initiative, constitutional amendment, or other measure that is placed on the ballot by petitions signed by a required number or percentage of voters, an item becomes "Specific Legislation" when the petition is first circulated among voters for signature.

"State Agency" means an Illinois *executive branch agency* that is authorized to issue awards of State funds or awards of federal funds as a pass-through entity. *For purposes of GATA, "State Agency" does not include public institutions of higher education.*

"State Cognizant Agency" or "SCA" means the State *grantmaking agency designated to carry out the responsibilities described in UR sections* 200.513 (Responsibilities), 200.205 (awarding agency review of risk posed by applicants), 200.207 (specific conditions for the fiscal and administrative risk assessment) and 200.213 (suspension and debarment), and appendices III through VII and IX to part 200, and GATA Section 25(6) (recipient/subrecipient prequalification requirements). The State of Illinois uses these State cognizant agencies as the State cognizant agencies for audit, indirect cost, prequalification and fiscal and administrative risk assessment. Grantees are informed of their SCA through the Grantee Portal. SCA assignments are also documented for State agency personnel on the GATA implementation website.

"State Fiscal Year" means the period beginning on July 1 and ending on June 30.

"State Grant" means:

the State financial assistance that an awardee receives directly from a State grantmaking agency or indirectly from a pass-through entity; or

the instrument setting forth the terms and conditions when the instrument is the Grant Agreement, Cooperative Agreement or other agreement for assistance.

"State Grant" does not include contracts issued pursuant to the Illinois Procurement Code that a State agency uses to buy goods or services from a contractor or a contract to operate State government-owned, contractor-operated facilities. (See also definitions of financial assistance, Grant Agreement and Cooperative Agreement.)

"State Grantmaking Agency" means a State agency that provides a State funded grant/award or a federal pass-through award to an awardee. "State Grantmaking Agency" has the same meaning as "State Awarding Agency".

"State Interest" means the acquisition or improvement of real property, equipment or supplies under a State award*, the dollar amount that is the product of the State share of the total project costs and current fair market value of the property, improvements, or both, to the extent the costs of acquiring or improving the property were included as project costs.*

"State Program" means all State awards that are assigned a single number in the CSFA or a cluster of programs.

"State Share" means the portion of the total project costs that are paid by State funds.

"State Staff Inquiry Screen" means the intranet-based, centralized system used internally by the State of Illinois to manage pre- and post-award requirements of awardees.

"Stop Payment Status" means the temporary or permanent status of a grantee determined to be non-compliant with grant compliance requirements as stated in the GCES. The severity of the non-compliance issue dictates the enforcement action required by the State agency.

"Strategic Objective" means a goal that reflects the outcome or management impact a grantmaking agency is trying to achieve and generally includes the agency's role. Each objective is tracked through a suite of performance goals and other indicators. Strategic objectives and performance goals should facilitate

prioritization and assessment for planning, management, reporting and evaluation purposes. Agencies should use strategic objectives to help decide which indicators are most valuable to provide leading and lagging information, monitor agency operations, show how employees contribute to the organization's mission, determine needed program evaluation, communicate agency progress, and consider the impact of external factors on the agency's progress. The set of all agency strategic objectives should be comprehensive of all agency activity. Objectives are usually outcome-oriented; however, management and other objectives may be established to communicate the breadth of agency efforts. Federal OMB Circular A-11 (see https://www.whitehouse.gov/wp-content /uploads/2018/06/all.pdf) divides strategic objectives into 3 categories:

Mission Focused. A type of strategic objective that expresses more specifically the path an agency plans to follow to achieve or make progress on a single strategic goal.

Mission Focused (Crosscutting/Other). A type of strategic objective that is not directly tied to a single strategic goal, but may be tied to several or none. In some circumstances, agencies perform statutory or crosscutting activities that are not closely tied to a single strategic goal.

Management Focused. A type of strategic objective that communicates improvement priorities for management functions such as strategic human capital management, information technology, or financial stewardship. Often management objectives support more than one strategic goal.

"Student Financial Aid" or "SFA" *means federal awards under those programs of general student assistance, such as those authorized by Title IV of the Higher Education Act of 1965, as amended, that are administered by the United States Department of Education and similar programs provided by other federal agencies. "Student Financial Aid" does not include federal awards under programs that provide fellowships or similar federal awards to students on a competitive basis or for specified studies or research.* Individual direct recipients are not subject to the controls required by this Part.

"Subgrant" means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of an award received by the pass-through entity. Terms of the Grant Agreement may specify that the primary grantee will utilize another party through a subgrant to carry out part of the State grant

received by the grantee. "Subgrant" does not include payments to a contractor or payments to an individual who is a beneficiary of a State or federal program. A "subgrant" may be provided through any form of legal agreement, including an agreement that the grantee considers a contract.

"Subrecipient" means a non-federal entity that receives an award from a pass-through entity to carry out part of a federal or State program. A subrecipient is also known as a first-tier subrecipient. There can be additional tiers of subrecipients based on pass-through levels. *"Subrecipient" does not include an individual who is a beneficiary of the program. A subrecipient may also be a recipient of other State or federal awards directly from a State or federal awarding agency.*

"Supplies" means all tangible personal property other than those described in the definition of equipment. A computing device is a supply if the acquisition cost is less than the lesser of the capitalization level established by the awardee for financial statement purposes or $5,000, regardless of the length of its useful life. (See the definitions of computing devices and equipment.)

"Suspension" means a post-award action by the State or federal agency or pass-through entity that temporarily withdraws the State or federal agency's or pass-through entity's financial assistance sponsorship under an award, pending corrective action by the awardee or subrecipient or pending a decision to terminate the award.

"Termination" means the ending of a federal or federal pass-through entity award or State grant, in whole or in part, at any time prior to the planned end of the period of performance.

"Third-Party In-Kind Contributions" means the value of non-cash contributions (i.e., property or services) that benefit a State- or federally-assisted project or program and are contributed by non-federal third parties, without charge, to an awardee under a State or federal award.

"Total Compensation" means the cash and noncash dollar value earned by the executive during the grantee's or subrecipient's preceding fiscal year and includes the following: salary and bonus; awards of stock, stock options and stock appreciation rights; earnings for services under non-equity incentive plans; and change in pension value.

"Treasury-State Cash Management Improvement Act Agreement" means the Treasury-State Agreement (TSA) the State must enter into with the U.S. Department of the Treasury's Bureau of Fiscal Service to set forth terms and conditions for implementing CMIA.

"Unallowable Cost" means a cost specified by law or regulation, federal cost principles, or the terms and conditions of an award that may not be reimbursed under a Grant or Cooperative Agreement.

"Uniform Administrative Requirements, Costs Principles, and Audit Requirements for Federal Awards" or "Uniform Requirements" or "UR" *means those rules applicable to grants contained in 2 CFR 200*.

"Unliquidated Obligations" means, for financial reports prepared on a cash basis, obligations incurred by the awardee that have not been paid (liquidated). For reports prepared on an accrual expenditure basis, these are obligations incurred by the awardee for which an expenditure has not been recorded.

"Unobligated Balance" means the amount of funds under a State or federal award that the awardee has not obligated. The amount is computed by subtracting the cumulative amount of the awardee's unliquidated obligations and expenditures of funds under the State grant or federal award from the cumulative amount of the funds that the State or federal awarding agency or pass-through entity authorized the awardee to obligate.

"USC" means the United States Code.

"Voluntary Committed Cost Sharing" means cost sharing specifically pledged on a voluntary basis in the proposal's budget or the award on the part of the awardee *and that becomes a binding requirement of the award*. [30 ILCS 708/15]

"Working Capital Advance" means an advance cash payment from the State grantmaking agency or pass-through entity to the awardee to cover estimated disbursement needs for an initial period, generally geared to the awardee's disbursing cycle. This includes initial start-up cost and normal monthly grant expense, not to exceed two months of monthly grant expenses.

Section 7000.40 Incorporations and Referenced Materials

GOVERNOR'S OFFICE OF MANAGEMENT AND BUDGET

NOTICE OF ADOPTED RULES

a) References to Federal Statutes

1) Cash Management Improvement Act (31 USC 1)

2) Federal Funding Accountability and Transparency Act (FFATA) (31 USC 6101)

3) Federal Grant and Cooperative Agreement Act (31 USC 6301)

4) Freedom of Information Act (FOIA) (5 USC 552)

5) Higher Education Act of 1965, Title IV (20 USC 1070 through 1099d)

6) Improper Payments Elimination and Recovery Act of 2012 (31 USC 3321 note)

7) International Organizations Immunity Act (22 USC 288)

8) Internal Revenue Code (26 USC)

9) Simplified Acquisition Procedures: Inflation adjustment of acquisition-related dollar thresholds (41 USC 1908)

10) Single Audit Act of 1984 as amended by the Single Audit Act Amendments of 1996 (31 USC 7501)

b) References to Illinois Statutes

1) Grant Accountability and Transparency Act [30 ILCS 708] (Act or GATA)

2) Fiscal Control and Internal Auditing Act [30 ILCS 10]

3) Freedom of Information Act (FOIA) [5 ILCS 140]

4) Illinois Grant Funds Recovery Act (GFRA) [30 ILCS 705]; Section 15.1 creates the Illinois Single Audit Commission

5) Illinois State Auditing Act [30 ILCS 5]

6) Board of Higher Education Act [110 ILCS 205]

7) Illinois Procurement Code [30 ILCS 500]

8) State Property Control Act [30 ILCS 605]

9) Illinois State Collection Act of 1986 [30 ILCS 210]

10) State Budget Law [15 ILCS 20]; Section 50-25 creates Budgeting for Results

11) Rights of Crime Victims and Witnesses Act [725 ILCS 120]

12) Department of Human Services Act [20 ILCS 1305]

13) Grant Information Collection Act [30 ILCS 707]

14) Intergovernmental Cooperation Act [51 ILCS 220]

c) Incorporations by Reference

1) Federal Regulations

A) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR 200 (December 26, 2014)):

i) 2 CFR 200 Subpart B – General Provisions except for:

- With respect to section 200.203(6)(b), the timeframe shall be 30 calendar days. If the grantmaking agency determines extenuating circumstances necessitate a shorter NOFO posting period, prior permission must be obtained from GATU;

- With respect to section 200.204, an appeal must be described and incorporated with the merit-based review process;

- Under section 200.205, a risk based approach as described in subsection (c) shall be used; and

- Section 200.210 contains State related references.

ii) 2 CFR 200 Subpart C – Pre-Federal Award Requirements and Contents of Federal Awards

iii) 2 CFR 200 Subpart D – Post-Federal Award Requirements except for:

- In section 200.308(e), add that the State grantmaking agency may, at its option, restrict the transfer of funds among direct cost categories or programs, functions and activities for State and federal pass-through awards in which the State share of the project exceeds the Simplified Acquisition Threshold and the cumulative amount of those transfers exceeds or is expected to exceed 10% per detail line item or $1,000, whichever is greater, of the total budget as last approved by the State grantmaking agency. The State grantmaking agency cannot permit a transfer that would cause any State appropriation to be used for purposes other than those consistent with the appropriation.

- In section 200.336, add that any entity of the State, including but not limited to the State grantmaking awarding agency, the Auditor General, the Attorney General, any Executive Inspector General, and the Inspector General of the State grantmaking agency, as applicable, or any of the authorized representatives, must have the right of access to any documents, papers or other records of the awardee that are pertinent to the State award in order to

make audits, examinations, excerpts and transcripts. This right also includes timely and reasonable access to the awardee's personnel for the purpose of interview and discussion related to these documents.

iv) 2 CFR 200 Subpart E – Cost Principles

v) 2 CFR 200 Subpart F – Audit Requirements

vi) 2 CFR 200 Appendix I – Full Text of Notice of Funding Opportunity

vii) 2 CFR 200 Appendix II – Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

viii) 2 CFR 200 Appendix III – Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs)

ix) 2 CFR 200 Appendix IV – Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations

x) 2 CFR 200 Appendix V – State/Local Government and Indian Tribe-Wide Central Service Cost Allocation Plans

xi) 2 CFR 200 Appendix VI – Public Assistance Cost Allocation Plans

xii) 2 CFR 200 Appendix VII – States and Local Government and Indian Tribe Indirect Cost Proposals

xiii) 2 CFR 200 Appendix VIII – Nonprofit Organizations Exempted from Subpart E – Cost Principles

xiv) 2 CFR 200 Appendix IX – Hospital Cost Principles

xv) 2 CFR 200 Appendix X – Data Collection Form (Form SF-SAC)

xvi) 2 CFR 200 Appendix XI – Compliance Supplement

B) Cost Accounting Standards (48 CFR 9904 (2014))

C) Federal Acquisition Regulations System (FAR) (48 CFR 1 (2014))

D) Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Awards, Contracts and Cooperative Agreements (37 CFR 401 (2013))

E) Rules and Procedures for Efficient Federal-State Funds Transfers (31 CFR 205)

2) "Clarification of OMB A-21 Treatment of Voluntary Uncommitted Cost Sharing and Tuition Remission Costs", Office of Management and Budget, Memorandum M-01-06 (2001)

3) Government Auditing Standards (also known as "GAGAS" or the "Yellow Book"), U.S. Government Accountability Office by the Comptroller General of the United States (2011 Revision) (http://www.gao.gov/yellowbook)

4) "Internal Control Integrated Framework" (2013), Committee of Sponsoring Organizations of the Treadway Commission (COSO), available at https://www.coso.org/Pages/ic.aspx

5) "Policies for Federal Credit Programs and Non-Tax Receivables", Office of Management and Budget, Circular A-129 (2013), available at https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A129/a-129.pdf

6) "Preparation, Submission, and Execution of the Budget", Office of Management and Budget, Circular A-11 (2015), available at https://www.whitehouse.gov/wp-content/uploads/2018/06/a11.pdf

7) "Standards for Internal Control in the Federal Government" (2014) (also known as the "Green Book"), Comptroller General of the United States, available at http://www.gao.gov/products/GAO-14-704G

d) No later editions of the regulations and standards listed in subsection (c) are incorporated in this Part.

Section 7000.50 Catalog of State Financial Assistance (CSFA)

a) *The Catalog of State Financial Assistance is available at https://www.illinois.gov/sites/GATA/Grants/SitePages/CSFA.aspx. The CSFA contains, at a minimum, the following information:*

1) *An introductory section that explains how to use the Catalog, suggested grant proposal writing methods, and grant application procedures;*

2) *A comprehensive indexing system that categorizes programs by issuing agency, eligible applicant, application deadlines, function, popular name and subject area;*

3) *Comprehensive appendices showing State assistance programs that require coordination through GATA and regulatory, legislative and Executive Order authority for each program, commonly used abbreviations and acronyms, agency regional and local office addresses, and sources of additional information;*

4) *A list of programs that have been added to or deleted from the CSFA and the various program numbers and title changes;*

5) *Program number, title and popular name, if applicable;*

6) *The name of the State agency or independent agency and primary organization sub-unit administering the program;*

7) *The enabling legislation, including popular name of the Act, titles and Sections, Public Act number, and citation to the Illinois Compiled Statutes;*

8) *The type or types of financial and nonfinancial assistance offered by the program;*

9) *Uses and restrictions placed upon the program;*

10) *Eligibility requirements, including applicant eligibility criteria, beneficiary eligibility criteria, and required credentials and documentation;*

11) *Objectives and goals of the program;*

12) *Information regarding application and* grant *processing; application deadlines; range of approval or disapproval time; appeal procedures; and availability of a renewal or extension of assistance;*

13) *Assistance considerations, including an explanation of the* grant *formula, matching requirements, and the length and time phasing of the assistance;*

14) *Post-assistance requirements, including any reports, audits, and records that may be required;*

15) *Program accomplishments (*if *available) describing quantitative measures of program performance;*

16) *Regulations, guidelines, and literature containing citations to the Illinois Administrative Code, the Code of Federal Regulations, and other pertinent informational materials; and*

17) *The names, telephone numbers, and e-mail addresses of persons to be contacted for detailed program information at the headquarters, regional, and local levels.* [30 ILCS 708/30]

b) The Notice of Funding Opportunity (NOFO) shall be generated from the CSFA.

c) All State grants, regardless of the funding source, shall be posted through the CSFA by the State grantmaking agency.

Section 7000.60 Program-specific Exceptions and Exemptions to UR and GATA

a) The Uniform Guidance exception rule is stated at UR section 200.102. GATA modeled its exception process after the federal process. If the federal OMB and awarding agency has granted an exception, GATU will accept that exception.

b) UR section 200.101 cites types of awards with exceptions to UR. All cited exceptions shall apply to federal and federal pass-through awards. If the State of Illinois funds an equivalent program, the State award will be subject to the same exceptions as the federal award it mirrors.

c) When a grant program is listed as exempt under UR section 200.101, the State agency must review the grant-specific requirements to determine if there are additional, grant-specific rules modeled after UR.

d) Per UR, exceptions shall not be given for UR section 200.330 through 200.332 or subpart F – Audit Requirements. All grants are subject to post-award requirements, awardee and subrecipient monitoring and management, and audit requirements.

e) State agencies shall complete and submit a "GATA Request for Exception Form" that must include the statutory federal or State reference authorizing the exception. All exceptions must be based on statutory authority.

f) GATU shall review all Requests for Exceptions and consult with GOMB General Counsel as necessary for final determination on the exception request.

g) All exceptions shall be requested in writing from the State agency and authorized in writing by GATU in the official Notice of Exception.

h) All federal, federal pass-through and State-funded programs in the State of Illinois will be assumed to be subject to UR and GATA unless GATU has distributed a written Notice of Exception to the requesting State agency.

i) Based on the Notice of Exception, State agencies are required to record the exceptions in the CSFA, the NOSA and the Uniform Grant Agreement.

Section 7000.70 Grantee Qualification Status

a) Prior to making an award, the State grantmaking agency or pass-through entity is required by 31 USC 3321, 41 USC 2313 and Section 25(4)(C) of the Act to

review information available through any GOMB- and/or OMB-designated repositories of government-wide eligibility qualification or financial integrity information, such as:

1) Federal Awardee Performance and Integrity Information System (FAPIIS);

2) Dun and Bradstreet;

3) Suspension and Debarment requirements (2 CFR 180); and

4) GATA requirements (Section 25(6)(G), (H) and (I) of the Act).

b) Illinois grantee registration is centralized and automated through GATU from https://www.grants.illinois.gov/portal.

c) An individual representing an organization must utilize the Illinois.gov Public Authentication Portal as a cyber security check and to formally associate the individual with the organization he or she represents. Authentication is initiated from the Grantee Portal (www.grants.illinois.gov/portal).

d) An entity must provide the following information annually to be registered with the State of Illinois as a grantee/awardee:

1) Organization name and contact information;

2) Federal Employee Identification Number (FEIN);

3) Data Universal Numbering System (DUNS) number; and

4) Organization type.

e) Illinois prequalification is centralized and includes an automated verification through www.SAM.gov and the GATA implementation website based on information provided during registration.

f) Based on the information provided, the entity is "qualified" to be an awardee if it:

1) has an active DUNS number;

2) has an active SAM.gov account;

3) has an acceptable fiscal condition;

4) is in good standing with the Illinois Secretary of State, if the Illinois Secretary of State requires the entity's organization type to be registered. Governmental entities, school districts and select religious organizations are not required to be registered with the Illinois Secretary of State. Refer to the Illinois Secretary of State Business Services website: http://www.cyberdriveillinois.com/departments/business_services/home.html;

5) is not on the Illinois Stop Payment List;

6) is not on the SAM.gov Exclusion List;

7) is not on the Sanctioned Party List maintained by HFS.

g) Upon registration, the Grantee Portal will list the status of each requirement. If a status is not "good", on-line HELP will provide an explanation and a link to correct the issue. The status of all requirements must be "good" for the entity to be qualified.

1) If an entity is on the SAM.gov Exclusion List or in Permanent Stop Payment Status on the Illinois Stop Payment List, the entity is "Not Qualified". There is no remediation available. The State of Illinois cannot do business with entities on either the SAM.gov Exclusion List or in Permanent Stop Payment Status on the Illinois Stop Payment List.

2) If an entity is on the Illinois Stop Payment List, is not in good standing with the Illinois Secretary of State, is on the HFS Sanctioned Parties list, does not have an active DUNS number, or has an expired SAM.gov account, the entity has a temporary "Not Qualified" status, but can remediate. On-line HELP through the Grantee Portal enables the entity to self-mediate the issue.

3) If an entity's verification confirmed all requirements under subsection (f) are met, the entity has a "Qualified" status.

h) Qualified status is re-verified nightly. If the entity's status changes, an email notice is sent to the designated representative with a link to the Grantee Portal. The entity shall utilize on-line HELP to self-mediate.

i) Registration and prequalification is required before an organization can apply for an award. State agencies shall use the State Staff Inquiry Screen to ensure an entity is "qualified" before accepting a grant application.

j) Local governments are responsible for determining how the governmental department or agency unit will register and prequalify. In the case of a county government, the decision should be made by the individual with the highest level of fiscal and administrative authority.

1) An entity may register as a single county if the county and the departments or agency units within the county use the same FEIN and:

A) Have one government-wide DUNS number;

B) Complete one government-wide Internal Control Questionnaire; and

C) Complete one government-wide indirect cost rate negotiation or election.

2) If it is determined that the departments should register and prequalify separately, each department must:

A) Have a separate DUNS number for each department or agency unit;

B) Utilize a registration name that includes both the name of the local government and the governmental department or agency (e.g., Sangamon County, Public Health Department);

C) Complete separate Internal Control Questionnaires (ICQs) for each department or agency unit; and

D) Complete separate indirect cost rate negotiations or elections for each department or agency unit.

Section 7000.80 Grantee Compliance Enforcement System; Illinois Stop Payment List

a) Grantees and applicants are subject to Section 25(6)(G) through (I) of GATA, which restricts grants/awards, subgrants and Cooperative Agreements to parties that are debarred, suspended or otherwise deemed ineligible for participation in State grant programs or activities.

b) GATA established a Grantee Compliance Enforcement System (the System) that outlines a statewide framework for State agencies to manage occurrences of noncompliance with grant requirements.

c) The System shall apply to all grants that are subject to UR and GATA. (All grants are assumed to be subject to UR and GATA unless an exception or exemption was authorized by GATU in accordance with Section 7000.60(f).)

d) GATA requires GOMB to maintain a list *that contains the names of those individuals and entities that are ineligible, either temporarily or permanently, to receive grant funds from the State*. [30 ILCS 708/10] The list, termed the Illinois Stop Payment List, is a component of the System.

e) The Stop Payment List is a dynamic snapshot of awardees out of compliance with select grant management requirements. Entities on the Illinois Stop Payment List are in Stop Payment Status. Utilizing a centralized list of awardees in Stop Payment Status raises awareness of noncompliance to promote timely resolution and safeguarding of State resources.

f) Under the System, the severity of an entity's noncompliance issue determines whether the entity is placed on temporary or permanent Stop Payment Status. A permanent Stop Payment Status requires a preponderance of the evidence as defined by 2 CFR 180.990. A temporary Stop Payment Status can be remediated. There is no remediation for a permanent Stop Payment Status.

1) Delinquent Reporting Based on the Terms Specified in the Grant Agreement

A) Agency rules shall specify procedures for managing awardee submittal of required financial and performance reports. The protocol shall provide a due diligence process for State agency

generated reminders to the awardee in advance of reporting due dates.

B) Agency rules shall allow the grantmaking agency to extend the reporting deadline due to extenuating circumstances. Reporting extensions must be justified in writing by the grantmaking agency. A report due date may only be extended one time.

C) The State grantmaking agency shall withhold payments to the entity if a report is more than 15 business days past the original or extended due date. Agency rules shall include awardee notification of the State agency contact for Stop Payment Status inquiries.

D) If the report is not submitted within 30 business days after the original or extended due date, the State grantmaking agency shall place the awardee in temporary Stop Payment Status on the Illinois Stop Payment List. (See Section 7000.260.)

2) Immediate Placement on Stop Payment List in Temporary Status. The following occurrences of noncompliance will result in the awardee being immediately placed in temporary Stop Payment Status on the Illinois Stop Payment List:

A) Failure to submit a required refund payment or missed payment from the payment plan within 15 business days after the due date (including approved extensions);

B) Failure to clear fiscal or administrative monitoring issues;

C) Failure to submit an audit report within 15 business days after the due date (including approved extensions);

D) Failure to respond to an outstanding audit report or onsite review correction action for deficiencies and material weaknesses, including payment of questioned costs;

E) Fact-based discretionary issues documented by the Agency Director, General Counsel, Agency's Office of the Inspector

General, Chief Financial Officer, Chief of Staff or Chief Operating Officer. (See Section 7000.260.)

3) Grantees will be placed in permanent Stop Payment Status on the Illinois Stop Payment List for the following infractions:

A) Facts documented by the applicable State agency, including but not limited to:

i) Conviction of, or civil judgment for, commission of fraud or a criminal offense, violation of federal or state antitrust statutes, commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, tax evasion, or commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the grantee's present responsibility.

ii) Violation of grant terms or a transaction so serious as to affect the integrity of the program, such as a willful failure to perform in accordance with grant terms, a history of failure to perform or of unsatisfactory performance, or a willful violation of statutory or regulatory provisions or requirements applicable to a grant.

iii) Any other cause so serious or compelling in nature that it affects present responsibilities.

B) Fraud documented by the Office of the Executive Inspector General or another governmental entity's investigation.

4) In accordance with the Illinois State Collection Act of 1986, all debts under subsection (i)(2)(B) that exceed $250 and are more than 90 days past due (including approved extensions) shall be placed on the Comptroller's Offset System. All requirements of Section 5 of the Illinois State Collection Act of 1986 shall be applied.

g) Procedure

1) The State grantmaking agency shall notify the grantee in writing of the

non-compliance issue. The communication should state that the grantee and its parent organization, if applicable under subsection (h), will be placed on the Illinois Stop Payment List if adequate action by the grantee, including raising any objections, is not taken within 15 calendar days after receipt of the notification.

2) State agencies shall have discretion to determine the medium of written correspondence, including e-mail distribution, certified mail, or post office delivery. If applicable, the parent of the entity shall be copied on the correspondence. The written correspondence must specify the following:

A) Grantee name of record and FEIN;

B) Applicable grant award name and CSFA number;

C) Non-compliance issues, with detailed facts to support each issue;

D) How the grantee can correct the non-compliance issue, if applicable;

E) An opportunity for dialogue or written objections regarding the non-compliance issue;

F) Contact information for questions or coordination of corrective action; and

G) A statement that State agencies cannot execute or modify grants to entities on the Illinois Stop Payment List and that payments to entities on the Illinois Stop Payment List will be subject to additional authorization.

3) If the grantee takes no adequate action within 15 calendar days after it receives the notice, the State agency shall place the grantee and the grantee's parent, if applicable, on the Illinois Stop Payment List. A written notice in the form of a final administrative determination shall be provided to the grantee and the grantee's parent, if applicable, stating that the Stop Payment Status has been invoked on that date or upon another date specified in the State agency's grant rules.

4) If the State agency receives a written notice from the grantee within 15 calendar days after the grantee receives the notice, the agency shall endeavor to review the objection within 15 calendar days to determine whether the grantee has complied with the requirements at issue.

A) If the agency decides in favor of the grantee, it shall notify the grantee that the grantee is in compliance and will not be placed on the Illinois Stop Payment List on the basis of the non-compliance issue under discussion.

B) If the agency decides against the grantee, it shall notify the grantee that the grantee is not in compliance and will be added to the Illinois Stop Payment List. If the non-compliance issue is a delinquent report, then, following the resolution of the grantee's unsuccessful objection, the grantee shall be added to the Illinois Stop Payment List either 30 calendar days after the original report's due date (or, if more than 30 calendar days have passed since the report's due date, 10 calendar days after the agency's decision) or on a different date specified by the State agency's grant rules.

h) The following protocol shall apply under a parent/child relationship:

1) If the parent or child is placed on temporary or permanent Stop Payment Status, all children will be placed on the same Stop Payment Status.

2) If the child is placed on temporary Stop Payment Status, the parent will be placed on temporary Stop Payment Status as well, because the parent is accountable for compliance oversight of the child.

3) If the child is placed on permanent Stop Payment Status as the result of the actions of an individual, the parent will be notified and will also be placed on permanent Stop Payment Status, because the parent is accountable for compliance oversight of the child. A parent may be pardoned from the non-compliance issue and removed from permanent Stop Payment Status. To do so, the parent must provide evidence to the State agency that imposed the Stop Payment Status that adequate internal controls have been implemented and are functioning to guard against a recurrence of the non-compliance issue. The State agency shall then remove the parent's

permanent Stop Payment Status, but may impose additional specific conditions for grant oversight.

4) The State grantmaking agency may impose oversight requirements to enforce accountability in other parent/child relationships.

i) State agencies may not execute or modify a grant to increase funding or extend the grant term of an entity on the Illinois Stop Payment List. State agencies shall refer to the State Staff Inquiry Screen or the Illinois Stop Payment List to verify Stop Payment Status.

1) GOMB will initiate a nightly data inquiry to compare awardee FEIN and DUNS numbers on the Illinois Stop Payment List to the Illinois Comptroller's Data Warehouse to determine if any transactions have occurred after the Stop Pay Date.

2) If a payment transaction has been initiated to an entity on the Illinois Stop Payment list:

A) The State agency that initiated the transaction will be notified via email of the Stop Pay Status and provided a link to the awardee's Illinois Stop Payment record.

B) The State agency shall review the Illinois Stop Payment record and determine if the recent payment initiated by the State agency should be withheld. It is recommended that the Stop Payment Status be enforced; however, extenuating circumstances (e.g., court order, consent decree, or federally-mandated funding or matching requirements) may necessitate the payment.

C) If applicable, the State agency shall explain why the Stop Payment Status is being overridden using the Payment Justification field in the Illinois Stop Payment List. All decisions to override the Stop Payment Status must be justified in the List. The override can be valid for one payment or a period of time. Each override cannot exceed the duration of the current fiscal year (including the lapse period).

j) Only the State agency that placed an awardee on the Illinois Stop Payment List can remove the Stop Pay Status.

1) The State agency that issued the Stop Pay Status is responsible for follow-up to resolve noncompliance.

2) When the noncompliance issues are resolved, the State agency that issued the Stop Pay Status shall remove the awardee from the Illinois Stop Payment List.

3) Refer to Section 7000.260 (Maintenance and Use of the Illinois Stop Payment List).

k) The Illinois Stop Payment List will archive all Stop Pay Statuses to document historic prior grant compliance issues. State agencies are encouraged to consider all Stop Pay Status occurrences as part of the grantmaking or modifying process.

l) If criminal charges are brought as a result of an initial Stop Pay Status determination, the State of Illinois will invoke permanent Illinois Stop Payment Status. In accordance with the Grantee Compliance Enforcement System framework, there is no remediation for a permanent Stop Payment Status. State agencies shall not do business with an entity on either the SAM.gov Exclusion List or Permanent Stop Payment Status.

Section 7000.90 Auditing Standards

Following UR section 200.501 (Audit Requirements):

a) Awardees, excluding for-profits, that expend $750,000 or more during the non-federal entity's fiscal year in federal awards (federal pass-through and direct federal funds) must have a single audit conducted in accordance with UR section 200.514. Awardees meeting certain requirements may elect to have a program-specific audit conducted in accordance with UR section 200.507. (See Section 7000.90(d) for audit requirements for for-profit subrecipients.)

b) Awardees that expend less than $750,000 during the non-federal entity's fiscal year in federal awards (federal pass-through and/or direct federal funds) from all sources are exempt from federal audit requirements for that year. These non-federal entities are not subject to the single audit requirements.

c) Awardees that expend less than $750,000 in direct federal and federal pass-through funds from all sources are subject to the following audit requirements:

1) Awardees that expend $500,000 or more in State, direct federal and federal pass-through funds, singularly or in any combination, and are not subject to the single audit:

A) Must have a financial statement audit conducted in accordance with GAGAS; and

B) If deemed to be high risk based on the grantee's overall risk profile (obtained from the Financial and Administrative Risk Assessment, the Merit-Based Review, or the Programmatic Risk Assessment mandated by UR section 200.331 (see Section 7000.340)):

i) Must have an audit conducted in accordance with GAGAS; and

ii) Are required to undergo either an on-site review conducted by the State Cognizant Agency or an agreed upon procedures engagement, paid for and arranged by the pass-through entity or pass-through entities in accordance with UR section 200.425.

2) Awardees that do not meet the requirements in subsection (c)(1) but expend $300,000 or more in State, direct or federal and federal pass-through funds, singularly or in any combination, during the awardee's fiscal year must have a financial statement audit conducted in accordance with GAAS or GAGAS.

d) For-profit Subrecipient. The pass-through entities are responsible for ensuring subrecipient compliance with established requirements. Methods to ensure compliance for State and federal awards to for-profit subrecipients may include pre-award audits, monitoring during the agreement period of performance, and post-award audits. See also UR section 200.331 (Requirements for Pass-through Entities).

1) For-profit Subrecipient Audit Requirements. For-profit subrecipients who expend $750,000 or more in direct federal and federal pass-through funds during their fiscal year are required to have a program-specific audit conducted in accordance with UR section 200.507 (Program-specific Audits).

A) State grantmaking agencies must provide the recipient/subrecipient the program-specific audit guide, when available.

B) If a program-specific guide is not available, the auditor and auditee have the same responsibilities for the program as they would have for a major program in a single audit.

2) For-profit subrecipients who expend less than $750,000 in direct federal and federal pass-through funds during their fiscal year are required to follow the audit requirements in subsection (c).

e) Awardees do not meet the requirements in subsection (c) or (d) but have audits conducted based on other regulatory requirements must submit those audits for review.

f) Single Audit and Program Specific Audit Report Submission. Single audits conducted in accordance with this Section, including any program or regulatory audit requirements, must be completed and the reporting package described in subsection (g) must be submitted by the non-federal entity (grantee/subrecipient) to the Federal Audit Clearing House, as required by UR section 200.512 and the GATA Information Warehouse, within the earlier of 30 calendar days after receipt of the auditor's reports or 9 months after the end of the non-federal entity's audit period. If the due date falls on a Saturday, Sunday or State/federal holiday, the reporting package is due the next business day.

g) Financial Statement Audits conducted in accordance with this Section must be completed and the reporting package described in subsection (g) must be submitted by the non-federal entity to the GATA Information Warehouse within the earlier of 30 calendar days after receipt of the auditor's reports or 6 months after the end of the non-federal entity's audit period. If the due date falls on a Saturday, Sunday or State/federal holiday, the reporting package is due the next business day.

h) Reporting package submissions must include:

1) For Single Audit and Program Specific Audit submissions:

A) All items identified in UR section 200.512(c);

B) Management letters and AU 325 communication issued by the auditors, and their respective corrective action plans; and

C) Consolidated Year-end Financial Report with an "in relation to opinion".

D) A copy of the results of the most recent peer review of the audit firm.

2) For Financial Statement Audit submissions:

A) Financial Statements;

B) Summary schedule of Prior Audit Findings;

C) Auditor's report;

D) Corrective Action Plan;

E) Management letters and AU 325 communications issued by the auditors, and their respective corrective action plans; and

F) Consolidated Year-end Financial Report with an "in relation to opinion".

G) A copy of the results of the most recent peer review of the audit firm.

3) Non-federal entities that are not required to have an audit conducted must submit a Consolidated Year-end Financial Report.

Section 7000.95 Annual Report and 5-Year Review

a) *Effective January 1, 2016 and each January 1 thereafter, GOMB, in conjunction with ILSAC, shall submit to the Governor and the General Assembly a report that demonstrates the efficiencies, cost savings, and reductions in fraud, waste, and abuse as a result of the implementation of GATA and this Part*. [30 ILCS 708/95] GATA performance is addressed in Section 7000.400.

b) *GOMB shall review GATA at least once every 5 years after December 26, 2014 in conjunction with the federal review of the UR, Cost Principles, and Audit Requirements for Federal Awards as required by UR section 200.109 in order to determine whether any existing rules need to be revised or new rules adopted*. [30 ILCS 708/70]

SUBPART B: GOVERNOR'S OFFICE OF MANAGEMENT AND BUDGET (GOMB) RESPONSIBILITIES

Section 7000.100 GOMB Responsibilities

GOMB shall execute the specific requirements and responsibilities set forth in Section 55 of the Act, including the establishment of GATU. GOMB will provide technical assistance and policy interpretation to State grantmaking agencies. Exceptions authorized by Section 55 of the Act shall be reviewed by GATU in accordance with Section 7000.60.

Section 7000.110 GOMB Adoption of Supplemental Rules for Multi-year Grants

a) The Issuance of One-Year Grants

1) An awardee must have a minimum of 5 years of experience in administering grants (federal, State or private sources) to be eligible for a multi-year award.

2) All awardees with less than 5 years of experience in administering grants (federal, State or private sources) is eligible for a multi-year award, if conditions are met:

A) The awarding agency must assign specific conditions to the awardee in response to the risk posed by the applicant through the ICQ and programmatic risk assessment;

B) Specific condition compliance must be monitored by the awarding agency or pass-through entity throughout the grant term; and

C) Renewal grants are conditioned on a comprehensive evaluation of the awardee's fiscal, administrative, and programmatic compliance during the preceding grant term.

b) The issuance of competitive grants in 3-year terms (one-year initial term with the option to renew for up to 2 additional years.

1) A multi-year award is defined as a one-year grant with subsequent renewal grants. A multi-year award may not exceed 3 years of total funding.

2) All grant programs that have been in existence for 5 years may utilize a multi-year award.

3) Grant programs that have been in existence for less than 5 years may only utilize a multi-year award provided:

A) The awardee has specific expertise and experience related to the programmatic use of the fund, and has demonstrated an administrative and programmatic capacity to provide the grant services; or

B) The grant program will function as a pilot program and requires a multi-year award to adequately evaluate the program model for feasibility.

4) Agencies shall utilize a rolling multi-year schedule to manage the administrative responsibilities of the grant application process. Under eligibility terms, agencies have discretion to stagger the grant terms and subsequent renewals.

Section 7000.120 GOMB Adoption of Supplemental Rules for Grant Payment Methods

a) Payments to states are governed by the Cash Management Improvement Act and the Treasury-State Agreement (TSA) default procedures codified at 31 CFR 205.

1) State agencies must have implemented, written policies and procedures that comply with the TSA and 2 CFR 200.305. The policies and procedures must be approved by State agency staff responsible for cash draw downs, federal reporting, and the TSA interest calculation. The policies and procedures must ensure:

A) Awardee grant payments conform to the TSA and this Section.

B) Awardee grant payments conform to requirements in 2 CFR 200.305.

C) Awardees have policies and procedures that enable them to conform to the TSA and 2 CFR 200.305.

b) Payments to awardee entities must utilize grant payment methods that minimize the time elapsing between the transfer of funds from the Illinois Office of the Comptroller and the pass-through entity. The disbursement by the awardee may be made by electronic funds transfer, issuance or redemption of checks, warrants, or payment by other means. (See UR section 200.302(b)(6) (Financial management).)

1) Advance Payments.

A) The awardee entity must be paid in advance, provided it maintains or demonstrates the willingness to maintain both:

i) written procedures that minimize the time elapsing between the transfer of funds and disbursement by the awardee; and

ii) financial management systems that meet the standards for fund control and accountability as established in UR section 200.302.

B) Advance payments must be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the awardee in carrying out the purpose of the approved program or project. The timing and amount of advance payments must

be as close as is administratively feasible to the actual disbursements by the awardee for direct program or project costs and the proportionate share of any allowable indirect costs. The awardee entity must make timely payment to contractors in accordance with the contract provisions.

C) State agencies must implement written policies and procedures documenting their assessment ensuring awardee's written procedures and their financial management systems meet the standards for fund control and requirements in UR section 200.302.

D) State awarding agencies must document the determination that the awardee meets the requirements of advance payments in this subsection (b)(1).

2) Reimbursement. Reimbursement is the preferred method, if the awardee does not meet the requirements in subsection (b)(1). Reimbursement must be utilized when the requirements in subsection (b)(1) cannot be met, when the State awarding agency sets a specific condition per UR section 200.207 (Specific conditions), or when the awardee requests payment by reimbursement. Reimbursement may be used on any grant award for construction, or if the major portion of the construction project is accomplished through private market financing or federal or State loans and the grant award constitutes a minor portion of the project. When the reimbursement method is used, the State awarding agency or pass-through entity must make payment within 30 calendar days after receipt of the billing, unless the State awarding agency or pass-through entity reasonably believes the request to be improper.

3) Working Capital Advances. If the awardee entity cannot meet the criteria for advance payments as stated in subsection (b)(1) and the State awarding agency or pass-through entity has determined that reimbursement is not feasible because the awardee lacks sufficient working capital, the State awarding agency or pass-through entity may provide cash on a working capital advance basis. Under a working capital advance, the State awarding agency or pass-

through entity must advance cash payments to the awardee to cover its estimated disbursement needs for an initial period, generally geared to the awardee's disbursing cycle. This would include initial start-up cost and normal monthly grant expense not to exceed two months of monthly grant expenses. Thereafter, the State awarding agency or pass-through entity must reimburse the awardee for its actual cash disbursements.

A) A working capital advance requires the State awarding agency or pass-through entity to provide timely advance payments to awardees in order to meet the awardee's actual cash disbursements.

B) A working capital advance must not be used if the reason for the working capital advance is the unwillingness or inability of the State awarding agency or pass-through entity to provide timely advance payments to the awardee to meet the awardee's actual cash disbursements.

c) State agencies must implement written policies and procedures for each grant payment method utilized by the agency: advance payments, reimbursements and working capital advances. The policies and procedures must be approved by State agency staff responsible for federal and State cash drawdowns and reporting.

d) Standards governing the use of banks and other institutions as depositories of advance payments under awards are as follows:

1) The State awarding agency and pass-through entity must not require separate depository accounts for funds provided to an awardee or establish any eligibility requirements for depositories for funds provided to the awardee. However, the awardee must be able to account for the receipt, obligation and expenditure of funds.

2) Advance payments of federal funds must be deposited and maintained in insured accounts whenever possible.

3) The awardee must maintain advance payments of federal awards in interest-bearing accounts, unless the following apply:

A) The awardee receives less than $120,000 in federal awards per year.

B) The best reasonably available interest-bearing account would not be expected to earn interest in excess of $500 per year.

e) Parameters Regarding Interest Earned

1) Interest earned by the awardee up to $500 per year may be retained by the awardee for administrative expense.

2) Interest earned by the awardee in excess of $500 per year on federal advance payments deposited in interest-bearing accounts must be returned to the State awarding agency in accordance with UR section 200.305(9).

5) Payment Withholding

A) Unless otherwise required by State statute, payments for allowable costs shall not be withheld at any time during the period of performance unless the conditions of Section 7000.80 apply, the awardee is determined to be "not qualified" in accordance with Section 7000.320, or one or more of the following conditions exists:

i) The awardee has failed to comply with the project objectives, State statutes or regulations, or the Grant Agreement; or

ii) The awardee is delinquent in a debt to the State of Illinois (see the Illinois State Collection Act of 1986). Under these conditions, the agency may, upon reasonable notice, inform the awardee that the awardee shall not make payments for obligations incurred after a specified date until the delinquency is corrected or the indebtedness to the State is liquidated.

B) If the grant is suspended and payment is withheld because of the awardee's failure to comply with the Grant Agreement, payment

must be released to the awardee upon subsequent compliance. Refer to Section 7000.80 for the Grantee Compliance Enforcement System and the Illinois Stop Payment List.

C) A payment must not be made to an awardee for amounts to be paid to contractors that the awardee retains to assure satisfactory completion of work. The payment shall be made when the awardee actually disburses the withheld funds to the contractors or to escrow accounts established to assure satisfactory completion of work.

SUBPART C: STATE AGENCY RESPONSIBILITIES AND IMPLEMENTATION

Section 7000.200 State Agency Responsibilities

a) The specific requirements and responsibilities of State agencies and non-federal entities are set forth in Section 50 of the Act.

b) State agencies making State awards to non-federal entities must adopt rules reflecting UR subparts B through F by July 1, 2017 unless different provisions are required by law or an exception is granted by GATU in accordance with Section 7000.60.

1) In applying UR subparts D through F to State funded grants, the following terms in Column A from the UR are interchangeable with the terms in Column B.

Column A Terms from 2 CFR 200 Subparts B Through F	Column B Application to State Funded Awards
Federal awarding agency	State grantmaking agency
Non-federal entity	State grant recipient
Catalog of Federal Domestic Assistance or CFDA	Catalog of State Financial Assistance or CSFA
Federal financial assistance	State funds
Federal pass-through financial assistance	Federal pass-through
Federal statutes or regulations	State statutes or regulations

2) The following UR sections are applicable to State and federal pass-through grants, with the terminology equivalencies listed in subsection (b)(1):

A) Subpart B – General Provisions

B) Subpart C – Pre-Federal Award Requirements and Contents of Federal Awards

C) Subpart D – Post-Federal Award Requirements

D) Subpart E – Cost Principles

E) Subpart F – Audit Requirements

F) Appendices (applicable sections)

i)	Appendix I	Notice of Funding Opportunity (Except section E)
ii)	Appendix II	Contract Provisions for Non-Federal Entity Contracts Under Federal Awards
iii)	Appendix III	Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs)
iv)	Appendix IV	Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations
v)	Appendix V	State/Local Government-wide Central Service Cost Allocation Plans

vi)	Appendix VI	Public Assistance Cost Allocation Plans
vii)	Appendix VII	States and Local Government and Indian Tribe Indirect Cost Proposals
viii)	Appendix VIII	Nonprofit Organizations Exempted From Subpart E – Cost Principles of Part 200
ix)	Appendix IX	Hospital Cost Principles
x)	Appendix X	Data Collection Form (Form SF-SAC)
xi)	Appendix XI	Compliance Supplement
xii)	Appendix XII	Award Term and Condition for Recipient Integrity and Performance Matters

c) *Each State grantmaking agency shall appoint a Chief Accountability Officer to serve as a liaison to GATU and be responsible for the State agency's implementation of, and compliance with, the* UR and this Part.

d) *In order to effectively measure the performance of its awardees, each State grantmaking agency shall:*

1) *Require its awardees to submit a Periodic Performance Report (PPR) in the format prescribed by GATU* and available through the GATA Resource Library at www.grants.illinois.gov. *The frequency of PPR reporting shall be specified in the executed Grant Agreement and must be* quarterly unless otherwise specified in the uniform grant agreement (UGA).

2) *Utilize the PPR to require its awardees to relate financial data to performance accomplishments of the award and, when applicable, require awardees to provide cost information to demonstrate cost-effective practices. The awardee's performance should be measured in a way that*

will help the State agency to improve program outcomes, share lessons learned, and spread the adoption of promising practices; and

3) *Provide awardees with clear performance goals, indicators, and milestones through the Grant Agreement and shall establish performance reporting frequency and content to not only allow the State agency to understand the awardee's progress, but also to facilitate identification of promising practices among awardees and build the evidence upon which the State agency's program and performance decisions are made.*

e) *Each grantmaking agency shall enhance its processes to monitor and address noncompliance with reporting requirements and with program performance standards. When applicable, the process may include a corrective action plan. The monitoring process shall include a plan for tracking and documenting performance-based contracting decisions.* [30 ILCS 708/45(g)]

f) *GOMB shall provide such advice and technical assistance to the State agencies as is necessary or indicated in order to ensure compliance with the Act.* [30 ILCS 708/50]

g) Each State agency shall submit any exception requests to GATU for approval in accordance with Section 7000.60 (Program-specific Exceptions, Exemptions to UR and GATA).

Section 7000.210 State Agency Implementation

a) *State agencies shall implement* the policies and procedures applicable to federal and federal pass-through awards by adopting*, on or before July 1, 2017, rules for non-federal entities. The federal rules took effect for fiscal years on and after December 26, 2014, unless different provisions are required by State or federal statute or federal rule.*

b) *The standards set forth in the Act, which affect administration of* federal*, federal pass-through and State awards issued by State agencies, become effective once* adopted as rules *by the State agencies*. [30 ILCS 708/90]

Section 7000.220 State Cognizant Agency Responsibilities and Implementation

a) The State Cognizant Agency is the State agency that provides the most funding to the awardee based on State agency entries into the CSFA. Each awardee is assigned a State Cognizant Agency. The State Cognizant Agency assignments are recorded in the Grantee Portal and the State Staff Inquiry Screen.

b) As defined in Section 7000.30, the State Cognizant Agency is the State grantmaking agency designed to carry out specific pre-award responsibilities associated with prequalification, fiscal and administrative risk assessment, and indirect cost rate election/negotiation.

1) The State Cognizant Agency provides support as necessary to assist the applicants in completing the prequalification process. Refer to Section 7000.320.

2) The State Cognizant Agency reviews and accepts submitted ICQs pursuant to Section 7000.340(d)(1).

3) The State Cognizant Agency reviews and accepts indirect cost rate elections/negotiations pursuant to Section 7000.420.

4) The State Cognizant Agency designates staff to serve as the Indirect Cost Rate Subject Matter Expert to support Section 7000.420.

5) The State Cognizant Agency designates staff to serve as the Audit Report Review Subject Matter Expert to support Section 7000.90.

Section 7000.230 Institution of Higher Education Responsibilities and Implementation

a) UR and GATA requirements shall apply to awards funded by State appropriations and federal pass-through awards from a State agency to a public institution of higher education (IHEs).

b) IHEs shall be subject to UR appendix III (Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education).

Section 7000.240 Subrecipient/Contractor Determinations

a) An organization may concurrently receive State awards as a grantee, a subgrantee (subrecipient), and a contractor, depending on the substance of the Grant

Agreement, Cooperative Agreement, Interagency Agreement or Intergovernmental Agreement between State agencies and awardees. A pass-through entity must make case-by-case determinations of whether the entity receiving the funds is a subrecipient or contractor.

1) Subrecipient
A subaward is for the purpose of carrying out a portion of a Grant Agreement and creates a State assistance relationship with the subrecipient. Characteristics that support the classification of the grantee as a subrecipient include the following:

A) Determines who is eligible to receive what State and federal pass-through assistance;

B) Has its performance measured in relation to whether objectives of a State or federal pass-through program were met;

C) Has responsibility for programmatic decision making;

D) Is responsible for adherence to applicable State and federal pass-through program requirements specified in the State agency's rule; and

E) In accordance with its Grant Agreement, uses the State and federal pass-through funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for its own benefit.

2) Contractors
A contract is for the purpose of obtaining goods and services for the grantee's own use and creates a procurement relationship with the contractor. Characteristics indicative of a procurement relationship between the awardee and a contractor are when the contractor:

A) Provides the goods and services within normal business operations;

B) Provides similar goods or services to many different purchasers;

C) Normally operates in a competitive environment;

D) Provides goods or services that are ancillary to the operation of the State and federal pass-through program; and

E) Is not subject to compliance requirements of the State award or federal pass-through program as a result of the agreement, though similar requirements may apply for other reasons.

3) Use of Judgment in Making Determination

A) In determining whether an agreement between a pass-through entity and another non-federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement.

B) Each characteristics listed in subsection (a)(1) may not be present in all cases. The pass-through entity must use judgment in classifying each agreement as a subaward/subgrant or a procurement contract.

b) The Recipient Checklist for Determining if the Entity Receiving Funds as a Contractor or Subrecipient Relationship should be used to document the subrecipient vs. contractor determination. The completed Checklist should be maintained for monitoring and audit purposes as evidence of the determination.

c) The Checklist is available on the GATA website (www.grants.illinois.gov).

Section 7000.250 CSFA Maintenance

a) Per UR Subpart C, State agencies shall maintain the Catalog of State Financial Assistance (CSFA) as the State's single, authoritative, statewide comprehensive source of State financial assistance program information.

b) State agencies shall enter data into the CSFA as follows:

1) When federal, federal pass-through or State funds are received by the State agency;

2) When awards are issued from the federal, federal pass-through or State funds; and

3) When exceptions or exemptions are given by GATU in writing on behalf of the Governor's Compliance Office for specific grant programs (see Section 7000.60).

c) State agencies are encouraged to establish a data transmission from the State agency's grants management system and the CSFA to automate CSFA maintenance. GOMB's Information Technology Manager (OMB.helpdesk@illinois.gov) is the point of contact for the automated data transmission.

d) State agencies shall generate the NOFO from the CSFA. CSFA-generated NOFOs will be published on the GATA website (www.grants.illinois.gov).

e) State agencies shall generate the NOSA from the CSFA.

Section 7000.260 Maintenance and Use of the Illinois Stop Payment List

a) The Grant Compliance Enforcement System is described in Section 7000.80.

b) If an awardee is not compliant with grant terms stated in Section 7000.80(f)(1), the Grant Compliance Enforcement System shall go into effect.

1) Delinquent Reporting

A) State agency protocols shall dictate procedures for managing financial and programmatic reporting due dates. State agencies shall apply due diligence with awardees to support the administration of reporting requirements stated in the executed Grant Agreement and/or subsequent amendments.

B) State agency protocols shall establish a methodology for the State agency to withhold payments at the entity level as prescribed in Section 7000.80(f)(1)(C).

i) The State agency shall have authority to override the payment hold and generate payment to the entity.

ii) The circumstances necessitating the override shall be documented and maintained by the State Agency.

C) If an outstanding report is not submitted within the timeframe stated in Section 7000.80(f)(1)(D), the State agency shall proceed with temporary Stop Payment Status as prescribed in Section 7000.80(f)(1)(D).

2) The State grantmaking agency shall place the awardee on temporary Stop Payment Status for other occurrences of noncompliance, in accordance with Section 7000.80(f)(2).

3) The State grantmaking agency shall place the awardee on permanent Stop Payment Status in accordance with Section 7000.80(f)(3).

4) The State Agency shall perform the following due diligence before adding an awardee to the Illinois Stop Payment List:

A) The agency shall notify the awardee in writing of the pending Stop Payment Status. The notice shall include:

i) Applicable grant name and number;

ii) The specific noncompliance issues with supporting facts (e.g., specifications of delinquency);

iii) Instructions for correcting the noncompliance issues, if applicable;

iv) Contact information to inquire and/or coordinate corrective action; and

v) The following statement: "State agencies cannot execute or increase grants to entities on Stop Payment Status. Payments to entities on the Illinois Stop Payment List are subject to additional authorization."

B) If the awardee does not respond or take corrective action to the notice of Stop Payment Status with 15 calendar days, the State agency shall put the awardee on the Illinois Stop Payment List.

5) The following information is required for the Illinois Stop Payment List:

A) Awardee's FEIN;

B) Awardee's DUNS number;

C) Awardee's name;

D) Stop Pay Date (date the Stop Payment Status was effective);

E) Stop Pay Reason (applicable noncompliance issues); and

F) Agency Contact (name, phone number and email address of State agency personnel with knowledge of the noncompliance issue).

6) The State agency can add an awardee to the Illinois Stop Payment List one of 2 ways:

A) By direct data entry into the Illinois Stop Payment List through the GATA implementation website; or

B) By utilizing an automated data transfer to the Illinois Stop Payment List from the State agency's grants management system. (Automated data transfers are strongly recommended to maintain data integrity. Data transfers can be coordinated through GOMB's Information Technology Manager.)

7) When the noncompliance issue is resolved, the State agency that placed the awardee on the Illinois Stop Payment List shall remove it from the Illinois Stop Payment List. The methodology described in subsection (b)(6) is applied to remove a grantee from the Illinois Stop Payment List.

SUBPART D: STATE AND FEDERAL PASS-THROUGH PRE-AWARD REQUIREMENTS

GOVERNOR'S OFFICE OF MANAGEMENT AND BUDGET

NOTICE OF ADOPTED RULES

Section 7000.300 Grant, Cooperative, Interagency and Intergovernmental Agreements

a) This Subpart applies to grants issued from State and federal pass-through funds.

b) The State agency shall decide on the appropriate instrument for the award (i.e., Grant Agreement or Cooperative Agreement):

1) Grant Agreements
A State agency shall use the Uniform Grant Agreement (see Section 7000.370) as the legal instrument reflecting a relationship between the State and an awardee when:

A) The principal purpose of the relationship is to transfer a thing of value to the awardee to carry out a public purpose of support or stimulation authorized by State or federal law; and

B) Substantial involvement is not expected between the State agency and the awardee when carrying out the activity contemplated in the Grant Agreement.

2) Cooperative Agreements
A State agency shall use a Cooperative Agreement as the legal instrument reflecting a relationship between the State and a recipient when:

A) The principal purpose of the relationship is to transfer a thing of value to the recipient to carry out a public purpose of support or stimulation authorized by State law instead of acquiring (by purchase, lease or barter) property or services for the direct benefit or use of the State government; and

B) Substantial involvement is expected between the State agency and the recipient when carrying out the activity contemplated in the Cooperative Agreement.

3) Interagency Agreements

A) A State agency shall use the Uniform Intergovernmental Grant Agreement (UIGA) as the legal instrument reflecting a relationship between the State grantmaking agency and the awardee when:

i) The principal purpose of the relationship is to transfer a thing of value to the awardee to carry out a public purpose of support or stimulation authorized by State or federal law; and

ii) Substantial involvement is not expected between the State agency and the awardee when carrying out the activity contemplated in the Grant Agreement.

B) The UIGA should be used when issuing a grant, as defined in Section 7000.20, to another governmental entity (see the Intergovernmental Cooperation Act), such as a city, municipality, county health department, State university or State agency (whether or not under the Governor's jurisdiction).

C) Intergovernmental Agreements that pledge support, share data or pledge a joint effort on a project and do not constitute a grant should not use the UIGA.

D) Employment or personal services Intergovernmental Agreements should not use the UIGA.

4) Multiple Agreements
A State agency is not limited to establishing only one Grant Agreement and/or Cooperative Agreement between the State and an awardee on a jointly financed project involving amounts from more than one program or appropriation when different agreements would otherwise be appropriate for different parts of the project.

Section 7000.310 Public Notice of Grant Programs

a) The State agency must notify the public of available State grants in the Catalog of State Financial Assistance (CSFA).

1) The CSFA is the single, authoritative, comprehensive source of State grant program information.

2) The State agency shall only issue State and federal pass-through funds based on a program included in the CSFA.

b) For each program, the State agency must submit the following information to GATU:

1) Program Description – Grant program description, including its purpose, goals and measurement process;

2) Program Authority – Whether the program is created at the discretion of the agency or is prescribed by State statute;

3) Funding – Projected total amount and source of funds available for the program;

4) General Eligibility Requirements – The statutory and regulatory standards that determine the applicant's qualification for State grants under the program;

5) Auditing – Audit requirements; and

6) Indirect Costs – Approved statutory indirect costs limitations and restrictions.

c) The State agency shall provide official public notice of competitively issued grant funding opportunities through a NOFO generated from the CSFA and posted on the GATA website (www.grants.illinois.gov).

d) The State agency shall publish the NOFO for 30 to 45 calendar days. The State agency may request an exception to the NOFO posting timelines from GOMB pursuant to Section 7000.60 due to extenuating circumstances.

e) The NOFO shall be produced on a uniform, statewide template (see the GATU website). This information shall precede the text of the announcement. It shall disclose the information required under UR section 200.203 and shall reflect the additional State requirements of Section 30 of the Act. The following are some of the types of information required by UR section 200.203 and GATA Section 30:

1) State Agency Name;

2) Grant Program Title;

3) Announcement Type (i.e., initial announcement or modification of a previous announcement);

4) Funding Opportunity Number (assigned through the CSFA NOFO process);

5) Catalog of State Financial Assistance (CSFA) Number and Title;

6) Catalog of Federal Domestic Assistance (CFDA) Numbers (if applicable);

7) Estimated Total Program Funding;

8) Source of Funding;

9) Cost Sharing or Matching Requirement;

10) Approved Statutory Indirect Cost Limitations and Restrictions;

11) Key Dates, including:

A) Due dates for applications and for any letters of intent or pre-applications;

B) Date when program application materials will be available (if applicable); and

C) Date for technical assistance session (if applicable); and

12) Any additional information deemed necessary by the State agency.

f) In compliance with UR section 200.203, the State agency shall include the following information in the full text of the grant announcement:

1) Full programmatic description of the funding opportunity;

2) State grant information, including sufficient information to help an applicant make an informed decision about whether to submit an application;

3) Specific eligibility information, including any factors or priorities that affect an applicant's eligibility for selection;

4) Application preparation and submission information, including the applicable submission date and time;

5) Application review information, including the standards and process to be used to evaluate applications;

6) State grant administration information, including prior approval requirements;

7) Restrictions on pre-award costs (UR section 200.209 and 2 CFR 458; GATA Section 25(4)(f)); and

8) Any specific terms of, and conditions on, the grant.

g) GATU shall provide technical assistance to promote State agency compliance with requirements for public notice of grant programs and grant announcements for State and federal pass-through awards.

h) State agencies shall utilize the NOFO and the announcement of the grant program to communicate all relevant State requirements and conditions of the pending grant award.

i) State agencies shall utilize the Uniform Grant Agreement or the Uniform Interagency Agreement to communicate all relevant State requirements and conditions for the grant award.

j) Awardees are responsible for complying with all requirements of the statute authorizing the grant, this Part, the rules of the specific grant program, and the Grant Agreement.

Section 7000.320 Grantee Registration and Pre-qualification

a) All requirements of Section 7000.70 (Grantee Qualification Status) apply to State and federal pass-through awards.

b) Regardless of the source of funding (federal pass-through or State), all grantees are required to register with the State of Illinois, complete a prequalification process, and be determined "qualified" as described in Section 7000.70.

c) Qualification verification is performed annually based on a completed registration and nightly thereafter through an automated verification conducted by GOMB. Notification of a change in qualified status shall be communicated through the Grantee Portal and the State Staff Inquiry Screen.

Section 7000.330 Uniform Grant Application and Budget Template

a) Unless an exception has been granted and documented in the agency's rules and the CSFA, State agencies shall use the uniform grant application template provided by GATU and available through the GATA Resource Library at www.grants.illinois.gov.

b) The uniform grant application shall include a standard Agency Completed Section and a standard Grantee Completed Section.

c) The completed application template serves as the transmittal for the agency required documentation that must be submitted to apply for grant funding. Each grant application is available from the NOFO (see Section 7000.310) provided through the publicly accessible CSFA.

d) Unless an exception has been documented in the agency's administrative rules and the CSFA, State agencies shall use the uniform budget template provided by GATU and available through the GATA Resource Library at www.grants.illinois.gov.

1) Illinois' uniform budget template was modeled after the federal budget template (SF-524).

2) The budget template includes major line items and may be modified for additional grant-specific budget lines. Grantmaking agencies should format the template with the applicable line items before the template is released as part of the grant application.

3) The uniform budget template was designed as a compliant format with State agency flexibility. A budget template guide in the Resource Library of the GATU website provides guidance on budget template modification.

e) Unless otherwise required by State and federal statute, as part of the application process, the State agency shall require the award applicant to submit mandatory disclosures, certifications and representations required by State and federal statutes or regulations.

f) Conflict of Interest
State agency staff and the award applicant must not have any conflicts of interest or apparent conflicts of interest that may impair the fairness and impartiality of the grant process. Authoritative sources and guidance regarding conflict of interest and financial disclosure are provided through the GATA Resource Library at www.grants.illinois.gov.

1) Applicant Responsibilities

A) Applicants shall disclose, in a timely manner and in writing, to the State grantmaking agency:

i) All real or potential conflicts of interest related to the issuance or execution of the award; and

ii) All violations of State or federal criminal law involving fraud, bribery or gratuity violations potentially affecting the award.

B) Applicants must comply with disclosure requirements specified in Section 60(a)(5) of the Act.

C) Applicant failure to make the required disclosures may result in remedial actions, including:

i) Temporary withholding of cash payments pending correction of the deficiency or more severe enforcement action by the State grantmaking agency;

ii) Disallowance of (i.e., denial of both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance;

iii) Whole or partial suspension or termination of the award;

iv) Initiation of suspension or debarment proceedings under 2 CFR 180. In the case of a pass-through entity, the State agency may recommend that such a proceeding be initiated by the federal awarding agency;

v) Withholding further awards for the project or program; or

vi) Taking any other remedial action that may be legally available.

2) State Agencies
Unless prohibited by federal and/or State statutes or regulations, each State grantmaking agency or pass-through entity is authorized to require the awardee to submit certifications and representations required by federal and State statute or regulations on an annual basis. Submissions may be required more frequently if the awardee fails to meet a requirement of a State or federal pass-through award.

Section 7000.340 Grantee Risk Assessments – Financial and Administrative (ICQ) and Programmatic

a) Risk Posed by Applicants

1) Review of Existing Recipient Information

A) For a grant applicant who is a prior awardee, the State agency shall review available information on the awardee's prior performance.

B) The State agency shall look for information that demonstrates a satisfactory record of executing programs or activities under federal and/or State awards, Cooperative Agreements, or procurement awards, as well as integrity and business ethics.

C) With written GATU approval, the State agency may issue a grant to an awardee that does not fully meet these standards if it determines that the nonattainment is not relevant to the current State grant under consideration or there are specific conditions that can appropriately mitigate the effects of the applicant's risk.

2) In evaluating risks posed by applicants, the State agency must use a risk-based approach that considers, at a minimum, the following criteria:

A) Financial stability;

B) Quality of management systems;

C) History of performance. The applicant's record in managing State grants or federal awards, including timeliness of compliance with applicable reporting requirements, conformance to the terms and conditions of previous grants/awards, and, if applicable, the extent to which any previous amounts will be expended prior to future grants;

D) Reports and findings from audits performed on prior grants/awards;

E) The applicant's ability to effectively implement statutory, regulatory or other requirements imposed on awardees; and

F) Other information. The State agency must also evaluate the risks posed by applicants discerned during the application process.

3) If the State agency determines that a State award will be issued notwithstanding the risks posed, the agency shall establish in the Grant Agreement specific conditions, corresponding to the degree of risk assessed, that reduce this risk. The program rules for the specific grant shall list the specific risk assessment criteria to be used. The grant announcement shall cross-reference this information.

b) The UR identifies that the risk assessment as a pre-award requirement best practice.

c) Formula-funded, federally mandated and legislatively mandated awards are subject to risk assessment unless the terms of funding explicitly exclude a risk assessment. A risk assessment exception must be approved by GATU and recorded in the CSFA pursuant to Section 7000.60.

d) There are 2 types of risk assessments: Financial and Administrative Risk Assessment and Programmatic Risk Assessment.

1) Financial and Administrative Risk Assessment. An automated Internal Control Questionnaire (ICQ) is used to review past performance of fiscal and administrative conditions on prior awards and the applicant's ability to conform with federal and State statutory requirements. The ICQ centralizes the fiscal and administrative risk assessment.

A) An entity is required to complete the ICQ once annually. All State agencies utilize the ICQ results.

B) The ICQ is a pre-award requirement. The timing of the ICQ is dependent on when the entity applies for State fiscal year funding.

C) The entity initiates the ICQ from the Grantee Portal (www.grants.illinois.gov/portal).

D) ICQ automation scores the questionnaire and assigns suggested specific conditions in response to the risk profile.

E) The State Cognizant Agency approves the risk profile and the subsequent specific conditions. All agencies issuing awards to the entity will apply the specific conditions resulting from the ICQ risk assessment.

F) Local governmental agencies that register and prequalify separately from the controlling local government must complete the ICQ at the agency level.

i) Governmental agencies must have a unique DUNS number but the same FEIN as the highest level of local government to be eligible to register separately.

ii) Separate ICQs may be appropriate if governmental agencies are independent in their fiscal and administrative responsibility and reporting structure.

iii) Specific conditions described in subsection (e) would apply to each ICQ.

2) Programmatic Risk Assessment. Program-specific risk assessments evaluate the entity's ability to successfully carry out the terms of a specific program. The assessment is customized based on the NOFO terms and the unique requirements of the grant.

A) An entity is required to complete the programmatic risk assessment as part of the application process.

B) The grantmaking agency distributes the customized programmatic risk assessment questionnaire to applicants that have met all other qualifications for an award.

C) The grantmaking agency scores the completed programmatic risk assessment questionnaire and applies the specific conditions in response to the risk profile.

D) The grantmaking agency approves the risk profile and the subsequent specific conditions. The specific conditions are applied to the Grant Agreement.

e) Specific Conditions

1) Within the Grant Agreement, the State agency shall impose additional specific grant conditions when:

A) It determines, pursuant to subsection (d), that the applicant presents a significant amount of risk resulting from a significant deficiency and/or material weakness identified by the pre-award process;

B) An applicant or recipient has a history of failure to comply with the general or specific terms and conditions of a State grant or federal award;

C) An applicant or recipient fails to meet expected performance goals described in the Grant Agreement; or

D) An applicant or recipient is otherwise judged to be not responsible.

2) Additional State grant conditions may include items such as the following:

A) Requiring payments as reimbursements rather than advance payments;

B) Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within any timeframes established by the Grant Agreement;

C) Requiring additional, more detailed financial reports;

D) Requiring additional project monitoring;

E) Requiring the awardee to obtain technical or management assistance; or

F) Establishing additional prior approvals.

3) The State grantmaking agency or pass-through entity will utilize the NOSA to notify the applicant regarding specific conditions as follows:

A) The nature of the additional requirements;

B) The reason why the additional requirements are being imposed;

C) The nature of the action needed to remove the additional requirements, if applicable;

D) The time allowed for completing the actions, if applicable; and

E) The method for requesting reconsideration of the additional requirements imposed.

4) Awardees should utilize the Grantee Request to Remove a Specific Condition form when corrective action has been fully implemented. This form is available from the GATA Resource Library (www.grants.illinois.gov).

5) In response to the awardee's request to remove a specific condition via the Grantee Request to Remove a Specific Condition, the applicable State agency will remove any specific conditions promptly once the agency Director or designee determines that the issues have been corrected.

A) If the specific condition pertains to the ICQ risk assessment, the request must be reviewed by the State Cognizant Agency. The State Cognizant Agency shall determine if the implemented corrective action is sufficient and shall utilize the State Staff Inquiry Screen to remove the condition, if applicable.

B) If the specific condition pertains to a programmatic risk assessment or the merit-based review, the request must be reviewed by the State agency that issued the condition. The agency that issued the condition will determine if the implemented corrective action is sufficient and utilize the State Staff Inquiry Screen to remove the condition, if applicable.

Section 7000.350 Merit Based Review of Grant Application

a) A merit based application review is required for competitive (discretionary) Grant and Cooperative Agreements, unless prohibited by State or federal statute. This process must be described or incorporated by reference in the applicable NOFO. An appeals process must be described and incorporated with the merit based review process.

b) If there is a multi-phase review process, the applicable NOFO must describe the phases.

c) Pursuant to UR section 200.204, State agencies shall follow the uniform Merit Based Review Policy in this Section. A printable copy of this policy can be found in the GATA Resource Library at www.grants.illinois.gov.

d) Competitive grant evaluation criteria must be tied to the objectives or purpose of the federal or State grant program.

1) Evaluation criteria must include, at a minimum, the following categories of criteria:

A) Need: Identification of stakeholders, facts and evidence that demonstrate the proposal supports the grant program's purpose;

B) Capacity: The ability of an entity to execute the grant project according to project requirements; and

C) Quality: The totality of features and characteristics of a service, project or product that indicates its ability to satisfy the requirements of the grant program.

2) Other evaluation criteria may be considered in addition to the required criteria in subsection (d)(1). Examples of other potential categories of criteria include:

A) Societal impact;

B) Economic impact;

C) Cost-effectiveness;

D) Sustainability; and

E) Grant-specific criteria.

e) The merit based review shall be prepared in accordance with UR section 200.204 and include the evaluation process description, criteria and importance stated in the grant application. The evaluation process shall include:

1) A statement of the evaluation criteria as specified in the grant application. The grant application shall state all criteria and their relative importance, including preferences, technical assistance options, and tie-breakers for equivalent scores after evaluation.

2) A statement of whether there are multiple phases of evaluation, along with a description of each phase.

3) A review of the application based solely on the criteria identified in the grant application. If there is a required change to the evaluation criteria prior to the application deadline, the State grantmaking agency shall notify applicants of the change, at a minimum, by posting notice of this change on its website and amending its CSFA listing to reflect the change.

4) Consideration of cost sharing, if applicable and stated in the terms of the grant application. The State grantmaking agency must specifically define how it will evaluate cost sharing, such as whether it will assign additional points to cost-sharing applicants or use cost sharing to break ties among applications with equivalent scores after all other factors are evaluated. If cost sharing is used as an evaluation factor, this definition must include any restrictions on the types of costs that are acceptable (e.g., in-kind contributions).

5) Evaluation by Committee. Evaluation committee members shall be determined by the State grantmaking agency, tailored to the particular grant application, and include, as appropriate, persons with the appropriate technical expertise to ensure a comprehensive evaluation of applicants.

A) Conflict of Interest. Evaluation committee members shall not have any conflicts of interest or apparent conflicts of interest.

i) Except when required by statute, evaluation committee members must neither have submitted an application nor represent an entity that has submitted an application for the grant program during the grant cycle under review.

ii) Committee members must sign the Merit Based Review confidentiality agreement and conflict of interest disclosure form available at https://www2.illinois.gov/sites/GATA

/Documents/Resource%20Library/Confidentiality%20 Agreement%20and%20Conflict%20of%20Interest%20 Disclosure%20Grant%20Evaluation.pdf.

B) Confidentiality. Committee members shall be assigned a code for identification in the evaluation process. Evaluator names shall be disclosed only when required by audit, litigation, or public records request pursuant to FOIA (see Section 7000.430(e)).

C) The head of a grantmaking agency or his/her designee may remove committee members for due cause, such as failure to comply with the directions of the grant application or evaluation process or failure to ensure the integrity of the grantmaking process. The reasons for removing a committee member must be stated in writing.

6) Evaluation Based on Numerical Rating. Applications shall be assigned a numerical rating, unless another scoring methodology is more appropriate due to the unique circumstances of a particular grant program. In any case, the rating system must meet the following requirements:

A) Any scoring tool must reflect the evaluation criteria and ranking of priorities set forth in the grant application.

B) Committee members must have an individual score sheet that is completed independently.

C) A summary score sheet must be completed that shows the comparative scores and identifies the resulting finalists for the grant award.

D) Any significant or substantial variance among evaluator scores shall be reviewed and documented, along with any resulting revision of individual scores.

7) Verification that the entity has completed pre-award requirements, including grantee pre-qualification, conflict of interest and mandatory disclosures, fiscal and administrative risk assessment, and programmatic risk assessment.

f) Award

1) Awards shall be made pursuant to a written determination by the evaluation committee based on the evaluation set forth in the grant application and the finalists' completion of all pre-award requirements.

2) The agency shall issue a Notice of State Award (NOSA) to finalists that enables the finalists to make an informed decision whether to accept the grant. The NOSA shall include:

A) The terms and conditions of the award; and

B) If applicable, any specific conditions assigned to the finalist based on the fiscal, administrative and programmatic risk assessments and the merit-based review.

3) Upon finalists' acceptance of the grant awards, the State grantmaking agency shall announce the grant awards on grants.illinois.gov.

4) The agency shall send a written Notice of Denial to applicants not receiving awards.

g) Appeals Process

1) Appeals of competitive grants are limited to the evaluation process. Evaluation scores may not be protested. Only the evaluation process is subject to appeal.

2) Appeals Review Officer (ARO). The agency head or his/her designee may appoint one or more AROs to consider the grant-related appeals and make a recommendation to the agency head or designee.

3) Submission of Appeal

A) An appeal must be submitted in writing and must comply with the appeal requirements included in the grant application document. It must include, at a minimum:

i) the name and address of the appealing party;

ii) an identification of the grant (i.e., CSFA number); and

iii) a statement of reasons for the appeal.

B) Appeals must be received within 14 calendar days after the date of publication of the grant award.

4) Response to Appeal

A) The agency must acknowledge receipt of the appeal within 14 calendar days after it received the appeal.

B) The agency shall respond to the appeal within 60 days. If this is impracticable, the agency must supply to the appealing party a written explanation of why additional time is required.

C) The appealing party must supply to the agency any additional information requested within the time period identified in the request for additional information.

5) Stay of Grant Agreement/Contract Execution
When an appeal is received, the execution of the grant in contention shall be stayed until either:

A) The appeal is resolved; or

B) The agency head or designee determines that the needs of the State require that the grant program move forward despite the appeal. This determination, and its rationale, must be documented in writing.

6) Resolution

A) The ARO shall make a recommendation to the agency head or designee as quickly as possible after receiving all relevant and requested information.

B) In determining this recommendation, the ARO shall consider the integrity of the competitive grant process and the impact of the recommendation on the agency.

C) The agency shall resolve the appeal by means of written determination. This determination shall include, but not be limited to, the following:

i) Review of the appeal;

ii) Appeal determination; and

iii) Rationale for the determination.

7) Effect of Judicial Proceedings
If an action concerning the appeal has commenced in a court or administrative body, the agency head or designee may defer resolution of the appeal pending the judicial or administrative determination.

h) State agencies shall maintain a file of the grantmaking process that includes the written determination of grant issuance, grant application and requirements. The grantmaking file shall be available for audit-related purposes.

i) State agencies may impose specific conditions on the awardee based on the merit based review (see Section 7000.340(e) (Specific Conditions)).

Section 7000.360 Notice of State Award (NOSA)

a) Prior to a State agency issuing a grant/award, the State agency must verify that there are no outstanding pre-award requirements. This includes verification of qualification, acceptance of risk assessments, approved budget, conflict of interest disclosures, and required certifications. All outstanding pre-award requirements must be resolved before a NOSA can be issued.

b) If there are no outstanding requirements, the State grantmaking agency must issue a NOSA through the CSFA to comply with federal requirements.

c) The NOSA shall communicate:

1) Grant funding terms, including the source of funds;

2) Grant terms and conditions (including corresponding citations) specified by the funder, the State of Illinois, the grantmaking agency, and the terms of the specific grant program;

3) Specific conditions associated with the risk assessments and the merit based review, if applicable; and

4) That the application budget has been approved.

d) The State grantmaking agency shall release the NOSA to the applicant from the CSFA. The applicant shall receive the NOSA through the Grantee Portal.

e) The applicant shall review the NOSA and determine whether it will accept the specified terms of the award.

1) If the applicant accepts the NOSA, it is agreeing to all specified terms and conditions. Applicant acceptance triggers notification to the grantmaking agency. The CSFA will flag the NOSA as "accepted".

2) If the applicant denies the NOSA, it is refusing to accept the specified terms and conditions. Applicant denial triggers notification to the grantmaking agency. The CSFA will flag the NOSA as "denied". The grantmaking agency should contact the applicant to discuss the denial decision.

A) If an incorrect response to the ICQ triggered a specific condition, the grantmaking agency shall notify the State Cognizant Agency. The State Cognizant Agency shall release the ICQ to the organization for correction and resubmittal. If the updated ICQ alters the risk profile of the organization and changes the specific conditions for the organization, an updated NOSA shall be generated by the grantmaking agency and submitted to the applicant.

B) If the ICQ responses appear valid, the grantmaking agency may need to clarify capacity building necessary in the specified area

and the process under which specific conditions can be removed (see Section 7000.340(e) (Specific Conditions).

f) Upon applicant acceptance of the NOSA, the grantmaking agency shall initiate the Grant Agreement following the State agency's protocol.

Section 7000.370 Uniform Grant Agreement

a) A State agency issuing a grant shall enter into a Grant Agreement with the awardee before any grant funds are transmitted to that recipient/subrecipient. The Grant Agreement must include the following:

1) Awardee Information

A) Name (which must match the name associated with the awardee's DUNS number);

B) Awardee's DUNS number.

2) Agency Information

A) Name of State agency;

B) Contact information for the awarding official specified in the NOFO;

C) Program under which the grant is being issued.

3) Grant Information

A) CSFA number and name;

B) Unique State award identification number (SAIN);

C) Project description;

D) Type of grant;

E) Award date;

F) Period of performance start and end date;

G) Amount of the grant, contingent upon available appropriations;

H) Total amount of State or federal pass-through funds allocated;

I) Estimated budget (funding provided by State grantmaking agency) approved by the State grantmaking agency;

J) Indirect cost rate for the State or federal pass-through award (including if the de minimis rate is charged or if there is a statutory limitation imposed by the funding agency);

K) Approved cost share or match, if applicable;

L) Identification of whether the award is for research and development; and

M) Any funds the agency may be authorized by statute to retain as its administrative expenses, citing the specific statutory authority.

4) General Terms and Conditions. State agencies must include in the Grant Agreement, as applicable, the following general terms and conditions, either by actual inclusion or by cross-reference:

A) Administrative requirements implemented by the State agency by rule;

B) State policy requirements, including State statutes or regulations that apply; and

C) Recipient integrity and performance matters.

5) Agency, Program or Grant Specific Terms and Conditions. The Grant Agreement shall include any terms and conditions necessary to communicate requirements that are specific to the grant, grant program or awardee, including citations to any relevant CFR or Illinois Administrative Code provisions, and other regulatory information.

6) Grant Performance Goals

A) The State agency shall indicate the timing and scope of expected performance by the awardee as related to the outcomes the program is intended to achieve.

B) When appropriate, the Grant Agreement shall include specific performance goals, indicators, milestones or expected outcomes, with an expected timeline for accomplishment.

7) Reporting requirements shall be clearly articulated so that they create a standard against which awardee performance can be measured. The State agency may include program-specific requirements, as required to meet agency strategic goals and objectives or performance goals that are relevant to the grant program.

8) Any other information that enables the State agency to adequately monitor the conduct of the awardee under the Grant Agreement and ensure adherence to the terms of the grant.

b) Revision of Budget and Program Plans

1) The approved budget for the State grant included in the Grant Agreement may include either the State and non-State share or only the State share, depending upon the specific State agency rules. The budget shall relate clearly to project or program performance.

2) An awardee shall not deviate from the budget, project scope, or objective stated in the Grant Agreement except with mutual agreement of the State grantmaking agency and the awardee. However, some revisions and deviations shall not be made without prior approval of the State grantmaking agency as required by subsection (b)(3).

3) Revisions – Nonconstruction Grant Agreements

A) Mandated Prior Approval. For nonconstruction grants, the awardee shall request prior approval from the State agency for any of the following program or budget-related reasons:

i) Change in the scope or the objective of the project or program (even if there is no associated budget revision).

ii) Change in a key person specified by the recipient/subrecipient in the application or the Grant Agreement.

iii) Disengagement from the project for more than 3 months, or a 25% reduction in time devoted to the project, by the approved project director or principal investigator.

iv) Transfer of funds budgeted for participant support costs.

v) Unless described in the application and funded by the Grant Agreement, issuance of a subgrant transferring or contracting out of any work under a State award, including a fixed amount subgrant. This provision does not apply to the acquisition of supplies, material, equipment or general support services.

vi) Changes in the approved awardee cost-share or match.

vii) The need arises for additional State funds to complete the project.

B) Prior Approval at the State Agency's Discretion

i) If the State agency determines that additional prior approvals are needed to guarantee the integrity of a grant program, prior approval can be required in the program rules if universally applicable or in the Grant Agreement if awardee specific.

ii) If the State agency determines that granting blanket approval of additional revisions in or deviations from the budget, project scope or objective stated in a nonconstruction Grant Agreement is warranted and will cause no threat to the integrity of the grant program, the

agency shall include those policies in its grant program rules if universally applicable or in the Grant Agreement if awardee specific.

iii) No discretionary prior approval shall be required without GATU approval.

C) Transfer of Funds

i) The State agency may, in its program rules or a specific Grant Agreement, allow transfer of funds among direct cost categories or programs, functions and activities if the cumulative amount of these transfers does not exceed 10% of the detail line or $1,000, whichever is greater.

ii) The agency shall not permit a transfer that would cause any State appropriation to be used for purposes other than those for which that appropriation was made.

4) Revisions – Construction Grants. For State construction grants, no revisions or deviations in the budget stated in the nonconstruction Grant Agreement shall occur without the mutual agreement of the agency and the awardee.

5) When a State agency makes a State grant that provides support both for construction and nonconstruction work, the agency may require the awardee to obtain prior approval from the agency before making any fund or budget transfers between the two types of work supported.

6) When requesting approval for budget revisions, the recipient shall use the same format for budget information that was used in the application, unless the State agency's rules indicate that a letter of request suffices.

7) Within 30 calendar days after receipt of a request for budget revisions, the agency shall review the request and notify the recipient whether the budget revisions have been approved. If the revision is still under consideration at the end of 30 calendar days, the agency shall inform the recipient in writing of the date the recipient may expect the decision.

GOVERNOR'S OFFICE OF MANAGEMENT AND BUDGET

NOTICE OF ADOPTED RULES

SUBPART E: STATE POST-AWARD REQUIREMENTS

Section 7000.400 GATA Performance Measurement

a) In compliance with GATA Section 95, GOMB, in conjunction with the Illinois Single Audit Commission, shall submit the annual report described in Section 7000.95(a).

b) GATA performance shall be evaluated in the following areas:

1) *Number of entities placed on the Illinois Debarred and Suspended List* and/or Illinois Stop Payment List;

2) *Savings realized as a result of the* GATA *implementation*;

3) *Reduction in the number of duplicative audits*;

4) *Number of persons trained to assist* awardees/*grantees and subrecipients*;

5) *Number of* awardees*/grantees and subrecipients to whom a fiscal agent was assigned*. [30 ILCS 708/95]

Section 7000.410 Awardee Performance Measures

a) State agencies shall apply UR sections 200.301 (Performance Measurement) and 328 (Monitoring and Reporting Program Performance) for awardee performance oversight.

b) State agencies must provide awardees with clear performance goals, indicators and milestones and establish performance reporting frequency.

1) The awardee must submit performance reports at the interval required by the State agency, as specified in the Grant Agreement. Intervals must be no less frequent than annually and no more frequent than quarterly, except in unusual circumstances as communicated through the Grant Agreement specific conditions.

2) Annual reports are generally due 60 calendar days after the reporting period. Quarterly or semiannual reports must be due 30 calendar days

after the reporting period. Due dates must be communicated through the Grant Agreement.

c) The State agency shall require the awardee to use the Periodic Performance Report (PPR) to articulate performance outcomes. In addition, each State grantmaking agency shall utilize the PPR to:

1) *Require its awardees to relate financial data to performance accomplishments of the award; and*

2) When applicable, require awardees *to provide cost information to demonstrate cost-effective practices*. [30 ILCS 708/50(c)(1)]

d) The awardee's performance shall be measured in a way that will help the State grantmaking agency and other applicants and recipients to improve program outcomes, share lessons learned, spread the adoption of promising practices, and build the evidence upon which the State agency's program and performance decisions are made.

e) The State grantmaking agency shall utilize the performance measurement data provided by the awardee to manage execution of the Grant Agreement.

1) Actual accomplishments during the specified period should be compared to the objectives of the award. Reasons for not meeting goals should be specified.

2) Trends in performance should be addressed through technical assistance, desk and/or field reviews, and/or monitoring. If applicable, the State agency may consider a change (increase or decrease) in the amount of the award based on awardee performance.

Section 7000.420 Centralized Indirect Cost Rate Negotiation

This Subpart applies to State grantmaking agencies, State awardees receiving awards from State and federal pass-through funds. With permission from the federal government, Illinois has centralized the negotiation and election of indirect cost rates with State and federal pass-through awardees.

a) The State of Illinois' Indirect Cost Rate Negotiator will support the negotiation of indirect cost rates and/or cost rate elections. A User Guide for the centralized indirect cost rate negotiation system is provided in the GATA Resource Library to support State agency and awardee use of the system.

b) Requirements for State Grantmaking Agencies

1) Illinois shall utilize the centralized Indirect Cost Rate System. This system will be used by awardees to make an annual indirect cost rate election or negotiate a rate with the State of Illinois pursuant to one of the following options. Options for indirect cost rate election or negotiation include:

A) If eligible, election of the de minimis rate of 10% modified total direct costs (MTDC) allowed by UR section 200.414(f);

B) If applicable, submit a copy of the current federal Negotiated Indirect Cost Rate Agreement (NICRA);

C) Election of "no rate", meaning the awardee will not request or receive reimbursement for any indirect costs; or

D) Negotiate a rate with the State of Illinois.

2) All approved elections and negotiated rates shall be recorded in the State Staff Inquiry Screen for State agency reference.

3) Once a rate is negotiated or an election accepted, all State grantmaking agencies are required to accept the approved rate, unless an exception has been granted by GATU requiring a lower rate or limitation on the amount charged.

4) The awardee may volunteer to accept a lower indirect cost rate on an award. State agencies shall not force or coerce an awardee to take a lower rate.

c) Requirements for State Cognizant Agencies

1) The assigned SCA is required to review and, if appropriate, accept the negotiated rate or election of its awardee. Acceptance must be recorded in the Illinois' centralized Indirect Cost Rate System.

2) The SCA shall provide technical support to its assigned awardees during the indirect cost rate negotiation/election process.

3) On a case-by-case basis, the State of Illinois Indirect Cost Rate Negotiator shall determine if the submitted indirect cost rate proposal is complete for negotiation. Independence issues require the Negotiator to be separated from proposal development. If the submitted proposal is not complete, the Negotiator shall notify the SCA and the awardee.

4) If the submitted proposal is not complete and the Indirect Cost Rate Negotiator cannot proceed with a rate negotiation, the SCA shall review the awardee's proposal submitted in the centralized Indirect Cost Rate System and provide additional technical assistance to the awardee or notify GATU that additional technical support may be necessary.

5) If, after receiving additional assistance from the SCA and GATU, it is determined that an awardee lacks the capacity to prepare a complete proposal in compliance with federal cost principles, a final determination notification will be sent to the awardee. The final determination notification must include the reasons why the proposal did not meet the minimum requirements and recommend the awardee seek professional assistance in order to proceed with a future State negotiated indirect cost rate proposal. The recommendation may also include alternatives to a State negotiated rate, such as the election of the 10% de minimis rate, if eligible.

A) If issues appear to be close to resolution, GATU may allow additional technical assistance to be offered by the Negotiator; or

B) GATU may concur with the SCA. If so, GATU and the SCA shall notify the awardee that professional assistance is required to complete the negotiation process.

d) Requirements for an Organization Receiving a State or Federal Pass-through Funded Award

1) Annually, each organization receiving an award from a State grantmaking agency is required to enter the centralized Indirect Cost Rate System and make one of the following elections for indirect costs to State and federal pass-through grants:

A) Federal Negotiated Indirect Cost Rate Agreement (NICRA);

B) Election of the de minimis rate of 10% of MTDC;

C) Election not to charge indirect costs; or

D) Negotiation of an indirect cost rate.

2) The awardee shall make one election or negotiate one rate that all State agencies must accept unless there are federal or State program limitations, caps or supplanting issues.

3) The accepted election or negotiated rate shall be recorded in the Grantee Portal and the State Staff Inquiry Screen.

4) The awardee may volunteer to accept a lower indirect cost rate on an award. State agencies are not allowed to force or coerce an awardee to take a lower rate.

5) Awardees that fail to make an election or negotiate a rate in the centralized Indirect Cost Rate System will not be allowed to charge indirect costs to awards. Any indirect costs previously reimbursed during the corresponding grant period without making an election may be credited against future payments.

e) Requirements for Local Education Agencies (LEAs)

1) Based upon the U.S. Department of Education delegation agreement with the State of Illinois, the Illinois State Board of Education (ISBE) has authority to develop indirect cost rates for LEAs. The indirect cost rates developed by ISBE for the LEAs shall apply for all State and federal pass-through awards issued by State agencies to the LEAs.

2) LEA indirect cost rates will be posted centrally by GOMB in the State Staff Inquiry Screen. LEAs are not required to enter information into the centralized Indirect Cost Rate System (see subsection (b)(1)).

f) Requirements for Local Governments

1) Based on how the local government registers (in accordance with Section 7000.220), the local governmental department or agency unit shall make an indirect cost rate election or negotiate a rate with the State through the Indirect Cost Rate System. If the governmental department or agency unit registers separately, for example, each governmental department or agency unit would negotiate or make a separate indirect cost rate election.

A) Local governments can negotiate one indirect cost rate that will cover all governmental departments or agency units; or

B) Local governments can negotiate an indirect cost rate per individual governmental department or agency unit.

2) If a governmental department or agency unit receives more than $35 million in direct federal funding, it must submit an indirect cost rate proposal to its federal cognizant agency. The State of Illinois cannot negotiate an indirect cost rate for local governmental departments or agency units receiving more than $35 million in direct federal funding.

A) If the governmental department or agency unit chooses not to negotiate a rate with its federal cognizant agency, no indirect costs can be reimbursed.

B) If the federal cognizant agency will only negotiate a rate for its administered programs, the local government shall request an exception from GATU.

3) If the local governmental department or agency unit receives less than $35 million in direct federal funding, it must submit an indirect cost rate proposal to the State of Illinois' centralized Indirect Cost Rate System.

A) Per UR appendix VII, these governmental departments or agency units must develop an indirect cost proposal in accordance with

this subsection (f) and maintain the proposal and related supporting documentation for audit and monitoring.

B) These proposals shall be submitted to the State of Illinois for review and monitoring. The proposals are not required to be submitted to the federal cognizant agency for indirect costs.

C) The State of Illinois is required to monitor the rate. Monitoring includes reviewing the allocation methodology for reasonableness and to ensure no unallowable costs are included in the rate methodology.

4) If a local governmental department or agency unit does not receive direct federal funding, it must submit an indirect cost rate proposal through the centralized Indirect Cost Rate System.

5) All local governments that utilize a central service cost allocation plan must submit this plan in conjunction with an indirect cost rate proposal.

g) Requirements for Nonprofits

1) Nonprofits that receive direct federal funding must negotiate an indirect cost rate with their federal cognizant agency.

A) If the nonprofit chooses not to negotiate a rate with its federal cognizant agency, no indirect costs can be reimbursed.

B) If the federal cognizant agency will only negotiate a rate for its administered programs, the nonprofit shall request an exception from GATU.

2) The State of Illinois cannot negotiate an indirect cost rate for nonprofits that receive direct federal funding.

h) Retention of Indirect Cost Rate Proposals and Central Service Cost Allocation Plans

This subsection applies to the following types of documents and their supporting records: indirect cost rate computations or proposals, central service cost allocation plans, and any similar accounting computations of the rate at which a

particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

1) If Submitted for Negotiation
If the proposal, plan or other computation is required to form the basis for negotiation of the rate, the 3-year retention period for the supporting record starts from the date of that submission.

2) If Not Submitted for Negotiation
If the proposal, plan or other computation is not required for negotiation purposes, the 3-year retention period for the proposal, plan or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan or other computation.

Section 7000.430 Records Retention

a) Financial records, supporting documents, statistical records, and all other awardee records pertinent to a State award shall be retained for 3 years after the date of submission of the final expenditure report or, for awards renewed quarterly or annually, after the date of the submission of the quarterly or annual financial report to the State agency.

b) State agencies shall not impose any other record retention requirements upon awardees, with the following exceptions:

1) If any litigation, claim or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken.

2) When the awardee is required in writing by the State agency or the Auditor General to follow a different retention policy, that policy shall be followed.

3) Records for real property and equipment acquired with State funds must be retained for 3 years after final disposition.

4) When records are transferred to or maintained by the agency, the 3-year retention requirement is not applicable to the awardee.

5) When awardees are required to report program income after the period of performance, the retention period for the records pertaining to the program income starts from the end of the awardee's fiscal year in which the program income is earned.

6) Refer to Section 7000.420(h) for retention requirements regarding indirect cost rate proposals and cost allocation plans.

c) Requests for Transfer of Records
The State agency shall require the awardee to transfer specified records to its custody when it determines that the records possess long-term retention value. However, in order to avoid duplicate recordkeeping, the agency may make arrangements for the awardee to retain any records that are continuously needed for joint use.

d) Methods for Collection, Transmission and Storage of Information
The State agency and the awardee shall, whenever practicable, collect, transmit and store State grant-related information in open and machine readable formats, but the agency shall always provide or accept paper versions upon request. If paper copies are submitted, the agency shall not require more than an original and 2 copies. When original records are paper, electronic versions may be made and substituted if they are subject to periodic quality control reviews, provide reasonable safeguards against alteration, and remain readable.

e) Access to Records

1) Awardee Records
Any entity of the State, including, but not limited to, the State agency, the Auditor General, the Attorney General, any Executive Inspector General, and the Inspector General of the State agency, as applicable, or any of their authorized representatives, shall have access to any documents, papers or other records of the awardee that are pertinent to the grant in order to make audits, examinations, excerpts and transcripts. The right also includes timely and reasonable access to the awardee's personnel for the purpose of interview and discussion related to these documents.

2) Confidentiality for Crime Victims
Pursuant to the Rights of Crime Victims and Witnesses Act and other Illinois victim protection laws, only under extraordinary and rare

circumstances shall the access in subsection (e)(1) include knowledge of the true names of victims of a crime. When access to the true names of victims of a crime is necessary, appropriate steps to protect this sensitive information shall be taken by both the awardee and the State agency. Any access to this information, other than under a court order or subpoena issued by a court of competent jurisdiction pursuant to a bona fide confidential investigation, shall be approved by the head of the State agency.

3) Expiration of Right of Access
The right of access granted by this Section lasts as long as the records are retained. State agencies shall not impose any other access requirements upon awardees.

f) Restrictions on Public Access to Records
No State agency shall place restrictions on the awardee limiting public access to the awardee's records pertinent to a State grant, except as required by law, when necessary to safeguard protected personally identifiable information or when the awardee demonstrates that these records will be kept confidential and would have been exempted from disclosure by FOIA if the records had belonged to the State agency. FOIA does not apply to records that remain under a awardee's control except as required under this Section. Unless required by federal or State statute, awardees are not required to permit public access to their records. The awardee's records provided to a State agency generally will be subject to FOIA and applicable exemptions.

Section 7000.440 Grant Closeout

a) The State agency will close out the award when it determines that all applicable administrative actions and all required work of the awardee have been completed by the awardee.

b) The awardee and the State agency shall take the following action to complete grant closeout at the end of the period of performance:

1) The awardee must submit, no later than 60 calendar days after the end date of the period of performance, all financial, performance and other reports required by the Grant Agreement. The State agency may approve

extensions when requested. Extension shall only be issued under extraordinary circumstances that were not in the control of the awardee.

2) Unless the State agency authorizes an extension, an awardee must liquidate all obligations incurred under the grant not later than 60 calendar days after the end of the period of performance specified in the Grant Agreement.

3) The State agency shall make prompt payments to the awardee for allowable reimbursable costs under the grant.

4) The awardee must promptly refund any balances of unobligated cash that the agency paid in advance and that are not authorized to be retained by the awardee for use in other projects.

5) Consistent with the Grant Agreement, the State agency shall make a settlement for any upward or downward adjustments to the State and federal share of costs after closeout reports are received.

6) The awardee must account for any real and personal property acquired with State funds or received from the State.

7) The State agency shall complete all closeout actions for State grants no later than one year after receipt and acceptance of all required final reports.

Section 7000.450 Continuing Responsibilities

a) The closeout of a State grant does not affect any of the following:

1) The right of the State agency to disallow costs and recover funds based on a later audit or other review. The agency must make any cost disallowance determination and notify the awardee within the record retention period.

2) The obligation of the awardee to return any funds due as a result of later refunds, corrections or other transactions, including final indirect cost rate adjustments.

3) Consolidated year-end financial report. (See Section 7000.90(g).)

4) Audit requirements established in this Part.

5) Property management and disposition requirements in UR sections 200.310 through 316.

6) Records retention. (See Section 7000.430.)

b) After closeout of the grant, a relationship created under the Grant Agreement may be modified or ended in whole or in part with the consent of the agency and the awardee, provided the responsibilities of the awardee referred to in subsection (a) are considered and provision is made for continuing responsibilities of the awardee, as appropriate.

c) Collection of Amounts Due

1) Any funds paid to the awardee in excess of the amount to which the awardee is finally determined to be entitled under the Grant Agreement constitute a debt to the State of Illinois. If not paid within 60 calendar days after demand, the State agency may reduce the debt by:

A) Making an administrative offset against other requests for reimbursements;

B) Withholding advance payments otherwise due to the awardee;

C) Arranging a repayment plan; or

D) Other action permitted by the Illinois State Collection Act of 1986.

2) The agency shall charge interest on an overdue debt in accordance with the Illinois State Collection Act of 1986. The date from which interest is computed is not extended by litigation or the filing of appeal.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Service Occupation Tax

2) Code Citation: 86 Ill. Adm. Code 140

3) Section Number: 140.401 — Adopted Action: Amendment

4) Statutory Authority: 35 ILCS 115/9; 20 ILCS 2505/2505-795

5) Effective Date of Rule: October 4, 2018

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 rule, 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 the *Illinois Register*: 42 Ill. Reg. 8445, May 25, 2018

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: The only changes made were the ones agreed upon with JCAR. Only grammatical and technical changes were made. No substantive changes were made.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? None were made.

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? Yes

Section Numbers:	Proposed Action:	*Illinois Register* Citations:
140.101	Amendment	42 Ill. Reg. 6245; April 6, 2018
140.124	Repealed	42 Ill. Reg. 6245; April 6, 2018
140.125	Amendment	42 Ill. Reg. 6245; April 6, 2018
140.126	Amendment	42 Ill. Reg. 6245; April 6, 2018
140.301	Amendment	42 Ill. Reg. 6245; April 6, 2018

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

140.701	Amendment	42 Ill. Reg. 6245; April 6, 2018
140.1020	Repealed	42 Ill. Reg. 6245; April 6, 2018
140.1415	Repealed	42 Ill. Reg. 6245; April 6, 2018
140.1601	Amendment	42 Ill. Reg. 6245; April 6, 2018

15) Summary and Purpose of Rulemaking: The rulemaking incorporates several amendments to the Service Occupation Tax Act contained in PA 100-303. On and after January 1, 2018, servicemen whose annual gross receipts average $20,000 or more must file electronically all returns required to be filed pursuant to the Service Occupation Tax Act. Servicemen who demonstrate that they do not have access to the Internet or demonstrate hardship in filing electronically may petition the Department to waive the electronic filing requirement. The Act currently allows servicemen a discount of 1.75% or $5 per calendar year, whichever is greater, to reimburse servicemen for the expenses incurred in keeping records, preparing and filing returns, remitting the tax and supplying data to the Department on request. The discount is not allowed in any case in which tax is paid late, whether or not a return was filed. PA 100-303 also disallows the discount when returns that are not filed in the manner prescribed in the Act, for example, are not filed electronically by retailers or servicemen with gross receipts that average $20,000 or more.

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

Richard S. Wolters
Associate Counsel
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield IL 62794

217/782-2844

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 140
SERVICE OCCUPATION TAX

SUBPART A: NATURE OF TAX

Section
140.101 Basis and Rate of the Service Occupation Tax
140.105 Calculation of Tax Incurred by Servicemen – Threshold Determination of Cost Ratio
140.106 When Cost Ratio is 35% or Greater, Service Occupation Tax Liability Is Incurred by Servicemen on Their Selling Price
140.108 "De Minimis" Servicemen Who Incur Use Tax on Their Cost Price
140.109 "De Minimis" Servicemen Who Incur Service Occupation Tax on Their Cost Price
140.110 Example of Methods Used by Servicemen to Determine Liability
140.115 Occasional Sales to Servicemen by Suppliers (Repealed)
140.120 Meaning of Serviceman
140.124 Commercial Distribution Fee Sales Tax Exemption
140.125 Examples of Nontaxability
140.126 Taxation of Food, Drugs and Medical Appliances
140.127 Service Provided to Persons Who Lease Tangible Personal Property to Exempt Hospitals
140.128 Persons Who Lease Tangible Personal Property to Governmental Bodies
140.129 Taxation of Seminar Materials
140.130 Suppliers of Printers (Repealed)
140.135 Sales of Drugs and Related Items, to or by Pharmacists (Repealed)
140.140 Other Examples of Taxable Transactions
140.141 Warranty Repairs
140.145 Multi-Service Situations

SUBPART B: DEFINITIONS

Section
140.201 General Definitions

SUBPART C: BASE OF THE TAX

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

Section
140.301 Cost Price
140.305 Refunds by Supplier or Serviceman

SUBPART D: TAX RETURNS

Section
140.401 Monthly Returns When Due – Contents of Returns
140.405 Annual Tax Returns
140.410 Final Return
140.415 Taxpayer's Duty to Obtain Form
140.420 Annual Information Returns by Servicemen
140.425 Filing of Returns for Serviceman Suppliers by their Suppliers Under Certain Circumstances
140.430 Incorporation by Reference

SUBPART E: INTERSTATE COMMERCE

Section
140.501 Sales of Service Involving Property Originating in Illinois
140.505 Sales of Service Involving Property Originating Outside of Illinois (Repealed)

SUBPART F: REGISTRATION UNDER THE SERVICE OCCUPATION TAX ACT

Section
140.601 General Information

SUBPART G: BOOKS AND RECORDS

Section
140.701 Requirements

SUBPART H: PENALTIES, INTEREST AND PROCEDURES

Section
140.801 General Information

SUBPART I: WHEN OPINIONS FROM THE DEPARTMENT ARE BINDING

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

Section
140.901 Written Opinions

SUBPART J: COLLECTION OF THE TAX

Section
140.1001 Payment of Tax
140.1005 Receipt to be Obtained for Tax Payments
140.1010 Payment of Tax Directly to the Department (Repealed)
140.1015 Itemization of the Tax by Suppliers (Repealed)
140.1020 Use of Bracket Chart
140.1025 Advertising in Regard to the Tax

SUBPART K: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING – MEANING OF DUE DATE WHICH FALLS ON SATURDAY, SUNDAY OR A HOLIDAY

Section
140.1101 Filing of Documents with the Department

SUBPART L: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

Section
140.1201 When Lessee of Premises May File Return for Leased Department
140.1205 When Lessor of Premises Should File Return for Leased Department
140.1210 Meaning of "Lessor" and "Lessee" in this Regulation

SUBPART M: USE OF EXEMPTION CERTIFICATES

Section
140.1301 When Purpose of Serviceman's Purchase is Known (Repealed)
140.1305 When Purpose of Serviceman's Purchase is Unknown
140.1310 Blanket Percentage Exemption Certificates (Repealed)

SUBPART N: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section
140.1401 Claims for Credit – Limitations – Procedure
140.1405 Disposition of Credit Memoranda by Holders Thereof

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

140.1410 Refunds
140.1415 Interest

SUBPART O: DISCONTINUATION OF A BUSINESS

Section
140.1501 Procedures

SUBPART P: NOTICE OF SALES OF GOODS IN BULK

Section
140.1601 Requirements and Procedures

SUBPART Q: POWER OF ATTORNEY

Section
140.1701 General Information

AUTHORITY: Implementing the Service Occupation Tax Act [35 ILCS 115] and authorized by Section 2505-100 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-100].

SOURCE: Adopted May 21, 1962; amended at 3 Ill. Reg. 23, p. 161, effective June 3, 1979; amended at 3 Ill. Reg. 44, p. 198, effective October 19, 1979; amended at 4 Ill. Reg. 24, pp. 526, 536 and 550, effective June 1, 1980; amended at 5 Ill. Reg. 822, effective January 2, 1981; amended at 6 Ill. Reg. 2879, 2883, 2886, 2892, 2895 and 2897, effective March 3, 1982; codified at 6 Ill. Reg. 9326; amended at 9 Ill. Reg. 7941, effective May 14, 1985; amended at 11 Ill. Reg. 14090, effective August 11, 1987; emergency amendment at 12 Ill. Reg. 14419, effective September 1, 1988, for a maximum of 150 days; emergency expired January 29, 1989; amended at 13 Ill. Reg. 9388, effective June 6, 1989; amended at 14 Ill. Reg. 262, effective January 1, 1990; amended at 14 Ill. Reg. 15480, effective September 10, 1990; amended at 15 Ill. Reg. 5834, effective April 5, 1991; amended at 18 Ill. Reg. 1550, effective January 13, 1994; amended at 20 Ill. Reg. 5379, effective March 26, 1996; amended at 20 Ill. Reg. 7008, effective May 7, 1996; amended at 20 Ill. Reg. 16211, effective December 16, 1996; amended at 24 Ill. Reg. 8125, effective May 26, 2000; emergency amendment at 25 Ill. Reg. 1811, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 4971, effective March 23, 2001; amended at 25 Ill. Reg. 6531, effective May 3, 2001; amended at 26 Ill. Reg. 4905, effective March 15, 2002; amended at 27 Ill. Reg. 812, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 11187, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; emergency amendment at 28 Ill. Reg. 15257, effective November 3, 2004,

for a maximum of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 1940, effective January 24, 2005; amended at 29 Ill. Reg. 7070, effective April 26, 2005; amended at 32 Ill. Reg. 13845, effective August 11, 2008; amended at 42 Ill. Reg. 19034, effective October 4, 2018.

SUBPART D: TAX RETURNS

Section 140.401 Monthly Returns When Due – Contents of Returns

a) Except as provided in Section 140.405 of this Subpart, on or before the twentieth day of each calendar month, every serviceman registered with the Department is required to file a return with the Department covering the preceding month, stating the name of the person filing the return, his residence address, the address of his or her principal place of business and the address of his or her principal place of business in this State (if that is a different address) and each address from which he or she engages in that~~said~~ taxable business as a serviceman. When~~Where~~ the serviceman has more than one business registered with the Department under separate registrations, that~~such~~ serviceman shall file separate returns for each ~~such~~ separately registered business. *On and after January 1, 2018, with respect to servicemen whose annual gross receipts average $20,000 or more, all returns required to be filed pursuant to the Act shall be filed electronically. Servicemen who demonstrate that they do not have access to the Internet or demonstrate hardship in filing electronically may petition the Department to waive the electronic filing requirement.* [35 ILCS 115/9]

b) Information Required in Taxpayer's Return. A taxpayer's return shall disclose the following:

1) total tax base for the return period;

2) the amount of tax due;

3) the total of the tax and penalty; and

4) ~~such~~ other information ~~as~~ the Department may require on the tax form.

c) 1.75% Allowance to Serviceman for Collecting State Tax
After entering his or her State Service Occupation Tax liability on the return, the serviceman may then deduct 1.75% of that~~such~~ liability as compensation for

acting as a collector of the tax. The minimum discount, over the entire period of any given calendar year, for any single serviceman (if that~~such~~ serviceman has that much tax to remit) shall be $5.00 for the~~such~~ calendar year. This allowance against the State tax is available only when the tax is remitted with a return that~~which~~ is filed when due under the Act; it is not available in any case in which the tax is paid late. Servicemen required to file returns electronically pursuant to the Act who fail to file their returns electronically may not take the discount allowed to reimburse servicemen for the expenses incurred in keeping records, preparing and filing returns, remitting the tax and supplying data to the Department on request.

(Source: Amended at 42 Ill. Reg. 19034, effective October 4, 2018)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED REPEALER

1) Heading of the Part: Cannabis and Controlled Substances Tax Act

2) Code Citation: 86 Ill. Adm. Code 428

3)

Section Numbers:	Adopted Actions:
428.100	Repealed
428.110	Repealed
428.120	Repealed
428.130	Repealed

4) Statutory Authority: Implementing and Authorized by the Cannabis and Controlled Substances Tax Act (Ill. Rev. Stat. 1987, ch. 120, par. 2151 et seq).

5) Effective Date of Repealer: October 4, 2018

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 repealer, 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 the *Illinois Register*: 42 Ill. Reg. 8769; June 1, 2018

10) Has JCAR issued a Statement of Objection to these rulemakings? 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 agreement letter issued by JCAR? None were made.

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemakings: The Act was held unconstitutional by the Illinois Supreme Court in Wilson v. Department of Revenue, 169 Ill.2d 306, 662 N.E.2d 415, 214 Ill. Dec. 849 (1996). The Department no longer enforces the Act. As a result, Part 428 is being repealed.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED REPEALER

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

Richard S. Wolters
Associate Counsel
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield IL 62794

217/782-2844

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Telecommunications Excise Tax

2) Code Citation: 86 Ill. Adm. Code 495

3)

Section Numbers:	Adopted Actions:
495.100	Amendment
495.120	Amendment

4) Statutory Authority: 35 ILCS 630/17

5) Effective Date of Rules: October 3, 2018

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

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.

9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 8810, June 1, 2018

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: The only changes made were the ones agreed upon with JCAR. Only grammatical and technical changes were made. No substantive changes were made.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemakings: Section 495.100 is amended to remove out-of-date and obsolete language. Section 495.120 is amended to explain that a customer's place of primary use as defined in the Mobile Telecommunications Sourcing Conformity Act applies when the service address of a customer is not a defined location.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

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

Richard S. Wolters
Associate Counsel
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield IL 62794

217/782-2844

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 495
TELECOMMUNICATIONS EXCISE TAX

Section

495.100 Meaning of "Gross Charges"
495.105 Exemptions
495.110 Retailers
495.115 Interstate
495.120 Mobile Operations – Service Address~~Reporting Option~~
495.125 Responsibility for Accounting and Payment of Tax
495.130 Credits
495.135 Tax Returns – When Due – Contents
495.140 Imposition of Telecommunications Excise Tax

AUTHORITY: Implementing the Telecommunications Excise Tax Act [35 ILCS 630] and authorized by Section 17 of the Telecommunications Excise Tax Act [35 ILCS 630/17].

SOURCE: Adopted at 14 Ill. Reg. 11321, effective July 1, 1990; amended at 21 Ill. Reg. 13658, effective September 29, 1997; amended at 22 Ill. Reg. 11886, effective June 29, 1998; amended at 24 Ill. Reg. 12082, effective July 28, 2000; amended at 25 Ill. Reg. 197, effective December 26, 2000; amended at 25 Ill. Reg. 5034, effective March 19, 2001; amended at 27 Ill. Reg. 9614, effective June 13, 2003; amended at 42 Ill. Reg. 19044, effective October 3, 2018.

Section 495.100 Meaning of "Gross Charges"

a) *"Gross charge" means the amount paid for the act or privilege of originating or receiving telecommunications in this State and for all services and equipment provided in connection therewith by a retailer, valued in money, whether paid in money or otherwise, including cash, credits, services and property of every kind or nature, and shall be determined without any deduction on account of the cost of those~~such~~ telecommunications, the cost of materials used, labor or service cost or any other expense whatsoever*. (Section 2(a) of the Telecommunications Excise Tax Act (the Act) [35 ILCS 630/2(a)] A retailer may provide services to customers that are not provided in connection with originating or receiving telecommunications. If those~~such~~ services are not necessary for or directly related to the retailer's provision of telecommunications to customers and the

charges for the~~such~~ services are disaggregated and separately identified from other charges, the charges need not be included in "Gross charges". Without limitation, examples of ~~such~~ services not included in "Gross charges" are directory advertising; specialized designing and/or engineering services; specialized security measures; and consulting services.

b) "*Gross charges*" *shall not include charges for customer equipment, including ~~such~~ equipment that is leased or rented by the customer from any source, wherein those ~~such~~ charges are disaggregated and separately identified from other charges* (Section 2(a)(4) of the Act). Customer equipment includes, but is not limited to, all items generally classified as customer equipment or terminal equipment, such as telephone instruments and station sets, dialers, modems, private branch exchanges (PBXs), inside wiring, facsimile machines, pagers and non-electronic associated items such as documentation, manuals and furniture. Items~~Such items~~ of customer equipment, including maintenance and miscellaneous services, may be leased, rented or sold to one customer or a group of customers without being included in the gross charges, but will be subject to retailer's occupation~~Retailers' Occupation~~ or use taxes~~Use Taxes~~. To be exempt, the charges for customer equipment must be disaggregated and separately identified from other charges in the books and records of the retailer.

c) "*Gross charges*" *does not include charges for the storage of data or information for subsequent retrieval or charges for the processing of data or information intended to change its form or content* (Section 2(a)(3) of the Act). Charges for answering services, for example, whether provided electronically or by live operators, represent charges for the storage of information or data for subsequent retrieval, and are not subject to tax, provided that these charges, if provided in connection with taxable telecommunications, are disaggregated and separately identified in the books and records of the retailer. Charges for automated data storage, retrieval and processing services or for the use of computer time or other equipment are not included in gross charges. Automated information retrieval or data processing charges are not included in gross charges. For example, a customer who accesses an on-line computer data base would not be subject to tax on the charge for the data processing or inquiry, but would be subject to tax on the charge for the transmission of the data. If a telecommunications retailer provides both transmission and data processing services, the charges for each must be disaggregated and separately identified in the books and records of the retailer.

d) *Value added services in which computer processing applications are used to act*

on the form, content, code and protocol of the information for purposes other than transmission are exempt (Section 2(c) of the Act). For example, the charges for computer data, protocol conversions that permit computers to exchange data, no matter which languages or protocols a computer's out-put may be in, and packet-switching, which groups data into packets for efficiency of transmission, would be exempt.

e) Advertising revenue either from online directory sales (e.g., yellow pages) or from message additions to telecommunications service are not included in gross charges. For example, revenues from an advertising message preceding a time/weather call are not included in gross charges.

f) Contributions to a telethon fund-raising campaign are not included in gross charges.

g) Gross charges shall include, but are not limited to, charges for unlisted or unpublished numbers, operator assistance, directory information, call-waiting, call-forwarding, and burglar alarm services provided by telecommunications retailers.

h) A caller located in Illinois who calls a 900 number and receives a billing for that call at his or her service address will have made a call subject to Telecommunications Excise Tax. The invoice to the caller for a 900 number call need not separately state the line charge and tax ~~thereon~~ specifically. However, the telecommunications retailer is responsible for remitting the tax due on the line charge.

i) Gross charges shall include the transmission charges for premium services. Time/weather, gab line/party line and other public announcement services of information and entertainment, and charges for the message content or information of those~~such~~ services, are not included in gross charges.

EXAMPLE~~Example~~: A call to a 900 code number is made to register an opinion in a poll. The caller is billed $1.00. $.80 is the transmission charge. $.80 is included in gross charges.

j) Charges for billing and collection received by telecommunications retailers from persons selling services or products to the telecommunications retailer's customers, which are billed and collected by the telecommunications retailer, are

not included in gross charges.

EXAMPLE~~Example~~: A call to a 900 code number to sell a product is billed by the telecommunications retailer as follows:

$25.00	service charge to caller for product or service
$ .30	call charge (15¢ call, 15¢ billing and collection)
$ .15	billing and collection charge is not included in gross charges
$25.00	is not included in gross charges
$ .15	is included in gross charge

k) Billing and collections charges paid by persons selling services or products to telecommunications retailer's customers or billing and collections charges paid by telecommunications retailers to credit card companies whose holders have charged calls are not includable in gross charges.

l) Taxes imposed on consumers for community 911 service, lifeline service or other services required by regulatory authorities or government are not includable in gross charges.

m) Generally, persons that provide customers access to the Internet ("Internet Service Providers" or "ISPs") and who do not, as part of that service, charge customers for the line or other transmission charges that are used to obtain access to the ISP's server or other point of access, are not considered to be telecommunications retailers from these activities. This is the case so long as such ISPs do not, as part of their billing, charge customers for those~~such~~ line charges and instead pay their telecommunications suppliers all transmission costs that they incur in providing the Internet service. In this situation, an ISP's customer pays his or her telecommunications supplier for all transmission costs incurred while using the service. The single monthly fee charged by the ISP, which often represents a flat charge for a package of items including Internet access, e-mail, and electronic newsletters, would generally not be subject to tax. If, however, the ISP charges customers for line or other transmission charges, it should provide its telecommunications suppliers with Certificates of Resale and should collect and

remit the tax. For example, if an ISP provides customers with Internet access, as described in this subsection, but also provides customers the use of a 1-800 service to access the ISP, and separately assesses customers per minute charges for the use of the 1-800 service, the ISP is considered a telecommunications retailer and incurs Telecommunications Excise Tax on the charges made for the 1-800 service. If the charges are not disaggregated as provided in subsection (c), all charges are subject to the Telecommunications Excise Tax.

n) *"Gross charges" for private line service shall include:*

1) *charges imposed at each channel point within this State;*

2) *charges for the channel mileage between each channel point within this State; and*

3) *charges for that portion of the interstate inter-office channel provided within Illinois. Charges for that portion of the interstate inter-office channel provided in Illinois shall be determined by the retailer as follows:*

A) *For interstate inter-office channels having 2 channel termination points, only one of which is in Illinois, tax may be imposed on 50% of the total charge imposed.* For example, tax would be imposed on 50% of the total charge for a private line with one termination point in Chicago and one termination point in San Francisco.

B) *For interstate inter-office channels having more than 2 channel termination points, one or more of which are in Illinois, tax may be imposed on an amount equal to the total charge multiplied by a fraction, the numerator of which is the number of channel termination points within Illinois and the denominator of which is the total number of channel termination points.* For example, Illinois would receive tax on 60% of the total charge for a private line that had 3 termination points in Illinois, 1 termination point in New York and 1 termination point in Los Angeles. Using the same apportionment rule, New York and Los Angeles would each receive tax on 20% of the total charge.

C) Tax may be imposed using any *other method that reasonably apportions the total charges for interstate inter-office channels*

among the states in which channel termination points are located. (Section 2(a) of the Act) For instance, the Illinois mileage of the channel could be calculated by determining a fraction, the numerator of which is the actual measured Illinois miles of that channel and the denominator of which is the actual measured route miles of the entire channel. If it is impossible for a retailer to measure actual route miles, a method that accurately approximates the Illinois route miles of an interstate inter-office channel and accurately approximates the route miles of the entire channel can be used (e.g., the use of straight-line air miles). Any method of approximation used by a telecommunications provider shall be subject to verification by the Department.

~~D) *Prior to June 1, 2003, any apportionment method consistent with subsection (n)(3)(A)* of the Act *shall be accepted as a reasonable method to determine the charges for that portion of the interstate inter-office channel provided within Illinois for that period* (Section 2(a) of the Act).~~

(Source: Amended at 42 Ill. Reg. 19044, effective October 3, 2018)

Section 495.120 Mobile Operations – Service Address~~Reporting Option~~

When the "service address" is not a defined location, as in the case of mobile phones, paging systems, or maritime systems, "service address" means the customer's place of primary use as defined in the Mobile Telecommunications Sourcing Conformity Act [35 ILCS 638]. (Section 2(n) of the Act)

~~a) Retailers of telecommunications who provide cellular phone, mobile radio, paging and other services where the customer's service address is in fact not a fixed site, but rather a motor vehicle or other mobile location, shall use the location of the customer's primary use of the telecommunications equipment, as defined by telephone number, authorization code, or location in Illinois where bills are sent, as the service address for the purpose of determining whether tax is due on services charged to the customer. For instance, a cellular phone customer whose bill is sent to a Missouri address but who maintains an Illinois telephone number would be subject to tax. For provisions regarding credits, see Section 495.130.~~

~~b) The Department will not require retailers to attempt to apportion traffic or gross~~

~~charges based upon the physical location of a mobile portable telecommunications device at the time service is provided. For example, a retailer providing service to a cellular phone customer shall charge Telecommunications Excise Tax on all traffic billed to an Illinois address unless there is evidence in the books and records of the retailer that a call was originated from a location outside this State and terminated outside this State.~~

(Source: Amended at 42 Ill. Reg. 19044, effective October 3, 2018)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Electronic Filing of Returns or Other Documents

2) Code Citation: 86 Ill. Adm. Code 760

3) Section Number: 760.100 — Adopted Action: Amendment

4) Statutory Authority: 35 ILCS 115/9; 35 ILCS 120/3; 20 ILCS 2505/2505-795

5) Effective Date of Rule: October 4, 2018

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 rule, 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 the *Illinois Register*: 42 Ill. Reg., 8484; May 25, 2018

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: The only changes made were the ones agreed upon with JCAR. Only grammatical and technical changes were made. No substantive changes were made.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? None were made.

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: The rulemaking incorporates several amendments contained in PA 100-303. On and after January 1, 2018, retailers and servicemen whose annual gross receipts average $20,000 or more must file electronically all returns required to be filed pursuant to the Retailers' Occupation Tax Act and Service Occupation Tax Act. Retailers and servicemen who demonstrate that they do not have access to the Internet or demonstrate hardship in filing electronically may petition the Department to

waive the electronic filing requirement. The Retailers' Occupation Tax Act and the Service Occupation Tax Act currently allow retailers and servicemen, respectively, a discount of 1.75% or $5 per calendar year, whichever is greater, to reimburse retailers and servicemen for the expenses incurred in keeping records, preparing and filing returns, remitting the tax and supplying data to the Department on request. The discount is not allowed in any case in which tax is paid late, whether or not a return was filed. PA 100-303 also disallows the discount when returns that are not filed in the manner prescribed in the Act, for example, are not filed electronically by retailers or servicemen with gross receipts that average $20,000 or more.

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

Richard S. Wolters
Associate Counsel
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield IL 62794

217/782-2844

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 760
ELECTRONIC FILING OF RETURNS OR OTHER DOCUMENTS

Section

760.100 Electronic Returns
760.110 Exclusions from Electronic Filing
760.120 Where to Send Electronic Returns (Repealed)
760.200 Ways to Participate in Electronic Filing
760.210 Enrollment in the Electronic Filing Program
760.220 Electronic Payment Required
760.230 Electronic Signatures
760.240 Due Dates and Date Received
760.300 Responsibilities of Electronic Filers
760.310 Filing Acknowledgments
760.320 Electronic Payment Acknowledgments
760.330 Termination of Voluntary Participants

AUTHORITY: Implementing and authorized by Section 2505-200 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-200].

SOURCE: Adopted at 22 Ill. Reg. 14905, effective August 3, 1998; amended at 27 Ill. Reg. 14636, effective August 26, 2003; amended at 30 Ill. Reg. 11590, effective June 26, 2006; amended at 35 Ill. Reg. 529, effective December 21, 2010; amended at 35 Ill. Reg. 16737, effective September 29, 2011; amended at 36 Ill. Reg. 1769, effective January 19, 2012; amended at 36 Ill. Reg. 6742, effective April 12, 2012; amended at 42 Ill. Reg. 19053, effective October 4, 2018.

Section 760.100 Electronic Returns

a) The Department has mandatory electronic filing programs and voluntary programs for certain returns and other documents that are required to be filed with the Department. Upon acceptance into the program, the returns, schedules, and other documents listed in this Section may be electronically filed with the Department.

b) An electronic return or other document consists of data transmitted to the

Department electronically, and may include paper documents that contain information that cannot be electronically transmitted or are requested for verification. In total, electronic returns must contain the same information as traditionally filed paper documents.

c) Mandatory Programs

1) Beginning January 1, 2003, telecommunications providers who have average monthly tax billings for the immediately preceding calendar year that exceed $1000 must file their tax returns and supporting schedules electronically. Paper documents that contain information that cannot be electronically provided or are requested for verification must be mailed to the Department. The following circumstances require paper documentation:

A) When a final return is electronically filed, the taxpayer must also mail a statement explaining the reasons for a final return (e.g., business sold or discontinued).

B) When a return and payment are made in protest in accordance with Section 2a.1 of the State Officers and Employees Money Disposition Act [30 ILCS 230/2a.1], the corresponding notice must be mailed to the Department.

C) When the taxpayer wishes to notify the Department of a change of address, the taxpayer must notify the Department by telephone or by mailing such change to the Department.

2) Beginning January 1, 2003, cigarette distributors with 30 or more invoice transactions per month and who are not voluntarily filing returns and schedules by electronic means are required to file supporting schedule data with the Department on computer-generated magnetic media in a format prescribed by the Department.

3) During~~Beginning with~~ calendar year 2011, each income tax return preparer who is required during ~~the~~ calendar year 2011 to file by electronic means any federal income tax return for any individual or individuals, and who prepared more than 100 Illinois income tax returns for individuals during calendar year 2010, is required to file by electronic

means any Illinois income tax returns he or she prepares for the same individual or individuals for the same taxable year for which the preparer filed a federal income tax return during calendar year 2011. Beginning with calendar year 2012, each income tax return preparer who is required during the calendar year to file by electronic means any federal income tax return for any individual or individuals and who prepared more than 10 Illinois income tax returns for individuals during the preceding calendar year is required during the calendar year to file by electronic means any Illinois income tax returns he or she prepares for the same individual or individuals for the same taxable year for which the preparer filed a federal income tax return during that calendar year. This subsection (c)(3) does not require electronic filing of amended returns or of returns of trusts or estates, or of any return the Department has announced cannot be filed by electronic means.

4) Beginning with returns required to be filed for taxable years ending on or after December 31, 2011, any taxpayer required to file its federal income tax return by electronic means is required to file its equivalent Illinois income tax return for the same taxable year by electronic means. This subsection (c)(4) does not require electronic filing of amended returns or of returns of individuals or estates, or to any return the Department has announced cannot be filed by electronic means.

5) Beginning with returns due on and after February 1, 2012, any person who is engaged in the business of selling alcoholic liquor at retail through a liquor store, tavern or restaurant and is required to file the monthly statement required by Section 3 of the Retailers' Occupation Tax [35 ILCS 120/3] and 86 Ill. Adm. Code 130.552, shall file that statement on a Form ST-1 Return by electronic means in accordance with the provisions of this Part. Upon petition by a taxpayer, the Department may waive the electronic filing requirement if the taxpayer demonstrates that it does not have access to the Internet.

6) *On and after January 1, 2018, except for returns for motor vehicles, watercraft, aircraft, and trailers that are required to be registered with an agency of this State, with respect to retailers and servicemen whose annual gross receipts average $20,000 or more, all returns required to be filed pursuant to the Retailers' Occupation Tax Act and Service Occupation Tax Act shall be filed electronically. Retailers and*

servicemen who demonstrate that they do not have access to the Internet or demonstrate hardship in filing electronically may petition the Department to waive the electronic filing requirement [35 ILCS 120/3 and 35 ILCS 115/9]. Retailers and servicemen required to file returns electronically pursuant to the Acts who fail to file their returns electronically may not take the discount allowed to reimburse them for the expenses incurred in keeping records, preparing and filing returns, remitting the tax and supplying data to the Department on request.

d) Voluntary Programs

1) Taxpayers may volunteer to participate in any electronic filing program currently in effect for mandatory electronic filers.

2) Form ST-1, Sales and Use Tax Return, and Form ST-2, Multiple Site attachment for Form ST-1, can be transmitted electronically under the provisions of this Part.

3) Beginning January 1, 2003, original or amended liquor tax returns and schedules for Liquor Tax participants may be filed electronically under the provisions of this Part.

A) Paper documents that contain information that cannot be electronically provided or are requested for verification must be mailed to the Department. They include:

i) Copies of schedules, invoices or bills of lading requested for verification in accordance with Section 8-2 of the Liquor Control Act of 1934 [235 ILCS 5/8-2].

ii) Non-Beverage User permits.

B) Beginning January 1, 2003, persons filing liquor tax returns and schedules electronically must also make payments by means of electronic funds transfer. See Section 760.220 of this Part. By doing so, the taxpayer is entitled to a discount of 1.75% of the tax due, or $1,250, whichever is less, provided that the electronic return and payment are made timely in accordance with this Part.

C) Liquor tax participants may file their returns and schedules using magnetic media in a format prescribed by the Department. Liquor tax participants that file returns and schedules on magnetic media are not entitled to the discount provided for in subsection (d)(3)(B) of this Section.

4) Beginning January 1, 2003, original or amended cigarette tax returns and schedules for Cigarette Tax participants may be filed electronically under the provisions of this Part.

5) Illustrations of When Paper Documents Must Be Filed

A) In the event a final return is electronically filed, the taxpayer must also mail a statement explaining the reasons for a final return (e.g., business sold or discontinued).

B) In the event a return and payment are made in protest in accordance with Section 2a.1 of the State Officers and Employees Money Disposition Act [30 ILCS 230/2a.1], the corresponding notice must be mailed to the Department.

C) In the event the taxpayer wishes to notify the Department of a change of address, the taxpayer must notify the Department by telephone or by mailing such change to the Department.

(Source: Amended at 42 Ill. Reg. 19053, effective October 4, 2018)

ILLINOIS STATE BOARD OF INVESTMENT

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Rules and Regulations of the Board

2) Code Citation: 74 Ill. Adm. Code 800

3)

Section Numbers:	Adopted Actions:
800.110	Amendment
800.120	Amendment
800.130	Amendment
800.140	Amendment
800.210	Amendment
800.230	Amendment
800.240	Repealed
800.410	Amendment
800.510	Amendment

4) Statutory Authority: The Illinois Pension Code [40 ILCS 5/1 et seq.; 40 ILCS 5/22A et seq; 40 ILCS 5/24 et seq.]

5) Effective Date of Rules: October 3, 2018

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

7) Does this rulemaking contain incorporations by reference? The rulemaking does not include incorporation by reference pursuant to Section 5-75 of the Illinois Administrative Procedure Act.

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*: 42 Ill. Reg. 6630; April 13, 2018

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: There are several incorporated revisions between the proposal and final notice version following numerous meetings with JCAR staff members. Several provisions originally proposed to be stricken have been restored to ensure that the organization's policies are properly addressed in the Administrative Code. Information relating to the organization's physical location was added; text was also added to clarify that a quorum shall be those members appointed and

ILLINOIS STATE BOARD OF INVESTMENT

NOTICE OF ADOPTED AMENDMENTS

serving on the Board or a Committee. Clarification was made that it is the Executive Director that will administer the affairs of the Board. The Investment Policy Committee and Emerging Manager Committees were re-inserted in the Administrative Code and the duties of the Emerging Manager Committee were expanded to include firms owned by persons with disabilities, as required under the Illinois Pension Code. Revisions also include providing italics whenever there is a reference to a specific statutory provision. In addition, there are several new revisions removing any reference to internal activities of the organization as those do not properly belong in the Administrative Code pursuant to the Administrative Procedures Act. Section 110, previously repealed, was re-inserted and revised to reflect the statutory language of the Illinois Pension Code. Section 240 is repealed, per the suggestion of JCAR staff members, because it involves the internal activities of the organization.

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 rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: These amendments involve updating the Rules and Regulations governing the operations of the Board of Trustees (the "Board") of the Illinois State Board of Investment, a public pension fund administered pursuant to the Illinois Pension Code. The proposed amendments involve revisions to reflect similar Rules and Regulations governing the respective Board of Trustees of similarly situated public pension funds in Illinois. Such proposed amendments also involve revisions to reflect clarifications to meet the requirements of the Illinois Open Meetings Act, governing the meetings of the Board.

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

Dipesh Mehta
General Counsel/Chief Compliance Officer
Illinois State Board of Investment
180 N. LaSalle Street, Suite 2015
Chicago IL 60610

312/793/1486
dmehta@isbinvestment.com

ILLINOIS STATE BOARD OF INVESTMENT

NOTICE OF ADOPTED AMENDMENTS

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

ILLINOIS STATE BOARD OF INVESTMENT

NOTICE OF ADOPTED AMENDMENTS

TITLE 74: PUBLIC FINANCE
CHAPTER VII: ILLINOIS STATE BOARD OF INVESTMENT

PART 800
RULES AND REGULATIONS OF THE BOARD

SUBPART A: AUTHORITY

Section
800.5 Authority

SUBPART B: BY-LAWS

Section
800.110 Offices of the Board
800.120 Meetings
800.130 Officers and Their Duties
800.140 Committees

SUBPART C: GENERAL POLICIES

Section
800.210 Functions
800.220 Fiduciary Aspects
800.230 Delegation of Authority
800.240 Budget (Repealed)

SUBPART D: ACCOUNTING

Section
800.310 Investment Account
800.320 Fund Credits
800.330 Fund Charges
800.340 Reserve Balances

SUBPART E: REPORTS

Section
800.410 Fiscal Reporting

ILLINOIS STATE BOARD OF INVESTMENT

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800.420 Audits

SUBPART F: AMENDMENTS

Section
800.510 Amendments

AUTHORITY: Implementing and authorized by Section 22A-110 of the Illinois Pension Code [40 ILCS 5/22A-111.1 and Art. 24].

SOURCE: Rules and Regulations of the Board, effective March 25, 1971; amended January 8, 1972; amended October 6, 1972; amended February 14, 1975; amended February 9, 1976; amended February 9, 1977; codified at 5 Ill. Reg. 10701; amended at 31 Ill. Reg. 1986, effective January 9, 2007; amended at 32 Ill. Reg. 360, effective December 26, 2007; amended at 35 Ill. Reg. 13915, effective August 1, 2011; amended at 37 Ill. Reg. 2720, effective February 25, 2013; amended at 38 Ill. Reg. 4491, effective January 31, 2014; amended at 39 Ill. Reg. 4500, effective March 16, 2015; amended at 42 Ill. Reg. 19060, effective October 3, 2018.

SUBPART B: BY-LAWS

Section 800.110 Offices of the Board

General office. The general office of the Board shall be maintained at 180 N. LaSalle St., Suite 2015, ~~in~~ Chicago IL 60601. At that ~~such~~ office, all accounts, records, files, books, reports, correspondence and other data or documents relating to the operations of the Board and the agency under its jurisdiction shall be kept and all administrative matters shall be processed under the direction and authority of the Director assisted by adequate administrative personnel.

(Source: Amended at 42 Ill. Reg. 19060, effective October 3, 2018)

Section 800.120 Meetings

a) Regular meetings. Meetings of the Board shall be held at least once each calendar quarter, on a date and at a time specified by the Chair.

b) Special meetings. Special meetings may be called at any time by the Chair or Vice Chair of the Board or by any three members of the Board. ~~Any business of whatever nature may be taken up and disposed of at any special meeting.~~

ILLINOIS STATE BOARD OF INVESTMENT

NOTICE OF ADOPTED AMENDMENTS

c) Place and hour of meetings. Meetings of the Board shall be held at the general office of the Board or at any other place selected by the Chair or agreed upon by the Board, at the hour fixed by the Chair or by the members calling a special meeting.

d) Annual meeting. The annual meeting of the Board shall be held in the month of September, unless otherwise specified by the Chair or agreed upon by the Board.

e) Quorum. A majority of all members of the Board or Committee appointed and serving on the Board or Committee shall constitute a quorum for the transaction of business at any regular or special meeting of the Board or Committee.

f) Meetings ~~open to the public~~. All meetings of the Board and any subsidiary body, including without limitation any committee, shall be subject to and conducted in accordance with the Open Meetings Act [5 ILCS 120].

g) Attendance by a means other than physical presence
~~1)~~*If a quorum of the members of the Board or any Committee~~the Executive Committee~~ is physically present, a majority of those physically present, as required by Section 2.01 of the Open Meetings Act, may allow a member of the Board to attend the meeting by other means (video or audio conference) if the member is prevented from physically attending because of:*

1)~~A)~~ *personal illness or disability;*

2)~~B)~~ *employment purposes or the business of the Board; or*

3)~~C)~~ *a family or other emergency.* [5 ILCS 120/7]

~~2) If a member wishes to attend a meeting by other means, the member must notify the Board's General Counsel before the meeting unless advance notice is impractical.~~

~~3) Except as otherwise provided in this subsection (g)(3), the limitations of this subsection (g) shall not apply to closed meetings of the Board or the Executive Committee or to open or closed meetings of any other subsidiary body, including without limitation any committee other than the Executive Committee, that does not have authority to make binding recommendations or determinations or to take any other substantive~~

~~action. If the limitations of this subsection (g) do not apply, any or all members of the Board or a subsidiary body may attend a meeting by audio or video conference. Neither advance notice nor permission for that means of attendance is required. No minimum number of members need be physically present at the noticed location of the meeting.~~

~~h) Order of business~~

~~1) The following order shall govern the transaction of business of the Board at any regular or special meeting:~~

~~A) Roll Call~~

~~B) Communications~~

~~C) Report of the Chair~~

~~D) Minutes of Previous Meeting~~

~~E) Report of Standing and Special Committees~~

~~F) Deferred Compensation~~

~~G) Report of Consultant~~

~~H) Report of the Director~~

~~I) Reports of any Member of the Board~~

~~J) Unfinished Business~~

~~K) New Business~~

~~L) Adjournment~~

~~2) Any motion or resolution may be presented and considered out of the regular order of business by consent of a majority of the members present at any regular or special meeting.~~

ILLINOIS STATE BOARD OF INVESTMENT

NOTICE OF ADOPTED AMENDMENTS

~~3) If an individual wishes to address a member of the Board at a meeting required to be open under the Open Meetings Act, the individual shall provide prior written notice to the Board's General Counsel. The notice shall describe the identity of the speaker and the general subject matter of the address and shall specify the meeting at which the address will be made. A copy of any written materials that the individual wishes to distribute to any Board member during the address must be attached to the notice.~~

h~~i~~) Voting. Each member shall have one vote on any question coming before the Board/Committee at any regular or special meeting at which that member is in attendance. Concurring votes by a majority of the members ~~present~~ at the meeting shall be necessary for the adoption of any resolution or action by the Board/Committee.

i~~j~~) Roll calls. The Chair or any member may request a roll call on any motion or resolution involving an expenditure of moneys or the creation of a liability for the Board or on any other motions. The vote of each member present shall then be recorded in the minutes of the meeting.

j~~k~~) Reconsideration. A motion for the reconsideration of any vote shall be in order only if made at the meeting at which the vote sought to be reconsidered is taken or at the next regular meeting.

k~~l~~) Deferral of reports. Upon request of any two members of the Board, the consideration of any report presented by any committee shall be deferred for one meeting, and a copy of the report of the committee shall be provided each member of the Board.

l~~m~~) Record of proceedings.~~1)~~ The Board shall keep a full record of all its proceedings in which all of its transactions is recorded. All resolutions approved by the Board shall be signed by the Chair and Recording Secretary and shall be filed with the minutes of the meeting at which adopted. At least five days before the date of the next scheduled meeting, the Board's General Counsel shall supply each Board member with a copy of the minutes of the last meeting. ~~2)If an individual wishes to record the proceedings of the Board at a meeting required to be open under the Open Meetings Act, the individual shall provide prior written notice to the Board's General Counsel. The notice shall describe the identity of the individual and the means by which the meeting will be recorded and shall specify the~~

~~meeting at which the recording will be made.~~

(Source: Amended at 42 Ill. Reg. 19060, effective October 3, 2018)

Section 800.130 Officers and Their Duties

a) Elective officers. The following named officers shall be elected by the Board biennially at the annual meeting in each odd-numbered year from among the members of the Board: Chair, Vice Chair, Recording Secretary, and Member at Large. Any vacancy occurring during a biennial period shall be filled in like manner for the unexpired term of office.

~~b)~~ ~~Appointive officers. The following named officers shall be appointed by the Board: the Director and such other officers as the Board may from time to time determine.~~

b~~c~~) Officers ex officio. The State Treasurer shall be ~~ex officio Custodian and~~ Treasurer of the Board.

c~~d~~) Chair. The Chair shall be the chief executive officer of the Board; shall preside at all meetings; announce the business before the Board; announce the question under consideration and the result of the vote taken; request a roll call upon any action or resolution as herein provided. He or she shall appoint all necessary committees and see that they perform their assigned duties. ~~The Chair and the Director shall sign all written contracts and agreements upon authorization of the Board.~~ The Chair shall exercise general supervision over the operations of the agency.

d~~e~~) Vice Chair

1) In the absence of the Chair, the Vice Chair shall act as Chair at any regular or special meeting and shall serve in the Chair's stead if the Chair is temporarily unable or unwilling to act.

2) If the Chair or Vice Chair is not available to preside at a meeting, any member selected by a majority vote of those present may act as presiding officer, pro tempore.

e~~f~~) Recording Secretary. The Recording Secretary shall authenticate with his or her

signature any resolutions of the Board and shall perform such other duties as may be prescribed by the rules, orders or resolutions of the Board.

~~g)~~ ~~Custodian~~

~~1)~~ ~~The State Treasurer, as official Custodian of the Board, shall provide adequate safe deposit facilities for securities, funds and other assets received by the Board and hold those securities, funds and other assets subject to the order of the Board.~~

~~2)~~ ~~The Board may also contract, for a predetermined fee, with any national or state bank or trust company authorized to do a trust business in the State of Illinois for custodial and trust accounting facilities for the investments under its control, which may include the collection of interest, dividends and principal payments.~~

~~3)~~ ~~The Custodian shall submit periodic reports to the Board on the investments held for the account of the pension funds under the jurisdiction of the Board.~~

f~~h~~) Executive Director

~~1)~~The Executive Director shall administer the affairs of the Board pursuant to the provisions of the statute governing the Board, subject to and under supervision of the Board. ~~With the approval of the Board, the Director may employ such personnel, professional or clerical, as may be desirable and necessary, and fix their compensation. The Director shall be in complete charge of all records, books, files, papers and documents belonging to the Board.~~

~~2)~~ ~~The Director or Chair shall answer all correspondence bearing upon the business of the Board; shall present to the Board bills for expenses; shall request any information and reports that may be required during the course of operations to effectuate the objectives of the Board; and shall prepare periodic statements and reports to fully carry out the expressed and implied requirements of the applicable law. He or she shall perform such other duties that are called for by the rules, orders, directives and resolutions of the Board.~~

(Source: Amended at 42 Ill. Reg. 19060, effective October 3, 2018)

ILLINOIS STATE BOARD OF INVESTMENT

NOTICE OF ADOPTED AMENDMENTS

Section 800.140 Committees

~~a) Executive Committee~~

~~1) There shall be an Executive Committee of the Board, consisting of the Chair, Vice Chair, Recording Secretary, and Member at Large.~~

~~2) The Executive Committee has the authority to conduct all business of the Board during the interim between Board meetings and report that business at the next Board meeting for ratification by the Board.~~

~~b) Audit and Compliance Committee~~

~~1) There shall be an Audit and Compliance Committee of the Board, consisting of such members of the Board as the Chair of the Board shall appoint, and who shall serve a term to end at the time of the next annual meeting of the Board following the election of officers. The Board shall determine delegation of Committee responsibilities. (Examples of such delegation include formally communicating with the Illinois Auditor General, creating the Board's internal ethics code, and ensuring compliance with Illinois ethics laws.)~~

~~2) The Committee will elect a Committee Chair to whom the Committee may delegate only those responsibilities as have been approved in advance by the Board.~~

~~3) Additional responsibilities of the Audit and Compliance Committee shall be to maintain supervision over all accounting related activities of the Board, including but not limited to regular liaison with the Office of the Auditor General, independent auditors and accounting consultants to the Board. In addition, the Committee will participate in the review of the Board's activities by the Legislative Audit Commission and the Auditor General.~~

~~4) The Audit and Compliance Committee shall have oversight responsibility for all matters relating to the Illinois Ethics Act. The Chair of the Committee shall be the designated Ethics Officer for Board members and staff. The Committee shall develop and make recommendations to the Board regarding policies and procedures for internal codes of ethics for~~

~~both the Board and Staff members, consistent with the State Officials and Employees Ethics Act [5 ILCS 430].~~

~~5) The Committee will recommend changes in accounting and general compliance policy for Board consideration.~~

~~6) The Committee shall meet as often as necessary in the discretion of the Board or the Chair of the Committee, so long as the meeting is in compliance with the Open Meetings Act. All Board members shall be encouraged to attend and participate.~~

a)~~c)~~ Investment Policy Committee

1) There shall be an Investment Policy Committee of the Board, consisting of such members of the Board as the Chair of the Board shall appoint, and who shall serve a term to end at the time of the next annual meeting of the Board following the election of officers. The Board shall determine delegation of Committee responsibilities. (Examples of such delegation include interviewing investment management firms that are finalists in the Board's competitive bidding process and recommending policies pertaining to the Board's investments, such as the Board's asset allocation study.)

2) It shall be the responsibility of the Committee:

A) to recommend investment policy to the Board, both at its regularly scheduled meetings and whenever recommendations appear, in the judgment of the Committee, to be necessary or desirable;

B) for the ongoing and specific supervision of the internal investment process, including but not limited to advance approval of all long-term investment transactions not falling within certain delegatory guidelines established by Board action; and

C) for ongoing liaison with external investment advisors, together with recommendations concerning the tenure, compensation, fund direction, and retention of the advisors.

3) The Committee shall~~will~~ elect a Chair by vote of a majority of its

members. ~~to whom the Committee may delegate only those responsibilities as have been approved in advance by the Board.~~

~~4)~~ ~~The Committee shall meet as often as necessary in the discretion of the Board or the Chair of the Committee, so long as the meeting is in compliance with the Open Meetings Act. All Board members shall be encouraged to attend and participate.~~

~~5)~~ ~~The Committee shall advise the Board when the Committee believes it is appropriate that non-Board members with investment and economic expertise participate in Committee affairs.~~

~~6)~~ ~~The Board Chair will be an ex-officio, voting member of the Committee.~~

b)~~d)~~ Emerging Manager Committee

1) There shall be an Emerging Manager Committee of the Board, consisting of such members of the Board as the Chair of the Board shall appoint, and who shall serve a term to end at the next annual meeting of the Board following the election of officers. The Board shall determine the Committee's responsibilities. (Examples of such delegation include interviewing emerging managers and recommending policies pertaining to the Board's investments, such as the Board's Emerging and Minority Investment Manager and Minority and Illinois Brokerage Policy.)

~~2)~~ ~~An "emerging manager" is a qualified investment adviser that manages an investment portfolio of at least $10,000,000, but less than $10,000,000,000, and is a "minority owned business", "female owned business" or business owed by a person with a disability, as those terms are defined in the Business Enterprise for Minorities, Females and Persons with Disabilities Act [30 ILCS 575/2(A)(3), (4) and (4.1)].~~

2)~~3)~~ It shall be the policy of the Committee:

A) to increase access to and business with emerging managers; ~~and~~

B) to maximize utilization of minority-owned broker/dealers by the Board's investment managers; and~~.~~

C) to monitor the utilization of emerging managers, minority-owned, women-owned and person with a disability owned business enterprises and broker dealers and report that utilization to the Board.

3) The committee shall elect a Chair by vote of a majority of its members.

~~4) It shall be the responsibility of the Committee:~~

~~A) to interview emerging manager applicants for specific asset classes;~~

~~B) to function as ongoing liaison with emerging managers, together with recommendations concerning the tenure, compensation, fund direction, and retention of emerging managers;~~

~~C) to recommend emerging manager policy to the Board, both at its regularly scheduled meetings and whenever those recommendations appear, in the judgment of the Committee, to be necessary or desirable; and~~

~~D) to conduct other duties as assigned by the Board.~~

~~5) The Committee will elect a Chair to whom the Committee may delegate only those responsibilities as have been approved in advance by the Board.~~

~~6) The Committee shall meet as often as necessary, in the discretion of the Board or the Chair of the Committee, so long as the meetings are in compliance with the Open Meetings Act. Alll Board members shall be encouraged to attend and participate.~~

(Source: Amended at 42 Ill. Reg. 19060, effective October 3, 2018)

SUBPART C: GENERAL POLICIES

Section 800.210 Functions

a) The functions of the Board are limited ~~exclusively~~ to investment management and such other duties and responsibilities as are directed or permitted by statute. With

respect to investment management more specifically:

To invest, reinvest, exchange and perform all investment functions with regard to reserves, funds, assets, securities and moneys which the Board is authorized to invest, and to preserve and protect such reserves, funds, assets, securities and moneys, including, but not limited to, authority to vote any stocks, bonds or other securities and to give general or special proxies or powers of attorney with or without power of substitution [40 ILCS 5/22A-106].

1) The Board shall manage investments by executing procedures that include, but are not limited to:

A) Performing due diligence on the investment portfolio. (Examples of due diligence include monitoring the performance of current investment portfolios, selecting new investment portfolios, determining the asset allocation per portfolio and selecting investment managers to invest portfolio assets.)

B) Adopting an asset allocation policy to achieve efficiently the Board's long-term investment objective ~~of a 7.25% compounded rate of return~~. (Examples of policy considerations include examining all asset classes and their appropriate benchmarks and allocating specific percentages of assets to specific asset classes.)

C) Managing Board expenses. (Examples of such management include negotiating competitive asset management fees with investment managers and monitoring the Board's operating budget.)

D) Complying with the Illinois Pension Code [40 ILCS 5]. (Examples of compliance include adhering to statutory directives such as the prudent utilization of emerging investment managers in managing assets (see 40 ILCS 5/1-109.1(4)) and refraining from prohibited transactions.)

2) The Board's general policy governing investments shall require that, as fiduciaries, the Board discharge its duties, with respect to pension fund assets it manages, solely in the interest of the participants and

beneficiaries. (Examples of general investment policy include maintaining the long-term investment objective established by the Board; ~~an 8.5% compounded rate of return on investments;~~ investing with the care, skill, prudence and diligence that a prudent person would use in the conduct of an enterprise of like character with like aims; and diversifying investments to reduce risk, enhance returns and commit meaningful investment positions.)

b) State Employees Deferred Compensation Plan (Plan)

1) The Board shall be responsible for developing and establishing the Plan (see 40 ILCS 5/24-104).

2) With respect to developing and establishing the Plan, the Board shall:

A) Review investment offerings and offer acceptable investment offerings as investment options for the Plan; and

B) Supervise the Department of Central Management Services' administration of the Plan.

3) Further explanation regarding the Board's responsibilities with respect to the development and establishment of the Plan are found in the following Board regulations: 80 Ill. Adm. Code 2700: Subpart A (Introduction and Purpose of Plan); Subpart B (Definitions); Subpart C (the Board's general supervision of the administration of the Plan); Subpart G (distributions in the event of an unforeseeable emergency); Subpart I (ability to amend or terminate Plan).

c) These functions shall not encompass any duties or responsibilities related to the operation and administration of the pension funds in any other area than that of investments.

(Source: Amended at 42 Ill. Reg. 19060, effective October 3, 2018)

Section 800.230 Delegation of Authority

The Board shall manage the investments of any pension fund for the purpose of obtaining a total return on investments for the long term. It also shall perform other functions as may be assigned

or directed by the General Assembly. The Board may not delegate its management functions. For the purpose of seeking a broad spectrum of advice and fostering competitive performance, and to assist the Board in fully implementing the provisions of the applicable law, the Board may contract, for compensation, advisory investment service providers as authorized by Section 22A-111 of the Illinois Pension Code and consistent with the requirements of that Code, including but not limited to, utilizing a competitive process, when required, that is substantially similar to the process required for the procurement of professional and artistic services under Article 35 of the Illinois Procurement Code [30 ILCS 500], as required by Section 1-113.14 of the Illinois Pension Code services with one or more national or state banks or trust companies authorized to do a trust business and domiciled in the State of Illinois. It may also utilize the services of one or more financial institutions organized under the laws of Illinois, or employ investment advisors who have qualified under Subchapter II of the federal Investment Advisors Act of 1940 (15 USC 80b-1 et seq.) and are registered under the Illinois Securities Law of 1953 [815 ILCS 5].

(Source: Amended at 42 Ill. Reg. 19060, effective October 3, 2018)

Section 800.240 Budget (Repealed)

Not later than September 30 of each fiscal year, the Board shall adopt a budget for the period commencing July 1 and ending the following June 30. The budget shall set forth by appropriate designations the amount of money authorized to be expended by the Board for that designated category. The affirmative vote of 5 Board members shall be necessary for adoption of the budget. On and after April 1 of each fiscal year, the approved amount of any designated category may be amended by the affirmative vote of 6 Board members. Notwithstanding the adoption of a budget, the employment of additional personnel and approval of all vouchers must be by Board action. The Financial Officer of the Board shall submit a quarterly report to the Board members setting forth by designated categories the cumulative amount of expenditure for the fiscal year to date and the total amount budgeted for each category.

(Source: Repealed at 42 Ill. Reg. 19060, effective October 3, 2018)

SUBPART E: REPORTS

Section 800.410 Fiscal Reporting

An annual report shall be made by the Board following the close of each fiscal year. The Board shall approve the report and direct that it be filed by the Executive Director with the Department of Insurance or any other regulatory body as provided by law. The fiscal year shall date from July 1 of one year through June 30 of the year next following. The report shall embody a review

of investment operations for the year, including a listing of all invested assets showing their book values and market values, the balances applicable to the several funds under the jurisdiction and authority of the Board, comment on the policies and procedures maintained by the Board during the year, and recommendations on any possible future changes in the governing statute or Board policies.

(Source: Amended at 42 Ill. Reg. 19060, effective October 3, 2018)

SUBPART F: AMENDMENTS

Section 800.510 Amendments

Amendments to this Part may be proposed by any member of the Board, shall be submitted to the Board's General Counsel in writing, and shall be acted upon in the following manner:

a) Upon receipt of a proposal for an amendment, the Board's General Counsel shall distribute~~mail~~ a copy to each member of the Board setting forth in full the proposed amendment at least 10 days prior to the date of any regular or special meeting at which the proposal will be submitted for consideration.

b) At the next regular or special meeting following the distribution~~mailing~~ of the notice, or at any meeting thereafter to which consideration of the amendment has been postponed, the amendment may be adopted by a vote of at least a majority of all members of the Board. At the meeting, the proposed amendment may be modified before being acted upon, without the necessity of any further notice to the members, provided that the amendment as modified shall be applicable only to those Sections or subsections to which the notice specifically referred, and provided further that any modification shall be approved by at least a majority of all members of the Board.

c) When the Board has approved a proposal to amend this Part, the amendment shall be proposed and adopted as required by the Illinois Administrative Procedure Act [5 ILCS 100].

(Source: Amended at 42 Ill. Reg. 19060, effective October 3, 2018)

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Universities Retirement

2) Code Citation: 80 Ill. Adm. Code 1600

3)

Section Numbers:	Adopted Actions:
1600.205	Amendment
1600.270	Amendment
1600.271	New Section

4) Statutory Authority: 40 ILCS 5/15-177

5) Effective Date of Rules: October 5, 2018

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

7) Does this rulemaking contain incorporations by reference? No

8) The adopted amendments are on file at the SURS office and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 3715; February 23, 2018

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? None were made.

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: The amendments to Sections 1600.205, 1600.270, and the new addition of Section 1600.271 are intended to implement legislative changes to Article 15 of the Illinois Pension Code (40 ILCS 5/15) made by PA 99-897, effective January 1, 2017, and PA 100-23, effective July 6, 2017, in addition to making minor stylistic corrections.

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF ADOPTED AMENDMENTS

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

Albert Lee, Associate General Counsel
State Universities Retirement System
1901 Fox Drive
Champaign IL 61820

217/378-8861 or 217/378-8813

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

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF ADOPTED 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
1600.140 Compliance with the Internal Revenue Code
1600.145 Compliance with Final 415 Treasury Regulations
1600.150 Group Trust Provisions

SUBPART B: CONTRIBUTIONS AND SERVICE CREDIT

Section
1600.202 Return to Employment
1600.203 Independent Contractors
1600.205 Earnings Subject to Withholding and Crediting
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
1600.241 Survivor Benefits for Members Who Die While on 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%
1600.271 Employer Contributions for Earnings in Excess of the Governor's Salary
1600.275 Employer Contributions for Employing Affected Annuitants

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF ADOPTED AMENDMENTS

SUBPART C: SURVIVORS AND BENEFICIARIES

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

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: DISABILITY CLAIMS AND ADMINISTRATIVE REVIEW

Section
1600.500 Administrative Staff Determinations and Rules for Appeal − Nature and Requirements of Formal Hearings
1600.510 Employer-Related Determinations and Rules for Appeal
1600.550 Disability Claims Procedure

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

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF ADOPTED AMENDMENTS

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
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 Casting Votes
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. 10952, effective June 22, 2011; amended at 36 Ill. Reg. 3938, effective February 22, 2012; amended at 37 Ill. Reg. 1309, effective January 15, 2013; amended at 37 Ill. Reg. 3866, effective March 15, 2013; amended at 37 Ill. Reg. 10698, effective June 26, 2013; amended at 37 Ill. Reg. 15517, effective September 12, 2013; amended at 38 Ill. Reg. 5659, effective February 11, 2014; emergency amendment at 38 Ill. Reg. 11376, effective May 9, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 16375, effective July 17, 2014; amended at 38 Ill. Reg. 17457, effective July 30, 2014; amended at 39 Ill. Reg. 8317, effective June 1, 2015; amended at 40 Ill. Reg. 8437, effective June 3, 2016; amended at 41 Ill. Reg. 11606, effective September 1, 2017; amended at 41 Ill. Reg. 15353, effective December 5, 2017; amended at 42 Ill. Reg. 19078, effective October 5, 2018.

SUBPART B: CONTRIBUTIONS AND SERVICE CREDIT

Section 1600.205 Earnings Subject to Withholding and Crediting

a) Purpose. This Section provides guidance on which payments for compensation constitute "earnings" under Sections~~Section~~ 15-111 and 15-111.5 of the Code. Section 15-157 of the Code requires every participating employee to make contributions of 8% of his or her pay to fund the benefits payable under SURS. This contribution is deducted from the participating employee's pay on a pre-tax basis and remitted to SURS via payroll deduction. The contributions are made as a percentage of the participating employee's "earnings".

b) Definition. "Earnings", defined under Section 15-111 of the Code, *is an amount paid for personal services equal to the sum of the basic compensation plus extra compensation for summer teaching, overtime and other extra service*, subject to the following:~~.~~

1) *For periods for which an employee receives service credit under* Section 15-113.1(c) or 15-113.2 of the Code, *earnings are equal to the basic compensation on which contributions are paid by the employee during such periods.*

2) Earnings shall include the basic compensation on which employee contributions required under Section 15-157 of the Code are paid by the employee for periods of furlough as provided under Section 15-113.11 of the Code.

3) Earnings shall include the amount of a voluntary pay reduction taken in lieu of furlough on which employee contributions required under Section 15-157 of the Code are paid by the employee as provided under Section 15-113.12 of the Code.

4) *Compensation for employment which is irregular, intermittent and temporary shall not be considered earnings, unless the participant is also receiving earnings from the employer as an employee under Section 15-107* of the Code. [40 ILCS 5/15-111(a)]

c) Tier 2 Member Earnings Limitation

1) *For a Tier 2 member, the annual earnings shall not exceed $106,800; however, that amount shall annually thereafter be increased by the lesser of:*

A) *3% of that amount, including all previous adjustments; or*

B) *one-half the annual unadjusted percentage increase (but not less than zero) in the Consumer Price Index-U* (CPI-U) *for the 12 months ending with the September preceding each November 1, including all previous adjustments.*

2) *For the purposes of this Section,* CPI-U *means the index published by the Bureau of Labor Statistics of the United States Department of Labor that measures the average change in prices of goods and services purchased by all urban consumers, United States city average, all items, 1982-84 = 100. The new amount resulting from each annual adjustment shall be determined by the Public Pension Division of the Department of Insurance and made available to the boards of the retirement systems and pension funds by November 1 of each year.* [40 ILCS 5/15-111(b)]

d) Determination of the Purpose of the Payment

1) If the payment is for services rendered, then the payment is earnings.

2) If the payment is for a reason other than services rendered, it is not earnings.

3) Other Payments
The following list does not limit SURS' authority to determine whether any payment of compensation constitutes earnings on a case-by-case basis.

A) Bonuses; Awards

i) Bonuses received by an employee that are related to services rendered for a specific period of time, not to exceed one academic year, shall be included in earnings subject to SURS withholding.

ii) Awards, such as longevity of service awards or outstanding employee awards, that are not associated with a particular time period are not subject to SURS withholding.

iii) Earnings and basic compensation for an employee who first becomes a participant on or after January 1, 2017 shall not include bonuses.

B) Severance Payments, Salary/Contract Continuation Payments, Retirement Payments or Incentives. Payments made to facilitate termination of employment or to induce someone to retire, or not to retire, are not for services rendered, but are made in conjunction with an employee's termination of employment or retirement and are not earnings. These payments are also not includable in the final rate of earnings under Section 15-112.

C) Group Fringe Benefits. Group fringe benefits provided by the employer are not earnings. However, employer paid premiums on employer-provided group term life insurance in excess of $50,000 are earnings.

D) Housing Allowance. A housing allowance, whether in the form of a direct salary payment or as a residence in which the employee resides, is earnings. Earnings and basic compensation for an employee who first becomes a participant on or after January 1, 2017 shall not include housing allowances.

E) Automobile Allowance. An automobile allowance in the form of a direct salary payment is earnings. However, neither business use nor personal use of an employer-provided automobile is earnings. Earnings and basic compensation for an employee who first becomes a participant on or after January 1, 2017 shall not include vehicle allowances.

F) Non-Qualified Moving Expenses. Non-qualified moving expenses (see 26 USC 217) are not earnings as they are not furnished in lieu of salary.

G) Unused Sick Leave Paid at Termination of Employment. These payments are not earnings, except for collectively bargained payments made in accordance with Section 15-112 of the Code.

H) Overtime. Overtime is earnings.

I) Miscellaneous Other Benefits. Fringe benefits that are provided in lieu of salary are earnings. Items that are not provided in lieu of salary (such as reimbursement for out-of-pocket travel expenses, relocation expenses, etc.) are not earnings. Items such as country club dues, tuition waivers, tickets to athletic and performing arts events for family members of employees, and other items that are reported as taxable income on the employee's Form W-2 are not earnings, unless those items are a negotiated fringe benefit in lieu of salary. Earnings and basic compensation for an employee who first becomes a participant on or after January 1, 2017 shall not include social club dues or athletic club dues.

J) Military Differential Wage Payments and Salary Continuation Benefits. For payments made on or after January 1, 2009, differential wage payments, as defined under section 414(u)(12) of the IRC (26 USC 414(u)(12)), and payments to an individual who

does not currently perform services for an employer by reason of qualified military service, as defined under section 414(u)(1) of the IRC (26 USC 414(u)(1)), to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service, shall be earnings and shall be compensation paid or made available during the limitation year for purposes of applying the limitations under section 415 of the IRC.

K) Retroactive Pay Settlements, Court Settlements or Judgments, or Grievance Arbitration Settlements or Awards. The cash amount for back pay or retroactive pay under a settlement agreement, award or order issued by a court or arbitral body for a disputed termination of employment, suspension or demotion shall be earnings if the agreement, award or order:

i) Excludes from back pay any non-wage or non-salary items, such as health insurance reimbursements, payments for medical costs, interest awards, attorneys' fees, or damage awards;

ii) Specifies the months to which the back pay is allocated and the amount is based on the basic compensation (or a portion thereof) the employee would have otherwise received during those months; and

iii) The back pay amounts are paid to the employee within one year after the issuance of the agreement, award or order.

L) Payment for Unused Vacation Days. Pursuant to Section 15-112(h)(4)(iii) of the Code, payments for unused vacation of up to 56 work days paid upon termination of employment are earnings. Payments for unused vacation days that are paid during employment are not earnings.

M) Payments made under the Public Employee Disability Act [5 ILCS 345] are not earnings.

c) Earning History. Certain earnings may be excludable from the "final rate of earnings" determined under Section 15-112 of the Code. Earnings are always attributable to the period when earned, not when paid. SURS reserves the right to reallocate reported earnings to the period when earned, when this is necessary to accurately reflect the employee's earning history.

(Source: Amended at 42 Ill. Reg. 19078, effective October 5, 2018)

Section 1600.270 Employer Contributions for Benefit Increases Resulting from Earnings Increases Exceeding 6%

Purpose. This Section implements Section 15-155(g), (h), (i), (j) and (k) of the Code. This Section shall not apply to benefits from other retirement systems or pension funds payable under the Retirement Systems Reciprocal Act (Article 20 of the Code).

a) Calculation of the Employer Cost. This calculation is made when a monthly benefit is calculated from the participant's final rate of earnings (FRE). The "present value of the increase in benefits" described in Section 15-155(g), called the "Employer Cost", will be calculated as follows:

1) The earnings, as defined in Section 15-111 of the Code, for every academic year in the FRE period, as defined in Section 15-112 of the Code, are adjusted on a full-time equivalent basis.

A) 48 Month FREs and Partial Academic Years. When the final rate of earnings for a participant is the average annual earnings during the 48 consecutive calendar month period ending with the last day of final termination of employment, any partial academic year at the beginning of the final rate of earnings period will be disregarded.

B) Full-Time Equivalent (FTE) Basis

i) SURS will adjust earnings from an employer in a manner consistent with the percent time employed reported by the employer.

ii) The FTE earnings of an academic year shall equal the total earnings in the academic year divided by the average percent time of employment.

C) Earnings credited during periods of service purchased under Sections 15-113.1 through 15-113.7 of the Code shall be determined on a FTE basis.

D) For the purpose of Section 15-155(g), earnings do not include payments made under a collective bargaining agreement for unused sick leave or payments made for unused vacation.

E) For purposes of Section 15-155(g), earnings shall include earnings, to the extent not established by a participant under Section 15-113.11 or 15-113.12, that would have been paid to the participant had the participant not taken periods of voluntary or involuntary furlough occurring on or after July 1, 2015 and on or before June 30, 2017, or periods of voluntary pay reduction in lieu of furlough occurring on or after July 1, 2015 and on or before June 30, 2017. These earnings shall be reported by the employer in the format specified by the System for this purpose.

2) The FTE earnings of each academic year in the FRE period are limited to 106% of the previous academic year's FTE earnings to yield the "Capped FTE Earnings" of each academic year.

3) The Capped FTE Earnings of each academic year are multiplied by their respective average percent times of employment to yield the "Capped Earnings" for each academic year. The Capped Earnings shall be used to determine the "Capped FRE".

4) The "Benefit Increase" shall equal the difference between the FRE and the Capped FRE, multiplied by the number of years of service, and further multiplied by 2.2%.

5) The Employer Cost equals the actuarial present value of the Benefit Increase. This actuarial present value calculation will be made by using actuarial tables provided by SURS' actuary from time to time. The actuarial table used will correspond with the type of monthly benefit that

is provided to the participant. A single-life annuity table will be used when a traditional benefit package participant has no eligible survivor at the time of retirement. If the participant had employment with more than one employer during the final rate of earnings period, the Employer Cost is calculated for each employer using only the earnings with that employer. However, no Employer Cost will be assessed among multiple, concurrent employers if the increase in total earnings for the concurrent academic year in the FRE period does not exceed 6% over the total earnings of the previous academic year.

b) Employer Billing

1) Billing. *Whenever it determines that a payment is or may be required under* Section 15-155(g), *SURS will calculate the amount of the payment and bill the employer for the amount. The bill will specify the calculations used to determine the amount due*.

2) Request for Recalculation. *If the employer disputes the amount of the bill, it may, within 30 days after receipt of the bill, apply to SURS in writing for a recalculation. The application must specify the grounds of the dispute and, if the employer asserts the calculation is subject to Section 15-155(h) or (i), must include an affidavit setting forth and attesting to all facts within the employer's knowledge that are pertinent to the applicability of Section 15-155(h) or (i). Upon receiving a timely application for recalculation, SURS will review the application and, if appropriate, recalculate the amount due*.

3) Payment. *The employer contributions required under Section 15-155(g) may be paid in the form of a lump sum within 90 days after the receipt of the bill. If the employer contributions are not paid within 90 days after receipt of the bill, then interest will be charged at a rate equal to SURS' prescribed rate of interest compounded annually from the 91st day after the receipt of the bill. Payments must be concluded within 3 years after the employer's receipt of the bill*. [40 ILCS 5/15-155(g)]

4) Appeals of the Recalculation. The employer may appeal a recalculation pursuant to Section 1600.510.

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF ADOPTED AMENDMENTS

c) Exclusions for Earnings Increases Paid on or after June 1, 2005, but before July 1, 2011, under Section 15-155(h)

1) Grandfathering. *When assessing payment for any amount due under* Section 15-155(g), *SURS will exclude earnings increases paid to participants* required *under contracts or collective bargaining agreements entered into, amended, or renewed before June 1, 2005.* [40 ILCS 5/15-155(h)] These~~Such~~ contracts are "grandfathered". For the purposes of Section 15-155(h):

A) A contract or collective bargaining agreement is "entered into, amended or renewed" on the earliest of the following:

i) the date the governing body of the employer voted to accept the contract or collective bargaining agreement;

ii) the date the contract or collective bargaining agreement was executed in final form by the parties; or

iii) the date the parties to the contract or collective bargaining agreement reached a tentative agreement regarding the terms of the contract or collective bargaining agreement, provided that the tentative agreement is subsequently approved by the governing body of the employer on or after June 1, 2005, without any changes to the terms that have the effects described under subsection (c)(1)(B)(i) or (ii).

B) A contract or collective bargaining agreement will not exclude earnings increases paid under the contract or agreement if the contract or agreement is amended or renegotiated after June 1, 2005 to have the effect of:

i) increasing the earnings usable for the FRE (except when the increase is the result of a salary reopener provision that was part of the contract or collective bargaining agreement prior to June 1, 2005); or

ii) extending the expiration date of the contract (in which case the earnings will be excluded only through the original expiration date of the contract).

C) Miscellaneous

i) A contract exception made by an employer for an individual shall disqualify that individual's earnings increases from grandfathering but shall not invalidate the grandfathering for any other persons.

ii) A memorandum of understanding between the employer and the collective bargaining unit to increase the credit hours available shall not invalidate the contract, but any earnings increases because of the increased credit hours shall not be excluded from the calculation under subsection (a), unless Section 15-155(h) or (i) of the Code applies.

iii) When a member has given notice to the employer of intent to retire pursuant to the terms of a grandfathered contract or collective bargaining agreement, earnings provided under the contract or collective bargaining agreement shall be excluded so long as the earnings are provided to the member within four years after the expiration date of the contract or collective bargaining agreement.

iv) Notwithstanding the other provisions of this subsection (c)(1), earnings paid under a grandfathered contract on or after July 1, 2011 shall not be excluded from earnings under subsection (a).

2) Earnings 10 Years Prior to Retirement Eligibility. *When assessing payment for any amount due under* Section 15-155(g) of the Code, *SURS will exclude earnings increases paid to a participant at a time when the participant is 10 or more years from retirement eligibility under Section 15-135 of the Code.* [40 ILCS 5/15-155(h)] Earnings increases paid in academic years preceding and including the academic year during which the participant was 10 years from attaining earliest retirement eligibility shall be excluded.

3) Overloads and Overtime

A) *Earnings increases resulting from overload work, including a contract for summer teaching, or overtime when the employer has certified to SURS, and SURS has approved the certification, that:*

i) *in the case of overloads:*

- *the overload work is for the sole purpose of academic instruction in excess of the standard number of instruction hours for a full-time employee occurring during the academic year that the overload is paid; and*

- *the earnings increases are equal to or less than the rate of pay for academic instruction computed using the participant's current salary rate and work schedule; and*

ii) *in the case of overtime, the overtime was necessary for the educational mission.* [40 ILCS 5/15-155(h)]

B) The certification shall be in the form adopted by SURS and be signed by a duly authorized representative of the employer. The certification must be accompanied by supporting documentation as required by the form.

C) The standard number of instruction hours for a full-time employee shall be consistent with employer policy in force for the academic year in which the overload earnings were earned.

4) Promotions

A) *When assessing payment for any amount due under* Section 15-155(g) of the Code*, SURS will exclude earnings increases resulting from:*

i) *a promotion for which the employee moves from one classification to a higher classification under the State Universities Civil Service System;*

ii) *a promotion in academic rank for a tenured or tenure-track faculty position; or*

iii) *a promotion that the Illinois Community College Board has recommended in accordance with Section 15-155(k).*

B) *The earnings increases* referenced in subsection (c)(4)(A) *shall be excluded only if the promotion is to a position that has existed and been filled by a member for no less than one complete academic year and the earnings increase as a result of the promotion is an increase that results in an amount no greater than the average salary paid for other similar positions.* [40 ILCS 5/15-155(h)]

C) The employer shall certify that the promotion is to a position that has existed and been filled by a member for no less than one complete academic year and the earnings increase as a result of the promotion is an increase that results in an amount no greater than the average salary paid for other similar positions. The certification shall be in the form adopted by SURS and be signed by a duly authorized representative of the employer. The certification must be accompanied by supporting documentation as required by the form.

D) The phrase "an amount no greater than the average salary paid for other similar positions" shall mean the midpoint of the salary range for the position or similar positions as most recently approved by the Merit Board of the State Universities Civil Service System or the current average salary paid for tenured or tenure-track faculty positions in the same department, as the case may be.

d) Exclusions for earnings increases described in Section 15-155(h) of the Code paid on or after July 1, 2011, but before July 1, 2014, under a contract or collective bargaining agreement entered into, amended, or renewed on or after June 1, 2005, but before July 1, 2011, under Section 15-155(i). For the purpose of Section 15-155(i), a contract or collective bargaining agreement is "entered into, amended or renewed" on the earliest of the following:

1) the date the governing body of the employer voted to accept the contract or collective bargaining agreement;

2) the date the contract or collective bargaining agreement was executed in final form by the parties; or

3) the date the parties to the contract or collective bargaining agreement reached a tentative agreement regarding the terms of the contract or collective bargaining agreement, provided that the tentative agreement is subsequently approved by the governing body of the employer on or after July 1, 2011 without any changes to the terms that have the effect of extending the expiration date.

e) The exclusions under subsections (c) and (d) shall not apply to earnings increases paid after June 30, 2014.

(Source: Amended at 42 Ill. Reg. 19078, effective October 5, 2018)

Section 1600.271 Employer Contributions for Earnings in Excess of the Governor's Salary

a) Purpose and Applicability. This Section implements Section 15-155(j-5) of the Code. Section 15-155(j-5) and this Section shall not apply to any participant's earnings to the extent the employer pays the employer normal cost for those earnings. For purposes of Section 15-155(j-5), the terms stated in subsections (b) through (i) shall have the meanings ascribed in this Section.

b) Measurement Year. "Academic year" and "school year" shall mean the 12-month period beginning on July 1 and shall be collectively referred to in this Section as the "measurement year".

c) Governor's Salary. The "amount of the salary set for the Governor" shall be the salary for the Governor set by law by the General Assembly as of July 1 of the measurement year or, in its absence, the most recent salary for the Governor set by law by the General Assembly.

d) FTE Earnings. "A participant's earnings for any school year, determined on a full-time equivalent basis" ("FTE earnings") shall equal the total earnings in the measurement year divided by the average of the percent times of employment reported by the employer during the measurement year.

1) The employer shall report percent time with each submission of payroll information duly certified to be correct and in compliance with all applicable State and federal laws pursuant to Section 15-111(c) of the Code.

2) The average percent time calculation shall only take into account periods during which services were actually rendered or periods during which the employee was on an approved leave of absence at a percentage of pay greater than 0% (as adjusted by any voluntary employee contributions made for those periods).

3) Earnings do not include payments made under a collective bargaining agreement for unused sick leave or payments made for unused vacation.

e) Excess Earnings. The "amount of earnings in excess of the amount of the salary set for the Governor" ("excess earnings") shall be equal to the difference between the FTE earnings and the Governor's salary as defined in subsection (c) and that difference multiplied by the average percent time described by subsection (d)(2).

f) Employer Normal Cost. The "employer normal cost" shall mean the employer normal cost described in Section 15-155 of the Code, expressed as a total percentage of payroll, approved by the Board for the measurement year. *This amount shall be computed by the System on the basis of the actuarial assumptions and tables used in the most recent actuarial valuation of the System that is available at the time of the computation.* [40 ILCS 5/15-155(j-5)]

g) Employer Contribution Amount. The employer contribution amount shall be equal to the excess earnings under subsection (e) multiplied by the employer normal cost percentage under subsection (f).

h) Multiple or Concurrent Employers. In the event that an employee has been employed by two or more employers during a measurement year, earnings shall be measured and the employer contribution amount shall be calculated on an employer-by-employer basis.

i) Employer Billing

1) Billing. *Whenever it determines that a payment is or may be required under Section 15-155(j-5) of the Code, the System shall calculate the amount of the payment and bill the employer for that amount. The bill shall specify the calculations used to determine the amount due.* [40 ILCS 5/15-155(j-5)] No bills shall be issued for de minimis employer contribution amounts that are $25 or less. The System shall issue the bill during the September immediately following the end of the measurement year to which the bill relates.

2) Request for Recalculation. *If the employer disputes the amount of the bill, it may, within 30 days after receipt of the bill, apply to the System in writing for a recalculation. The application must specify in detail the grounds of the dispute. Upon receiving a timely application for recalculation, the System shall review the application and, if appropriate, recalculate the amount due.* An employer shall be deemed to have been in receipt of the bill on the date the bill is issued.

3) Payment. *The employer contributions required under this subsection* (i) *may be paid in the form of a lump sum within 90 days after receipt of the bill. If the employer contributions are not paid within 90 days after receipt of the bill, then interest will be charged at a rate equal to the System's annual actuarially assumed rate of return on investment compounded annually from the 91st day after receipt of the bill. Payments must be concluded within 3 years after the employer's receipt of the bill.* [40 ILCS 5/15-155(j-5)]

4) Appeals of the Recalculation. The employer may appeal a recalculation pursuant to Section 1600.510.

(Source: Added at 42 Ill. Reg. 19078, effective October 5, 2018)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Grant Program for Dependents of Correctional Officers

2) Code Citation: 23 Ill. Adm. Code 2731

3)

Section Numbers:	Emergency Actions:
2731.20	Amendment
2731.30	Amendment

4) Statutory Authority: Implementing Section 60 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/60 and 20(f)].

5) Effective Date of Rules: September 27, 2018

6) If these emergency rules are to expire before the end of the 150-day period, please specify the date on which it is to expire: None

7) Date Filed with the Index Department: September 27, 2018

8) A copy of these emergency rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.

9) Reason for Emergency: PA 100-673 revised the eligibility requirements for the program and was signed into law on August 3, 2018, with an immediate effective date. As a result of the immediate effective date, the rules must be updated to reflect the expanded eligibility requirements, to ensure as many eligible applicants as possible are able to apply for the program.

10) A Complete Description of the Subjects and Issues Involved: Effective August 3, 2018, the Higher Education Student Assistance Act [110 ILCS 947/60] was amended to expand the eligibility requirements for the Grant Program for Dependents of Correctional Officers to include children (rather than natural children) not yet born, legally adopted or in the legal custody of the officer or employee (rather than born) before the disability occurred in order to receive the grant. The amendment became effective immediately upon the governor's signature. Therefore, in order to be compliant with changes to the Higher Education Assistance Act, ISAC's administrative rules governing the program require the immediate revision to the eligibility requirements.

11) Are there any other rulemakings to the Part pending? No

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

12) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)] and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

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

Lynn Hynes
Agency Rules Coordinator
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield IL 60015

847/948-8500, ext. 18032
email: lynn.hynes@illinois.gov

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2731
GRANT PROGRAM FOR DEPENDENTS OF CORRECTIONAL OFFICERS

Section
2731.10 Summary and Purpose
2731.20 Applicant Eligibility
EMERGENCY
2731.30 Program Procedures
EMERGENCY
2731.40 Institutional Procedures

AUTHORITY: Implementing Section 60 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/60 and 20(f)].

SOURCE: Adopted at 9 Ill. Reg. 20780, effective January 1, 1986; transferred from Chapter IX, 23 Ill. Adm. Code 1731 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2731 (Illinois Student Assistance Commission) pursuant to P.A. 86-169, effective July 1, 1989, at 13 Ill. Reg. 17853; amended at 14 Ill. Reg. 10534, effective July 1, 1990; amended at 17 Ill. Reg. 10559, effective July 1, 1993; amended at 18 Ill. Reg. 10299, effective July 1, 1994; amended at 20 Ill. Reg. 10183, effective July 15, 1996; old Part repealed and new Part adopted at 21 Ill. Reg. 11100, effective July 18, 1997; amended at 30 Ill. Reg. 11632, effective July 1, 2006; amended at 35 Ill. Reg. 12374, effective July 15, 2011; amended at 36 Ill. Reg. 9414, effective July 1, 2012; amended at 37 Ill. Reg. 9510, effective July 1, 2013; amended at 38 Ill. Reg. 13390, effective July 1, 2014; emergency amendment at 42 Ill. Reg. 16348, effective August 7, 2018, for a maximum of 150 days; emergency amendment repealed at 42 Ill. Reg. 18517, effective September 27, 2018; emergency amendment at 42 Ill. Reg. 19098, effective September 27, 2018, for a maximum of 150 days.

Section 2731.20 Applicant Eligibility
EMERGENCY

a) A qualified applicant shall be:

1) one of the following~~either~~:

A) the natural child, legally adopted child, or child in the legal custody of a correctional officer at the time the officer was killed in the line of duty~~ or at the time a permanently disabling injury occurred in the line of duty~~; or

B) the natural child, legally adopted child, or child in the legal custody of a correctional officer at the time or after a permanently disabling injury occurred in the line of duty. Children need not be born, legally adopted, or in the legal custody of the employee before the disability occurred in order to receive this grant; or

C~~B~~) the husband or wife of a correctional officer at the time the officer was killed in the line of duty or at the time a permanently disabling injury occurred in the line of duty; and

2) a United States citizen or an eligible noncitizen; and

3) enrolled on at least a half-time basis at an institution that is approved for participation in the Monetary Award Program (MAP) (see 23 Ill. Adm. Code 2735); and

4) making satisfactory academic progress toward a degree or certificate.

b) An applicant need not be a resident of Illinois at the time of enrollment.

c) An applicant does not have to demonstrate financial need to receive this grant.

d) A spouse who remarries after a correctional officer is killed in the line of duty, or divorces a permanently disabled officer, is not eligible. Common law partners are not eligible.

e) A step-child who was not or is not in the legal custody of, or legally adopted by, a correctional officer who~~at the time the officer~~ died or sustained a permanently disabling injury in the line of duty is not eligible.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 19098, effective September 27, 2018, for a maximum of 150 days)

Section 2731.30 Program Procedures

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

EMERGENCY

a) All first-time applicants shall complete an application which includes biographical information regarding the deceased or disabled correctional officer (e.g., name, where employed, position title, date of death or disability, etc.) and the application shall be accompanied by a certified death certificate or the certified statement of a licensed physician.

1) The physician's statement must certify that there is a mental or physical condition that is reasonably certain to continue throughout the lifetime of the correctional officer, resulting in a 90% to 100% incapacity from performing substantial and material duties previously discharged.

2) Documentation must be submitted to prove that the death or disability occurred in the line of duty.

b) Once eligibility in relation to the qualifying death or disability has been established for one member of a family, it is established for all qualified applicants in the family. Thereafter, a simplified application will be required from each student on an annual basis. Also, students must indicate the institution to be attended.

c) The deadline for applications will be October 1 for consideration for all terms, March 1 for consideration for second semester/second and third quarter and summer term, and June 15 for consideration for summer term only.

d) If an application is incomplete, notice will be sent to the applicant. The applicant will then have an opportunity to furnish the missing information; however, the application will only be considered for processing as of the date it was completed and received in ISAC's Deerfield office.

e) Grants are applicable toward tuition and mandatory fees.

1) A recipient attending a public institution in Illinois shall receive a grant that shall not exceed the cost of tuition and mandatory fees at that institution. This includes the difference between in-district and out-of-district tuition.

2) A recipient attending a private institution in Illinois may receive a grant

sufficient to pay the cost of tuition and mandatory fees, provided the award does not exceed the maximum grant payable to a student enrolled in the most expensive comparable program of study at a public institution.

f) Notice of the grant award shall be sent to each recipient. Applicants not receiving awards will also be notified.

g) Benefits are limited to the full-time enrollment equivalent of eight semesters or twelve quarters of payment for undergraduate or graduate study. Recipients may accumulate up to 48 eligibility units.

1) To determine the amount of eligibility a recipient has used, credit hours (and noncredit hours for which benefits are used) will be converted to eligibility units according to the following table:

Number of Hours	Semester Term	Quarter Term
12 or more hours	6 units	4 units
6 - 11.99 hours	3 units	2 units

2) Full program benefits may be extended for one additional term if the recipient has accumulated fewer than 48 eligibility units but does not have enough units remaining for the number of hours in which he or she is enrolled for the term.

h) A student who receives a grant under this program and who is subsequently determined to be ineligible shall repay the institution the total amount of the funds received during the period in which he or she was ineligible.

i) Recipients receive payment through their institution of record.

j) If a recipient withdraws from enrollment after the expiration of the tuition refund/withdrawal adjustment period, the recipient shall receive a grant for costs incurred up to the term award provided the institution's tuition refund policy indicates the recipient had incurred such charges.

k) A recipient shall agree to notify ISAC, in writing, within 15 days of any change affecting his/her enrollment status, name or address.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

l) ISAC pays grant funds directly to the institution of record in the name of the recipient.

m) ISAC will disburse grant funds in multiple installments, depending upon the number of terms financed by the grant; except that multiple disbursements will not be required in cases where the applicant's eligibility is not determined until the final term of the academic year for which the grant is being awarded or when a student is attending only one term and the maximum award does not exceed the student's cost of attendance.

n) Grant payment is subject to the limits of dollars appropriated for this program by the General Assembly.

o) In the event that funds are insufficient to make awards to all eligible applicants, ISAC will make award determinations on the basis of the dates that the completed applications were received and the following:

1) first semester and first quarter awards will be paid, or prorated if funding is insufficient to pay all grants in full;

2) if funds remain after first semester and first quarter awards are paid, then second semester/second and third quarter awards will be paid, or prorated if funds remaining are insufficient to pay all grants in full;

3) if funds remain after second semester/second and third quarter awards are paid, summer term awards will be paid, or prorated if funding is insufficient to pay all grants in full; and

4) timely claims for the difference between in-district and out-of-district tuition for recipients who do not qualify for charge backs will be considered for payment at the same time and in the same priority order as all other timely claims, in accordance with the provisions of this subsection (o).

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 19098, effective September 27, 2018, for a maximum of 150 days)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Grant Program for Dependents of Police or Fire Officers

2) Code Citation: 23 Ill. Adm. Code 2732

3)

Section Numbers:	Emergency Actions:
2732.20	Amendment
2732.30	Amendment

4) Statutory Authority: Implementing Section 55 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/55 and 20(f)].

5) Effective Date of Rules: September 27, 2018

6) If these emergency rules are to expire before the end of the 150-day period, please specify the date on which it is to expire: None

7) Date Filed with the Index Department: September 27, 2018

8) A copy of these emergency rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.

9) Reason for Emergency: PA 100-673 revised the eligibility requirements for the program and was signed into law on August 3, 2018, with an immediate effective date. As a result of the immediate effective date, the rules must be updated to reflect the expanded eligibility requirements, to ensure as many eligible applicants as possible are able to apply for the program.

10) A Complete Description of the Subjects and Issues Involved: Effective August 3, 2018, the Higher Education Student Assistance Act [110 ILCS 947/55] was amended to expand the eligibility requirements for the Grant Program for Dependents of Police or Fire Officers to include children (rather than natural children) not yet born, legally adopted or in the legal custody of the officer or employee (rather than born) before the disability occurred in order to receive the grant. The amendment became effective immediately upon the governor's signature. Therefore, in order to be compliant with changes to the Higher Education Assistance Act, ISAC's administrative rules governing the program require the immediate revision to the eligibility requirements.

11) Are there any other rulemakings to the Part pending? No

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

12) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)] and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

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

Lynn Hynes
Agency Rules Coordinator
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield IL 60015

847/948-8500, ext. 18032
email: lynn.hynes@illinois.gov

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2732
GRANT PROGRAM FOR DEPENDENTS OF POLICE OR FIRE OFFICERS

Section
2732.10 Summary and Purpose
2732.20 Applicant Eligibility
EMERGENCY
2732.30 Program Procedures
EMERGENCY
2732.40 Institutional Procedures

AUTHORITY: Implementing Section 55 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/55 and 20(f)].

SOURCE: Adopted at 9 Ill. Reg. 20873, effective January 1, 1986; amended at 11 Ill. Reg. 3239, effective January 29, 1987; transferred from Chapter IX, 23 Ill. Adm. Code 1732 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2732 (Illinois Student Assistance Commission) pursuant to P.A. 86-169, effective July 1, 1989, at 13 Ill. Reg. 17866; amended at 14 Ill. Reg. 10585, effective July 1, 1990; amended at 17 Ill. Reg. 10620, effective July 1, 1993; amended at 18 Ill. Reg. 10342, effective July 1, 1994; amended at 20 Ill. Reg. 10191, effective July 15, 1996; old Part repealed and new Part adopted at 21 Ill. Reg. 11090, effective July 18, 1997; amended at 30 Ill. Reg. 11639, effective July 1, 2006; amended at 35 Ill. Reg. 12378, effective July 15, 2011; amended at 36 Ill. Reg. 9420, effective July 1, 2012; amended at 37 Ill. Reg. 9516, effective July 1, 2013; amended at 38 Ill. Reg. 13396, effective July 1, 2014; emergency amendment at 42 Ill. Reg. 16355, effective August 7, 2018, for a maximum of 150 days; emergency amendment repealed at 42 Ill. Reg. 18524, effective September 27, 2018; emergency amendment at 42 Ill. Reg. 19105, effective September 27, 2018, for a maximum of 150 days.

Section 2732.20 Applicant Eligibility
EMERGENCY

a) A qualified applicant shall be:

1) one of the following~~either~~:

A) the natural child, legally adopted child, or child in the legal custody of an Illinois police or fire officer at the time the officer was killed in the line of duty~~ or at the time a permanently disabling injury occurred in the line of duty~~; or

B) the natural child, legally adopted child, or child in the legal custody of an Illinois police or fire officer at the time or after a permanently disabling injury occurred in the line of duty. Children need not be born, legally adopted, or in the legal custody of the officer before the disability occurred in order to receive this grant; or

C~~B~~) the husband or wife of the Illinois police or fire officer at the time the officer was killed in the line of duty or at the time a permanently disabling injury occurred in the line of duty; and

2) a United States citizen or eligible noncitizen; and

3) enrolled on at least a half-time basis at an institution that is approved for participation in the Monetary Award Program (MAP) (see Ill. Adm. Code 2735); and

4) making satisfactory academic progress toward a degree or certificate.

b) An applicant need not be a resident of Illinois at the time of enrollment.

c) An applicant does not have to demonstrate financial need to receive this grant.

d) A spouse who remarries after an Illinois police or fire officer is killed in the line of duty, or who divorces a permanently disabled Illinois police or fire officer, is not eligible. Common law partners are not eligible.

e) A step-child who was not or is not in the legal custody of, or legally adopted by, the Illinois police or fire officer who~~at the time the officer~~ died or sustained a permanently disabling injury in the line of duty is not eligible.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 19105, effective September 27, 2018, for a maximum of 150 days)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

Section 2732.30 Program Procedures
EMERGENCY

a) All first-time applicants shall complete an application which includes biographical information regarding the deceased or disabled officer (e.g., name, where employed, position title, date of death or disability, etc.) and the application shall be accompanied by a certified death certificate or the certified statement of a licensed physician.

1) The physician's statement must certify that there is a mental or physical condition that is reasonably certain to continue throughout the lifetime of the officer, resulting in a 90% to 100% incapacity from performing substantial and material duties previously discharged.

2) Documentation must be submitted to prove that the death or disability occurred in the line of duty.

b) Once eligibility in relation to the qualifying death or disability has been established for one member of a family, it is established for all qualified applicants in the family. Thereafter, a simplified application will be required from each student on an annual basis. Also, students must indicate the institution to be attended.

c) The deadline for applications will be October 1 for consideration for all terms, March 1 for consideration for second semester/second and third quarter and summer term, and June 15 for consideration for the summer term only.

d) If an application is incomplete, notice will be sent to the applicant. The applicant will then have an opportunity to furnish the missing information; however, the application will only be considered for processing as of the date it was completed and received in ISAC's Deerfield office.

e) Grants are applicable toward tuition and mandatory fees.

1) A recipient attending a public institution in Illinois shall receive a grant that shall not exceed the cost of tuition and mandatory fees at that institution. This includes the difference between in-district and out-of-district tuition.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

2) A recipient attending a private institution in Illinois may receive a grant sufficient to pay the costs of tuition and mandatory fees, provided the award does not exceed the maximum grant payable to a student enrolled in the most expensive comparable program of study at a public institution.

f) Notice of the grant award will be sent to each recipient. Applicants not receiving awards will also be notified.

g) Benefits are limited to the full-time enrollment equivalent of eight semesters or twelve quarters of payment for undergraduate or graduate study. Recipients may accumulate up to 48 eligibility units.

1) To determine the amount of eligibility a recipient has used, credit hours (and noncredit hours for which benefits are used) will be converted to eligibility units according to the following table:

Number of Hours	Semester Term	Quarter Term
12 or more hours	6 units	4 units
6 - 11.99 hours	3 units	2 units

2) Full program benefits may be extended for one additional term if the recipient has accumulated fewer than 48 eligibility units but does not have enough units remaining for the number of hours in which he or she is enrolled for the term.

h) A student who receives a grant under this program and who is subsequently determined to be ineligible shall repay the institution the total amount of the funds received during the period in which he or she was ineligible.

i) Recipients receive payment through their institution of record.

j) If a recipient withdraws from enrollment after the expiration of the tuition refund/withdrawal adjustment period, the recipient shall receive a grant for costs incurred up to the term award provided that the institution's tuition refund policy indicates the recipient had incurred such charges.

k) A recipient shall agree to notify ISAC, in writing, within 15 days of any change

affecting his/her enrollment status, name or address.

l) ISAC pays grant funds directly to the institution of record in the name of the recipient.

m) ISAC will disburse grant funds in multiple installments, depending upon the number of terms financed by the grant; except that multiple disbursements will not be required in cases where the applicant's eligibility is not determined until the final term of the academic year for which the grant is being awarded or when a student is attending only one term and the maximum award does not exceed the student's cost of attendance.

n) Grant payment is subject to the limits of dollars appropriated for this program by the General Assembly.

o) In the event that funds are insufficient to make awards to all eligible applicants, ISAC will make award determinations on the basis of the dates that the completed applications were received and the following:

1) first semester and first quarter awards will be paid, or prorated if funding is insufficient to pay all grants in full;

2) if funds remain after first semester and first quarter awards are paid, then second semester/second and third quarter awards will be paid, or prorated if funds remaining are insufficient to pay all grants in full;

3) if funds remain after second semester/second and third quarter awards are paid, summer term awards will be paid, or prorated if funding is insufficient to pay all grants in full; and

4) timely claims for the difference between in-district and out-of-district tuition for recipients who do not qualify for charge backs will be considered for payment at the same time and in the same priority order as all other timely claims, in accordance with the provisions of this subsection (o).

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 19105, effective September 27, 2018, for a maximum of 150 days)

POLLUTION CONTROL BOARD

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENT

1) Heading of the Part: Control of Emissions from Large Combustion Sources

2) Code Citation: 35 Ill. Adm. Code 225

3) Section Number: 225.233 Proposed Action: Amendment

4) Date Notice of Proposed Amendment published in the *Illinois Register*: 41 Ill. Reg. 13299, November 3, 2017

5) Reason for the Withdrawal: The above-cited publication was authorized by the Pollution Control Board's opinion and order of October 19, 2017. See Amendments to 35 Ill. Adm. Code 225.233, Multi-Pollutant Standards (MPS). These rules are to be codified at 35 Ill. Adm. Code 225.233 and will provide certain coal-fired electric generating units owned by Vistra in central and southern Illinois with additional flexibility in complying with the Multi-Pollutant Standard (MPS) under Part 225, the Illinois mercury rule. The MPS establishes control requirements and emission standards for nitrogen oxides, sulfur dioxide, and mercury. The proposed amendments relate only to the MPS's annual and seasonal emission standards for NOx and annual standard for SO2 and would provide operational flexibility in complying with those standards while protecting air quality.

The Board's first Notice of Proposed Amendments was published November 3, 2017 at 41 Ill. Reg. 13299. Based on public comments from citizens, State legislative representatives, and units of local government, the Board made changes to the notice provisions of the rules and determined to withdraw the original first notice to allow for additional comment and hearing on the proposal.

Questions regarding this matter should reference Board Docket R18-20, and be directed to:

J. Mark Powell
Senior Attorney
Illinois Pollution Control Board
100 W. Randolph, Suite 11-500
Chicago IL 60601

312/814-6887

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of October 2, 2018 through October 8, 2018. The following rulemakings are scheduled for the November 13th meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
11/15/18	Environmental Protection Agency, Collection of Out-of-Service Mercury Thermostats (35 Ill. Adm. Code 190)	8/3/18 42 Ill. Reg. 14342	11/13/18
11/15/18	State Universities Civil Service System, State Universities Civil Service System (80 Ill. Adm. Code 250)	12/26/17 41 Ill. Reg. 15224	11/13/18
11/15/18	Department of Innovation and Technology, Mandatory Cybersecurity Training (80 Ill. Adm. Code 4000)	7/27/18 42 Ill. Reg. 14173	11/13/18
11/16/18	Department of State Police, Testing of Breath, Blood and Urine for Alcohol, Other Drugs, and Intoxicating Compounds (20 Ill. Adm. Code 1286)	8/10/18 42 Ill. Reg. 15020	11/13/18
11/16/18	Department of Public Health, Food Service Sanitation Code (New Part) (77 Ill. Adm. Code 750)	6/8/18 42 Ill. Reg. 9136	11/13/18
11/16/18	Department of Public Health, Food Service Sanitation Code (Repealer) (77 Ill. Adm. Code 750)	6/8/18 42 Ill. Reg. 9077	11/13/18

11/16/18	Department of Revenue, Use Tax (86 Ill. Adm. Code 150)	4/6/18 42 Ill. Reg. 6280	11/13/18
11/16/18	Department of Revenue, Liquor Control Act (86 Ill. Adm. Code 420)	6/1/18 42 Ill. Reg. 8755	11/13/18
11/16/18	Department of Revenue, Cigarette Tax Act (86 Ill. Adm. Code 440)	6/1/18 42 Ill. Reg. 8777	11/13/18
11/16/18	Department of Revenue, Cigarette Use Tax Act (86 Ill. Adm. Code 450)	6/1/18 42 Ill. Reg. 8789	11/13/18
11/17/18	Illinois Liquor Control Commission, The Illinois Liquor Control Commission (11 Ill. Adm. Code 100)	5/4/18 42 Ill. Reg. 7735	11/13/18
11/18/18	Pollution Control Board, Water Use Designations and Site-Specific Water Quality Standards (35 Ill. Adm. Code 303)	8/10/18 42 Ill. Reg. 14468	11/13/18

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