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March 8, 2019 Volume 43, Issue 10

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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 2019

Issue#	Rules Due Date	Date of Issue
1	December 26, 2018	January 4, 2019
2	December 31, 2018	January 11, 2019
3	January 7, 2019	January 18, 2019
4	January 14, 2019	January 25, 2019
5	January 22, 2019	February 1, 2019
6	January 28, 2019	February 8, 2019
7	February 4, 2019	February 15, 2019
8	February 11, 2019	February 22, 2019
9	February 19, 2019	March 1, 2019
10	February 25, 2019	March 8, 2019
11	March 4, 2019	March 15, 2019
12	March 11, 2019	March 22, 2019
13	March 18, 2019	March 29, 2019
14	March 25, 2019	April 5, 2019
15	April 1, 2019	April 12, 2019
16	April 8, 2019	April 19, 2019
17	April 15, 2019	April 26, 2019
18	April 22, 2019	May 3, 2019
19	April 29, 2019	May 10, 2019
20	May 6, 2019	May 17, 2019
21	May 13, 2019	May 24, 2019
22	May 20, 2019	May 31, 2019

23	May 28, 2019	June 7, 2019
24	June 3, 2019	June 14, 2019
25	June 10, 2019	June 21, 2019
26	June 17, 2019	June 28, 2019
27	June 24, 2019	July 5, 2019
28	July 1, 2019	July 12, 2019
29	July 8, 2019	July 19, 2019
30	July 15, 2019	July 26, 2019
31	July 22, 2019	August 2, 2019
32	July 29, 2019	August 9, 2019
33	August 5, 2019	August 16, 2019
34	August 12, 2019	August 23, 2019
35	August 19, 2019	August 30, 2019
36	August 26, 2019	September 6, 2019
37	September 3, 2019	September 13, 2019
38	September 9, 2019	September 20, 2019
39	September 16, 2019	September 27, 2019
40	September 23, 2019	October 4, 2019
41	September 30, 2019	October 11, 2019
42	October 7, 2019	October 18, 2019
43	October 15, 2019	October 25, 2019
44	October 21, 2019	November 1, 2019
45	October 28, 2019	November 8, 2019
46	November 4, 2019	November 15, 2019
47	November 12, 2019	November 22, 2019
48	November 18, 2019	December 2, 2019
49	November 25, 2019	December 6, 2019
50	December 2, 2019	December 13, 2019
51	December 9, 2019	December 20, 2019
52	December 16, 2019	December 27, 2019

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Standard, Thoroughbred and Quarter Horse Breeding and Racing Program, Illinois
- 2) Code Citation: 8 Ill. Adm. Code 290
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
290.10	Amendment
290.50	Amendment
290.67	Amendment
290.85	Amendment
290.90	Amendment
290.190	Amendment
290.200	Amendment
- 4) Statutory Authority: Implementing and authorized by the Illinois Horse Racing Act of 1975 [230 ILCS 5/30, 31, and 33.1].
- 5) A Complete Description of the Subjects and Issues Involved: These proposed rule amendments remove the requirement to file a report with the Department of Agriculture when transported fresh semen from an Illinois-Certified stallion is used to inseminate a mare. Also, it allows semen to be transported outside of Illinois but specifies that said foal(s) would not be eligible for registration as an Illinois conceived and foaled horse. These adopted rules also allow the Department of Agriculture to mail a Jockey Club Certificate by using a mail delivery system with tacking capabilities, not solely registered mail.
- 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: It does not create or expand a State mandate under the State Mandates Act [30 ILCS 805].

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

- 12) Time, Place and Manner in which interested persons may comment on this rulemaking:
A 45-day written comment period will begin on the day the Notice of Proposed Amendment appears in the *Illinois Register*. Please mail written comments on the proposed rulemaking to the attention of:
- Pamela Harmon
Illinois Department of Agriculture
State Fairgrounds, P. O. Box 19281
Springfield IL 62794-9281
- 217/524-6905
fax: 217/785-4505
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: There is no adverse impact to small business.
- 15) Regulatory agency on which this rulemaking was summarized: This rulemaking was not summarized in a regulatory agenda but is necessary in the judgment of Acting Director John M. Sullivan.

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

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER I: HORSE RACING AND BREEDINGPART 290
STANDARD BRED, THOROUGHBRED AND QUARTER HORSE
BREEDING AND RACING PROGRAMS, ILLINOISSUBPART A: RULES RELATING TO
ILLINOIS STANDARD BRED, THOROUGHBRED AND QUARTER
HORSE BREEDING AND RACING PROGRAMS

Section	
290.10	Purpose and Definitions
290.12	Incorporation by Reference
290.15	Trust Funds; Nominating, Sustaining and Entry Fees
290.20	Operating Plan and Official Budget; Standardbred, Thoroughbred and Racing Quarter Horse Breeders Fund Programs and Monies Distribution Schedule

SUBPART B: STANDARD BRED DIVISION

Section	
290.50	Stallion Certification Requirements
290.55	Certification of Stallion for First Time or Under New Ownership Before Offering Service
290.60	Renewal Application for Offering or Standing Stallion for Service
290.65	Breeding Record of Stallion – Record of Mares Bred
290.67	Requirements for Transported Fresh Semen of a Certified Stallion
290.70	Stallion Siring Foal Must Qualify In Order For Foal to be Eligible for Registration as an Illinois Conceived and Foaled Horse (Repealed)
290.75	Notification if Certified Stallion is Moved
290.77	Notification of Sale or Transfer of Ownership of Certified Stallion
290.78	Stallion Eligibility Certificate
290.80	Stallion Qualification Procedures (Repealed)
290.85	Qualifications for Illinois Conceived and Foaled Standardbred Horses
290.90	Registration for Illinois Conceived and Foaled Horses
290.95	Standardbred Breeders Awards
290.100	Grandfather Rights of Standardbred Horses Registered Under the Illinois Harness Racing Act (Repealed)

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- 290.105 Standardbred Racing at County Fairs or Other Venues
290.110 Illinois Conceived and Foaled Standardbred Races at the Illinois State Fair and DuQuoin State Fair

SUBPART C: THOROUGHBRED DIVISION

- Section
290.150 Stallion Certification Requirements
290.155 Certification of Stallion for First Time or Under New Ownership Before Offering Service
290.160 Renewal Application for Offering or Standing Stallion for Service
290.165 Breeding Record of Stallion – Record of Mares Bred
290.170 Stallion Siring Foal Must Qualify In Order For Foal to be Eligible for Registration as an Illinois Conceived and Foaled Horse (Repealed)
290.175 Notification if Certified Stallion is Moved
290.177 Notification of Sale or Transfer of Ownership of Certified Stallion
290.178 Stallion Eligibility Certificate
290.180 Stallion Qualification Procedures (Repealed)
290.185 Qualifications for Illinois Conceived and Foaled Thoroughbred Horses
290.190 Registration for Illinois Conceived and Foaled Horses
290.195 Qualifications for Illinois Foaled Thoroughbred Horses
290.200 Registration for Illinois Foaled Thoroughbred Horses
290.205 Grandfather Rights of Thoroughbred Horses Registered Under the Illinois Horse Racing Act (Repealed)
290.210 Thoroughbred Stallion Owners Awards
290.215 Illinois Conceived and Foaled Thoroughbred Racing at County Fairs

SUBPART D: QUARTER HORSE DIVISION

- Section
290.220 Stallion Certification Requirements
290.225 Certification of Stallion for First Time or Under New Ownership Before Offering Service
290.230 Renewal Application for Offering or Standing Stallion for Service
290.235 Breeding Record of Stallion – Record of Mares Bred
290.240 Requirements for Transported Fresh Semen of a Certified Stallion
290.245 Notification if Certified Stallion is Moved
290.250 Notification of Sale or Transfer of Ownership of Certified Stallion
290.255 Stallion Eligibility Certificate

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NOTICE OF PROPOSED AMENDMENTS

- 290.260 Qualifications for Illinois Conceived and Foaled Quarter Horses
290.265 Registration for Illinois Conceived and Foaled Horses
290.270 Quarter Horse Racing at County Fairs or Other Locations
290.275 Illinois Conceived and Foaled Quarter Horse Races at the Illinois State Fair and DuQuoin State Fair
290.280 Quarter Horse Racing at Illinois Pari-mutuel Racetracks

AUTHORITY: Implementing and authorized by Sections 30, 30.5 and 31 of the Illinois Horse Racing Act of 1975 [230 ILCS 5/30, 30.5 and 31].

SOURCE: Rules and Regulations Relating to the Illinois Standardbred and Thoroughbred Horse Breeding and Racing Programs, filed October 13, 1976, effective October 23, 1976; filed December 21, 1977, effective January 1, 1978; 3 Ill. Reg. 26, page 164, effective June 28, 1979; 4 Ill. Reg. 25, page 88, effective June 4, 1980; codified at 5 Ill. Reg. 10544; amended at 12 Ill. Reg. 14515, effective September 6, 1988; amended at 15 Ill. Reg. 5207, effective April 1, 1991; amended at 25 Ill. Reg. 7679, effective June 8, 2001; amended at 28 Ill. Reg. 11132, effective July 23, 2004; amended at 43 Ill. Reg. _____, effective _____.

SUBPART A: RULES RELATING TO
ILLINOIS STANDARDBRED, THOROUGHBRED AND QUARTER
HORSE BREEDING AND RACING PROGRAMS

Section 290.10 Purpose and Definitions

- a) Purpose
The purpose of this Part is to establish the standards the Department of Agriculture will use in determining that a foal qualifies as an Illinois conceived and foaled standardbred, thoroughbred or quarter horse or Illinois foaled thoroughbred for the purpose of eligibility for races with purses supplemented through Standardbred, Thoroughbred and Racing Quarter Horse Breeders Fund Programs.
- b) Definitions
~~As used in this Part, unless otherwise required by the context, the singular form shall also impart the plural and vice versa.~~

"Act" means the Illinois Horse Racing Act of 1975 [230 ILCS 5].

"Administrator" means an employee of the Department responsible for the

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administration of the Illinois Standardbred Breeders Program, Illinois Thoroughbred Breeders Program and Illinois Quarter Horse Breeders Program.

"Breeder" – In the Standardbred Breeders Program and the Quarter Horse Breeders Program, "breeder" means the owners of the mare (dam) at the time of conception. In the Thoroughbred Breeders Program, "breeder" means the owners of the mare (dam) at the time of foaling.

"Conceived" – A horse is conceived at the place where the mare (dam) is bred.

"Department" or "Department of Agriculture" means the [Illinois](#) Department of Agriculture ~~of the State of Illinois~~.

"Director" means the Director of the [Illinois](#) Department of Agriculture ~~of the State of Illinois~~.

"Foaled" – A horse is foaled at its place of birth.

"Illinois ~~Resident~~[resident](#)" means:

An individual who is physically present in the State of Illinois with the intention to remain and is considered to be a resident by the Illinois Department of Revenue or Illinois Secretary of State.

A partnership, joint venture, limited partnership, limited liability company or other syndicate or association shall qualify as an Illinois resident provided all of the individual members and/or beneficiaries qualify individually as residents of the State of Illinois. The Articles of Agreement of any one of these types of entities must contain a restriction ~~that provides~~ that the ownership or transfer of interest by any one of the persons party to the agreement can only be made to a person who qualifies as an Illinois resident.

A corporation shall be considered an Illinois resident if:

it is incorporated in Illinois;⁵

all incorporators, directors, officers, and stockholders qualify individually as residents of the State of Illinois;⁵ and

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the bylaws and stock certificates of the corporation contain a restrictive stock transfer agreement that provides for ownership or transfer of the stock only to persons who qualify as ~~an~~ Illinois ~~residents~~ resident.

"Investigator" means an employee of the Department who is authorized to conduct investigations for the Department relative to those Sections of the Horse Racing Act of 1975 ~~that~~ which are under the jurisdiction of the Department of Agriculture and such other duties as assigned by the Director.

"Lessee", for the purposes of Subpart B, means a resident of the State of Illinois who contracts with an Illinois resident who owns a certified stallion (see Sections 290.55 and 290.60) to stand that stallion within the State of Illinois. For purposes of Subparts C and D, a lessee and owner are not required to be Illinois residents.

"Standardbred ~~Horse~~horse" means a horse registered or eligible to be registered by the United States Trotting Association.

"Thoroughbred ~~Horse~~horse" means a horse registered or eligible to be registered by the Jockey Club.

"Timely ~~Filed~~filed" – All official documents, reports or similar forms are considered to be timely filed if they are ~~either~~ delivered to the Department on or before the date due or postmarked on or before the date due.

"Quarter ~~Horse~~horse" means a horse registered or eligible to be registered by the American Quarter Horse Association.

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

SUBPART B: STANDARDBRED DIVISION

Section 290.50 Stallion Certification Requirements

- a) All standardbred stallions standing for service in Illinois must be certified annually with the Department for foals of the stallions to be registered in the Illinois Standardbred Breeders Fund Program and to be eligible to race in races restricted to Illinois conceived and foaled horses.

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- b) No person shall knowingly prepare or cause to be prepared an application for certification containing false information. Any false information shall be grounds for denying an Illinois Stallion Eligibility Certificate and/or cancellation of an Illinois Stallion Eligibility Certificate.
- c) No stallion can be certified as an Illinois stallion by a person who does not meet the residency requirement set forth in Section 290.10. To be certified as an Illinois stallion:
- 1) the stallion shall be owned by a resident of the State of Illinois and stand for service within the State of Illinois at the time of a foal's conception;
 - 2) the stallion must not stand for service at any place outside of the State of Illinois during the calendar year in which the foal is conceived; and
 - 3) the owners of the stallion must be, or must have been for the 12 months prior, residents of Illinois.
- d) ~~Semen from an Illinois certified stallion may be shipped for immediate use to other locations within the State, but cannot be shipped to locations outside the State of Illinois during the calendar year for which the stallion is certified.~~

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

Section 290.67 Requirements for Transported Fresh Semen of a Certified Stallion

- a) Rules Applicable Beginning January 1, 2022
- 1) Semen from an Illinois-certified stallion may be transported within the State for the purpose of inseminating a mare or mares within the State but cannot be transported outside the State. ~~b)The mare owners or their authorized representative must file a Transported Fresh Semen Report with the Department, within 10 days after insemination, indicating the insemination dates, the insemination site, a description of the mare, the ownership of the mare, and the name of the person who performed the insemination. Subsequent inseminations utilizing transported fresh semen must be reported as required by this subsection.~~

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- 2e) The mare must be in the State at the time of conception, and ~~that~~^{such} fact will be verified by a Department employee.
- 3d) The stallion owners or their authorized representative must indicate on the Record of Mares Bred (see Section 290.65) all mares artificially inseminated with transported fresh semen.
- b) Rules Applicable from January 1, 2018 Through December 31, 2021
- 1) Semen from an Illinois stallion may be transported outside of the State and the resultant foals will be eligible for registration as Illinois conceived and foaled horses as provided in Section 31(j) of the Act.
- 2) The mare (dam) need not be inseminated in Illinois or be in Illinois when the foal is dropped and 30 days before or after the foaling.

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

Section 290.85 Qualifications for Illinois Conceived and Foaled Standardbred Horses

- a) A horse, to be qualified for the Illinois Standardbred Breeders Fund Program and for races restricted to Illinois conceived and foaled horses, must meet the following requirements:
- 1) Except as provided in the Act, an~~A~~ Illinois conceived and foaled horse is a foal born in this State and sired by a certified Illinois stallion standing for service within this State at the time of the foal's conception; and
- 2) Except as provided in the Act, a~~A~~ mare (dam) of an Illinois conceived and foaled horse must be in the State a total of 30 consecutive days that includes the foaling date.
- b) Embryo Transfer
- 1) Foals produced by embryo transfer procedures will be eligible for the Illinois Standardbred Breeders Fund Program and qualified for races restricted to Illinois conceived and foaled horses, provided all of the following requirements have been satisfied:

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- A) the donor mare was at least three years old at the time of the conception;
 - B) conception of the donor mare occurred within the State;
 - C) the foal was sired by a certified Illinois stallion standing for service within this State at the time of the foal's conception;
 - D) prior to the embryo transplant, the donor mare owner or his or her authorized representative contacted and advised the ~~Department's Illinois Department of Agriculture's~~ Horse Racing Program of the embryo transplant;
 - E) the Department received from the donor mare owner, prior to the embryo transplant, a signed statement from a veterinarian licensed to practice in Illinois indicating that the veterinarian believes that it is unlikely the donor mare can carry the embryo to a successful birth;
 - F) after the embryo transplant was performed, the donor mare owner or his or her authorized representative provided to the ~~Department's~~ Horse Racing Program all information concerning markings, identity and location of the recipient mare;
 - G) the recipient mare was identified by a Department equine investigator at an Illinois location prior to foaling;
 - H) the birth of the foal by the recipient mare occurred within the State; and
 - I) the recipient mare was in the State a total of 30 consecutive days that includes the foaling date.
- 2) Only the first living foal of a donor mare produced by embryo transplant in a calendar year shall be eligible to participate in the Illinois Standardbred Breeders Fund Program each year. Notwithstanding any provision of this Section to the contrary, the registration with the United States Trotting Association of any additional foal produced by the donor mare by embryo transplant during that year will void the eligibility of all

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foals produced by the donor mare by embryo transplant for the Illinois Standardbred Breeders Fund Program for that year.

- c) Any foal produced by cloning will not be eligible for registration with the Illinois Standardbred Breeders Fund Program.

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

Section 290.90 Registration for Illinois Conceived and Foaled Horses

- a) An application for foal registration for an Illinois conceived and foaled standardbred foal must be filed with the Department within 10 days after foaling. The application shall be made on forms provided by the Department. The forms shall be completed by the owners of the foal or their authorized representative and that person shall provide all the information required. Except as provided in the Act, ~~the~~ foal must remain in the State until it has been identified by a Department representative or until written notice that the foal application has been accepted and the foal registration is issued by the Department.
- b) Procedures for Registration of Illinois Conceived and Foaled Standardbreds:
- 1) The owners of the foal, or their authorized representative, shall complete an application for foal registration showing the name of the mare (dam), the name of the sire, the date and location of foaling, and the color, sex and markings of the foal.
 - 2) If the foal has met all the requirements for registration, a Foal Eligibility Registration Certificate will be issued.
 - 3) In the event of a sale or transfer of ownership of a standardbred foal registered with the Department, the transfer of ownership shall be executed on the front of the Foal Eligibility Registration Certificate for the foal and the endorsed certificate forwarded to the Department. A new certificate will be issued to the new owners.
- c) The Department shall impose monetary penalties, as prescribed by Section 40 of the Act ~~in accordance with 230 ILCS 5/40~~, for the late filing of an application for foal registration.

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

SUBPART C: THOROUGHBRED DIVISION

Section 290.190 Registration for Illinois Conceived and Foaled Horses

- a) An application for foal registration for an Illinois conceived and foaled thoroughbred foal must be filed with the Department within 10 days after foaling. The application shall be made on forms provided by the Department. The forms shall be completed by the owners of the foal or their authorized representative and that person shall provide all the information required. The foal must remain in the State until it has been identified by a Department representative or until written notice that the foal application has been accepted and the foal registration is issued by the Department.
- b) Procedures for Registration of Illinois Conceived and Foaled Thoroughbreds:
 - 1) The owners of the foal, or their authorized representative, shall complete an application for foal registration showing the name of the mare (dam), the name of the sire, the date and location of foaling, and the color, sex and markings of the foal.
 - 2) To complete the official registration of an Illinois conceived and foaled horse, the owners or their authorized representative must forward the Jockey Club Certificate to the Department. If the horse has met all of the requirements for registration, the Illinois official seal shall be affixed on the face of the Jockey Club Certificate. The seal shall include the Illinois registration number for that horse.
 - A) The Jockey Club Certificate with the Illinois registration number will be the official registration certificate for the Illinois Thoroughbred Conceived and Foaled Program. The Jockey Club Certificate with the Department seal shall be returned to the owner of the horse by [a mail delivery system that includes tracking capabilities](#)~~registered mail~~.
 - B) If the Jockey Club Certificate is lost, ~~or~~ destroyed or replaced, the duplicate Jockey Club Certificate for the horse must receive a new Department seal to be valid for the Illinois Conceived and Foaled

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Program.

- c) The Department shall impose monetary penalties, [as prescribed by Section 40 of the Act in accordance with 230 ILCS 5/40](#), for the late filing of an application for foal registration.

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

Section 290.200 Registration for Illinois Foaled Thoroughbred Horses

- a) An application for foal registration for an Illinois foaled thoroughbred foal must be filed with the Department within 10 days after foaling. The application shall be made on forms provided by the Department. The forms shall be completed by the owners of the foal or their authorized representative and ~~that such~~ person shall provide all the information required. The foal must remain in the State until it has been identified by a Department representative or until written notice that the foal application has been accepted and the foal registration is issued.
- b) Procedures for Registration of Illinois Foaled Thoroughbreds-
- 1) The owners of the foal, or their authorized representative, shall complete an application for foal registration showing the name of the mare (dam), the name of the sire, the date of foaling, and the color, sex and markings of the foal.
 - 2) To complete the official registration of an Illinois foaled horse, the owners or their authorized representative must forward the Jockey Club Certificate to the Department. If the horse has met all the requirements for registration, the Illinois official seal shall be affixed on the face of the Jockey Club Certificate. The seal shall include the Illinois registration number for the horse.
 - A) The Jockey Club Certificate with the Illinois registration number will be the official registration certificate for the Illinois Foaled Thoroughbred Program. The Jockey Club Certificate with the Department seal shall be returned to the owner of the horse by [a mail system that includes tracking capabilities](#)~~registered mail~~.
 - B) If the Jockey Club Certificate is lost~~, or~~ destroyed or replaced, the

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duplicate Jockey Club Certificate for that horse must receive a new Department seal to be valid for the Illinois Foaled Thoroughbred Program.

- c) The Department shall impose monetary penalties, [as prescribed by Section 40 of the Act in accordance with 230 ILCS 5/40](#), for the late filing of an application for foal registration.

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

OFFICE OF THE ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Hospital Financial Assistance under the Fair Patient Billing Act
- 2) Code Citation: 77 Ill. Adm. Code 4500
- 3) Section Number: 4500.APPENDIX A Proposed Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Section 27 of the Fair Patient Billing Act [210 ILCS 88/27].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking amends Appendix A of the current rules to reflect the 2019 poverty guidelines published by the United States Department of Health and Human Services (DHHS) in the Federal Register on February 1, 2019.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: No studies or reports were used to compose this rulemaking.
- 7) Will this rulemaking replace an 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 under the State Mandates Act [30 ILCS 805].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following the publication of this Notice. All written comments filed within 45 days after the date of publication of this Notice will be considered. Comments should be submitted to:

Lynn Patton
Rules Coordinator
Office of the Attorney General
500 South Second Street

or

David F. Buysse
Deputy Chief, Public Interest Division
Office of the Attorney General
100 West Randolph Street, 12th Floor

OFFICE OF THE ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENT

Springfield IL 62701

Chicago IL 60601

217/524-1504

312/814-7236

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking may affect small municipalities and not-for-profit corporations that operate hospitals in Illinois by requiring the modification of their forms to reflect the updated federal poverty income guideline information.
 - B) Reporting, bookkeeping or other procedures required for compliance: None beyond those already required of hospitals.
 - C) Types of professional skills necessary for compliance: None beyond those already required for personnel engaged in hospital billing operations.
- 14) Small Business Impact Analysis: No impact
- 15) Regulatory Agenda on which this rulemaking was summarized: January 2019

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

OFFICE OF THE ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENT

TITLE 77: PUBLIC HEALTH
CHAPTER XVIII: OFFICE OF THE ATTORNEY GENERAL

PART 4500
HOSPITAL FINANCIAL ASSISTANCE
UNDER THE FAIR PATIENT BILLING ACT

Section

- 4500.10 Definitions
- 4500.20 Referenced Materials
- 4500.30 Hospital Financial Assistance Application Requirements
- 4500.40 Presumptive Eligibility Criteria
- 4500.50 Hospital Financial Assistance Electronic and Information Technology
- 4500.60 Hospital Financial Assistance Reporting Requirements

4500.APPENDIX A [20192018](#) Poverty Income Guidelines

AUTHORITY: Implementing and authorized by Section 27 of the Fair Patient Billing Act [210 ILCS 88].

SOURCE: Adopted at 37 Ill. Reg. 12536, effective July 22, 2013; amended at 38 Ill. Reg. 20263, effective October 10, 2014; amended at 39 Ill. Reg. 10751, effective July 27, 2015; amended at 40 Ill. Reg. 7900, effective May 18, 2016; amended at 41 Ill. Reg. 10653, effective August 4, 2017; amended at 42 Ill. Reg. 13615, effective June 29, 2018; amended at 43 Ill. Reg. _____, effective _____.

OFFICE OF THE ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENT

Section 4500.APPENDIX A ~~2019~~2018 Poverty Income Guidelines2019~~2018~~ HEALTH AND HUMAN SERVICES POVERTY GUIDELINES

Persons in Family	Poverty Guideline
1	<u>\$12,490</u> 12,140
2	<u>\$16,910</u> 16,460
3	<u>\$21,330</u> 20,780
4	<u>\$25,750</u> 25,100
5	<u>\$30,170</u> 29,420
6	<u>\$34,590</u> 33,740
7	<u>\$39,010</u> 38,060
8	<u>\$43,430</u> 42,380
For additional persons, add	<u>\$ 4,420</u> 4,320

NOTE: See ~~8483~~ Fed. Reg. ~~11672642~~ through ~~11682644~~ (~~February 1, 2019~~January 18, 2018).

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

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: The Travel Regulation Council
- 2) Code Citation: 80 Ill. Adm. Code 3000
- 3) Section Number: 3000.APPENDIX A Proposed Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 12-1, 12-2 and 12-3 of the State Finance Act [30 ILCS 105/12-1, 12-2 and 12-3].
- 5) A Complete Description of the Subjects and Issues Involved: This change brings the rules governing reimbursement of travel expenses to State employees into alignment with recent changes implemented by the Travel Control Board.
- 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 proposed amendment neither creates nor expands any State mandate on units of local government, school districts or community college districts.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after the date of publication to:

Kelley Wells
State Travel Coordinator
Governor's Travel Control Board
100 E. Converse
Springfield IL 62702

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

217/782-4705

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: There is no discernable impact on small business.
- 15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on the Agency's regulatory agendas because it was not anticipated.

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

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE I: GENERAL TRAVEL CONTROL
CHAPTER IV: TRAVEL REGULATION COUNCIL

PART 3000
THE TRAVEL REGULATION COUNCIL

SUBPART A: GENERAL

Section	
3000.100	Authority
3000.110	Philosophy
3000.120	Policy
3000.130	Scope and Interpretation
3000.140	Definitions

SUBPART B: TRAVEL CONTROL SYSTEM

Section	
3000.200	Travel Control System
3000.210	Designation of Headquarters
3000.220	Expenses at Headquarters or Residence
3000.230	Preparation and Submission of Vouchers or Travel Expenses

SUBPART C: TRANSPORTATION

Section	
3000.300	Modes of Transportation
3000.310	Routing

SUBPART D: LODGING

Section	
3000.400	Lodging Allowances
3000.410	Least Costly Lodging
3000.420	Conference Lodging
3000.430	Employee Owned or Controlled Housing

SUBPART E: PER DIEM/MEALS

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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Section

3000.500 Per Diem Allowance
3000.510 Meal Allowance

SUBPART F: MISCELLANEOUS RULES

Section

3000.600 Reimbursable and Non-Reimbursable Expenses
3000.610 Expenses Related to Transportation
3000.620 Receipts Required
3000.630 Meals for Other Persons

SUBPART G: EXCEPTIONS

Section

3000.700 Exceptions to the Rules
3000.710 Board/Agency Rules
3000.720 Non/Required Travel

3000.APPENDIX A Reimbursement Schedule

AUTHORITY: Implementing and authorized by Sections 12-1, 12-2 and 12-3 of the State Finance Act [30 ILCS 105].

SOURCE: Emergency rules adopted at 10 Ill. Reg. 12697, effective July 2, 1986, for a maximum of 150 days; adopted at 10 Ill. Reg. 18188, effective January 1, 1987; preemptory amendment at 11 Ill. Reg. 14854, effective August 25, 1987; amended at 12 Ill. Reg. 11626, effective July 1, 1988; amended at 14 Ill. Reg. 10014, effective July 1, 1990; amended at 19 Ill. Reg. 7852, effective July 1, 1995; amended at 20 Ill. Reg. 7372, effective May 13, 1996; amended at 20 Ill. Reg. 9025, effective July 1, 1996; amended at 21 Ill. Reg. 8899, effective July 1, 1997; amended at 22 Ill. Reg. 11713, effective July 1, 1998; emergency amendment at 23 Ill. Reg. 11332, effective August 27, 1999, for a maximum of 150 days; amended at 24 Ill. Reg. 245, effective December 27, 1999; emergency amendment at 24 Ill. Reg. 861, effective January 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 1908, effective January 2, 2000; amended at 24 Ill. Reg. 7737, effective May 9, 2000; amended at 26 Ill. Reg. 14985, effective October 8, 2002; emergency amendment at 27 Ill. Reg. 557, effective January 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 8551, effective May 12, 2003; amended at 27 Ill.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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Reg. 9990, effective July 1, 2003; amended at 37 Ill. Reg. 4383, effective March 22, 2013;
amended at 43 Ill. Reg. _____, effective _____.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

Section 3000.APPENDIX A Reimbursement Schedule

The following rates are effective for the Travel Control Boards. The rates will be reviewed annually to determine necessary adjustments.

<u>Type of Reimbursement</u>	<u>Rate</u>
<u>Mileage</u>	
Auto	See Section 3000.300(f)(2)
Plane	See Section 3000.300(g)(2)
<u>Per Diem/Meals</u>	
Within the State of Illinois	
Breakfast	\$ 5.50
Lunch	\$ 5.50
Dinner	\$ 17.00
Per Diem – Quarter	\$ 7.00
Per Diem – Day	\$ 28.00
Outside the State of Illinois	
Breakfast	\$ 6.50
Lunch	\$ 6.50
Dinner	\$ 19.00
Per Diem – Quarter	\$ 8.00
Per Diem – Day	\$ 32.00
<u>Lodging</u>	
Chicago Metro	
County of Cook	See Section 3000.400(b)
Counties of DuPage, Kane, Lake, McHenry, and Will	\$ 95.00 80.00
Downstate Illinois	
Counties of Champaign, Kankakee, LaSalle, McLean, Macon, Madison, Peoria, Rock	\$ 85.00 70.00

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Island, St. Clair, Sangamon, Tazewell, and Winnebago

All other Downstate counties \$ ~~75.00~~60.00

Out-of-State

District of Columbia (includes the cities of Alexandria, Falls Church, and Fairfax, and the counties of Arlington, Loudoun, and Fairfax in Virginia; and the counties of Montgomery and Prince George's in Maryland) See Section 3000.400(b)

All other Out-of-State \$110.00

Out-of-Country Actual Reasonable

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

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: The Waiver of Filing and the Approval of Certain Contracts and Arrangements with Affiliated Interests (General Order 174)
- 2) Code Citation: 83 Ill. Adm. Code 310
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
310.10	Amendment
310.40	Amendment
310.50	Amendment
310.60	Amendment
310.70	Amendment
- 4) Statutory Authority: Implementing Section 7-101 and authorized by Sections 4-101 and 7-205 of the Public Utilities Act [220 ILCS 5/7-101, 4-101 and 7-205].
- 5) A Complete Description of the Subjects and Issues Involved: Part 310 governs the circumstances in which the Commission waives the filing and approval requirements for affiliate contracts and arrangements as contemplated by Section 7-101 of the Public Utilities Act [220 ILCS 5/7-101]. The proposed changes would update statutory references and citations in the rules and would provide greater flexibility in communicating with customers. Also, the proposed amendments would accommodate the use of electronic alternatives to publication by newspaper for the competitive bidding process. The proposed amendments would change Section 310.10, Routine Banking Transactions, Section 310.40, Transactions Under Contracts in Existence on July 10, 1993, Section 310.50, Service Agreements with Affiliated Natural Gas Companies for Natural Gas Service at Filed Rates, Section 310.60, Contracts with Affiliated Interests Which Need Not be Filed or Approved, and Section 310.70, Rules Governing Competitive Bidding.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an 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

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- 11) Statement of Statewide Policy Objective: The proposed rulemaking neither creates nor expands any State mandate on units of local government, school districts, or community college districts.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments should be filed, within 45 days after the date of this issue of the *Illinois Register*, in Docket No. 19-0033 with:

Elizabeth Rolando, Chief Clerk
Illinois Commerce Commission
527 East Capitol Avenue
Springfield IL 62701

217/782-7434
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking will affect any subject jurisdictional entities that are also small businesses as defined in the Illinois Administrative Procedure Act. This rulemaking will not affect any small municipalities or not-for-profit corporations.
 - B) Reporting, bookkeeping or other procedures required for compliance:
Bookkeeping and filing procedures
 - C) Types of professional skills necessary for compliance: Managerial and accounting skills
- 14) Small Business Impact Analysis: There will be no adverse impact on small businesses.
- 15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because: The Commission did not anticipate the need for this rulemaking at that time.

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

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER b: PROVISIONS APPLICABLE TO
MORE THAN ONE KIND OF UTILITYPART 310
THE WAIVER OF FILING AND THE APPROVAL OF CERTAIN CONTRACTS
AND ARRANGEMENTS WITH AFFILIATED INTERESTS
(GENERAL ORDER 174)

Section	
310.10	Routine Banking Transactions
310.20	Revolving Loan Fund for Employees
310.30	Compromises or Settlements with Customers in Financial Difficulties
310.40	Transactions Under Contracts in Existence on July 10, 1933
310.50	Service Agreements with Affiliated Natural Gas Companies for Natural Gas Service at Filed Rates
310.60	Contracts with Affiliated Interests Which Need Not be Filed or Approved
310.70	Rules Governing Competitive Bidding
310.80	Applicability

AUTHORITY: Implementing Section 7-101 and authorized by Sections 4-101 and 7-205 of the Public Utilities Act [220 ILCS 5].

SOURCE: Effective December 20, 1955; codified at 8 Ill. Reg. 13658; amended at 43 Ill. Reg. _____, effective _____.

Section 310.10 Routine Banking Transactions

The opening of bank accounts, deposit of monies in ~~those~~ accounts, the withdrawal of monies from ~~those~~ accounts by checks, drafts, bills of exchange or otherwise, the making of time deposits with banks, the purchase from banks, at not to exceed prevailing market prices, of obligations of the United States maturing not more than five years ~~after the purchase~~ thereafter, the sale to banks of ~~such~~ obligations of the United States at not less than prevailing market prices, and the making use of routine custodial and handling services of banks with respect to securities at not to exceed standard charges, all in the ordinary course of business, are not considered to be contracts or arrangements within the purview of ~~the provisions of~~ Section 7-101 of the Public Utilities Act-8a.

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

Section 310.40 Transactions Under Contracts in Existence on July 10, 1933

Approval by the Commission of particular transactions under any contract or arrangement of the character described in ~~subparagraph (3) of~~ Section ~~7-101(3)8a~~ of ~~thesaid~~ Act shall not be required ~~when thewhere such~~ contract or arrangement was in existence on July 10, 1933; or ~~when thewhere such~~ contract or arrangement shall have been filed with and approved by the Commission subsequent to ~~thatsueh~~ date. ~~Each; but each~~ utility shall keep accurate records relating to ~~thesesueh~~ transactions, which ~~records~~ shall be open to inspection by the Commission. ~~Nothing in this Section, provided that nothing herein contained~~ shall be construed as an approval, for any purpose ~~whatever~~, of any contracts existing on July 10, 1933.

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

Section 310.50 Service Agreements with Affiliated Natural Gas Companies for Natural Gas Service at Filed Rates

Approval by the Commission shall not be required for the execution and performance by an Illinois utility of a service agreement (~~as defined in Par. 154.13 of the Rules and Regulations of the Federal Power Commission~~) with an affiliated natural gas company (as defined in ~~section~~Section 2(6) of the ~~federal~~ Natural Gas Act (15 USC 717a(6)), when ~~thesueh~~ service agreement is substantially in the form filed by ~~thesaid~~ natural gas company (~~as directed by 18 CFR 154.110 (August 3, 2016))~~ as a part of its ~~Federal Energy Regulatory Commission (FERC)FPC~~ Gas Tariff, and executed or to be executed by non-affiliated customers of ~~thesaid~~ natural gas company and providing for the rendition of service at rates and charges filed with ~~FERCthe Federal Power Commission~~.

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

Section 310.60 Contracts with Affiliated Interests Which Need Not be Filed or Approved

Pursuant to Section ~~7-101 of the Act8a of "An Act concerning public utilities," as amended,~~ and subject to the other provisions of this Part, the Commission hereby waives, as to all public utilities, the filing and necessity for approval of contracts and arrangements described in ~~sub-~~paragraph (3) of ~~said~~ Section ~~7-101(3)8a~~ of ~~thesaid~~ Act in cases of:

- a) contracts or arrangements made in the ordinary course of business for the employment of officers or employees;

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- b) contracts or arrangements made in the ordinary course of business for the purchase of services, supplies, or other personal property at prices not exceeding the standard or prevailing market prices, or at prices or rates fixed pursuant to law;
- c) contracts or arrangements ~~in which~~where the total obligation to be incurred ~~under the contract~~thereunder ~~does not exceed the lesser of \$5,000,000 or 2% of the public utility's receipts from all tariffed services as defined in Article XVI or Article XIX of the Act in the preceding calendar year~~shall not be in excess of five hundred dollars (\$500);
- d) the temporary leasing, lending or interchanging of equipment in the ordinary course of business or in case of an emergency; and
- e) contracts made by a public utility with a person or corporation whose bid is the most favorable to the public utility, as ascertained by competitive bidding under the rules for competitive bidding prescribed ~~hereinafter~~ in this Part.

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

Section 310.70 Rules Governing Competitive Bidding

- a) Whenever any public utility desires to enter into contracts or arrangements pursuant to competitive bidding, ~~the~~such public utility shall prepare specifications, forms of proposals or contracts setting forth clearly, and so far as applicable in each case in detail, a description or descriptions of the matters and things for which bids are requested, including the terms, times and conditions of delivery and payment, the place or places where delivery or performance is to be made, the character, amount and terms of securities offered or sought, and a full description of the supplies or other articles or things required or offered for sale, hypothecation, or purchase, and shall make and attach to ~~the~~such specifications such maps, drawings and illustrations, and state such other substantial facts or conditions, as are or may be necessary to a full understanding of the premises and procedure by bidders. ~~The~~Such specifications, drawings and illustrations in each case shall be kept open at the principal office or offices of the public utility in Illinois, or made available on the public utility's website, for full examination, free of charge, by persons desiring to examine ~~those specifications~~the same with a view to bidding. ~~Upon, and upon~~ request, ~~the~~such public utility shall furnish to

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

any person or persons desiring ~~them~~^{the same}, true and correct copies of ~~thesuch~~ specifications, maps, drawings and illustrations. ~~The, provided, however, that the~~ public utility may make a charge for ~~such~~ copies ~~so~~ furnished ~~that~~^{which} charge shall not exceed the reasonable cost of making and forwarding the copies requested. In addition, the public utility shall electronically distribute a notice requesting bids in a manner reasonably designed to achieve broad circulation among prospective bidders, post a notice requesting bids to its website, or publish once a week for two consecutive weeks a notice requesting bids in at least two newspapers of general circulation, the first publication to be at least two weeks immediately preceding the day that bids are to be submitted. ~~One; one such~~ newspaper shall be the official State newspaper ~~selected by the Department of Finance of the State of Illinois pursuant to Section 28 of the "Civil Administrative Code of Illinois," approved March 7, 1917, as amended,~~ and the other newspaper shall be one published or of general circulation in either:

~~(Editor's Note: Section 28 of the Civil Administrative Code of Illinois was repealed effective July 11, 1957. The Commission will amend this Section to refer to the correct statute.)~~

- 1) the city or town where the principal operating office of the public utility is located; or
 - 2) the city or town where the contract is to be performed.
- b) ~~TheSuch~~ electronic or published notices shall describe in general the proposed contract or arrangement and the special things or matters for which bids are requested, the date and time at or before which the bids must be submitted, and the person to whom, and the office at which, the bids submitted will be received and opened. The public utility may, in ~~thesaid~~ notice, reserve the right to reject any and all bids and may, at its option, require each bidder to tender a bond in a reasonable sum stated in the notice,~~to be therein named~~ with sufficient surety ~~or sureties~~ conditioned upon the faithful and prompt performance of the terms of the contract or arrangement.
- c) Every bid to receive consideration shall be submitted at the place and by the time at or before the hour specified in the notice for the receipt of bids. The time specified may be any hour from 10:00 a.m. until 3:00 p.m. of any business day and the bids shall be opened after the specified hour and before 6:00 p.m. six o'clock on the day, ~~and~~ at the place, and by the person or persons designated in

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the notice. Each bidder may attend in person, or by duly authorized representative, at the opening of the bids, and shall be afforded an opportunity to ~~do so and to~~ examine each bid. The bids ~~then~~ shall be ~~forthwith~~ tabulated and a copy of ~~the such~~ tabulation shall be promptly furnished to any bidder or authorized representative ~~upon an~~ application ~~therefor~~. When required by the notice, each bid shall be accompanied by ~~tender of~~ a bond in the amount and upon the conditions specified in the notice. A bond shall be required only in cases ~~in which where~~ the notice expressly specifies a bond requirement. Each bid shall be enclosed with accompanying papers in a plain envelope, securely sealed, bearing no indication of the bidder or the amount of the bid; ~~and~~ shall be marked "Bid under proposed contract pursuant to notice dated _____," and shall be addressed to the officer of the public utility designated in the notice to receive the ~~bid same~~. Each bid shall state the name and address of the bidder and, if the bidder ~~is be~~ a corporation, the names and addresses of ~~its the~~ officers and directors ~~thereof~~, and of the purchasing or selling officer or agent in that transaction. ~~If, and if~~ the bidder is a firm, partnership or association, the bid shall give the names and addresses of each member ~~thereof~~, and of the general manager and purchasing or selling agent in that transaction.

- d) After receiving and opening bids as ~~prescribed in subsection (c) aforesaid~~, the public utility receiving the ~~bid same~~ shall, within 48 hours ~~when in cases where~~ the sale of securities is the undertaking, and within 20 days ~~when where~~ the bids are for the purchase or sale of supplies, equipment, construction or maintenance work, or other articles or things, accept the most favorable bid considering:
- 1) the lowest price or prices for the purchase of supplies, equipment, construction or maintenance work, articles or things described in the advertisement, and the highest price or prices offered for any securities or property so described for sale by the public utility; ~~and~~
 - 2) the ability and reliability of the bidder, financial and otherwise, to deliver the property or to perform the work or transaction or to pay for the securities or property described in the advertisement, giving due consideration to any bond or security accompanying the bid.
- e) If ~~so specified the right be reserved~~ in the notice, all bids may be rejected and the public utility may readvertise for bids. The public utility shall notify the successful bidder of the acceptance of ~~his or~~ its bid and the bidder shall, within 10 days, execute the required contract, and if required by the notice, execution of a

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good and sufficient bond for the faithful and prompt performance of the contract ~~shall be executed. If in case~~ the successful bidder ~~neglects shall neglect or fails to~~ timely fail within said time to execute the contract or bond ~~as aforesaid~~, the public utility may, within 5 days ~~after the expiration of the 10 day period, thereafter~~ award the contract or arrangement to the next most favorable bidder ~~ascertained as herein provided for determining the most favorable bidder~~. If neither the most favorable bidder ~~nor~~ the next most favorable bidder ~~executes shall execute~~ a contract and ~~qualifies qualify as aforesaid~~, the public utility shall readvertise for new bids.

- f) Each public utility, after having made and executed a contract, ~~as and in the manner above specified~~ shall, within 15 days ~~after the execution of such contract~~, file with the ~~Illinois Commerce~~ Commission a statement of the transaction giving:
- 1) a copy of the electronic or published notice;
 - 2) the total amount of each bid and the names of all bidders, and:
 - A) if the bidder is a corporation, the names and addresses of the officers and directors ~~thereof~~, and of the purchasing or selling officer or agent in that transaction; or
 - B) if the bidder is a partnership, firm or association, the names and addresses of the members ~~thereof~~, the general manager, and the purchasing or selling agent in that transaction; ~~and the total amount of each bid~~,
 - 3) the name of the bidder to whom the contract was awarded, together with a copy of the contract; and
 - 4) if any other than the lowest or the highest bid, as the case may be, is accepted as being the most favorable to the utility, the reasons for the acceptance.
- g) In the case of each bid ~~so taken as aforesaid~~, the public utility shall preserve and keep open for examination by the ~~Illinois Commerce~~ Commission, or any duly authorized representative; ~~thereof~~,
- 1) a copy of the resolution or order of the board of directors, executive

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committee or officers of the public utility, specifying the purposes and terms of the contract for which the bids were invited;

- 2) a copy of the specifications, maps, drawings and illustrations upon which bids were made;
 - 3) copies of the electronic or published notices ~~published sworn to by and on behalf of each newspaper respectively,~~ giving the dates and times of each distribution, posting or publication;
 - 4) the original bids received, designating the bid accepted and giving a statement of the reasons for accepting the bids same;
 - 5) a copy of the contract entered into between the public utility and the accepted bidder, together with a copy of the bond, if any.
- h) The files in each transaction shall be securely fastened together and marked "Transaction for competitive bidding, pursuant to notice dated _____" with a sworn statement by the president, a vice president or secretary of the public utility stating that:
- 1) the said files contain true and complete records of all of the negotiations had in connection with the contract; ~~therein set forth,~~ and
 - 2) the such files shall not be broken or any part destroyed by the public utility or any officer or agent thereof, without written authorization of the ~~Illinois Commerce~~ Commission.
- i) Nothing in this Section ~~herein contained~~ shall excuse or waive the requirement of prior approval and authorization for the issuance of securities under Article VI of the Act as provided in "An Act concerning public utilities," as amended.

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

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- 1) Heading of the Part: Electric Reliability
- 2) Code Citation: 83 Ill. Adm. Code 411
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
411.40	Amendment
411.120	Amendment
411.160	Amendment
411.200	Amendment
411.210	Amendment
411.220	Amendment
411.310	Amendment
- 4) Statutory Authority: Implementing Sections 8-401 and 16-125 and authorized by Sections 10-101 and 16-125 of the Public Utilities Act [220 ILCS 5/8-401, 10-101, and 16-125].
- 5) A Complete Description of the Subjects and Issues Involved: The proposed rulemaking would update and simplify a number of reporting requirements in Part 411, Electric Reliability. The rulemaking would also bring various provisions in the Part into conformity with changes that have been made to the underlying statutes. The specific amendments proposed in the rulemaking are described below.

Subsection (b) of Section 411.120, Notice and Reporting Requirements, requires a utility to provide an annual reliability report to the Commission. The proposed amendment would change Section 411.120(b)(3)(G)(vii) to remove the requirement that the utility report data for the three previous years, in addition to providing data for the applicable annual reporting period, because this information is available in previous reports.

Section 411.160, Format and Disclosure of Reports, contains an outdated reference to "floppy disks", which the proposed amendment would remove. Wording regarding acceptable file formats would also be revised.

Subsection (a) of Section 411.200, Specific Record-Keeping Requirements, currently provides that electric utilities with 1,000,000 or more customers must maintain certain service records regarding service interruptions. Section 16-125(k) of the Public Utilities Act, however, applies these requirements to electric utilities having 100,000 or more customers. To maintain consistency with the statute, the rulemaking would modify Section 411.200(a) to make the requirement applicable to utilities with 100,000 or more

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customers. A corresponding change in wording to Section 411.40 would also be made, reflecting the reduced threshold.

Subsection (b) of Section 411.210, Specific Notice and Reporting Requirements, requires utilities with more than 1,000,000 customers to file an annual report detailing outages and power fluctuations, projected load and peak demand, and peak loading on transmission and distribution substation transformers during the peak loading period. The proposed amendment would remove the requirement for the annual report to include data on outages and power fluctuations. Utilities would still be required to collect that data pursuant to Section 411.200, and the Commission could always request the data if deemed relevant. Another proposed amendment to Section 411.210 would repeal subsection (c), which requires the filing of a report "on or before June 1, 1999" describing information for calendar year 1997. That deadline passed long ago, and by now information collected under it is of historical rather than regulatory interest.

The current language in subsections (a) and (b) of Section 411.220, Proceedings to Determine Responsibility Under 220 ILCS 5/16-125(e) and (f), describes circumstances under which a utility or the Commission may commence a proceeding for a waiver of liability under Section 16-125(e) and Section 16-125(f) of the Public Utilities Act. Because the underlying statutory language has been amended, the provisions in the rules are now inconsistent with Section 16-125 of the Act in two respects:

Subsections (a) and (b) of Section 411.220 currently limit proceedings to events involving more than 30,000 customers, while Section 16-125(e) and Section 16-125(f) of the Act now specify that such proceedings may occur for events involving either more than (i) 30,000 customers or (ii) 0.8% of the total customers, whichever is less. The proposed amendment would add the language "or 0.8% of total customers, whichever is less," to subsections (a) and (b) of Section 411.220.

Subsections (a) and (b) of Section 411.220 currently specify that, to be timely, proceedings pursuant to Section 16-125(e) or Section 16-125(f) of the Act must commence no later than 30 days after the interruption or fluctuation. In contrast, Section 16-125(h) of the Act now specifies that the request for a proceeding shall be timely if filed no later than 30 days after a claim is filed with the Commission seeking damages or expense reimbursement. The proposed amendment would update the specification for timeliness of the proceeding to match Section 16-125(h) of the Act.

Section 411.300, Purpose of Subpart D, sets forth the requirements for the utilities to conduct annual customer satisfaction surveys. Section 411.310, General Characteristics

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of the Customer Survey, currently specifies that the surveys should be conducted via telephone. Telephone surveys, however, have become increasingly difficult to conduct. The proposed language would allow for utilities to use on-line surveys as an alternative, so long as the on-line survey meets the requirements contained in subsections (a) through (d) of Section 411.310.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an 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: The proposed rulemaking neither creates nor expands any State mandate on units of local government, school districts, or community college districts.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments should be filed, within 45 days after the date of this issue of the *Illinois Register*, in Docket No. 19-0071 with:

Elizabeth Rolando, Chief Clerk
Illinois Commerce Commission
527 East Capitol Avenue
Springfield IL 62701

217/782-7434
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking will affect any subject jurisdictional entities that are also small businesses as defined in the Illinois Administrative Procedure Act. This rulemaking will not affect any small municipalities or not-for-profit corporations.

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- B) Reporting, bookkeeping or other procedures required for compliance:
Bookkeeping and filing procedures
 - C) Types of professional skills necessary for compliance: Managerial and
accounting skills
- 14) Small Business Impact Analysis: There will be no adverse impact on small businesses.
- 15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because: The Commission did not anticipate the need for this rulemaking at that time.

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

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TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER c: ELECTRIC UTILITIES

PART 411
ELECTRIC RELIABILITY

SUBPART A: GENERAL

Section	
411.10	Purpose
411.20	Definitions
411.30	Applicability of Subpart B
411.40	Applicability of Subpart C
411.50	Commission Design of Customer Survey

SUBPART B: REQUIREMENTS FOR ALL JURISDICTIONAL ENTITIES

Section	
411.100	Reliability Obligations
411.110	Record-Keeping Requirements
411.120	Notice and Reporting Requirements
411.130	Interruption Cause Categories
411.140	Reliability Review
411.150	Modification or Exemption
411.160	Format and Disclosure of Reports
411.170	Exclusions
411.180	System Protection
411.190	Approval of Vegetation Management Programs

SUBPART C: UTILITIES WITH 1,000,000 OR MORE CUSTOMERS

Section	
411.200	Specific Record-Keeping Requirements
411.210	Specific Notice and Reporting Requirements
411.220	Proceedings to Determine Responsibility Under 220 ILCS 5/16-125(e) & (f)
411.230	Proceedings to Determine Damages Under 220 ILCS 5/16-125(e) & (f)

SUBPART D: ELECTRIC SERVICE CUSTOMER SATISFACTION SURVEY

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Section

411.300	Purpose of Subpart D
411.301	Definitions Used in Subpart D
411.305	Customer Survey Requirements
411.310	General Characteristics of the Customer Survey
411.315	Survey Implementation
411.320	Format for Results of the Customer Satisfaction Survey
411.323	Raw Data
411.325	Survey Parameters
411.330	Categories of Responses for Survey Questions
411.332	Descriptive Statistics
411.335	Rating Questions
411.340	Yes/No Questions
411.345	Categorical Questions
411.350	Data Comparisons
411.355	Tracking the Results of the Customer Satisfaction Survey
411.360	Executive Summary

411.TABLE A Causes of Interruptions

AUTHORITY: Implementing Sections 8-401 and 16-125 and authorized by Sections 10-101 and 16-125 of the Public Utilities Act [220 ILCS 5].

SOURCE: Adopted by emergency rulemaking at 22 Ill. Reg. 11177, effective June 10, 1998, for a maximum of 150 days; adopted at 22 Ill. Reg. 20042, effective November 7, 1998; amended at 24 Ill. Reg. 12914, effective September 1, 2000; amended at 43 Ill. Reg. _____, effective _____

SUBPART A: GENERAL

Section 411.40 Applicability of Subpart C

The provisions of Subpart C are applicable to all electric utilities that have 1,000,000 or more customers, unless a smaller number is specified in the provision.

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

SUBPART B: REQUIREMENTS FOR ALL JURISDICTIONAL ENTITIES

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Section 411.120 Notice and Reporting Requirements

- a) Telephone or ~~Facsimile Notice~~~~facsimile notice~~. A jurisdictional entity must provide notice by telephone or by facsimile transmission to the Consumer Services Division of the Commission when any single event (e.g., storm, tornado, equipment malfunction, etc.) causes interruptions for 10,000 or more of the jurisdictional entity's customers for three hours or more. After ~~these such~~ interruptions have continued for three hours, a jurisdictional entity must provide notice within one hour when the notice would be provided during normal business hours, or within the first hour of the next business day. A jurisdictional entity shall provide updates every two hours during the normal business day until service is restored to all customers involved. To the extent that data and information are known, ~~thesuch~~ notice shall include the data and information listed ~~in this subsection (a)~~~~below~~.
- 1) An estimate of the number of customers the interruptions affect.
 - 2) Starting date of the interruptions.
 - 3) Starting time of the interruptions.
 - 4) Duration of the interruptions.
 - 5) Locations of the interruptions, described as precisely as possible in generally recognized and geographically oriented terms such as street address, subdivision, or community.
 - 6) Description of the cause of the interruptions.
 - 7) The date and time when the jurisdictional entity expects to restore electric service.
 - 8) The name and telephone number of a jurisdictional entity representative the Commission Staff can contact for more information about the interruptions.
 - 9) Customer call volume to the jurisdictional entity during the interruption as compared to normal call volume and the steps the jurisdictional entity is

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taking to address call volume.

- b) Annual ~~Report~~report. On or before June 1 of each year, each jurisdictional entity, except for jurisdictional entities exempt under Section 411.110(b), shall file with the Chief Clerk of the Commission an annual report for the previous calendar year submitted under oath and verified by an individual responsible for the jurisdictional entity's transmission and distribution reliability.
- 1) The data requirements incorporated in the annual report are not meant to replace timely reports on outages when they occur or are remedied as required by other provisions of this Part.
 - 2) Supporting data used for more than one purpose or calculation need be submitted only once in each annual report, if submitted with clear cross-references. Data should be consistent and differences reconciled to the extent possible.
 - 3) The annual report shall include the information listed in this subsection (b)(3) below.
 - A) A plan for future investment and, where necessary, reliability improvements for the jurisdictional entity's transmission and distribution facilities that will ensure continued reliable delivery of energy to customers and provide the delivery reliability needed for fair and open competition, along with the estimated cost of implementing the plan and any changes to the plan from the previous annual report.
 - i) The plan must cover all operating areas, including a description of the relevant characteristics of each operating area and the age and condition of the jurisdictional entity's equipment and facilities in each operating area.
 - ii) The plan shall cover a period of no less than three years following the year in which the report was filed.
 - iii) The plan shall identify all foreseeable reliability challenges and describe specific projects for addressing each.

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- iv) The plan shall provide a timetable for achievement of the plan's goals.
 - v) The plan shall report and address all unresolved reliability complaints about the jurisdictional entity's system received from other utilities, independent system operators, and alternative retail electric suppliers.
 - vi) The plan shall report the specific actions, if any, the jurisdictional entity is taking to address the concerns raised in ~~such~~ complaints received from other utilities, independent system operators, and alternative retail electric suppliers.
 - vii) The plan must consider all interruption causes listed in ~~subsection Section 411.120(b)(3)(D)~~.
 - viii) The plan must consider the effects on customers and the cost of reducing the number of interruptions reported as required by ~~subsection Section 411.120(b)(3)(C)~~.
- B) A report of the jurisdictional entity's implementation of its plan filed pursuant to subsection (b)(3)(A) ~~of this Section~~ for the previous annual reporting period, including an identification of significant deviations from the first year of the previous plan and the reasons for the deviations.
- C) The number and duration of planned and unplanned interruptions for the annual reporting period and their impacts on customers.
- D) The number and causes of controllable interruptions for the annual reporting period.
- E) Customer service interruptions that were due solely to the actions or inactions of another utility, another jurisdictional entity, independent system operator, or alternative retail electric supplier for the annual reporting period.
- F) A comparison of interruption frequency and duration for customers

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buying electric energy from the jurisdictional entity versus customers buying electric energy from another utility or alternative retail electric supplier for the annual reporting period. A jurisdictional entity may base this comparison on each customer's supplier as of December 31 of each year. A jurisdictional entity need not include this information for customers whose electric energy supplier is not known to the jurisdictional entity.

- G) A report of the age, current condition, reliability and performance of the jurisdictional entity's existing transmission and distribution facilities, which shall include, without limitation, the data listed in this subsection (b)(3)(G) below. In analyzing and reporting the age of the jurisdictional entity's plant and equipment, the jurisdictional entity may utilize book depreciation. Statistical estimation and analysis may be used when actual ages and conditions of facilities are not readily available. The use of thesesuch techniques shall be disclosed in the report.
- i) A qualitative characterization of the condition of the jurisdictional entity's system defining the criteria used in making the qualitative assessment, and explaining why they are appropriate.
 - ii) A summary of the jurisdictional entity's interruptions and voltage variances reportable under this Part, including the reliability indices for the annual reporting period.
 - iii) The jurisdictional entity's expenditures for transmission construction and maintenance for the annual reporting period expressed in constant 1998 dollars, the ratio of those expenditures to the jurisdictional entity's transmission investment, and the average remaining depreciation lives of the entity's transmission facilities, expressed as a percentage of total depreciation lives.
 - iv) The jurisdictional entity's expenditures for distribution construction and maintenance for the annual reporting period expressed in constant 1998 dollars, the ratio of those expenditures to the jurisdictional entity's distribution

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investment, and the average remaining depreciation lives of the entity's distribution facilities, expressed as a percentage of total depreciation lives.

- v) The results of a customer satisfaction survey completed during the annual reporting period and covering reliability, customer service, and customer understanding of the jurisdictional entity's services and prices.
 - vi) An overview pertaining to the number and substance of customers' reliability complaints for the annual reporting period and their distribution over the jurisdictional entity's operating areas.
 - vii) ~~The corresponding information, in the same format, for the previous three annual reporting periods, if available.~~
- H) A table showing the achieved level of each of the three reliability indices of each operating area for the annual reporting period (provided, however, that for any reporting period commencing before April 1, 1998, a jurisdictional entity will not be required to report the CAIFI reliability index).
- I) A list showing the worst-performing circuits for each operating area for the annual reporting period with the understanding that the designation of circuits as "worst-performing circuits" shall not, in and of itself, indicate a violation of this Part.
- J) A statement of the operating and maintenance history of circuits designated as worst-performing circuits; a description of any action taken or planned to improve the performance of any such circuit (which shall include information concerning the cost of ~~that such~~ action); and a schedule for completion of any such action. (The jurisdictional entity may decide, based on cost considerations or other factors, that it should take no action to improve the performance of one or more circuits designated as worst-performing circuits. If the jurisdictional entity decides to take no action to improve the performance of one or more circuits designated as worst-performing circuits, the jurisdictional entity

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shall explain its decision in its annual report.)

- K) Commencing June 10, 2001, tables or graphical representations, covering for the last three years, all of the jurisdictional entity's customers, and showing, in ascending order, the total number of customers that experienced a set number of interruptions during the year (i.e., the number of customers, who experienced zero interruptions, the number of customers who experienced one interruption, etc.).
 - L) Commencing June 10, 2001, for those customers who experienced interruptions in excess of the service reliability targets, a list of every customer, identified by a unique number assigned by the jurisdictional entity and not the customer's name or account number, the number of interruptions and interruption duration experienced in each of the three preceding years, and the number of consecutive years in which the customer has experienced interruptions in excess of the service reliability targets.
 - M) The name, address and telephone number of a jurisdictional entity representative who can be contacted for additional information regarding the annual report.
- c) Customer ~~Report~~report. A jurisdictional entity shall, upon request made by a customer or the Consumer Services Division of the Commission, provide to the customer and/or the Consumer Services Division, within ~~30~~thirty days after the request, a report on all interruptions that the customer making the request, or subject to the Consumer Service Division's request, has experienced at the customer's current service location during the most recent five calendar years. The report shall identify for each interruption the information specified in Section 411.110(a)(1)(A) ~~through~~- (D). Notwithstanding the provisions of this subsection, a jurisdictional entity is not required to report data pursuant to this Section that Section 411.110(b) does not require a jurisdictional entity to maintain, or that the jurisdictional entity was not required to retain at the time of the interruption. This subsection does not alter the provisions of 83 Ill. Adm. Code 200 and 280 that relate to informal and formal complaint procedures.

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

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Section 411.160 Format and Disclosure of Reports

The reports required to be filed by this Part shall be submitted to the Commission and available to the public in both printed and electronic form. The printed version shall be the official version filed with the Commission's Chief Clerk. Computerized data and information filed as part of a report that is stored by a jurisdictional entity on a personal computer shall be provided in Microsoft Office, or other format agreed to by Commission Staff, Corel Office, IBM personal computer compatible file formats and delivered to the Commission's offices via Internet electronic mail or on floppy disks or other portable storage media as agreed to by the Commission Staff. Underlying data provided to the Commission shall be available to the public to the extent that it is not proprietary information. A jurisdictional entity shall report the required information on both a system-wide and operating areas basis. A jurisdictional entity shall submit the required information in a consistent format each year that facilitates comparisons across time periods and that uses non-technical language. A jurisdictional entity's reports shall be available to the public from the jurisdictional entity and from the Commission. A jurisdictional entity shall keep copies of its reports at its public offices.

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

SUBPART C: UTILITIES WITH 1,000,000 OR MORE CUSTOMERS

Section 411.200 Specific Record-Keeping Requirements

- a) Electric utilities with 100,000~~1,000,000~~ or more customers must maintain service records detailing information on each interruption that affects 10 or more customers, or power fluctuations that affect 30,000 or more customers. The service record for each interruption shall be maintained for at least five years and shall include the following information:~~listed below.~~
- 1) Starting date of the interruption or power fluctuation.
 - 2) Starting time of the interruption or power fluctuation.
 - 3) Interruption or power fluctuation duration.
 - 4) Number of customers affected by the interruption or power fluctuation.
 - 5) Description of the cause of the interruption or power fluctuation.

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- 6) Geographic area affected by the interruption or power fluctuation.
 - 7) Specific equipment involved in the interruption or power fluctuation.
 - 8) Description of measures taken to restore service or eliminate power fluctuation.
 - 9) Description of measures taken to remedy the cause of the interruption or power fluctuation.
 - 10) Description of measures taken to prevent a future interruption or power fluctuation.
 - 11) Amount of remuneration, if any, paid to affected customers.
 - 12) Statement of whether the fixed charge was waived for affected customers.
- b) An electric utility with 1,000,000 or more customers shall not modify its data collection or record-keeping procedures so as to collect or record less information about the reliability of its transmission and distribution facilities under the jurisdiction of the Commission or to collect information for fewer discrete areas than the utility collected in calendar year 1997 without first seeking the comments of the Commission Staff. Any changes in data collection and record-keeping procedures made without agreement of the Staff shall not excuse a later failure to provide information required or requested under the Act or this Part.

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

Section 411.210 Specific Notice and Reporting Requirements

Each electric utility having 1,000,000 or more customers shall provide [the following](#) notice and reports: ~~as listed below.~~

- a) Make the information, which the utility must maintain in accordance with Section 411.200, available for public inspection at the utility's offices and provide copies of the information to the public upon payment of a fee not exceeding the reasonable cost of reproduction.
- b) File, with the Commission's Chief Clerk, an annual report on or before June 1 of

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each year that includes the following information:~~listed below.~~

- ~~1)~~ ~~Each record that Section 411.200 requires the utility to maintain.~~
- ~~12)~~ The projected load and peak demand for each of the utility's operating areas for the following three years.
- ~~23)~~ The peak loading (as a percentage of rated normal and emergency capacity) on each transmission and distribution substation transformer operating during its peak loading period at or above 90 percent of normal rated capacity, except ~~when that where such~~ data would reveal information about loads of specific customers.
- ~~e)~~ ~~File, with the Commission's Chief Clerk, a report on or before June 1, 1999 that lists the discrete areas for which it collected reliability data and kept reliability records and that explains its reliability data collection and record-keeping procedures for calendar year 1997.~~
- ~~cd)~~ Notify the Commission, within 72 hours, in the event that more than 30,000 customers are subjected to a power interruption that meets the conditions set forth in Section 16-125(e) of the Act or more than 30,000 customers are subjected to a power surge or other fluctuation that meets the conditions in Section 16-125(f) of the Act.

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

Section 411.220 Proceedings to Determine Responsibility Under 220 ILCS 5/16-125(e) & (f)

- a) In the event that more than 30,000 customers of a utility, or 0.8% of the utility's total customers, whichever is less, are subjected to a power interruption that meets the conditions set forth in Section 16-125(e) of the Act and the utility or the Commission believes that the such-interruption is due to one or more of the causes set forth in Section 16-125(e)(1) through -(4) of the Act, then the utility may commence a proceeding before the Commission, or the Commission may commence on its own motion a proceeding, seeking a declaration that the subject interruption was due to one or more of thosesueh causes and that liability under Section 16-125(e) of the Act should be waived by the Commission. Any such proceeding shall be commenced by the utility or the Commission no later than 30

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days after ~~the date on which a claim is filed with the Commission seeking damages or expense reimbursements~~~~such power interruption~~. The Commission's decision in ~~that~~~~such~~ proceeding shall be appealable by any party thereto, and except as reversed or modified on appeal, the determination of the cause of the interruption in this proceeding and the Commission's decision to grant or deny a waiver of liability in connection ~~with the interruption~~~~therewith~~ shall be final and shall be binding on both the utility and claimants in actions before the Commission to recover damages under Section 16-125(e) of the Act. This proceeding shall determine only the liability of the utility under Section 16-125(e) of the Act and shall not constitute a finding or determination, for the purpose of this or any other proceeding, that the utility was or was not negligent, did or did not breach a contract, or violated or did not violate any other legal duty or obligation.

- b) In the event that more than 30,000 customers of a utility, or 0.8% of the utility's total customers, whichever is less, are subjected to a power surge or other fluctuation that meets the conditions set forth in Section 16-125(f) of the Act, and the utility or the Commission believes that ~~the~~~~such~~ power surge or other fluctuation is due to one or more of the causes set forth in Section 16-125(f)(1) ~~through~~ -(4) of the Act, then the utility may commence a proceeding before the Commission, or the Commission may commence on its own motion a proceeding, seeking a determination from the Commission that the subject power surge or other fluctuation was due to one or more of ~~those~~~~such~~ causes and that, therefore, no liability attaches under Section 16-125(f) of the Act. Any such proceeding shall be commenced by the utility or the Commission no later than 30 days after ~~the date on which a claim is filed with the Commission seeking damages or expense reimbursements~~~~such power surge or other fluctuation~~. The Commission's decision in ~~the~~~~such~~ proceeding shall be appealable by any party ~~to the proceeding~~~~thereto~~, and, except as reversed or modified on appeal, the determination of the cause of the power surge or other fluctuation in this proceeding shall be final and binding on both the utility and claimants in actions before the Commission to recover damages under Section 16-125(f) of the Act. This proceeding shall determine only the liability of the utility under Section 16-125(f) of the Act and shall not constitute a finding or determination, for the purpose of this or any other proceeding, that the utility was or was not negligent, did or did not breach a contract, or violated or did not violate any other legal duty or obligation.
- c) Any customer affected by the subject interruption, power surge or other

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fluctuation, or a unit of local government in which ~~thesuch~~ interruption, power surge or other fluctuation occurred, shall be entitled to intervene in a proceeding brought pursuant to this Section. Informal and formal complaints pursuant to the Commission's Rules of Practice (83 Ill. Adm. Code 200) brought by affected customers and units of local government shall be stayed pending disposition of this proceeding and appeals thereof, or consolidated with this proceeding for the purposes of liability.

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

SUBPART D: ELECTRIC SERVICE CUSTOMER SATISFACTION SURVEY

Section 411.310 General Characteristics of the Customer Survey

- a) The customer survey shall be conducted annually, in the fall, on the anniversary of the initial survey.
- b) The survey shall be identical for all jurisdictional entities.
- c) The survey shall be conducted for residential and non-residential customers. For the residential population, the survey respondent shall be the person in the household who is most familiar with the household's electric service. For non-residential customers, the survey respondent shall be the person who is most familiar with electric service in the organization.
- d) For each jurisdictional entity, the sample size shall be adequate to ensure that answers are reflective of the population at a specified statistical level of confidence and confidence interval as follows:
 - 1) For residential customers, sample size shall be sufficient to achieve a 95% confidence level with a confidence interval of $\pm 4.0\%$. This confidence level and confidence interval equates to 600 respondents for utilities with 10,000 or more residential customers. The sample size for utilities with fewer than 10,000 residential customers would be adjusted by a finite population correction factor calculated as $(N-n)/(N-1)$, where N = population size and n = originally required sample size.
 - 2) For non-residential customers, sample size shall be sufficient to achieve a 95% confidence level with a confidence interval of $\pm 4.9\%$. This level of

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confidence and confidence interval equates to 400 respondents for utilities with 10,000 or more non-residential customers and accordingly fewer (i.e., $(N-n)/(N-1)$) for smaller jurisdictional entities.

- e) If a utility uses a telephone survey, before~~Before~~ eliminating a customer and randomly selecting a replacement, the jurisdictional entities shall:
- 1) make a minimum of five telephone calls to each randomly selected customer;
 - 2) attempt to reach the randomly selected customer at different times of day;
 - 3) call the customer back at the specified time if the customer answers the telephone but asks to respond to the survey at a different time; and
 - 4) call back at a time the target respondent is expected at home or office if the telephone is answered by anyone but the target respondent.
- f) If a utility uses an on-line survey, the survey shall comply with the requirements of subsections (a) through (d).

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

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- 1) Heading of the Part: Nursing School Grant Program
- 2) Code Citation: 23 Ill. Adm. Code 1100
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
1100.100	Amendment
1100.200	Amendment
1100.300	Amendment
1100.400	Amendment
1100.420	New Section
1100.500	Repealed
1100.600	Repealed
1100.700	Amendment
1100.800	Amendment
1100.900	New Section
- 4) Statutory Authority: Section 9.31 of the Board of Higher Education Act [110 ILCS 205]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments address two issues. First, the on-going reductions in State funds appropriated for this program have hampered the effectiveness of the original grant program. Funding went from \$1.5 million in 2007 down to \$373,900 in 2018. The intent of the original program was to award both expansion grants and improvement grants with an emphasis on continuing expansion grants for up to three years. In the first six years of the program, expansion grants ranged from \$300,000 to \$450,000 and were awarded to nursing schools each year for three years. In fiscal year 2013, the funding was reduced by 52%, which resulted in fewer expansion grants with smaller amounts that were limited to a single year. In 2015, the program funding was suspended and no funds were available for fiscal years 2015, 2016, and 2017. Funding in 2018 took another hit and dropped to \$373,900. The original objectives of the program are no longer sustainable due to the reductions in State funding. The proposed amendments remove the expansion and improvement grant structure to provide greater flexibility when requesting and funding proposals that can be funded.

Second, the program should be used to help address the call to provide baccalaureate training for registered nurses in regions throughout the State. Illinois nursing schools are interested in partnering with one or more other schools to align their curriculum so that students can transfer seamlessly from associate degree to baccalaureate degree programs. The proposed amendments will place the top priority on funding the collaborative

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programs. This priority is followed by proposals to continue a previously funded nursing school grant project and to fund new projects that will expand or improve an existing nursing program.

The Illinois Nursing Workforce Center has been engaged with IBHE in developing the proposed amendments and asked that the eligible programs be expanded to include the MSN Entry programs. These are relatively new programs for students with bachelor's degrees in other fields who want to transition into nursing. Upon completion of the program, the graduate is eligible to take the examination for licensure as a registered nurse in Illinois. This program is currently offered by nursing schools at five institutions of higher education, i.e., DePaul University, Elmhurst College, Millikin University, Rush University, and University of Illinois at Chicago. The proposed amendments add the MSN Entry program to the list of eligible programs which include the associate degree in nursing (ADN), bachelor of science in nursing (BSN), and baccalaureate completion program for registered nurses (RN to BSN).

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

Karen Helland, Administrative Rules Coordinator
Illinois Board of Higher Education
1 N. Old State Capitol Plaza, Suite 333
Springfield IL 62701-1377

BOARD OF HIGHER EDUCATION

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217/557-7358
e-mail: helland@ibhe.org
fax: 217/782-8548

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: None
- 15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because it was not anticipated prior to 2018 and amendments to rules were filed in 2018.

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

BOARD OF HIGHER EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER II: BOARD OF HIGHER EDUCATIONPART 1100
NURSING SCHOOL GRANT PROGRAM

Section

1100.100	Purpose
1100.200	Definitions
1100.300	Eligible Nursing Program
1100.400	Application Process
1100.420	Grant Awards
1100.500	Expansion Grants (Repealed)
1100.600	Improvement Grants (Repealed)
1100.700	Award Process
1100.800	Audit Requirements
1100.900	Post-Award Requirements

AUTHORITY: Implementing and authorized by Section 9.31 of the Board of Higher Education Act [110 ILCS 205].

SOURCE: Emergency rules adopted at 30 Ill. Reg. 17113, effective October 16, 2006, for a maximum of 150 days; adopted at 31 Ill. Reg. 3145, effective February 7, 2007; amended at 35 Ill. Reg. 17458, effective October 14, 2011; emergency amendment at 42 Ill. Reg. 16096, effective August 6, 2018, for a maximum of 150 days; emergency expired January 2, 2019; amended at 43 Ill. Reg. _____, effective _____.

Section 1100.100 Purpose

The purpose of the Nursing School Grant Program is to address the nursing shortage in Illinois by *increasing the number of nurses graduating from Illinois institutions of higher learning* [110 ILCS 205/9.31]. ~~The Program is comprised of two grant categories: Expansion Grants and Improvement Grants.~~ Grants ~~for both categories~~ shall be awarded on the basis of performance criteria [110 ILCS 205/9.31] and a competitive application process.

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

Section 1100.200 Definitions

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"ACEN" means Accreditation Commission for Education in Nursing.

"Awardee" or "Grantee" means, for the purposes of this Part, an institution of higher learning that offers an eligible nursing program and carries out a grant/award as a recipient.

"Baccalaureate Completion Program" means, for the purposes of this Part, courses and bachelor's degree programs offered by 4-year degree-granting colleges and universities via an online program or at a location geographically convenient to student populations currently being served by an existing institution of higher learning.

"Board" means the Board of Higher Education.

"CCNE" means the Commission on Collegiate Nursing Education.

"Community College" means the public community colleges of this State.

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

"Eligible Nursing Program" means a nursing program at an Illinois institution of higher learning that prepares registered professional nurses in accordance with Section 1100.300 and offers at least one of the following nursing degree programs:

"ADN" means an Associate Degree in Nursing. Upon completion of the program, a graduate must be eligible to take the examination (NCLEX-RN) for licensure as a registered nurse.

"BSN" means a Bachelor of Science in Nursing. This program admits pre-licensure students and awards a Bachelor of Science degree in nursing. Upon completion of the program, a graduate must be eligible to take the examination (NCLEX-RN) for licensure as a registered professional nurse.

"RN-BSN" means a baccalaureate completion program that admits registered professional nurses and awards a Bachelor of Science degree in nursing.

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"MSN Entry" means a Master's of Science in Nursing program for students with bachelor's degrees in other fields who want to transition into nursing. Upon completion of the program, a graduate must be eligible to take the examination (NCLEX-RN) for licensure as a registered professional nurse.

~~"DFPR" means the Illinois Department of Financial and Professional Regulation or its successor.~~

~~"Expansion Grant" means a competitive grant, renewable for up to three years, under this Part that supports high performing eligible nursing schools for the purpose of expanding nursing program capacity and either increasing the number of students preparing for initial licensure as registered nurses (ADN or BSN) or increasing the number of registered nurses completing baccalaureate completion programs (RN-BSN).~~

~~"Improvement Grant" means an annual competitive grant under this Part that supports eligible nursing schools with the purpose of increasing student retention and improving institutional NCLEX-RN pass rates.~~

"GATA" means the Grant Accountability and Transparency Act [30 ILCS 708].

"GATA Rule" means 44 Ill. Adm. Code 7000.

"GATU" means the Grant Accountability and Transparency Unit within the Illinois Governor's Office of Management and Budget.

"Grant Period" or "Period of Performance" means the time during which the awardee may incur new obligations to carry out the work authorized under the grant. The Board will include the start and end dates in the award.

"Institution of Higher Learning" means a public or nonpublic institution of higher education located within Illinois that offers associate, baccalaureate or post-baccalaureate degrees and that is authorized to operate in the State of Illinois.

~~"NLNAC" means the National League for Nursing Accrediting Commission.~~

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"NCLEX-RN" means the National Council Licensure Examination-Registered Nurse. Passing the NCLEX-RN is required of candidates for licensure as a registered professional nurse~~Registered Nurse~~ (RN) in Illinois.

"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, the Board 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.

"Program" means the Nursing School Grant Program.

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

Section 1100.300 Eligible Nursing Program

Illinois institutions of higher learning offering registered professional nursing degree programs must meet the following criteria to be eligible to receive a grant under this Part:

- a) ADN programs must:
 - 1) Be approved by DFPR;
 - 2) Be accredited by ACEN~~NLNA~~C; and
 - 3) Have an articulation agreement with at least one institution of higher learning that offers baccalaureate degrees for registered professional nurses.
- b) BSN programs must:
 - 1) Be approved by DFPR; and
 - 2) Be accredited by CCNE or ACEN~~NLNA~~C.
- c) RN-BSN programs must be accredited by ~~the~~ CCNE or ACEN~~the~~ NLNA C.

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- d) MSN Entry program must:
- 1) Be approved by DFPR; and
 - 2) Be accredited by CCNE or ACEN.

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

Section 1100.400 Application Process

- a) Eligible nursing programs, as defined in this Part, will be notified by the Board when funding opportunities and application materials for grant opportunities under this Part are available.
- b) Application materials may be obtained from the Illinois Board of Higher Education, 1 N. Old State Capitol Plaza, Suite #333431 East Adams Street, Second Floor, Springfield IL, Illinois 62701-1404 or the Board's website at www.ibhe.org.
- c) This State-funded program is subject to GATA. GATA rules are cross-referenced in this Part. Completed application materials signed by the institution's chief executive officer must be received by the Board by the announced deadline for the submission of applications, which shall not be less than 45 days from the announcement and release of application materials. Application materials will be due no later than October 31 of each year.
- d) Completed application materials must be signed by the institution's authorized representative and received by the Board by the announced deadline for the submission of applications, which shall not be less than 45 days from the announcement and release of application materials. Application materials will be due no later than October 31 of each year. Grantees maintaining eligibility criteria in accordance with Section 1100.500(b) or Section 1100.600(b) may annually reapply for funding.

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

Section 1100.420 Grant Awards

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- a) In a given fiscal year, the Program appropriations shall be allocated for projects based on the following order of priority:
- 1) Funding for baccalaureate completion programs to facilitate student articulation from an ADN program offered by a community college to a BSN or RN-BSN program;
 - 2) Funding for continuation of a grant previously awarded under this Part; or
 - 3) Funding for a new grant to expand or improve an eligible nursing program.
- b) Grant applications under this Part shall include, but need not be limited to, the following items:
- 1) Comprehensive description of the proposed use of funds, including evidence of current research and best practices, to support proposed strategies.
 - 2) Budget by line items, including personal, fringe benefits, travel, equipment, supplies, contractual services, consultant (professional services), training and education, and direct administrative costs, submitted on the uniform grant budget template provided by GATU (see GATA Rule Section 7000.330). Acceptable expenditures may include, but are not limited to, the following direct costs:
 - A) Hiring additional qualified nursing faculty and staff;
 - B) Developing or expanding instructional programs (e.g., online, weekend, evening);
 - C) Developing or expanding academic support services or programs;
 - D) Securing additional clinical instruction sites;
 - E) Improving or increasing spaces for classrooms or laboratories; and
 - F) Purchasing equipment and other program-related instructional materials.

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- 3) Project objectives and performance goals, including, but not limited to, the following:
 - A) Number of degrees conferred (three-year trend);
 - B) First-year retention rate (three-year trend based on 30 semester hours or equivalent);
 - C) NCLEX-RN pass rate for first-time test takers in comparison to the national average for the previous calendar year as reported by DFPR; and
 - D) Job placement within 6 months after degree completion (three-year trend).
- 4) Statement of institutional support and sustainability of grant-funded activities.
- 5) Uniform grant application provided by GATU and signed by authorized representative (see GATA Rule Section 7000.330).
- d) The grant awards for eligible nursing programs shall be determined using a competitive process to review applications. The Board's standards for approval include, but are not limited to, the following criteria, considerations and weightings:
 - 1) Evidence of effective project objectives and performance goals (25%);
 - 2) Proposed use of funds and budget justification demonstrating an effective use of program resources (25%);
 - 3) Evidence of institutional support and sustainability of grant-funded activities (10%); and
 - 4) Evidence of an effective plan to evaluate progress (15%).
- e) For a grant applicant who is a prior recipient of an award under this Part, the Board shall review available information on the awardee's prior performance and

BOARD OF HIGHER EDUCATION

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consider that information when assessing grantee risk. This is part of the grantee risk assessment provided by GATU (see GATA Rule Section 7000.340).

- f) Grant funding is subject to Program appropriations.

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

Section 1100.500 Expansion Grants (Repealed)

- a) ~~In a given fiscal year, the amount of the Program appropriation or allocation to support Expansion Grants shall be based on the following order of priority:~~
- ~~1) Funding for renewal grants;~~
 - ~~2) Funding for grants in year one of a three-year grant cycle; or~~
 - ~~3) A combination of renewal and first-year grants the Board deems appropriate to maximize the grant awards.~~
- b) ~~Eligibility Criteria~~
- ~~1) ADN and BSN programs must meet both of the following criteria:~~
 - ~~A) NCLEX-RN pass rate for first-time test takers must be equal to or greater than the national average for the previous calendar year as reported by DFPR.~~
 - ~~B) Program attrition rate must be equal to or less than 15 percent.~~
 - ~~2) RN-BSN programs must have a program attrition rate equal to or less than 15 percent.~~
- c) ~~Grant applications for Expansion Grants under this Part shall include, but need not be limited to, the following:~~
- ~~1) Comprehensive description of the proposed use of funds in accordance with subsection (e), including evidence of current research and best practices to support proposed strategies.~~

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- 2) ~~Budget by line item, including personal services, contractual services, commodities, equipment, telecommunications, travel, and audit.~~
 - 3) ~~Performance measures, including, but not limited to, the following:~~
 - A) ~~Eligibility criteria in accordance with subsection (b);~~
 - B) ~~First year retention rate;~~
 - C) ~~Job placement within 6 months of degree completion; and~~
 - D) ~~Number of degrees conferred (three year trend).~~
 - 4) ~~Statement of institutional support and sustainability of grant funded activities.~~
 - 5) ~~Evaluation plan.~~
 - 6) ~~Program audit and an interim evaluation report from the previous year, if the applicant received an Expansion Grant under this Part.~~
- d) Awards
- 1) ~~The grant awards for eligible nursing programs shall be determined using a competitive process to review applications that shall include, but need not be limited to, the following criteria:~~
 - A) ~~Evidence of effective program goals and performance measures;~~
 - B) ~~Proposed use of funds and budget justification demonstrating an effective use of program resources;~~
 - C) ~~An effective evaluation plan including reliable measures of performance and program outcomes;~~
 - D) ~~Evidence of institutional support and sustainability of grant funded activities; and~~

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- ~~E) Number of completed applications received in accordance with subsection (c).~~
- ~~2) The number and amount of grant awards is subject to the Program appropriation or allocation.~~
- ~~e) Use of Grant Funds. Expansion Grant funds shall be used to expand capacity and increase the number of students preparing for careers as registered nurses. Acceptable expenditures may include, but are not limited to, the following:
 - ~~1) Hiring additional qualified nursing faculty;~~
 - ~~2) Developing or expanding instructional programs (e.g., online, weekend, evening);~~
 - ~~3) Developing or expanding academic support programs;~~
 - ~~4) Securing additional clinical instruction sites;~~
 - ~~5) Increasing classroom space;~~
 - ~~6) Purchasing equipment and other program-related instructional materials; and~~
 - ~~7) Evaluation, dissemination of program results, and program audit.~~~~
- ~~f) Grantees may annually reapply for funding.~~
- ~~g) Grantees must submit a final evaluation report.~~

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

Section 1100.600 Improvement Grants (Repealed)

- ~~a) In a given fiscal year, the amount of the Program appropriation or allocation directed to Improvement Grants is the remainder after the Expansion Grant determination.~~
- ~~b) Eligibility Criteria~~

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- 1) ~~ADN and BSN programs must meet at least one of the following criteria:~~
 - A) ~~NCLEX-RN pass rate for first-time test takers must be less than the national average for the previous calendar year as reported by DFPR.~~
 - B) ~~Program attrition rate must be greater than 15 percent.~~
- 2) ~~RN-BSN programs must have a program attrition rate greater than 15 percent.~~
- e) ~~Grant applications for Improvement Grants under this Part shall include, but need not be limited to, the following:~~
 - 1) ~~Comprehensive description of the proposed use of funds in accordance with subsection (e), including evidence of current research and best practices to support proposed strategies.~~
 - 2) ~~Budget by line item, including personal services, contractual services, commodities, equipment, telecommunications, travel, and audit.~~
 - 3) ~~Performance measures, including, but not limited to, the following:~~
 - A) ~~Eligibility criteria in accordance with subsection (b);~~
 - B) ~~First-year retention rate;~~
 - C) ~~Job placement within 6 months after degree completion; and~~
 - D) ~~Number of degrees conferred (three-year trend).~~
 - 4) ~~Statement of institutional support and sustainability of grant-funded activities.~~
 - 5) ~~Evaluation plan.~~
 - 6) ~~Program audit from the previous year, if the applicant received an Improvement Grant.~~

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- d) Awards
 - 1) ~~The grant awards for eligible nursing programs shall be determined using a competitive process to review applications that shall include, but need not be limited to, the following criteria:~~
 - A) ~~Evidence of effective program goals and performance measures;~~
 - B) ~~Proposed use of funds and budget justification demonstrating an effective use of program resources;~~
 - C) ~~An effective evaluation plan including reliable measures of performance and program outcomes;~~
 - D) ~~Evidence of institutional support and sustainability of grant-funded activities; and~~
 - E) ~~Number of completed applications received in accordance with subsection (c).~~
 - 2) ~~The number and amount of grant awards is subject to the Program appropriation.~~
- e) ~~Use of Grant Funds. Improvement Grant funds may be used to support strategies aimed at increasing student retention and improving graduation rates and institutional NCLEX-RN pass rates.~~
 - 1) ~~Acceptable expenditures may include, but are not limited to, the following:~~
 - A) ~~Developing or expanding academic support services to improve student retention and increase graduation rates and NCLEX-RN pass rates;~~
 - B) ~~Improving existing classroom space;~~
 - C) ~~Purchasing equipment and other instructional materials necessary to improve instructional quality; and~~

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- ~~D) Program audit.~~
- ~~2) Improvement Grants shall not be used to hire faculty.~~
- ~~f) Grantees may apply annually for funding.~~
- ~~g) Grantees must submit an evaluation report.~~

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

Section 1100.700 Award Process

- a) Board staff shall review application materials pursuant to this Part and make recommendations to the Board for approval.
- b) Once grants are awarded by the Board, the Board staff shall notify each applicant in writing concerning its application.
- c) Board staff shall verify that each awardee is registered with the State of Illinois, has completed a prequalification process, and has been determined "qualified" by GATU (see GATA Rule Section 7000.70).
- d) The Board shall enter into an ~~establish a grant~~ agreement with those institutions awarded a grant under this Part using the Uniform Grant Agreement provided by GATU (see GATA Rule Section 7000.370). Project objectives and performance goals will be included in the Uniform Grant Agreement to measure the awardee's performance~~that specifies the terms and conditions of the grant.~~

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

Section 1100.800 Audit Requirements

Grantees are subject to the Auditing Standards stipulated by GATU (see GATA Rule Section 7000.90).

- ~~a) All grantees are required to provide an annual program audit to the Board.~~
- ~~b) After the initial program year (fiscal year 2007), applications must include a~~

BOARD OF HIGHER EDUCATION

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~~program audit of grant funds received in the previous year.~~

- e) ~~Program audits must be performed by an external auditor who is registered as a public accountant by DFPR.~~
- d) ~~Program audits must include a statement of revenues and expenditures to verify the use of grant funds. Grant funds not expended as identified by the audit shall be refunded to the State.~~
- e) ~~In the event that a grant recipient does not reapply for a grant under this Part in a subsequent year, a program audit must be submitted to verify the use of grant funds.~~
- f) ~~The cost of a program audit is an allowable use of grant funds.~~

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

Section 1100.900 Post-Award Requirements

- a) The awardee shall not deviate from the budget, project scope, or objectives stated in the Grant Agreement except with mutual agreement of the Board and the awardee. (See GATA Rule Section 7000.370(b)). An awardee shall request prior approval by the Board to:
 - 1) Change the scope or the objective of the project (even if there is no associated budget revision).
 - 2) Change in a key person specified by the recipient in the application or Grant Agreement.
 - 3) Transfer funds among budget categories if the cumulative amount of these transfers exceeds 10% of the detail line or \$1,000, whichever is greater. Transfer requests will be accepted up until the last two weeks of the period of performance.
 - 4) The Board shall review a request and notify the recipient within 30 calendar days after receipt of a request.

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- b) The awardee shall file Periodic Performance Reports with the Board on progress made and financial data for the reporting period. The initial report shall cover the first three months after the Board approves the award. Reports are to be filed using the forms provided by the Board and submitted no later than 30 days after the end of each quarter. (See GATA Rule Section 7000.410).
- c) The awardee shall take the following actions to complete grant closeout at the end of the period of performance. (See GATA Rule Section 7000.440).
- 1) Promptly refund any balances of unobligated cash that the Board paid in advance and that are not authorized to be retained by the awardee for use in other projects. Refunds shall be returned to the Board within 45 days after the end of the period of performance.
 - 2) Expend any encumbered grant funds during a lapse period of 60 days past the end of the period of performance. Any encumbered but unexpended grant funds remaining at the end of the lapse period shall be returned to the Board within 45 days.
 - 3) Submit, no later than 60 days after the end date of the grant period, the following reports:
 - A) A statement of costs and revenues signed by the institution's authorized representative.
 - B) A written evaluation of the project signed by the project manager or the institution's authorized representative. The report must address the objectives and performance measures specified in the Grant Agreement. Performance shall be measured in a way that will help the Board and other applicants and recipients improve program outcomes, share lessons learned, spread the adoption of promising practices, and build the evidence upon which the Program is based and performance decisions are made.
 - C) Deadlines may be extended at the discretion of the Board. Extensions shall be issued only in extraordinary circumstances not in the control of the awardee.

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: AIDS Drug Assistance Program
- 2) Code Citation: 77 Ill. Adm. Code 692
- 3) Section Number: 692.Appendix A Proposed Action: Amendment
- 4) Statutory Authority: Ryan White HIV/AIDS Treatment Extension Act of 2009 [Public Law 111-87]; Section 314 of the Civil Administrative Code of Illinois [20 ILCS 2310/315]
- 5) A Complete Description of the Subjects and Issues Involved: The purpose of this rulemaking is to update Appendix A with respect to the federal poverty level changing from the 2018 federal poverty level to the 2019 federal poverty level, which is required by the federal funder, United States Health Resources and Services Administration. On January 2019, the United States Department of Health and Human Services posted the new 2019 federal poverty level (FPL) in the Federal Register. The Department is updating its rules to reflect this new standard. The federal poverty level is posted on the following website:

<https://www.federalregister.gov/documents/2019/02/01/2019-00621/annual-update-of-the-hhs-poverty-guidelines>
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: Federal poverty level, issued by the US Department of Health and Human Services
- 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.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

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

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

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: No adverse impact is anticipated from this rulemaking.
- 15) Regulatory Agenda on which this rulemaking was summarized: Jan. 2019

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 k: COMMUNICABLE DISEASE CONTROL AND IMMUNIZATIONSPART 692
AIDS DRUG ASSISTANCE PROGRAM

Section

692.5	Definitions
692.6	Incorporated and Referenced Materials
692.10	Drugs to Prolong the Lives of Non-Medicaid Persons with Acquired Immunodeficiency Syndrome (AIDS) or Human Immunodeficiency Virus (HIV) Infection
692.15	Application Requirements
692.16	Non-Discrimination
692.APPENDIX A	20192018 Poverty Income Guidelines
692.APPENDIX B	Ryan White HIV/AIDS Treatment Extension Act of 2009 Sliding Fee Scale

AUTHORITY: Implementing the Ryan White HIV/AIDS Treatment Extension Act of 2009 (P.L. 111-87) and authorized by Section 315 of the Civil Administrative Code of Illinois [20 ILCS 2310/315].

SOURCE: Emergency rule adopted at 15 Ill. Reg. 14699, effective September 30, 1991, for a maximum of 150 days; adopted at 16 Ill. Reg. 4052, effective February 27, 1992; emergency amendment at 17 Ill. Reg. 12913, effective July 23, 1993, for a maximum of 150 days; emergency expired December 20, 1993; amended at 18 Ill. Reg. 1427, effective January 20, 1994; amended at 18 Ill. Reg. 17678, effective November 30, 1994; amended at 20 Ill. Reg. 7531, effective May 15, 1996; emergency amendment at 20 Ill. Reg. 8353, effective June 4, 1996, for a maximum of 150 days; emergency expired November 1, 1996; amended at 21 Ill. Reg. 1203, effective January 10, 1997; amended at 22 Ill. Reg. 14468, effective July 24, 1998; amended at 24 Ill. Reg. 11876, effective August 1, 2000; emergency amendment at 35 Ill. Reg. 16105, effective September 26, 2011, for a maximum of 150 days; amended at 36 Ill. Reg. 3909, effective February 22, 2012; peremptory amendment at 37 Ill. Reg. 2563, effective February 15, 2013; emergency amendment at 37 Ill. Reg. 3899, effective March 18, 2013, for a maximum of 150 days; amended at 37 Ill. Reg. 11371, effective July 2, 2013; emergency amendment at 38 Ill. Reg. 7997, effective March 28, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 17363, effective August 1, 2014; amended at 39 Ill. Reg. 9978, effective July 2, 2015; amended

DEPARTMENT OF PUBLIC HEALTH

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at 40 Ill. Reg. 9527, effective June 29, 2016; amended at 41 Ill. Reg. 10657, effective August 2, 2017; amended at 42 Ill. Reg. 13256, effective June 21, 2018; amended at 43 Ill. Reg. _____, effective _____.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

Section 692.APPENDIX A ~~2019~~2018 Poverty Income Guidelines

<u>2019</u> 2018 Health and Human Services Poverty Guidelines		
Persons in Family	100% Poverty Guideline	Maximum Gross Annual Income ADAP 300% Eligibility
1	\$ 12,490 12,140	\$ 37,470 36,420
2	16,910 16,460	50,730 49,380
3	21,330 20,780	63,990 62,340
4	25,750 25,100	77,250 75,300
5	30,170 29,420	90,510 88,260
6	34,590 33,740	103,770 101,220
7	39,010 38,060	117,030 114,180
8	43,430 42,380	130,290 127,140
For additional persons, add	4,420 4,320	13,260 12,960
See: Federal Register: 84 FR 11678 83 FR 2642, February 2, 2019 January 18, 2018		

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

STATE UNIVERSITIES CIVIL SERVICE SYSTEM

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: State Universities Civil Service System
- 2) Code Citation: 80 Ill. Adm. Code 250
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
250.100	Amendment
250.110	Amendment
- 4) Statutory Authority: State Universities Civil Service Act [110 ILCS 70]
- 5) A Complete Description of the Subjects and Issues Involved: Section 250.100(e) is being added in regards to Section 36f(c) of the State Universities Civil Service Act where a different examining procedure may be used to hire Police Officers at the Illinois public higher education universities. Section 250.110 is being revised to add language in regards to the serving of a subpoena on a person in matters related to the discharge/demotion process. Also, language is being added that will allow for settlement agreements between the employer and the employee after an employer has filed Written Charges for Discharge on an employee and the employee requested a hearing before the Merit Board. In the Section regarding the "Final Decision of the Merit Board", the minimum number of days that the Merit Board can suspend an employee is being reduced from 60 days to three days. Also some minor technical changes have been made.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an 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 proposed rulemaking will not create or expand a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The State Universities Civil Service System will accept written comments

STATE UNIVERSITIES CIVIL SERVICE SYSTEM

NOTICE OF PROPOSED AMENDMENTS

on these proposed amendments within 45 days after the date of publication to the *Illinois Register*. Comments should be addressed to:

Jeff Brownfield
Executive Director
State Universities Civil Service System
1717 Philo Road, Suite 24
Urbana IL 61802

217/278-3150
e-mails: jeffb@sucss.illinois.gov
teresar@sucss.illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: The Agency did not prepare a small business impact analysis as this rulemaking will not have an adverse impact on small businesses.
- 15) Regulatory Agenda on which this rulemaking was summarized: The Agency did not anticipate this rulemaking.

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

STATE UNIVERSITIES CIVIL SERVICE SYSTEM

NOTICE OF PROPOSED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE A: MERIT EMPLOYMENT SYSTEMS
CHAPTER VI: STATE UNIVERSITIES CIVIL SERVICE SYSTEM

PART 250

STATE UNIVERSITIES CIVIL SERVICE SYSTEM

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AUTHORITY: Implementing and authorized by the State Universities Civil Service Act [110 ILCS 70].

SOURCE: Rules: State Universities Civil Service System, approved January 16, 1952, effective January 1, 1952; amended at 3 Ill. Reg. 13, p. 68, effective April 1, 1979; amended at 4 Ill. Reg. 10, p. 262, effective February 25, 1980; amended at 6 Ill. Reg. 2620, effective February 22, 1982; amended at 6 Ill. Reg. 7236, effective June 3, 1982; amended at 8 Ill. Reg. 4948 and 4950, effective March 29, 1984; codified at 8 Ill. Reg. 12936; amended at 8 Ill. Reg. 24732, effective December 6, 1984; amended at 9 Ill. Reg. 17422, effective October 23, 1985; amended at 11 Ill. Reg. 8942, effective May 8, 1987; amended at 12 Ill. Reg. 3457, effective February 1, 1988; amended at 12 Ill. Reg. 17079, effective October 7, 1988; amended at 13 Ill. Reg. 7324, effective May 1, 1989; amended at 13 Ill. Reg. 19427, effective February 6, 1990; amended at 18 Ill. Reg.

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1901, effective January 21, 1994; amended at 20 Ill. Reg. 4440, effective February 29, 1996; amended at 30 Ill. Reg. 17384, effective October 23, 2006; amended at 31 Ill. Reg. 15848, effective November 13, 2007; amended at 32 Ill. Reg. 17268, effective October 16, 2008; amended at 33 Ill. Reg. 11644, effective July 22, 2009; amended at 36 Ill. Reg. 6014, effective April 6, 2012; amended at 37 Ill. Reg. 419, effective December 26, 2012; amended at 39 Ill. Reg. 13504, effective December 1, 2015; amended at 40 Ill. Reg. 3105, effective January 26, 2016; emergency amendment at 40 Ill. Reg. 3772, effective March 1, 2016, for a maximum of 150 days; amended at 40 Ill. Reg. 11192, effective August 4, 2016; amended at 40 Ill. Reg. 16302, effective December 12, 2016; amended at 41 Ill. Reg. 11576, effective August 30, 2017; amended at 42 Ill. Reg. 24268, effective December 3, 2018; amended at 43 Ill. Reg. _____, effective _____.

Section 250.100 Reassignments and Transfers

- a) Reassignment within a Place of Employment:
 - 1) An employer may reassign an employee during his/her probationary period to any position of the same class within a place of employment, subject to conditions imposed by the recognition of lesser units. An employee so reassigned shall be required to complete his/her probationary period in the class.
 - 2) An employer may reassign a status employee to another position of the same class within a place of employment, but the employee shall not be required to serve any additional probationary time in the class. Reassignment shall be without prejudice to seniority in the class or in the promotional line of which that class is a part, subject to conditions imposed by recognition of lesser units.
 - 3) All reassignments shall take precedence over any existing registers.
- b) Temporary Downgrading and Upgrading:
 - 1) Temporary Downgrading. If it is necessary to assign a status employee, on a temporary employment basis to a temporary or permanent position which is classified at a lower level, the employee's salary, at the time immediately prior to such assignment, will be maintained.
 - 2) Temporary Upgrading. If a status employee is assigned, on a temporary

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employment basis, to a temporary or permanent position of higher rate or range, the employee is entitled during the period of upgrading to receive ~~the~~ higher rate or a salary within ~~the~~ higher range provided that no employee shall suffer any reduction in salary because of ~~the~~ assignment.

- 3) ~~The~~ temporary upgrading and downgrading assignments must not be for more than 30 consecutive work days duration.
 - 4) An employer makes ~~such~~ temporary downgrading assignments by assigning a status employee who meets the minimum qualifications of the class to which assignment is being made. An employer makes ~~such~~ temporary upgrading assignments by assigning status employees from active registers for the class so long as ~~those~~ registers exist. When a need for temporary upgrading assignments occurs in classes that utilize work shifts, the register requirement applies only to those status employees on the appropriate shift. Acceptance of, or refusal to accept, ~~such~~ a temporary assignment by an employee shall in no way affect the employee's position on the register, regardless of the number of acceptances or refusals.
 - 5) In the absence of a register, an employer may assign only those status employees who meet the minimum qualifications for the class to which assignment is being made.
 - 6) When ~~a temporary~~ ~~such an~~ assignment has been made, seniority shall continue to be accrued in the class in which the employee has a status appointment.
- c) Transfer to Another Place of Employment:
- 1) An employer, with the approval of the employee involved, may transfer a status employee from one place of employment to a position of the same class in another place of employment within the same institution or agency, provided there are no names on the reemployment register for that class in the place of employment to which the employee is being transferred. The employee is not required to serve a second probationary period in the new place of employment.

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- 2) A status employee may request that his/~~her~~ name be transferred to any other place of employment within the System and be placed on the original entry register at that place of employment in the class in which he/~~she~~ has a status appointment. Upon acceptance of ~~the~~his request by the appropriate employer, his/~~her~~ name shall be placed on the original entry register in accordance with his/~~her~~ total service in the class as of date of ~~the~~his request for transfer. If this employee accepts a status appointment at the place of employment to which his/~~her~~ name was transferred, he/~~she~~ is not required to serve a second probationary period.
 - 3) An employee, whose name has been certified from the register and who has not completed ~~the~~his probationary period, may have the examination score for the class in which he/~~she~~ is employed transferred, at ~~the~~ ~~employee's~~his request, to another place of employment within the System. ~~That employee's, and his~~ name shall be placed on the original entry register for that class by score at ~~the~~sueh place of employment. He/~~she~~ must serve a full probationary period at the new place of employment.
 - 4) When a function of an institution or agency covered by the System is transferred to another institution or agency covered by the System, employees previously certified within the System who are affected by the transfer shall transfer the same accrued seniority or service as determined by their original date of certification.
- d) Transfer of a State Employee under the Personnel Code [\[20 ILCS 415\]](#) to Employment under the System.
- 1) The procedures for effecting the transfer of a State ~~of Illinois~~ employee from a position under the Personnel Code to a comparable position under the University System shall be the same as those ~~that~~which apply to the transfer of an employee within the System from one place of employment to another, as stated in ~~subsections~~ ~~Section 250.100~~(c)(1) and (2).
 - 2) The term, "status," as used in Section 36q ~~of the Act, third paragraph,~~ ~~paragraph 3 of the Statute,~~ shall refer to:
 - A) the employee's status under the Personnel Code as a probationary or a status employee;

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- B) his/her eligibility to accrue credits for vacation, sick leave, and personal leave benefits, as determined by years of consecutive service to the employer from which he/she is transferring; and
 - C) his/her eligibility for a specific pay rate where the pay rate of an employee is determined by years of service.
- 3) Seniority earned by a State-~~of Illinois~~ employee under the Personnel Code is not transferable.
 - 4) When a State ~~agency of Illinois Agency~~ becomes subject to the Act ~~governing the State Universities Civil Service System~~, previously certified employees under the regular classified-~~State of Illinois~~ Personnel Code affected by the transfer shall transfer the same accrued seniority as determined by their original date of certification.
- e) Appointment of Law Enforcement Personnel Employed by Illinois Municipal Police Departments, County Sheriff's Departments or the State of Illinois
- 1) An employer may, but is not required to, place the names of applicants who are currently employed as law enforcement officers at either a municipal law enforcement agency or a county sheriff's office within the State of Illinois, or by the State of Illinois, at the applicant's request, on "transfer list", subject to the provisions of this subsection (e).
 - 2) To be eligible for appointment under this subsection (e):
 - A) the applicant must have:
 - i) successfully completed at least 2 years of employment as a full-time sworn and certified law enforcement officer with a municipal law enforcement agency or a county sheriff's office within the State of Illinois or with the State of Illinois; and
 - ii) satisfied the requirements established by the Illinois Law Enforcement Training and Standards Board;

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- B) no more than 2 positions at any place of employment may be filled and occupied under this subsection (e) in any given 5 year period; and
 - C) the applicant must not have been suspended for disciplinary reasons by the current or most recent employer.
- 3) Any applicant hired pursuant to this subsection (e) must serve a probationary period of 12 months.

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

Section 250.110 Separations and Demotions

- a) Resignation. An employee having a nonstatus or status appointment, as described in Sections 250.70 and 250.80, may resign by presenting a signed resignation to his/her employer or by demonstrating to the employer by other means his/her intent to separate from employment. Upon receipt of a signed resignation by the employee or other evidence of intent to separate from employment, the employee will be separated from his/her employer. The employer shall maintain all resignations or other documentation of evidence in accordance with the employer's record retention policy.
- b) Leave of Absence
 - 1) Leave of Absence for Classification Changes. A status employee who accepts a position that represents a promotion in a class outside his/her promotional line shall be granted a leave of absence from a position of his/her former class for the duration of any intern appointment, provisional appointment, and/or probationary period in the new class.
 - 2) Leave of Absence for Disciplinary Actions. An employee placed on a Disciplinary Suspension or on a Suspension Pending Discharge shall be placed on a leave of absence from his/her position.
 - 3) Leave of Absence for Disability Leave
 - A) If an employee is no longer able to perform the duties and responsibilities of his/her position in the class due to a disability as

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determined by the employer's medical and/or psychological evaluation procedures, and/or in accordance with State and federal laws, the employee will be required to take disability leave in accordance with subsection (b)(3)(B).

- B) A status employee who becomes eligible for disability benefits to be paid by the employer or, as later determined, by the Illinois State retirement system to which the employee contributed, or becomes eligible for payment benefits as defined by the Workers' Compensation Act [820 ILCS 305], the Illinois Occupational Diseases Act [820 ILCS 310], or a State self-insurance program, shall be granted a disability leave. The disability leave shall be the period for which the employee applies for such benefits, until the time of the expiration of the benefits or a final administrative decision denying or terminating the benefits, including any gap in benefit payments between the expiration of institutional benefits and those available under the approving authority.
- C) The employer may require an employee to take a medical and/or psychological examination prior to returning to work after a disability leave. The examination shall be conducted by a licensed practitioner selected by the employer to determine the physical and/or mental capability to perform the essential duties of the employee's position. The employer may supply the examining practitioner with facts relating to the employee's difficulty or inability to perform the essential functions of the job and may supply additional information, including but not limited to physical and mental requirements of the employee's position, duty statement, job classification specification, and position description. The employee may also present an alternative opinion provided by a licensed practitioner to be selected and paid for by the employee. If there is a difference of opinion, a third outside practitioner shall be selected by the ~~two~~ physicians. The employer shall pay for all examinations, except those initiated by the employee.
- D) An employee's refusal to submit to an examination as described in subsection (b)(3)(C), the unexcused failure to appear for such an examination, or the refusal to release the results of the examination may be deemed by the employer as an acknowledgement that the

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employee is not fit for duty and may subject the employee to termination actions as defined in subsection (c).

- E) A disability leave may be revoked by the employer upon evidence that the cause for granting the leave was misrepresented.
- F) At the expiration of all disability benefits, an employee shall be entitled to return to a position in his/her class without any loss of status due to the disability leave, providing that he/she returns upon the expiration of all disability benefits to which entitled.
- G) Reemployment
 - i) If an employee does not return to work at the expiration of all disability benefits and is terminated in accordance with subsection (c)(2), the employee may, within one year following the expiration of all disability benefits, request reinstatement and, upon approval of the Executive Director, the employee's name may be placed on the reemployment register in the class in which he/she was employed at the time the disability leave was granted and in accordance with total seniority earned.
 - ii) If, within one year following the expiration of all disability benefits, the employee requests reinstatement, but, because of his/her disability, is deemed unable to perform the duties in the class, the employee may be required to pass physical or other tests to determine employability under the University System.
- 4) Military Leave of Absence. An employee shall be granted a Military Leave of Absence in accordance with State and federal laws and regulations.
- 5) Notification
 - A) The employer may select:
 - i) to notify the Executive Director of all leaves of absence, including military, disability, or any other leave otherwise

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granted; or

- ii) to maintain these records for inspection upon request by the Executive Director or designee during the on-site audit program or other specified time.
 - B) The notification shall include the beginning and ending dates of leaves that exceed 30 calendar days of non-pay status.
- c) Termination
- 1) An employee having a non-status appointment, as described in Section 250.70 ~~of this Part~~, may be terminated by his/her employer at any time during the training period and/or upon completion of the work assignment.
 - 2) An employee on disability leave, as defined in subsection (b)(3), who has exhausted all of his/her disability benefits and is unable to resume the duties and responsibilities of a position in his/her class may be terminated from employment in accordance with subsection (c)(5), or the employer and employee may agree upon employment in a more suitable classification. The alternative employment options shall be subject to standard civil service employment protocols.
 - 3) An employee who fails to report for duty after a disability leave of absence has expired or has been denied, disapproved, revoked, or canceled by the approving authority, or any other failure to report for duty as scheduled after a disability leave of absence, may be terminated from employment in accordance with subsection (c)(5).
 - 4) An employee who fails to report for duty after he/~~or~~ she has exhausted benefits under the Family and Medical Leave Act (FMLA) may be terminated from employment in accordance with subsection (c)(5).
 - 5) Appropriate notification shall be provided to an employee, as specifically referenced in subsections (c)(2), (c)(3) and (c)(4), which will include the notification provisions outlined in this subsection (c)(5).
 - A) The employer shall notify the employee that he/she will be terminated from the employer's service to become effective 7 calendar days from the date of mailing of the notification to the

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employee. The notification shall be sent, by an overnight delivery service that requires signature upon receipt, to the most recent address of the employee as shown on the employer's records.

- B) At any time prior to the effective date of termination, the employee shall have the opportunity to provide to the employer evidence of the reason for the unauthorized absence. The employer shall revoke the termination if the employee provides satisfactory evidence of the reason for the unauthorized absence. If the employer determines that the evidence is not satisfactory, the employer shall notify the employee immediately that the termination will remain in effect.
 - C) Pursuant to Section 250.130 (Review Procedures), the employee may request a review of the employer's final notice of termination. The review is limited to a determination of whether this Section has been properly applied and whether the employer's decision is deemed arbitrary or capricious. In the event a review is not requested within the allotted timeframe, the employee's termination from service shall be effective 7 days after the original notification.
- d) Layoff
- 1) The Executive Director shall be notified promptly of all employees on layoff status, together with the dates of the beginning of layoff and of return to employment from layoff status, when the layoff exceeds 30 consecutive work days. A status employee shall receive a written notice, at least 30 calendar days in advance of the effective date of layoff, when the layoff exceeds 30 consecutive work days; however, the effective date of layoff may be extended up to 15 days without the requirement of further notice.
 - 2) Whenever it becomes necessary to lay off one or more employees, except as provided in subsection (d)(3), the employee who has the least amount of service in the class shall be laid off first, and additional layoffs shall be made in the ascending order of the place of the employee on the service and seniority lists for that class.

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- 3) An employee who is the incumbent of a position for which the Executive Director has authorized specialized certification under Section 250.60(d)(9), or who is the incumbent of a position that has previously been identified as requiring specialized training or experience as required by the position in accordance with minimum acceptable qualifications for the class, may not be bumped by another employee with greater seniority unless the employee with greater seniority possesses the special and identified qualifications authorized for the incumbent's position.
 - 4) Whenever it becomes necessary to reemploy one or more employees in a class, the employee last laid off by seniority shall be reemployed first, and further reemployment shall be made in the order of seniority until the reemployment register for that class is exhausted. Work of short duration requiring reemployment of one or more employees will not require a new written 15 day advance notice of layoff if the work period is to be 5 consecutive working days or less and the work is emergent in nature.
 - 5) A status employee who is subject to layoff from a part-time position may bump an employee in a full-time status position, providing the part-time employee's equivalent full-time accrued seniority based on hours in pay status is greater than that of the least senior employee in a full-time position. A full-time status employee who is subject to layoff may bump the least senior full-time employee, who then may bump the part-time employee having the highest percent-time appointment, providing the full-time employee has more accrued seniority.
 - 6) Names of employees laid off during their probationary periods shall be returned to the register from which they were certified to their position in accordance with service in a status appointment earned as of the date of layoff.
- e) Disciplinary Suspension. An employer may suspend an employee as a disciplinary measure for not more than 30 calendar days.
- 1) The employer will discuss the specific problem pertaining to contemplated suspension with the employee and the Human Resource Director or his/her designee before a suspension notice is served. The employee will be told at that time that suspension is being considered.

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- 2) In imposing a disciplinary suspension, the employer shall serve a written suspension notice on the employee showing reason for the suspension, and shall immediately report the suspension to the Executive Director and shall send a copy of the notice served on the employee, along with proof of service, to the Executive Director.
- 3) Causes justifying suspension, not for discharge as provided for in subsection (f)(2), shall include, but are not limited to: unauthorized and unexcused absence; leaving work without authority; failure to ring in or out on time card; habitual lateness; punching other time cards; key duplication and/or unauthorized possession of keys; misrepresentation of absence; falsification of records; refusal to do work assigned; failure to follow work schedules; failure to follow time schedules; insolence; failure to adhere to departmental regulations of appearance; smoking in prohibited areas; disregard of safety regulations; careless workmanship resulting in spoilage, waste, or delay; unauthorized use of institutional property; gambling on institutional property; creating or contributing to unsanitary conditions; horseplay or scuffling; fighting; sleeping during working hours; unauthorized visiting; and "loafing on the job".

AGENCY NOTE: It is to be noted that an employee's allegation that a Disciplinary Suspension was unfairly imposed is subject to the grievance procedure established by the employing institution, but is not reviewable by the State Universities Civil Service System (University System).

- f) Discharge Proceedings and Effective Date of Discharge
 - 1) Pre-discharge Proceedings
 - A) Prior to initiating any proceedings before the Merit Board for the discharge of an employee, the employer shall notify the employee in writing, served upon the employee in person if the employee is present on the job or, otherwise, by an overnight delivery service that requires signature upon receipt to the most recent address of the employee as shown on the employer's records, of the employer's intention to initiate the proceedings. The notification shall advise the employee of the substance of the charges proposed to be filed in sufficient detail to inform the employee of the nature of the conduct on which the proposed charges are based. The

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notification shall also advise the employee that either or both of the following options are available to the employee:

- i) within 3 work days after service of the employer's notification, the employee may notify the employer of his/her decision to require the employer to hold a conference with the employee or his/her representative for the purposes of responding to the matters contained in the notification and of attempting to achieve a reconciliation or understanding; and
- ii) within 3 work days after service of notification, the employee may deliver to the employer a written response to the matters contained in the employer's notification; provided that, if the employee elects to require the conference identified in subsection (f)(1)(A)(i), at that conference the employee may request and receive an opportunity to respond further in writing within 3 work days after the conclusion of the conference.

B) Employer's Decision

- i) Within 7 work days after compliance with the provisions of subsection (f)(1)(A), the employer shall either:
 - notify the employee that no further action will be taken to initiate discharge proceedings with the Merit Board against the employee based solely on the matters contained in the employer's notification; or
 - initiate proceedings before the Merit Board under this subsection (f) seeking discharge of the employee based solely on the matters contained in the employer's notification.
- ii) The employer's election not to initiate discharge proceedings with the Merit Board shall not preclude the employer from imposing a suspension in accordance with

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subsection (e) or some lesser penalty.

- C) An employee who has been served with an employer's notification as provided in subsection (f)(1)(A) may be placed on excused absence with pay during all or any part of the period covered by this subsection (f)(1) to provide the employer an opportunity to investigate serious charges.
- 2) Actual Discharge Proceedings
- A) Proceedings before the Merit Board seeking the discharge of an employee shall be initiated by the employer by completing and filing a Written Charges for Discharge form with the Merit Board/University System, employee, legal counsel for employer, and employer, setting forth the causes for discharge in sufficient detail to inform the employee of the nature of the conduct on which the charges are based. The Written Charges for Discharge form shall be set forth in separately numbered charges. Also, the employer shall develop and attach a document that contains the dates, names of persons, places and facts necessary to properly allege the cause for discharge. If a breach of duty, statute or rule of the employer is alleged, the statute, law or rule shall be cited in connection with the charge. Any and all exhibits that the employer plans to present at the time of the hearing shall be submitted in accordance with subsection (f)(11)(B) or as appropriate to the circumstances. The exhibits shall not be attached to the Written Charges for Discharge form.
- B) The Written Charges for Discharge form shall be accompanied by a certification by the employer that all procedures set forth in subsection (f)(1) have been followed and that there has been full compliance with any options elected by the employee. At the time the Written Charges for Discharge form and the certification are filed with the Merit Board/University System office, the employer shall serve copies upon the employee in person if the employee is present on the job; otherwise, service shall be by an overnight delivery service that requires signature upon receipt to the most recent address of the employee as shown on the employer's records, and the employer shall file proof of service with the Merit

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Board/University System office.

- C) At any time prior to commencement of the hearing, the Executive Director may direct or authorize the Written Charges for Discharge to be amended to correct technical defects or to set forth additional facts or allegations related to the subject matter of the original charges. The amendments shall relate back to the original proof of service date of the Written Charges for Discharge form. The employer shall serve copies of the Amended Written Charges for Discharge form upon the employee in person if the employee is present on the job; otherwise, service shall be by an overnight delivery service that requires signature upon receipt to the most recent address of the employee as shown on the employer's records, and the employer shall file proof of service with the Merit Board/University System office.
- D) An employee who has been served with Written Charges for Discharge in accordance with subsections (f)(2)(A) and (B) may be suspended without pay by the employer during all or any part of the period that the discharge proceeding is pending, and until final disposition, if the employer is of the opinion that the employee's presence on the job might constitute a substantial risk of injury to life or property, or might cause a disruptive effect on employer's operations. Any suspension without pay shall become effective on the date the employer serves the Suspension Notice Pending Discharge upon the employee, which may be served with the Written Charges for Discharge or on any date thereafter. Service shall be upon the employee in person if the employee is present on the job; otherwise, service shall be by an overnight delivery service that requires signature upon receipt to the most recent address of the employee as shown on the employer's records, and the employer shall file with the Merit Board/University System office a copy of the Suspension Notice Pending Discharge and proof of service.
- 3) Hearing Request
- A) An employee who has been served with Written Charges for Discharge may request a hearing by filing a written request for

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hearing with the Secretary for the Merit Board within 15 calendar days from the "Proof of Service on Employee" section on the Written Charges for Discharge form that is the date of either personal delivery or mailing of the Written Charges for Discharge form to the employee. The Secretary for the Merit Board shall immediately [acknowledge receipt of the request for a hearing and](#) notify the employer that the employee has filed for a hearing. Thereafter, further proceedings shall be as provided in this subsection (f) and any discharge shall be effective on the date of the discharge order of the Merit Board, unless otherwise expressly stated in the order.

- B) If the employee does not file a written request for hearing with the Secretary for the Merit Board within 15 calendar days from the date specified in the "Proof of Service on Employee" section on the Written Charges for Discharge form, the employee's discharge shall become effective at the end of the 15-day period without further action by the Merit Board. The Secretary for the Merit Board shall promptly notify the employer of the employee's failure to file a timely written request for hearing.

4) Hearing Proceedings

- A) Upon receipt of the employee's written request for hearing on the Written Charges for Discharge, the Merit Board/University System office shall promptly appoint a Hearing Board or Hearing Officer to hear the charges and the employee's response. All hearings relating to discharge proceedings shall be convened by and conducted under the control of the Executive Director or his/her authorized representative. The Executive Director, the Hearing Board or Hearing Officer, the employee and the employer shall all make good faith efforts to commence the hearing within 10 calendar days after receipt of the employee's written request for hearing, but in no event shall the hearing commence later than 45 days after service of the Written Charges for Discharge, unless a continuance is granted pursuant to subsection (f)(~~2019~~)(B). Dilatory tactics or actions will not be permitted and the Executive Director, the Hearing Board or Hearing Officer, the employee and the employer shall all make good faith efforts to conduct the

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hearings in no more than 3 hearing days, unless justice, due process, and fundamental fairness require otherwise. All hearings shall be open to the public unless, upon motion of either party, the Hearing Board or Hearing Officer finds it necessary to close the hearing or parts of the hearing in instances where personal safety is of concern or when confidential testimony/exhibits are to be referenced or revealed. There shall be a presumption that hearings will be closed only under extraordinary circumstances. A transcript of the hearing, including exhibits, shall be made and shall be filed with the Secretary for the Merit Board as soon as possible following the conclusion of the hearing.

- B) Within 15 calendar days after receipt of the transcript from the Secretary for the Merit Board, the Hearing Board or Hearing Officer shall file its findings of fact and any other recommendations with the Secretary for the Merit Board, unless that time is extended by the Executive Director for good cause shown. For the purpose of this Section, good cause shall include, but not be limited to: sickness, attendance at court proceedings, death, weather conditions that prevent the members from meeting. If by that time the findings of fact have not been received by the Secretary for the Merit Board, the Executive Director will either appoint another approved Hearing Board or Hearing Officer that will then review the record and submit findings of fact within 10 calendar days after the appointment, or the Executive Director will give written notice to all Hearing Board members or the Hearing Officer and to all parties to the proceeding that he or she will, within 10 calendar days, discontinue the hearing and commence a new hearing and the present Hearing Board or Hearing Officer will be dismissed without pay. Within this 10-day period following the Executive Director's notice, the Hearing Board or Hearing Officer can appeal to the Executive Director by showing cause why time should be extended.
- C) The Executive Director shall certify as the Hearing Record the Written Charges for Discharge, the Suspension Notice Pending Discharge, the employee's request for hearing, the transcript and exhibits, the Hearing Board's or Hearing Officer's findings of fact and other recommendations, and other documents that have been

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filed.

- D) Upon certification by the Executive Director, the Secretary for the Merit Board shall, by an overnight delivery service that requires signature upon receipt, immediately forward a copy of the Hearing Record, along with notice that the Hearing Record has been certified, to all parties of record. Any objections to the form or contents of the Hearing Record, or briefs, abstracts, or excerpts from the Hearing Record, or arguments, motions, or recommendations, relating to the hearing proceedings or the Hearing Record, or requests for further hearing or for permission to supplement further the Hearing Record by other evidence, must be filed with the Secretary for the Merit Board within 14 calendar days after the date of the overnight delivery service that the Hearing Record has been certified, with proof of service on all parties. No answer or reply briefs and arguments in response to these filings will be permitted unless expressly authorized by the Executive Director or the Merit Board or its Chair.
 - E) A party requesting oral argument before the Merit Board in cases of discharge must file an appropriate motion with the Secretary for the Merit Board with notice to all parties within 14 calendar days after the date of the overnight delivery service of the certified Hearing Record, with proof of service on all parties. The motion must specifically state the issues and any relevant law that will be the subject of argument. The Merit Board will grant or deny the motion at the Merit Board meeting at which oral argument is requested. Oral argument in cases of discharge will generally not be allowed unless novel or precedent setting questions of law or policy are at issue.
- 5) Conduct of Hearing
- A) Pre-hearing Conference. In all hearings, it is recommended that the Hearing Board or Hearing Officer hold a pre-hearing conference immediately preceding the hearing on the first day of the hearing. The Hearing Board or Hearing Officer will give the parties an opportunity to discuss issues and share information at the pre-hearing conference that will allow them to present their

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cases in a fair, efficient, and timely manner. Generally, the Hearing Board or Hearing Officer will conduct the pre-hearing conference for the purpose of achieving one or more of the following points, as determined by the Hearing Board or Hearing Officer on a case by case basis:

- i) defining and simplification of the issues;
 - ii) negotiating admissions or stipulations of fact to avoid unnecessary proof;
 - iii) reviewing each party's witness and exhibit list;
 - iv) limiting redundant witness testimony or duplication of evidentiary material, if necessary;
 - v) determining the length of time each party will need to present its case;
 - vi) exchanging exhibits; and
 - vii) discussing any matter that may aid in the efficient and timely disposition of the case.
- B) Following the Pre-hearing Conference. The Hearing Board or Hearing Officer shall enter into the record any action taken and any agreements made by the parties as to the matters considered. The length and scope of the pre-hearing conference is at the discretion of the Hearing Board or Hearing Officer, but should generally be concluded within a one hour timeframe.
- 6) Order of Hearing
- A) The Executive Director, or authorized representative, shall open and convene the hearing.
 - B) The Executive Director, or authorized representative, shall request all persons who have been asked to serve as witnesses, other than a party or employer representative, to be excluded from the hearing

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room while the hearing is in process, except during their own testimony and cross-examination. Except as he/she might intervene, or be requested to intervene, the Executive Director, or authorized representative, shall empower the Hearing Board or Hearing Officer to proceed with the hearing in such a manner as to provide the employer and the employee a full opportunity to present their positions to the Hearing Board or Hearing Officer.

- C) The parties may make a brief opening statement at the beginning of the hearing. The employer will proceed first, followed by the employee. Opening statements may be waived or may be reserved and presented at the commencement of the party's case-in-chief.
- D) The employer shall first present its case-in-chief, with an opportunity for the employee to cross-examine the employer's witnesses. The employee may be called as an adverse witness during the course of the hearing.
- E) The employee shall then present his/her case-in-chief, with an opportunity for the employer to cross-examine the employee's witnesses.
- F) Each party may call rebuttal witnesses if found to be necessary by the Hearing Board or Hearing Officer.
- G) At the conclusion of the hearing, each party may make an oral closing argument. The employer may be permitted a brief rebuttal at the end of the employee's closing argument.
- H) The hearing shall be closed when the employer and the employee have had a fair and reasonable opportunity to present their positions to the Hearing Board or Hearing Officer.
- I) In addition, each party may submit written arguments, summary statements, and/or briefs within 10 calendar days after conclusion of the hearing. A copy of the written closing arguments must be provided to all parties of record and filed with the Executive Director, with proof of service included. Only written materials submitted within the 10 calendar day timeframe will be forwarded

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with the transcript of evidence and exhibits and considered by the Hearing Board or Hearing Officer, unless otherwise extended by the Executive Director.

- 7) Evidence and Motions
 - A) As a general matter, the rules of evidence and privilege as applied in civil cases in the circuit courts of the State of Illinois shall be followed. However, evidence not admissible under those rules may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent persons in the investigation and conduct of serious matters of this nature. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded.
 - B) All testimony shall be presented under oath or affirmation. Objections to testimony or evidentiary offers shall be noted in the record. Consistent with these requirements and in order to expedite the hearing, any part of the evidence may be received in written form, provided the interests of the parties are not jeopardized.
 - C) The standard of proof applied by the Hearing Board or Hearing Officer when evaluating the charges will be the preponderance of the evidence.
 - D) The Hearing Board or Hearing Officer may, on its own motion or upon motion of one of the parties, take notice of matters of which the circuit courts of the State of Illinois take judicial notice.
 - E) The Hearing Board or Hearing Officer has the authority to rule on all motions that do not dispose of the proceedings. Examples of motions that can be ruled on by the Hearing Board or Hearing Officer are motions in limine or motions to suppress evidence. Motions directed at the Hearing Board or Hearing Officer shall be presented at the pre-hearing conference, if possible, and actions taken by the Hearing Board or Hearing Officer shall be entered into the record.

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- F) Motions that dispose of the proceedings must be directed to the Merit Board. Examples of motions that are to be directed to the Merit Board are motions to dismiss, motions to decide a proceeding on the merits, or motions claiming lack of jurisdiction. Motions must be filed with the Secretary for the Merit Board within 14 calendar days after the date of the overnight delivery service of the certified Hearing Record. Motions will be ruled on by the Merit Board at the Merit Board meeting in which the case is being considered. The filing of a motion of this nature shall not be allowed to cause any delay in the proceedings.
- G) Performance records of the employee or past disciplinary records are admissible and relevant for the purpose of mitigation or aggravation, except if otherwise excluded by a local employer policy or collective bargaining agreement.
- 8) Stipulations. Parties may agree by stipulation upon any facts involved in the hearing. The facts stipulated shall be considered as evidence in the hearing. It is the policy of the Merit Board to encourage stipulation of facts whenever practicable.
- 9) Evidence Depositions. Upon request to the Executive Director and upon good cause shown (which shall include, but is not restricted to, potential unavailability of a witness at the time the hearing is scheduled, scheduling or travel arrangement considerations, or agreement of the parties) any party may request a deposition of any witness to be taken for evidence in a hearing. If desired, subpoenas may be requested upon application to the Executive Director in a manner consistent with this Part. The deposition shall proceed in the manner provided by law for depositions in civil actions in the circuit courts of the State of Illinois.
- 10) Subpoenas. Requests for subpoenas shall be directed to the Executive Director at least 5 work days before the scheduled hearing, unless an exception is granted by the Executive Director. Subpoena requests may be granted if reasonably designed to produce or lead to the production of evidence related to the alleged charges and the terms of compliance are reasonable given the time frames and other circumstances. The party requesting the subpoenas shall be responsible for service and costs related to the subpoena of a witness. [A subpoena may be served by personal](#)

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delivery of an executed original to the individual, or by leaving an executed original at the individual's usual place of abode, with some person of the family who is age 13 years or older, provided the server also sends a copy of the subpoena, postage prepaid, addressed to the individual at the individual's usual place of abode. The fees of the witnesses for attendance and travel shall be the same as the fees of witnesses before the circuit courts of the State of Illinois. Subpoenas are effective throughout the course of the proceedings. Requests for subpoenas must be submitted in writing and include the following:

- A) The name and address of the witnesses sought;
 - B) Any specific documents the witnesses will be required to bring; and
 - C) A brief statement of the relevant facts or testimony that the witnesses will be providing.
- 11) Request for Documents. At least 3 working days prior to the hearing, each party shall serve upon the other party and file a copy with the Secretary for the Merit Board, to be submitted to the Hearing Board or Hearing Officer, the following information, to the extent available at that time:
- A) A list of the names and addresses of the witnesses the party proposes to call; and
 - B) All documents the party proposes to offer in its case-in-chief.
- 12) Failure to Appear. Failure of a party to appear on the date set for hearing may result in findings of fact unfavorable to that party and may result in a loss of rights by default.
- A) Failure to Appear by Employee
 - i) A Notice of Convening of Hearing will be sent to all parties of record confirming the date, time and place of the hearing. If an employee or his/her representative is not present on the designated hearing date, the employer will try to make reasonable contact with the employee or his/her

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representative immediately. If, within a reasonable time on the hearing date, the employer is unable to contact the employee, the hearing will commence.

- ii) The Executive Director or his/her authorized representative will commence the hearing with an opening statement. At the conclusion of the opening statement, if the employee or his/her representative has still failed to appear, the hearing will be suspended for 3 work days. During this 3 work day period, the Executive Director or his/her authorized representative will try to make contact with the employee or his/her representative using the last known address, phone, email or any similar method as shown on the Written Charges for Discharge form.
- iii) If the employee or his/her representative cannot be reached within 3 work days or if the employee is unable to produce a reasonable explanation for failure to attend the hearing, the hearing will be closed and the employee's discharge shall become effective at the end of the 15-day period of the date on the Proof of Service on Employee, as found on the Written Charges for Discharge form, without further action by the Merit Board. The Merit Board/University System office shall notify the parties of record immediately of the action.
- iv) If the employee or his/her representative has a reasonable explanation for not attending the hearing, the Executive Director or his/her authorized representative shall schedule a new hearing date. A new Notice of Convening of Hearing will be issued to the parties of record and the Executive Director or his/her authorized representative will appoint either the same Hearing Board or Hearing Officer or appoint a new Hearing Board or Hearing Officer to conduct the hearing.
- v) Reasonable explanations can include, but are not limited to: injury on the day or preceding day of the scheduled hearing, traffic accident, death or significant injury of a

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family member, or other cause that is deemed reasonable by the Executive Director or his/her authorized representative. In any event, the employee is required to demonstrate that there was reasonable effort made to contact the employer or the Merit Board/University System office.

- B) Failure to Appear by Employer. If the employer fails to appear without reasonable cause, as determined by the Executive Director or his/her authorized representative, the employee will be reinstated to his/her position without loss of compensation as of the Proof of Service on Employee date on the Written Charges for Discharge form.
- 13) Disqualification of Assigned Hearing Board or Hearing Officer. A Hearing Board or Hearing Officer may be disqualified on grounds of bias or conflict of interest. An adverse ruling, or the fact that a Hearing Board or Hearing Officer has had contact with the University System, by itself, shall not constitute bias or conflict of interest. Whenever any party believes a Hearing Board or Hearing Officer should be disqualified from conducting an assigned proceeding, that party may file a request with the Executive Director to disqualify the Hearing Board or Hearing Officer, setting forth by affidavit the alleged grounds for disqualification, with proof of service on all parties. The Executive Director shall rule and make the final determination on all requests for disqualification.
- 14) Ex Parte Communications
- A) Except in the disposition of matters they are authorized by law to entertain or dispose of on an ex parte basis, the Merit Board, the Executive Director, employees of the University System Office, and the assigned Hearing Board or Hearing Officer shall not, after the Notice of Convening of Hearing has been issued to the parties of record, communicate, directly or indirectly, with any party or the party's representative regarding any issue of fact or with any person or party in connection with any other issue regarding the case, except upon notice and opportunity for all parties to participate. However, the Merit Board, the Executive Director, employees of the University System, and the Hearing Board or

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Hearing Officer may communicate with each other. Also, members of the Merit Board and the Hearing Board or Hearing Officer may have the aid and advice of one or more personal assistants.

- B) Communications regarding procedure, including interpretation and application of Section 360 of the Act, subsection (f), and related procedures, are not considered ex parte communications.
- 15) Role and Responsibilities of the Hearing Board or Hearing Officer. The Hearing Board or Hearing Officer shall be responsible for the following activities:
- A) Conduct the pre-hearing conference;
 - B) Facilitate the timely completion of the hearing process, taking necessary steps to avoid delay;
 - C) Establish reasonable limits on the duration of witness testimony;
 - D) Limit repetitive or cumulative testimony;
 - E) Rule on motions, objections or evidentiary questions;
 - F) Hear evidence as presented at the hearing by the employer and the employee on behalf of their respective positions (the evidence may include matters in aggravation, mitigation and justification, which may pertain to the question of "just cause" for discharge);
 - G) Direct questions to witnesses at any time, but restrict questioning to the clarification of the testimony already presented;
 - H) Prepare and transmit to the Merit Board a signed findings of fact within 15 calendar days after receipt of the transcript and exhibits of the hearing proceedings. The findings of fact shall set forth each of the written charges alleged in the Written Charges for Discharge, including an evaluation of the facts presented by the employer and employee with respect to each charge, and based on this evaluation, a determination as to whether the charges are

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sufficiently supported by the evidence presented. The findings of fact shall be based exclusively on the evidence and on matters officially noticed. The findings of fact presented by the Hearing Board or Hearing Officer are advisory only to the Merit Board. It is not the role of the Hearing Board or Hearing Officer to determine whether just cause for discharge exists. The determination of just cause is the sole province of the Merit Board; and

D) Enter any order that further carries out the purpose of this Section.

16) Settlement Agreements. Following the request for a hearing by the employee set forth in subsection (f)(3)(A), the employer and the employee may enter into a Settlement Agreement that may include a suspension of no more than 120 days. Such a suspension is only permissible if the employer files with the Secretary for the Merit Board the terms of that suspension, which must include a signed waiver of the rights provided by Section 360 of the Act. The employer is otherwise limited to a suspension of no more than 30 calendar days as set forth in subsection (e).

1746) Final Decision of the Merit Board. In the course of reaching its decision, the Merit Board may request the Executive Director to make recommendations that he/she deems appropriate with respect to the discharge proceedings. Nothing in this subsection (f)(~~1746~~) is intended to eliminate or limit the Merit Board's discretion to determine the appropriate disposition on a case-by-case basis. The Merit Board shall enter findings of fact and shall order the following decision and order or any other decision and order it deems appropriate:

- A) Discharge, if just cause is found to exist. No employee shall be discharged except for just cause. Just cause is defined as some substantial shortcoming that renders the employee's continuance in his/her position in some way detrimental to the discipline and efficiency of the service and that the law and sound public opinion recognize as good cause for the employee no longer holding the position; or
- B) Reinstatement, if just cause for discharge is found not to exist. An employee shall be reinstated as follows:

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- i) Reinstatement with no loss of compensation when none of the significant charges are proven.
- ii) Reinstatement with an unpaid suspension of a minimum of ~~360~~ days to a maximum of 120 days when the proven charges do not rise to the level of just cause for discharge, but some disciplinary action is justified based on the severity of the proven charges. If the Merit Board orders reinstatement with a suspension, any time served while on suspension pending discharge will be applied towards the fulfillment of the suspension. The Merit Board shall not order a reinstatement with a suspension past the day of the action taken by the Merit Board.

1817) Final Decision and Order of the Merit Board. The Secretary for the Merit Board shall immediately forward copies of all Merit Board orders to the employer and the employee by an overnight delivery service that requires signature upon receipt.

1948) Administrative Review. All final decisions of the Merit Board shall be subject to appeal by the parties to the proceedings under the Administrative Review Law [735 ILCS 5/Art. III]. A complaint for administrative review must be filed and summons issued within 35 days after the date that a copy of the final Merit Board decision has been served upon the party affected. A final decision of the Merit Board shall be deemed served either when personally delivered or when deposited in the United States mail in a sealed envelope or package, with postage paid, addressed to the party affected by the decision at his/her last known residence or place of business.

2019) Time Period Proceedings

- A) On the motion of either party with notice to the other party, or by independent action of the Chair of the Merit Board or the Executive Director communicated to both parties, any time period set forth in this subsection (f) may be extended by the Chair of the Merit Board or by the Executive Director for good cause shown.
- B) No extension may be beyond a period established by statute,

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except for cases in which a written motion for continuance of a scheduled hearing is filed with the Secretary for the Merit Board at least 48 hours prior to the time scheduled for hearing, unless an exception is granted by the Executive Director. The moving party must set forth emergency grounds for a continuance, which are limited to unforeseen, unavoidable or uncontrollable circumstances, such as an Act of God; the sudden illness or death of the movant, a member of his or her immediate family, or his/her legal counsel; or if the movant is able to demonstrate some other real and compelling need for additional time. If there is an arrest or criminal indictment of any employee that resulted from an employee's conduct in the course of employment duties, the Executive Director, at the request of the employee, may grant a continuance of hearing pending some resolution of the criminal charges. Requests for continuances must be preceded by contacting the opposing party and asking for agreement to the continuance.

- C) The time periods set forth in this subsection (f), except for the 15-day period set forth in subsection (f)(3)(B) and except for any time period provided for seeking administrative review of a final decision of the Merit Board, shall be deemed directory and not mandatory; and no failure to comply with any of the time periods set forth in this subsection (f), except for the 15-day period set forth in subsection (f)(3)(B) of this Section and except for any time period provided for seeking administrative review of a final decision of the Merit Board, shall cause the Merit Board to lose jurisdiction of any matter.
- D) If the last date for filing falls on a weekend or legal holiday, the last date for filing is the first business day following that weekend or legal holiday.
- 2120) Reason for Discharge. Causes justifying discharge and any suspension during the discharge proceedings shall include, but are not limited to: all those listed as cause for suspension if they become recurring offenses; and, in addition, theft; drinking intoxicating liquors on institutional time or property; inability to perform satisfactorily assigned duties as a result of drinking alcoholic beverages; malicious damage to property, tools or

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equipment; immoral or indecent conduct that violates common decency or morality; conviction of an offense involving moral turpitude; illegal or excessive use of drugs, narcotics and/or intoxicants.

2221) Hearing Expenses. All customary and reasonable court reporter and copying expenses incident to the preparation of the Hearing Record and providing copies to parties to the proceedings shall be paid by the employer. The Merit Board shall pay all expenses of the Hearing Board or Hearing Officer and any legal expenses incurred by a Hearing Board or Hearing Officer, to the extent that those expenses have been approved by the Merit Board or its Executive Director.

g) Demotion

- 1) Any of the actions described in this subsection (g)(1) is considered to be a demotion when that action has been initiated by the employer. A demotion may occur when a status employee:
 - A) is subject to a reduction in salary in his/her current position, or in a position of the same class to which he/she has been reassigned, except when the reduction in pay results from an overall reduction in pay to persons employed in the same class and/or when the Merit Board, on the basis of supporting evidence, determines that the pay potential should be lowered for a class;
 - B) is subject to a reduction in percentage of time worked;
 - C) is appointed to a position in a lower class in a promotional line;
 - D) is appointed to a position in a class outside a promotional line with a lower pay potential;
 - E) is given a nonstatus appointment.
- 2) None of the actions described in subsection (g)(1) are considered to be a demotion when the action has been initiated, or willingly accepted, by the employee.
 - A) Evidence of initiation by, or willing acceptance by, an employee

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shall be: a statement signed by the employee (to be filed by the employer with the notice of employment) indicating that the new appointment is at his/her request and/or is acceptable to him/her, or the employee applied for, and took, the Civil Service examination, upon the results of which the new appointment is based, after the date of certification to his/her most recent position.

- B) Without the evidence indicated in subsection (g)(2)(A), the action will be considered to have been initiated by the employer and, therefore, will be considered to be a demotion.
- 3) Any classification plan changes authorized and implemented by the University System and/or the Merit Board that may result in a lower pay potential will not be considered a demotion.
- 4) An employer may effectuate a demotion by filing a Notice of Demotion form with the Merit Board and serving a copy of the Notice of Demotion on the employee by an overnight delivery service that requires signature upon receipt, or by personally serving the employee. The Notice of Demotion form shall designate the position and class to which the employee has been demoted and shall factually state the causes justifying demotion. The effective date of the demotion shall be the "Proof of Service on Employee" date on the Notice of Demotion form. A demotion shall be subject to the same hearing and review procedures as are provided an employee in the case of a discharge. (See subsection (f).) During any hearing and review proceedings, the employee shall be paid the approved rate for the class of the position to which he/she has been demoted, as set forth in the Notice of Demotion form.
- 5) A status employee who is demoted to a position in a class in which he/she has never been employed on a status appointment may qualify for the position to which he/she is demoted, if his/her name is not already on an eligible register for that class, by taking the examination given to all other applicants for this class as promptly as possible following demotion to the class. The employee must pass the examination as a condition to retaining his/her appointment.
- h) Dismissal

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- 1) An employer may dismiss an employee whose name has been certified and who has been subsequently employed in a status position at any time during the probationary period of employment in a class, if the employer determines, pursuant to Section 250.90(a), that the employee has failed to demonstrate the ability and the qualifications necessary to furnish satisfactory service.
- 2) The employer shall notify the Executive Director promptly of dismissals, setting forth the reasons for the dismissal.

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

STATE UNIVERSITIES RETIREMENT SYSTEM

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

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
1600.110	Amendment
1600.271	Amendment
1600.460	New Section
1600.461	New Section
1600.625	Amendment
- 4) Statutory Authority: 40 ILCS 5/15-177
- 5) A Complete Description of the Subjects and Issues Involved: The proposed new Sections 1600.460 and 1600.461, and the proposed amendment to Section 1600.625 are intended to implement legislative changes to Article 15 of the Illinois Pension Code [40 ILCS 5/15] made by PA 100-587, effective June 4, 2018. The proposed amendment to Section 1600.271 implements changes to Section 15-155 of the Illinois Pension Code [40 ILCS 5/15-155] under PA 100-624, retroactively effective July 6, 2017. The proposed amendments to Section 1600.110 updates procedures for submitting FOIA requests to SURS.
- 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 affect units of local government.
- 12) Time, Place, and Manner in which interested persons may comment on this rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

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Albert J. Lee, Associate General Counsel
State Universities Retirement System
1901 Fox Drive
Champaign IL 61820

217/378-8861

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: There is no impact on small businesses (fewer than 50 full-time employees or less than \$4,000,000 in gross annual sales).
- 15) Regulatory Agenda on which this rulemaking was summarized: January 2019

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

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

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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
- [1600.460 Accelerated Pension Benefit Payment In Lieu of Any Pension Benefit](#)
- [1600.461 Accelerated Pension Benefit Payment for a Reduction and Delay in AAI](#)

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

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1600.625	Benefits Affected by a QILDRO
1600.630	Effect of a Valid QILDRO
1600.635	QILDROs Against Persons Who Became Members Prior to July 1, 1999
1600.640	Alternate Payee's Address
1600.645	Electing Form of Payment
1600.650	Automatic Annual Increases
1600.655	Expiration of a QILDRO
1600.660	Reciprocal Systems QILDRO Policy Statement
1600.665	Providing Benefit Information for Divorce Purposes

SUBPART G: BOARD TRUSTEE ELECTION

Section

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,

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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; amended at 43 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 1600.110 Freedom of Information Act

- a) Purpose. This Section establishes policies and procedures specific to SURS concerning requests for information made under FOIA.
- b) Freedom of Information Officer. The Freedom of Information Officer is the staff member at SURS responsible for responding to all requests for information on behalf of SURS as the "public body" under FOIA and is also responsible for maintaining all records required to be kept under FOIA and this Section. The Freedom of Information Officer shall be the SURS General Counsel or a designee of the SURS Executive Director. Denials issued by the Freedom of Information Officer shall inform the requester of the right of review by the Public Access Counselor under Section 9.5 of FOIA or by a court under Section 11 of FOIA.
- c) Time and Place for Requests or Inspection. Records subject to FOIA shall be made available for inspection and copying at SURS principal office (see Section

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1600.100) on weekdays between the hours of 8:00 a.m. and 4:30 p.m., excluding days during which the office is closed to the public. Written requests shall be directed to the Freedom of Information Officer or a designee in the SURS Legal Department by mail that is addressed to the SURS principal office by facsimile at (217)378-9801, or by email to FOIA_Officers@surs.org-general_counsel@surs.org. Oral requests for inspection or copying may be made in person or by phone at [217-378-8800](tel:217-378-8800)(~~217-378-8838~~).

- d) Fees. Subject to a waiver or reduction of the fee if warranted under Section 6 of FOIA, fees may be imposed on the requester to recover costs of document production or reproduction according to the following schedule:
- 1) Photostatic copying of paper documents:
 - A) Black and white copies shall be charged after the first 50 pages at \$0.05 per page;
 - B) Color copies shall be charged at \$0.13 per page.
 - 2) Printing of electronic documents or microfilmed/microfiched documents shall be charged at \$0.05 per page.
 - 3) Physical storage on electronic, tape or other media, shipping and facsimile transmission costs shall be charged to the extent those costs are incurred. Electronic transmission via e-mail shall be provided at no charge.
- e) Exemptions. Consistent with Section 7 of FOIA, the following public records shall be exempt from inspection and copying: personal information that includes any personally identifying or identifiable information other than names or benefit amounts, including, but not necessarily limited to, Social Security numbers and addresses of participants and annuitants, and names and Social Security numbers and addresses of beneficiaries.

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

SUBPART B: CONTRIBUTIONS AND SERVICE CREDIT

Section 1600.271 Employer Contributions for Earnings in Excess of the Governor's Salary

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- 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) State Fiscal Year. The "State fiscal year" shall mean the 12-month period beginning July 1. ~~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 by law for the Governor that is in effect on July 1 of that fiscal year" shall be the salary for the Governor set by law by the General Assembly as of July 1 of the State fiscal measurement year or, in its absence, the most recent salary for the Governor set by law by the General Assembly.
- d) FTE Earnings Exclusions. ~~"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 State fiscal measurement

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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 State fiscal 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 ~~calculation~~ 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 State fiscal 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 ~~issuance~~ 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 ~~issuance~~ receipt of the bill. If the employer contributions are not paid within 90 days after ~~issuance~~ 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. ~~All payments~~ Payments must be ~~received~~ ~~on~~ ~~the~~ ~~date~~ ~~of~~ ~~the~~ ~~bill~~ within 3*

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years after the ~~issuance~~~~employer's receipt~~ of the bill. [40 ILCS 5/15-155(j-5)]

- 4) Comptroller Intercept. *If the employer fails to make complete payment, including applicable interest, within 3 years, then the System may, after giving notice to the employer, certify the delinquent amount to the State Comptroller, and the Comptroller shall deduct the certified delinquent amount from State funds payable to the employer and pay them instead to the System. [40 ILCS 5/15-155(j-5)] In the case of an employer that is a community college district, Section 15-155.1(b) of the Code shall also apply to delinquent amounts including interest after the 3-year period.*
- 54) Appeals of the Recalculation. The employer may appeal a recalculation pursuant to Section 1600.510.

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

SUBPART D: BENEFIT CALCULATION AND PAYMENT

Section 1600.460 Accelerated Pension Benefit Payment In Lieu of Any Pension Benefit

- a) Purpose. This Section implements Section 15-185.5 of the Code providing for an accelerated pension benefit payment in lieu of any pension benefit, to be referred to in this Section as the "Vested Inactive Buyout" or "VIB".
- b) Definitions. For purposes of Section 15-185.5(a), the following terms shall have the meanings specified in this subsection (b).
- 1) Eligible Person. An eligible "person" shall mean a person who satisfies the following conditions.
- A) The person has terminated all service, meaning the person has terminated employee status under Section 15-107 of the code as of the date SURS receives the VIB application and has continuously remained in non-employee status as of the date SURS receives the election to accept the VIB offer.
- B) The person has accrued sufficient service credit to be eligible to receive a retirement annuity under Article 15, meaning the person

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must meet the applicable retirement eligibility requirements under Section 15-135 of the Code solely with respect to service credit as of the date SURS receives the VIB application. For this purpose, service credit shall include only service credited under Article 15. No service credited at a reciprocal retirement system or pension fund shall count under this subsection (b)(1)(B).

- C) The person has not received any retirement annuity under Article 15, meaning the person must not have received any retirement annuity or Preliminary Estimated Payments as of the date SURS receives the VIB application.
 - D) The person has not made the election under Section 15-185.6.
 - E) The person is not a participant in the Self-Managed Plan under Section 15-158.2.
- 2) Implementation Date. "Implementation date" means the earliest date upon which the Board authorizes eligible persons to begin irrevocably electing the accelerated pension benefit payment option under Section 15-185.5. The Board shall endeavor to make such participation available as soon as possible after June 4, 2018 and shall establish an implementation date by Board resolution. [40 ILCS 5/15-185.5(a)]
- 3) Pension Benefit. The "pension benefit" upon which the VIB shall be calculated shall consist of one or more of the following benefits, as applicable:
- A) Traditional Benefit Package
 - i) Tier 1 Members. Retirement benefits under the applicable provisions of Section 15-136 of the Code and, if a permanent survivor (as defined under subsection (b)(4)) exists, survivors insurance benefits under Section 15-145 of the Code, subject to the minimum total survivors annuity payable under Section 15-146(b) of the Code.
 - ii) Tier 2 Members. Retirement benefits under the applicable provisions of Section 15-136 and, if a permanent survivor

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(as defined under subsection (b)(4)) exists, survivors insurance benefits under Section 15-145.1 of the Code.

- B) Portable Benefit Package
- i) Tier 1 Members. Retirement benefits based on the actuarial equivalent of a single-life annuity described under Section 15-136.4(b) of the Code with automatic annual increases under Section 15-136.4(l).
 - ii) Tier 2 Members. Retirement benefits based on the actuarial equivalent of a single-life annuity described under Section 15-136.4(b) with automatic annual increases under Section 15-136(d-5).
- C) Refund of Survivors Contributions. If the eligible person has no permanent survivor as of the VIB application date, then the refund that would have been payable as of the assumed retirement date under Section 15-154(c) of the Code.
- D) Refund of Additional Contributions. The refund that would be payable as of the assumed retirement date under Section 15-154(d), if applicable.
- E) Refund of Excess Service Credit. The refund that would be payable as of the assumed retirement date under Section 15-154(e) for excess or waived service credit.
- F) Refund of Police and Firefighter Contributions. The refund that would be payable as of the assumed retirement date under Section 15-154(f), if the eligible person elects to waive the application of Rule 4 of Section 15-136 of the Code.
- 4) Permanent Survivor. For purposes of this Section, the term "permanent survivor" shall mean a person who:
- A) is living as of the earlier of the assumed retirement date or the date on which the VIB offer is issued; and

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- B) is the youngest (i.e., has the longest actuarially assumed life expectancy) from among the following:
- i) a "surviving spouse" under Section 15-127 of the Code (without regard to any one-year minimum marriage requirement) or an "eligible spouse" under Section 15-136.4(a) (without regard to any one-year minimum marriage requirement); or
 - ii) a "child" under Section 15-129 of the Code who is unmarried and dependent upon the person by reason of a physical or mental disability that began prior to the date the child attained age 18.
 - If the child is age 18 or older as of the application date, the child will be deemed to be disabled on the basis of a written certificate from one or more licensed and practicing physicians stating that the child is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months. The physician's determination of disability shall be determined in accordance with 20 CFR 416.905 through 416.911.
 - If the child is under age 18 as of the application date, the child will be deemed to be disabled on the basis of a written certificate from one or more licensed and practicing physicians stating that the child has a medically determinable physical or mental impairment or combination of impairments that causes marked and severe functional limitations, and that can be expected to cause death or that has lasted or can be expected to last for a continuous period of not less than 12 months. The physician's determination of disability shall be

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determined in accordance with 20 CFR 416.905 through 416.911.

- c) VIB Application. Beginning on the implementation date, an eligible person may apply for a VIB calculation in writing in the form prescribed by SURS, subject to the following conditions:
- 1) Application Deadline. SURS must receive the application by June 30, 2021. However, in no event shall SURS accept an application less than 12 months prior to the date on which the eligible person must begin receiving Required Minimum Distributions under Section 1-116.1 of the Code and IRC section 401(a)(9).
 - 2) Termination of Application
 - A) A pending application shall terminate prior to SURS' receipt of the election to receive the VIB on the earliest of the eligible person's:
 - i) revocation of the application;
 - ii) re-employment;
 - iii) death;
 - iv) required beginning date for Required Minimum Distributions under Section 1-116.1; or
 - v) election to receive an Automatic Annual Increase Buyout (AAI Buyout) under Section 15-185.6 and Section 1600.461 of this Part.
 - B) No election to accept a VIB offer shall be effective upon or after the termination of a pending application.
 - C) The eligible person may not withdraw or revoke a pending application as of the date SURS receives the completed VIB election form.

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- 3) Other Benefits. The eligible person may not apply for a refund, disability benefit, or disability retirement annuity while a VIB application is pending.
- d) VIB Offer Amount. After receipt of a VIB application, SURS shall calculate the VIB offer amount as soon as practicable. The VIB offer amount shall be 60% of the present value of the applicable pension benefit payable as of the assumed retirement date. The calculation shall be subject to the following conditions:
- 1) Actuarial Assumptions
- A) All actuarial tables used to calculate the VIB offer amount shall use actuarial assumptions most recently adopted by the Board as of the time of the calculation.
- B) The present value date shall be the first of the month on or immediately following the date that SURS receives the VIB application.
- C) The discount rate used to calculate the present value of any benefit shall be the prescribed rate of interest.
- D) The effective rate of interest for fiscal years prior to the fiscal year containing the date of the calculation shall be the historical rates set by the Board or the State Comptroller, as applicable. The effective rate of interest for fiscal years inclusive of and after the fiscal year containing the date of the calculation shall be the last known effective rate of interest set by the Board or the State Comptroller, as applicable.
- 2) Service Credit
- A) All service credit purchases must have been completed by the date SURS receives the VIB application.
- B) Service credit for unused, unpaid sick leave under Section 15-113.4 of the Code shall apply only if the eligible person was an employee within 60 days immediately preceding the assumed retirement date.

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- 3) Assumed Retirement Date. The assumed retirement date shall be the retirement annuity commencement date determined as follows.
 - A) If the eligible person has attained the earliest applicable retirement age under Section 15-135 of the Code as of the date SURS receives the VIB application, the VIB offer amount shall be based on a retirement annuity that commences on the first of the month on or immediately following the date that SURS receives the VIB application (subject to any applicable early age reductions under Section 15-136).
 - B) If the eligible person has not attained the earliest applicable retirement age under Section 15-135 as of the date SURS receives the VIB application, the VIB offer amount shall be based on a retirement annuity that commences on the first of the month following the birthday on which the person will have attained the earliest applicable retirement age under Section 15-135 (subject to any applicable early age reductions under Section 15-136).
- 4) Survivor Benefits. The assumed dates of death of the eligible person and eligible permanent survivor with respect to any assumed survivor benefit shall be based on the most recent mortality assumptions adopted by the Board as of the date of the calculation.
- 5) Frequency. No more than one VIB offer amount shall be calculated in a State fiscal year.
- 6) Appeals. An eligible person may seek an appeal of the calculation of the VIB offer amount within 35 days after the issuance of the offer, in accordance with Section 1600.500.
- e) VIB Election. The election to accept the VIB offer shall be made in the manner and form prescribed by SURS. SURS may require additional documentation or proof to verify any fact or record necessary for the administration of the election.
 - 1) Election Deadline. The eligible person shall elect to accept the VIB offer within 120 days after the date the VIB offer was issued. If no election is

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submitted by the deadline, the eligible person shall be deemed to have rejected the VIB offer.

- 2) Election Date. The date of the election to accept the VIB offer shall be the date SURS receives the completed VIB election form.
- 3) Survivor Consent. The election shall be accompanied by written and notarized consent of any permanent survivor. If a permanent survivor who was identified in the VIB application no longer qualifies as a permanent survivor, then the election shall be, instead, accompanied by documentation proving the disqualifying condition as follows:
 - A) Death. Death shall be proven by a certified copy of the death certificate.
 - B) Divorce. A dissolution of marriage shall be proven by a certified copy of the judgment of dissolution of marriage or civil union.
 - C) Child's Non-Disability. A child's non-disability shall be proven by a written certificate from one or more licensed and practicing physicians stating that the child is no longer disabled under subsection (b)(4)(B)(ii).
- 4) Effect of Acceptance. Upon SURS' receipt of the election to accept the VIB offer amount, the eligible person shall be subject to the following conditions:
 - A) The election to accept the VIB offer shall be irrevocable unless:
 - i) the State Comptroller fails to remit the full VIB amount to SURS within a year after SURS has submitted a voucher under Section 15-185.5(f); or
 - ii) SURS has knowledge of specific and articulable facts, taken together with rational inferences from those facts, that would lead a reasonable person to believe that the election to accept the VIB was made under fraud, duress, undue influence, illegality or incapacity.

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- B) The eligible person may not elect to proceed under the Retirement Systems Reciprocal Act [40 ILCS 5/Art. 20] with respect to any service to which the VIB pertains.
 - C) The eligible person may not purchase service credit under Article 15 of the Code with respect to any service credit attributable to the VIB or any accelerated pension benefit payment under Section 14-147.5, 14-147.6, 16-190.5 or 16-190.6 of the Code.
 - D) The eligible person shall no longer be a participant of SURS and forfeits all accrued rights and credits in SURS and no other benefit shall be paid under Article 15 based on those forfeited rights and credits, including any retirement, survivor or other benefit; except, to the extent that participation, benefits or premiums under the State Employees Group Insurance Act of 1971 are based on the amount of service credit.
 - E) The VIB may not be repaid to SURS, and the forfeited rights and credits may not under any circumstances be reinstated.
 - F) If the eligible person returns to participation under Article 15, any benefits under SURS earned as a result of that return to participation shall be based solely on the person's credits and creditable service arising from the return to participation. Upon return to participation, the person shall be considered a new employee subject to all the qualifying conditions for participation and eligibility for benefits applicable to new employees, except the person shall retain the same Tier status and program elections previously made under Section 15-134.5 of the Code.
 - G) An election to accept the VIB offer shall be deemed to be a waiver of any appeal rights under Section 1600.500 with respect to the VIB.
- f) VIB Voucher and Payment
- 1) As soon as administratively practicable after SURS' receipt of the election to accept the VIB offer, SURS shall submit one or more vouchers to the State Comptroller for the payment of the VIB. SURS shall pay the VIB as

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soon as administratively practicable after SURS' receipt of the VIB amount from the State Comptroller. In no event shall SURS pay the VIB without having received the amounts sufficient to pay the VIB in full from the State Comptroller.

- 2) The VIB shall be paid in the form of a direct rollover to an "eligible retirement plan" as defined under Section 1600.140(h)(6) (including any supplemental defined contribution plan administered by SURS) to the extent permissible under IRC section 401(a)(31), except for any amounts attributable to Required Minimum Distributions under Section 1-116.1 of the Code or amounts paid under the Excess Benefit Arrangement under Section 1600.430 of this Part. The eligible person may not elect to receive any portion of the direct rollover as cash.
- 3) If the eligible person dies after having elected to accept the VIB offer amount, but prior to payment of the VIB, the VIB shall be payable to the eligible person's estate.

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

Section 1600.461 Accelerated Pension Benefit Payment for a Reduction and Delay in AAI

- a) Purpose. This Section implements Section 15-185.6 of the Code providing for an accelerated pension benefit payment for a reduction and delay in an automatic annual increase (AAI) to a retirement annuity and an annuity benefit payable as a result of death, to be referred to in this Section as the "AAI Buyout".
- b) Definitions. For purposes of Section 15-185.6(a), the following terms shall have the meanings specified in this subsection (b).
 - 1) Eligible Person. An "eligible person" shall mean a person who satisfies the following conditions:
 - A) The person is a Tier 1 member.
 - B) The person has submitted an application for a retirement annuity under Article 15.

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- C) The person has met the age and service requirement for receiving a retirement annuity under Article 15, meaning the person must meet the applicable retirement eligibility requirements under Section 15-135 of the Code with respect to age and service credit accrued under Article 15 and, if the person elects to retire under the Retirement Systems Reciprocal Act, any service credit of a participating reciprocal system.
- D) The person has not received any retirement annuity under Article 15, meaning the retirement date specified in the retirement application cannot be prior to the date SURS receives the application for a retirement annuity.
- E) The person has not made the election under Section 15-185.5 of the Code.
- F) The person is not a participant in the Self-Managed Plan under Section 15-158.2 of the Code.
- 2) Implementation Date. "Implementation date" means the earliest date upon which the Board authorizes eligible persons to begin irrevocably electing the accelerated pension benefit payment option under Section 185.6. The Board shall endeavor to make such participation available as soon as possible after June 4, 2018 and shall establish an implementation date by Board resolution. [40 ILCS 5/15-185.6(a)]
- 3) Assumed Annuities. The AAI Buyout shall be based on one or more of the following assumed annuities, as applicable:
- A) Traditional Benefit Package. Retirement benefits under the applicable provisions of Section 15-136 of the Code and, if a permanent survivor (as defined under subsection (b)(4)) exists, survivors insurance benefits under Section 15-145 of the Code, subject to the minimum total survivors annuity payable under Section 15-146(b) of the Code.
- B) Portable Benefit Package. Retirement benefits based on the actuarial equivalent of a single-life annuity described under Section 15-136.4(b).

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- 4) Permanent Survivor. For purposes of this Section, the term "permanent survivor" shall mean a person who:
- A) is living as of the earlier of the assumed retirement date or the date on which the AAI Buyout offer is issued; and
- B) is the youngest (i.e., has the longest actuarially assumed life expectancy) from among the following:
- i) a "surviving spouse" under Section 15-127 of the Code (without regard to any one-year minimum marriage requirement); or
- ii) a "child" under Section 15-129 of the Code who is unmarried and dependent upon the person by reason of a physical or mental disability which began prior to the date the child attained age 18.
- If the child is age 18 or older as of the application date, the child will be deemed to be disabled on the basis of a written certificate from one or more licensed and practicing physicians stating that the child is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months. The physician's determination of disability shall be determined in accordance with 20 CFR 416.905 through 416.911.
 - If the child is under age 18 as of the application date, the child will be deemed to be disabled on the basis of a written certificate from one or more licensed and practicing physicians stating that the child has a medically determinable physical or mental impairment or combination of impairments that causes marked and severe functional

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limitations, and that can be expected to cause death or that has lasted or can be expected to last for a continuous period of not less than 12 months. The physician's determination of disability shall be determined in accordance with 20 CFR 416.905 through 416.911.

- c) AAI Buyout Application. Beginning on the implementation date, an eligible person may apply for an AAI Buyout calculation in writing in the form prescribed by SURS, subject to the following conditions:
- 1) Application Deadline. SURS must receive the AAI Buyout application by the retirement date specified on the completed retirement application, which can be no later than June 30, 2021.
 - 2) Termination of Application
 - A) A pending application shall terminate on the earliest of the eligible person's:
 - i) revocation of the application;
 - ii) cancellation or suspension of the retirement annuity under Section 15-139 of the Code;
 - iii) death; or
 - iv) an election to receive a Vested Inactive Buyout under Section 15-185.5 of the Code and Section 1600.460 of this Part.
 - B) No election to accept an AAI Buyout offer shall be effective upon or after the termination of a pending application.
 - C) The eligible person may not withdraw or revoke a pending application as of the date SURS receives the completed AAI Buyout election form.
- d) AAI Buyout Offer Amount

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- 1) After receipt of an AAI Buyout application, SURS shall calculate the AAI Buyout offer amount as soon as practicable.
- 2) The AAI Buyout offer amount shall be 70% of the difference of:
 - A) the present value of the automatic annual increases to the assumed annuities under Sections 15-136(d), 15-136.4(l), and 15-145(j) of the Code, as applicable; and
 - B) the present value of the automatic annual increases to the assumed annuities, using the formula provided under Section 15-185.6(b-5) of the Code.
- 3) The calculation shall be subject to the following conditions:
 - A) Actuarial Assumptions
 - i) All actuarial tables used to calculate the AAI Buyout offer amount shall use actuarial assumptions most recently adopted by the Board as of the time of the calculation.
 - ii) The present value date shall be the retirement date.
 - iii) The discount rate used to calculate the present value shall be the prescribed rate of interest.
 - B) Survivor Benefits. The assumed dates of death of the eligible person and eligible permanent survivor or contingent annuitant, as applicable, with respect to any assumed survivors insurance benefit or survivor portion of a joint and survivor annuity, as applicable, shall be based on the most recent mortality assumptions adopted by the Board as of the date of the calculation. The AAI to a survivors insurance annuity or the survivor portion of a joint and survivor annuity, as applicable, calculated under Section 15-185.6(b-5) of the Code, shall commence on the January 1 occurring on or after the first anniversary of the commencement of the survivors insurance annuity or survivor portion of a joint and survivor annuity.

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- C) Frequency. No more than one AAI Buyout offer amount shall be calculated in a State fiscal year.
 - D) Appeals. An eligible person may seek an appeal of the calculation of the AAI Buyout offer amount within 35 days after the issuance of the offer in accordance with Section 1600.500.
- e) AAI Buyout Election. The election to accept the AAI Buyout offer shall be made in the manner and form prescribed by SURS. SURS may require additional documentation or proof to verify any fact or record necessary for administration of the election.
- 1) Election Deadline. The eligible person shall elect to accept the AAI Buyout offer within 120 days after the date the AAI Buyout offer was issued. If no election is submitted by the deadline, the eligible person shall be deemed to have rejected the AAI Buyout offer.
 - 2) Election Date. The date of the election to accept the AAI Buyout offer shall be the date SURS receives the completed AAI Buyout election form.
 - 3) Termination from Employment. The eligible person must not return to work as an employee under Section 15-107 of the Code until after the date SURS receives the completed AAI Buyout election form.
 - 4) Survivor Consent. The election shall be accompanied by written and notarized consent of any permanent survivor or contingent annuitant, as applicable. If a permanent survivor who was identified in the AAI Buyout application no longer qualifies as a permanent survivor, the election shall be, instead, accompanied by documentation proving the disqualifying condition as follows:
 - A) Death. Death shall be proven by a certified copy of the death certificate.
 - B) Divorce. A dissolution of marriage shall be proven by a certified copy of the judgment of dissolution of marriage or civil union.

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- C) Child's Non-Disability. A child's non-disability shall be proven by a written certificate from one or more licensed and practicing physicians stating that the child is no longer disabled under subsection (b)(4)(B)(ii).
- 5) Effect of Acceptance. Upon SURS' receipt of the election to accept the AAI Buyout offer amount, the eligible person shall be subject to the following conditions:
- A) The election to accept the AAI Buyout offer shall be irrevocable unless:
- i) the State Comptroller fails to remit the full AAI Buyout amount to SURS within a year after SURS has submitted a voucher under Section 15-185.6(d-5); or
- ii) SURS has knowledge of specific and articulable facts, taken together with rational inferences from those facts, that would lead a reasonable person to believe that the election to accept the AAI Buyout was made under fraud, duress, undue influence, illegality or incapacity.
- B) An eligible person who participates in the Traditional Benefit Package and who elects to accept the AAI Buyout offer may not elect to receive a survivors contribution refund under Section 15-154(c) of the Code if a survivors insurance beneficiary exists as of the retirement date. If no survivors insurance beneficiary exists as of the retirement date, the survivors contribution refund shall be payable to the eligible person.
- C) An eligible person who elects to accept the AAI Buyout offer shall be deemed to have waived the right to any supplemental payments under Section 15-136.3 and Section 15-146(d) of the Code.
- D) An election to accept the AAI Buyout offer shall be deemed to be a waiver of any appeal rights under Section 1600.500 with respect to the AAI Buyout and all underlying calculations.

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- 6) Effect of Rejection. Upon SURS' receipt of a rejection of the AAI Buyout offer amount or upon the failure to make an election within the deadline specified under subsection (e)(1), SURS shall pay automatic annual increases as provided under Sections 15-136(d), 15-136.4(l), and 15-145(j) of the Code, as applicable.
- f) AAI Buyout Voucher and Payment
- 1) As soon as administratively practicable after the SURS' receipt of the election to accept the AAI Buyout offer amount, SURS shall submit one or more vouchers to the State Comptroller for the payment of the AAI Buyout. SURS shall pay the AAI Buyout as soon as administratively practicable after the SURS' receipt of the AAI Buyout amount from the State Comptroller. In no event shall SURS pay the AAI Buyout without having received the amounts sufficient to pay the AAI Buyout in full from the State Comptroller.
- 2) The AAI Buyout shall be paid in the form of a direct rollover to an "eligible retirement plan" as defined under Section 1600.140(h)(6) (including any supplemental defined contribution plan administered by SURS) to the extent permissible under IRC section 401(a)(31), except for any amounts attributable to Required Minimum Distributions under Section 1-116.1 of the Code or amounts paid under the Excess Benefit Arrangement under Section 1600.430. The eligible person may not elect to receive any portion of the direct rollover as cash.
- 3) The AAI Buyout may not be repaid to SURS. However, if the retirement annuity is cancelled under Section 15-139(a) of the Code after the eligible person is paid the AAI Buyout offer amount, the eligible person shall repay to SURS that amount, plus any applicable interest under Section 1600.450.
- 4) If the eligible person who has received the AAI Buyout returns to participation under Article 15, the calculation of any future automatic annual increase in all retirement and survivor annuities under Section 15-139(c) shall be calculated in accordance with Section 15-185.6(b-5).

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- 5) If the eligible person dies after having elected to accept the AAI Buyout offer, but prior to payment of the AAI Buyout, the AAI Buyout shall be payable to the eligible person's estate.

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

SUBPART F: QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDERS

Section 1600.625 Benefits Affected by a QILDRO

- a) A QILDRO may apply only to the following benefits administered by SURS:
- 1) A monthly retirement benefit;
 - 2) A single-sum retirement benefit;
 - 3) A termination refund;
 - 4) A partial member's refund; and
 - 5) A death benefit.
- b) If a QILDRO specifies a dollar amount payable to an alternate payee from any partial member's refund that becomes payable, the aggregate amount paid to the alternate payee from all partial member's refunds shall not exceed the dollar amount specified in the QILDRO.
- c) A QILDRO shall not apply to any of the following:
- 1) A monthly survivor benefit;
 - 2) A disability benefit;
 - 3) A disability retirement annuity; and
 - 4) An error refund.

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- d) Any option under a paragraph pertaining to a benefit that is left blank shall be interpreted to not apply to the order. If all options under a particular benefit are blank, then the alternate payee shall not receive any portion of the benefit.
- e) Any QILDRO or QILDRO Calculation Court Order purporting to apply to any accelerated pension benefit payment under Section 15-185.5 or 15-185.6 of the Code shall be accompanied by a stipulated court order directing the manner and amounts of the division of the payment. If the payment would diminish any amounts payable to any other alternate payee having priority over the current alternate payee, payment shall not be divided unless all affected parties have entered into stipulated court orders directing the manner of the division of the payment.

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

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- 1) Heading of the Part: Technology Development Account (TDA) Program
- 2) Code Citation: 74 Ill. Adm. Code 719
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
719.100	New Section
719.200	New Section
719.300	New Section
719.310	New Section
719.320	New Section
719.330	New Section
719.340	New Section
- 4) Statutory Authority: 30 ILCS 265
- 5) A Complete Description of the Subjects and Issues Involved: The Technology Development Account Program was created by the Technology Development Act [30 ILCS 265] in 2002 to allow the Treasurer's Office to use a portion of the State's Investment Portfolio to provide capital to technology funds in Illinois that finance technology businesses seeking to locate, expand, or remain in Illinois. This rulemaking will provide guidance to interested parties.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any 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 Objectives: 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)].
- 12) Time, Place and Manner in which interested persons may comment on this 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:

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Laura Duque
Deputy General Counsel
Illinois State Treasurer
100 W. Randolph, Suite 15-600
Chicago IL 60601

312/814-3573
fax: 217/785-2777
LDuque@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: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: There is no adverse impact on small businesses.
- 15) Regulatory Agenda on which this rulemaking was summarized: January 2019

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

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NOTICE OF PROPOSED RULES

TITLE 74: PUBLIC FINANCE
CHAPTER V: TREASURER

PART 719

TECHNOLOGY DEVELOPMENT ACCOUNT (TDA) PROGRAM

SUBPART A: INTRODUCTION AND PURPOSE

Section
719.100 Purpose of Program

SUBPART B: DEFINITIONS

Section
719.200 Definitions

SUBPART C: ADMINISTRATION

Section
719.300 Responsibilities of the Treasurer
719.310 Responsibilities of the Investment Advisor
719.320 Investment Policy and Objectives
719.330 Investment Parameters
719.340 Program Documents

AUTHORITY: Authorized by and implementing the Technology Development Act [30 ILCS 265].

SOURCE: Adopted at 43 Ill. Reg. _____, effective _____.

SUBPART A: INTRODUCTION AND PURPOSE

Section 719.100 Purpose of Program

The purpose of the Technology Development Act is to attract, assist, and retain quality technology businesses and promote the growth of jobs and entrepreneurial and venture capital environments in Illinois. The creation of the Technology Development Account will allow the State to bring together, and add to, Illinois' rich science, technology, agricultural, financial, and business communities. [30 ILCS 265/5]

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SUBPART B: DEFINITIONS

Section 719.200 Definitions

The following definitions shall apply to this Part:

"Act" means the Technology Development Act [30 ILCS 265].

"Fund Manager" means an entity that provides equity financing for starting up or expanding a company, or related purposes such as financing for seed capital, research and development, introduction of a product or process into the marketplace, or similar needs requiring risk capital.

"Green Technology" means technology that:

promotes clean energy, renewable energy, or energy efficiency;

reduces greenhouse gases or carbon emissions; or

involves the invention, design, and application of chemical products and processes to eliminate the use and generation of hazardous substances.

"Illinois Companies" means *companies that are headquartered or that otherwise have a significant presence in the State at the time of initial or follow-on investment.* [30 ILCS 265/11(d)]

"Illinois Venture Capital Firm" means *an entity that:*

has a majority of its employees in Illinois or that has at least one general managing partner or principal domiciled in Illinois; and

either:

provides equity financing for starting up or expanding a company, or related purposes such as financing for seed capital, research and development, introduction of a product or process into the marketplace, or similar needs requiring risk capital; or

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has a track record of identifying, evaluating, and investing in Illinois companies and that provides equity financing for starting up or expanding a company, or related purposes such as financing for seed capital, research and development, introduction of a product or process into the marketplace, or similar needs requiring risk capital. [30 ILCS 265/11(c)]

"Investment Advisor" means one or more entities lawfully doing business in the State of Illinois selected by the Treasurer to oversee the investment, administration, and reporting for the Technology Development Account.

"Portfolio Company" means an entity in which a Fund Manager invests.

"Significant Presence" means at least one physical office and one full-time employee within the geographic borders of Illinois. A "physical office" may mean a professional workplace, a co-working location, or a home office.

"TDA II-Recipient Fund" means any fund in which the State Treasurer places money under Section 11 of the Act.

"TDA IIa Account Balance" means 5% of the State's investment portfolio, which shall be calculated as:

the balance at the inception of the State's fiscal year; or

the average balance in the immediately preceding 5 fiscal years, whichever number is greater.

"Technology Business" means *a company that has as its principal function the providing of services including computer, information transfer, communication, distribution, processing, administrative, laboratory, experimental, developmental, technical, or testing services; manufacture of goods or materials; the processing of goods or materials by physical or chemical change; computer related activities; robotics, biological or pharmaceutical industrial activities; or technology-oriented or emerging industrial activity. [30 ILCS 265/11(c)]*

"Technology Development Accounts" means the Technology Development Accounts established pursuant to Sections 10 and 11 of the Act ("TDA IIa").

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"Track Record" means *having made, on average:*

at least one investment in an Illinois company in each of its funds if the Illinois venture capital firm has multiple funds; or

at least two investments in Illinois companies if the Illinois venture capital firm has only one fund. [30 ILCS 265/11(c)]

"Treasurer" means the duly elected Treasurer of the State of Illinois or his or her designees.

"Venture Capital" means *equity financing that is provided for starting up, expanding, or relocating a company, or related purposes such as financing for seed capital, research and development, introduction of a product or process into the marketplace, or similar needs requiring risk capital. [30 ILCS 265/11(c)]* This includes, but is not limited to, financing classified as venture capital, mezzanine, buyout, or growth.

SUBPART C: ADMINISTRATION

Section 719.300 Responsibilities of the Treasurer

The Treasurer exercises authority and control over the management of the Technology Development Accounts by setting applicable policies and procedures that are followed by the Treasurer and Investment Advisor. As such, key roles and responsibilities include, but are not limited to:

- a) Investment Policy – The Treasurer is responsible for drafting this policy and reviewing it at least annually to ensure accuracy and continued relevance.
- b) Oversight – The Treasurer is responsible for the direction of investments and administration of the assets of the Technology Development Account.
- c) Investment Advisor – In order to properly carry out its responsibilities, the Treasurer may use one or more Investment Advisors to assist in the administration of the Technology Development Accounts.

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- d) Performance and Fee Monitoring – The Treasurer will review the investment performance of the TDA II-Recipient Fund, as well as the fees, on a quarterly or annual basis, as determined by the Treasurer.
- e) Due Diligence – The Treasurer will monitor investments and participate in operational due diligence activities in coordination with the contractors retained to assist in the administration of the Technology Development Accounts.
- f) Accounting – Technology Development Accounts assets must be accounted for separately from other Treasurer monies. The Treasurer will execute investment valuation procedures in compliance with Statement No. 72, Fair Value Measurement and Application, February 2015 of the Governmental Accounting Standards Board of the Financial Accounting Foundation, evaluating available inputs for investments to determine the input level most applicable.

Section 719.310 Responsibilities of the Investment Advisor

In order to properly carry out its responsibilities, the Treasurer may use one or more Investment Advisors to assist in the administration of the Technology Development Accounts. The Treasurer may engage the Investment Advisor to provide services needed for the effective operation of the Technology Development Account in accordance with all applicable federal and State laws and regulations. These services may include, but are not limited to:

- a) Evaluation of TDA II-Recipient Funds – The Investment Advisor may advise and provide fund evaluations to the Treasurer, taking into consideration the investment policy and objectives set forth in this Part. This may include investment analysis, portfolio construction, and due diligence. The Investment Advisor will have the responsibility to seek, recruit, screen, and evaluate fund managers for investment through TDA IIa.
- b) Due Diligence – The Investment Advisor is responsible for fund manager due diligence, which includes, but is not limited to, research, financial analysis, and legal, accounting, and background investigations of fund managers. The Investment Advisor will undergo due diligence activities in coordination with the Treasurer.
- c) Fund Monitoring – The Investment Advisor is responsible for monitoring the performance of TDA II-Recipient Funds, tracking the diversification of the investments and the amounts invested by TDA II-Recipient Funds, and

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reconciling all reporting and accounting requirements of portfolio companies and TDA II-Recipient Funds.

- d) Benchmarking – The Investment Advisor is responsible for establishing applicable investment benchmarks (including public market equivalents), measuring the performance of TDA II-Recipient Funds against set benchmarks, and reviewing benchmarks.
- e) Reporting – The Investment Advisor is responsible for administering all reporting and recordkeeping duties set forth in the investment policy and the Act. The Investment Advisor shall ensure standardization of reporting across TDA II-Recipient Funds. The Investment Advisor shall ensure that the following information is reported for TDA IIa *to the Treasurer on a quarterly or annual basis, as determined by the Treasurer, for all investments:*
 - 1) *the names of portfolio companies invested in during the applicable investment period;*
 - 2) *the addresses of reported portfolio companies;*
 - 3) *the date of the initial (and follow-on) investment;*
 - 4) *the cost of the investment;*
 - 5) *the current fair market value of the investment;*
 - 6) *for Illinois companies, the number of Illinois employees on the investment date; and*
 - 7) *for Illinois companies, the current number of Illinois employees. [30 ILCS 265/11(d)]*
- f) General Resource – The Investment Advisor shall serve as a general resource to the Treasurer for information, advice and training regarding investment, reporting, fund vetting and management, portfolio company valuation, and marketing strategies.

Section 719.320 Investment Policy and Objectives

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- a) The Treasurer shall develop, publish, and implement an investment policy covering the investment of monies in TDA IIa. The policy may be amended at any time, and shall be published on the Treasurer's website. The Treasurer shall review the policy at least once every year to ensure that it remains relevant to the Act, this Part, and prudent investment standards.
- b) The investment policy is a written statement describing the risk management and oversight of the program and should be designed to describe the following:
 - 1) the Treasurer's investment objectives;
 - 2) the Treasurer's investment parameters;
 - 3) the roles of the Treasurer and Investment Advisor; and
 - 4) the reporting requirements for TDA II-Recipient Funds.
- c) The Treasurer shall consider the following investment factors when selecting fund managers to invest in TDA IIa:
 - 1) Diversification – The Treasurer shall aim to diversify its investments in areas including, but not limited to, the following:
 - A) strategy;
 - B) industry sector;
 - C) size of investment;
 - D) investment stage;
 - E) vintage year;
 - F) fund managers;
 - G) underlying portfolio companies;
 - H) geographic location; and

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- D) business model.
- 2) Small Business Investment Companies – The Treasurer shall endeavor to invest in qualified fund managers that participate in the U.S. Small Business Administration's Small Business Investment Companies Program (15 USC 14B).
 - 3) Cost Efficiency – The Treasurer shall seek to minimize any fees or costs that diminish from the total assets or value of the Technology Development Account.
 - 4) Investment in Illinois Technology Businesses – The Treasurer shall encourage the investment community to explore investment opportunities in Illinois technology businesses.
 - 5) Fund Manager Diversity – The Treasurer shall seek to identify, recruit, and select fund managers that are more than 50% owned and/or managed by qualified minorities, women, military veterans, and persons with a disability.
 - 6) Portfolio Company Diversity – The Treasurer shall seek to identify, recruit, and select fund managers that have demonstrated experience and/or express an intent to invest in:
 - A) portfolio companies that are more than 50% owned and/or managed by qualified minorities, women, military veterans, or persons with a disability; and/or
 - B) portfolio companies geographically located in diverse communities or low-to-moderate income areas.
 - 7) Green Technology – The Treasurer shall seek to identify, recruit, and select fund managers that have demonstrated experience and/or an express ability to invest in green technology businesses located in Illinois.
 - 8) Sustainability Factors – The Treasurer shall seek to integrate sustainability factors such as environmental, social capital, human capital, business model and innovation, and leadership and governance factors into its investment analysis, investment due diligence, and portfolio construction.

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Section 719.330 Investment Parameters

- a) TDA IIa Investment – The Treasurer, in accordance with the Act, *shall segregate a portion of the Treasurer's State investment portfolio that at no time shall be greater than 5% of the portfolio, in the TDA IIa, an account that shall be maintained separately and apart from other moneys invested by the Treasurer. 5% of the State's investment portfolio shall be calculated as the greater of:*
- 1) *the balance at the inception of the State's fiscal year; or*
 - 2) *the average balance in the immediately preceding 5 fiscal years. [30 ILCS 265/11(a)]*
- b) Reinvestment of Distributions – Distributions from the investments in TDA IIa may be reinvested into TDA IIa, not to exceed the original cost basis of the initial investments.
- c) TDA IIa Excess Investments – In the event TDA IIa investments exceed 5% of the portfolio, as described in subsection (a), the Treasurer will, to the extent practicable, take reasonable steps to reduce the excess TDA IIa investments below the applicable threshold in a manner that will result in minimal negative financial impact.
- d) TDA IIa Investment in Illinois Venture Capital Firms – In no case shall more than 15% of the TDA IIa account balance be invested in firms based outside of Illinois.
- e) Cap on Investment in Individual Funds – The investment of the State Treasurer in any fund in which the State Treasurer places money under TDA IIa shall not exceed 15% of the total TDA IIa account balance.

Section 719.340 Program Documents

In order to establish and administer the Technology Development Accounts, the Treasurer may enter into all necessary agreements, documents and instruments with terms and provisions that shall not be inconsistent with the Act and this Part.

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of Part: Meat and Poultry Inspection Act
- 2) Code Citation: 8 Ill. Adm. Code 125
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
125.10	Amendment
125.100	Amendment
125.142	Amendment
125.144	Amendment
125.270	Amendment
125.280	Amendment
125.390	Amendment
- 4) Statutory Authority: Implemented and authorized by the Meat and Poultry Inspection Act [225 ILCS 650].
- 5) Effective Date of Rules: February 25, 2019
- 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. 20174; November 16, 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? No agreements were necessary.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? Yes

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<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
125.400	Amendment	42 Ill. Reg. 19136; October 26, 2018

- 15) Summary and Purpose of Rulemaking: The Department is updating its rules to reflect changes that were published in the Federal Register (2018; FR 105, published May 31, 2018, effective July 30, 2018).
- 16) Information and questions regarding these adopted rules shall be directed to:

Albert A. Coll
Assistant General Counsel
Illinois Department of Agriculture
P. O. Box 19281, State Fairgrounds
Springfield IL 62794-9281

217/782-5051
fax: 217/785-4505

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

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER c: MEAT AND POULTRY INSPECTION ACT

PART 125
MEAT AND POULTRY INSPECTION ACT

SUBPART A: GENERAL PROVISIONS FOR BOTH
MEAT AND/OR POULTRY INSPECTION

Section	
125.10	Definitions
125.20	Incorporation by Reference of Federal Rules
125.30	Application for License; Approval
125.40	Official Number
125.50	Inspections; Suspension or Revocation of License
125.60	Administrative Hearings; Appeals (Repealed)
125.70	Assignment and Authority of Program Employees
125.80	Schedule of Operations; Overtime
125.90	Official Marks of Inspection, Devices and Certificates
125.100	Records and Reports
125.110	Exemptions
125.120	Disposal of Dead Animals and Poultry
125.130	Reportable Animal and Poultry Diseases
125.140	Detention; Seizure; Condemnation
125.141	Sanitation Standard Operating Procedures (SOP's)
125.142	Hazard Analysis and Critical Control Point (HACCP) Systems
125.143	Imported Products
125.144	Preparation and Processing Operations
125.145	Control of Listeria Monocytogenes in Ready-to-Eat Meat and Poultry Products
125.146	Consumer Protection Standards: Raw Products
125.147	Rules of Practice
125.148	Quantity of Contents Labeling and Procedures and Requirements for Accurate Weights
125.149	Label Approval

SUBPART B: MEAT INSPECTION

Section

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

125.150	Livestock and Meat Products Entering Official Establishments
125.160	Equine and Equine Products
125.170	Facilities for Inspection
125.180	Sanitation (Repealed)
125.190	Ante-Mortem Inspection
125.200	Post-Mortem Inspection
125.210	Disposal of Diseased or Otherwise Adulterated Carcasses and Parts
125.220	Humane Slaughter of Animals
125.230	Handling and Disposal of Condemned or Other Inedible Products at Official Establishment
125.240	Rendering or Other Disposal of Carcasses and Parts Passed for Cooking
125.250	Marking Products and Their Containers
125.260	Labeling, Marking and Containers
125.270	Entry into Official Establishment; Reinspection and Preparation of Product
125.280	Meat Definitions and Standards of Identity or Composition
125.290	Transportation
125.295	Imported Products (Repealed)
125.300	Special Services Relating to Meat and Other Products
125.305	Exotic Animal Inspection

SUBPART C: POULTRY INSPECTION

Section	
125.310	Application of Inspection
125.320	Facilities for Inspection
125.330	Sanitation
125.340	Operating Procedures
125.350	Ante-Mortem Inspection
125.360	Post-Mortem Inspection; Disposition of Carcasses and Parts
125.370	Handling and Disposal of Condemned or Inedible Products at Official Establishments
125.380	Labeling and Containers
125.390	Entry of Articles Into Official Establishments; Processing Inspection and Other Reinspections; Processing Requirements
125.400	Definitions and Standards of Identity or Composition
125.410	Transportation; Sale of Poultry or Poultry Products

AUTHORITY: Implementing and authorized by the Meat and Poultry Inspection Act [225 ILCS 650] and Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625].

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SOURCE: Adopted at 9 Ill. Reg. 1782, effective January 24, 1985; preemptory amendment at 9 Ill. Reg. 2337, effective January 28, 1985; preemptory amendment at 9 Ill. Reg. 2980, effective February 20, 1985; preemptory amendment at 9 Ill. Reg. 4856, effective April 1, 1985; preemptory amendment at 9 Ill. Reg. 9240, effective June 5, 1985; preemptory amendment at 9 Ill. Reg. 10102, effective June 13, 1985; preemptory amendment at 9 Ill. Reg. 11673, effective July 17, 1985; preemptory amendment at 9 Ill. Reg. 13748, effective August 23, 1985; preemptory amendment at 9 Ill. Reg. 15575, effective October 2, 1985; preemptory amendment at 9 Ill. Reg. 19759, effective December 5, 1985; preemptory amendment at 10 Ill. Reg. 447, effective December 23, 1985; preemptory amendment at 10 Ill. Reg. 1307, effective January 7, 1986; preemptory amendment at 10 Ill. Reg. 3318, effective January 24, 1986; preemptory amendment at 10 Ill. Reg. 3880, effective February 7, 1986; preemptory amendment at 10 Ill. Reg. 11478, effective June 25, 1986; preemptory amendment at 10 Ill. Reg. 14858, effective August 22, 1986; preemptory amendment at 10 Ill. Reg. 15305, effective September 10, 1986; preemptory amendment at 10 Ill. Reg. 16743, effective September 19, 1986; preemptory amendment at 10 Ill. Reg. 18203, effective October 15, 1986; preemptory amendment at 10 Ill. Reg. 19818, effective November 12, 1986; preemptory amendment at 11 Ill. Reg. 1696, effective January 5, 1987; preemptory amendment at 11 Ill. Reg. 2930, effective January 23, 1987; preemptory amendment at 11 Ill. Reg. 9645, effective April 29, 1987; preemptory amendment at 11 Ill. Reg. 10321, effective May 15, 1987; preemptory amendment at 11 Ill. Reg. 11184, effective June 5, 1987; preemptory amendment at 11 Ill. Reg. 14830, effective August 25, 1987; preemptory amendment at 11 Ill. Reg. 18799, effective November 3, 1987; preemptory amendment at 11 Ill. Reg. 19805, effective November 19, 1987; preemptory amendment at 12 Ill. Reg. 2154, effective January 6, 1988; amended at 12 Ill. Reg. 3417, effective January 22, 1988; preemptory amendment at 12 Ill. Reg. 4879, effective February 25, 1988; preemptory amendment at 12 Ill. Reg. 6313, effective March 21, 1988; preemptory amendment at 12 Ill. Reg. 6819, effective March 29, 1988; preemptory amendment at 12 Ill. Reg. 13621, effective August 8, 1988; preemptory amendment at 12 Ill. Reg. 19116, effective November 1, 1988; preemptory amendment at 12 Ill. Reg. 20894, effective December 21, 1988; preemptory amendment at 13 Ill. Reg. 228, effective January 11, 1989; preemptory amendment at 13 Ill. Reg. 2160, effective February 13, 1989; amended at 13 Ill. Reg. 3696, effective March 13, 1989; preemptory amendment at 13 Ill. Reg. 15853, effective October 5, 1989; preemptory amendment at 13 Ill. Reg. 16838, effective October 11, 1989; preemptory amendment at 13 Ill. Reg. 17495, effective January 18, 1990; amended at 14 Ill. Reg. 3424, effective February 26, 1990; preemptory amendment at 14 Ill. Reg. 4953, effective March 23, 1990; preemptory amendment at 14 Ill. Reg. 11401, effective July 6, 1990; preemptory amendment at 14 Ill. Reg. 13355, effective August 20, 1990; preemptory amendment at 14 Ill. Reg. 16064, effective September 24, 1990; preemptory amendment at 14 Ill. Reg. 21060, effective May 29, 1991; preemptory amendment at 15 Ill. Reg. 620, effective January 2, 1991; preemptory amendment withdrawn at

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15 Ill. Reg. 1574, effective January 2, 1991; preemptory amendment at 15 Ill. Reg. 3117, effective September 3, 1991; preemptory amendment at 15 Ill. Reg. 8714, effective May 29, 1991; amended at 15 Ill. Reg. 8801, effective June 7, 1991; preemptory amendment at 15 Ill. Reg. 13976, effective September 20, 1991; preemptory amendment at 16 Ill. Reg. 1899, effective March 2, 1992; amended at 16 Ill. Reg. 8349, effective May 26, 1992; preemptory amendment at 16 Ill. Reg. 11687, effective July 10, 1992; preemptory amendment at 16 Ill. Reg. 11963, effective July 22, 1992; preemptory amendment at 16 Ill. Reg. 12234, effective July 24, 1992; preemptory amendment at 16 Ill. Reg. 16337, effective October 19, 1992; preemptory amendment at 16 Ill. Reg. 17165, effective October 21, 1992; preemptory amendment at 17 Ill. Reg. 2063, effective February 12, 1993; preemptory amendment at 17 Ill. Reg. 15725, effective September 7, 1993; preemptory amendment at 17 Ill. Reg. 16238, effective September 8, 1993; preemptory amendment at 17 Ill. Reg. 18215, effective October 5, 1993; preemptory amendment at 18 Ill. Reg. 304, effective December 23, 1993; preemptory amendment at 18 Ill. Reg. 2164, effective January 24, 1994; amended at 18 Ill. Reg. 4622, effective March 14, 1994; preemptory amendment at 18 Ill. Reg. 6442, effective April 18, 1994; preemptory amendment at 18 Ill. Reg. 8493, effective May 27, 1994; amended at 18 Ill. Reg. 11489, effective July 7, 1994; preemptory amendment at 18 Ill. Reg. 12546, effective July 29, 1994; preemptory amendment at 18 Ill. Reg. 14475, effective September 7, 1994; amended at 18 Ill. Reg. 14924, effective September 26, 1994; preemptory amendment at 18 Ill. Reg. 15452, effective September 27, 1994; preemptory amendment at 19 Ill. Reg. 1342, effective January 27, 1995; preemptory amendment at 19 Ill. Reg. 4765, effective March 13, 1995; preemptory amendment at 19 Ill. Reg. 7067, effective May 8, 1995; preemptory amendment at 19 Ill. Reg. 14896, effective October 6, 1995; preemptory amendment at 19 Ill. Reg. 15766, effective November 10, 1995; preemptory amendment at 19 Ill. Reg. 16866, effective December 22, 1995; preemptory amendment at 20 Ill. Reg. 5091, effective March 19, 1996; preemptory amendment at 20 Ill. Reg. 10403, effective July 17, 1996; amended at 20 Ill. Reg. 11928, effective September 1, 1996; preemptory amendment at 20 Ill. Reg. 12634, effective September 5, 1996; preemptory amendment at 20 Ill. Reg. 15371, effective November 13, 1996; preemptory amendment at 21 Ill. Reg. 1221, effective January 14, 1997; preemptory amendment at 21 Ill. Reg. 1719, effective January 28, 1997; preemptory amendment at 21 Ill. Reg. 6609, effective May 20, 1997; amended at 21 Ill. Reg. 11494, effective August 1, 1997; preemptory amendment at 21 Ill. Reg. 11788, effective August 8, 1997; preemptory amendment at 21 Ill. Reg. 12686, effective August 28, 1997; preemptory amendment at 21 Ill. Reg. 14575, effective October 22, 1997; preemptory amendment at 22 Ill. Reg. 3602, effective February 2, 1998; preemptory amendment at 22 Ill. Reg. 5740, effective March 5, 1998; preemptory amendment at 22 Ill. Reg. 9384, effective May 15, 1998; preemptory amendment at 22 Ill. Reg. 20645, effective November 16, 1998; amended at 23 Ill. Reg. 450, effective January 1, 1999; preemptory amendment at 23 Ill. Reg. 3851, effective March 11, 1999; preemptory amendment at 23 Ill. Reg. 10880, effective August 19, 1999; preemptory amendment at 24 Ill. Reg. 3933, effective February 22, 2000; preemptory amendment at 24 Ill. Reg. 5699, effective

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March 14, 2000; preemptory amendment at 24 Ill. Reg. 6734, effective April 14, 2000; amended at 24 Ill. Reg. 7197, effective April 27, 2000; preemptory amendment at 24 Ill. Reg. 14074, effective August 30, 2000; preemptory amendment at 24 Ill. Reg. 14451, effective September 15, 2000; preemptory amendment at 25 Ill. Reg. 7341, effective April 26, 2001; preemptory amendment at 25 Ill. Reg. 12434, effective September 13, 2001; preemptory amendment at 25 Ill. Reg. 15444, effective November 19, 2001; preemptory amendment at 26 Ill. Reg. 980, effective January 11, 2002; preemptory amendment at 26 Ill. Reg. 7750, effective May 10, 2002; amended at 27 Ill. Reg. 10205, effective July 1, 2003; preemptory amendment at 27 Ill. Reg. 13634, effective July 28, 2003; emergency amendment at 27 Ill. Reg. 14197, effective August 15, 2003, for a maximum of 150 days; emergency expired January 11, 2004; preemptory amendment at 27 Ill. Reg. 15172, effective September 15, 2003; preemptory amendment at 27 Ill. Reg. 17281, effective November 1, 2003; preemptory amendment at 27 Ill. Reg. 18270, effective November 14, 2003; amended at 28 Ill. Reg. 2131, effective February 1, 2004; preemptory amendment at 28 Ill. Reg. 3513, effective February 6, 2004; preemptory amendment at 28 Ill. Reg. 11934, effective August 5, 2004; preemptory amendment at 28 Ill. Reg. 15694, effective November 30, 2004; preemptory amendment at 28 Ill. Reg. 16368, effective December 6, 2004; preemptory amendment at 29 Ill. Reg. 2479, effective February 1, 2005; amended at 29 Ill. Reg. 5661, effective April 13, 2005; preemptory amendment at 29 Ill. Reg. 15645, effective October 7, 2005; amended at 29 Ill. Reg. 18432, effective October 28, 2005; preemptory amendment at 29 Ill. Reg. 20580, effective November 29, 2005; preemptory amendment at 29 Ill. Reg. 21058, effective December 21, 2005; preemptory amendment at 30 Ill. Reg. 2400, effective February 6, 2006; preemptory amendment at 30 Ill. Reg. 16081, effective September 25, 2006; preemptory amendment at 31 Ill. Reg. 5149, effective March 16, 2007; preemptory amendment at 31 Ill. Reg. 12624, effective August 20, 2007; preemptory amendment at 31 Ill. Reg. 16763, effective December 10, 2007; preemptory amendment at 32 Ill. Reg. 590, effective January 1, 2008; preemptory amendment at 32 Ill. Reg. 17831, effective October 30, 2008; preemptory amendment at 33 Ill. Reg. 1230, effective January 5, 2009; preemptory amendment at 33 Ill. Reg. 6338, effective April 17, 2009; preemptory amendment at 33 Ill. Reg. 12040, effective August 5, 2009; preemptory amendment at 35 Ill. Reg. 571, effective December 22, 2010; preemptory amendment at 35 Ill. Reg. 1802, effective January 14, 2011; preemptory amendment at 35 Ill. Reg. 19553, effective January 1, 2012; preemptory amendment at 36 Ill. Reg. 9264, effective June 6, 2012; amended at 36 Ill. Reg. 14664, effective October 1, 2012; preemptory amendment at 36 Ill. Reg. 17930, effective December 21, 2012; preemptory amendment at 37 Ill. Reg. 875, effective January 28, 2013; preemptory amendment at 37 Ill. Reg. 6870, effective May 6, 2013; preemptory amendment at 38 Ill. Reg. 4176, effective February 1, 2014; preemptory amendment at 38 Ill. Reg. 20825, effective October 20, 2014; preemptory amendment at 39 Ill. Reg. 502, effective December 22, 2014; amended at 40 Ill. Reg. 2739, effective January 22, 2016; amended at 40 Ill. Reg. 8696, effective June 17, 2016;

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peremptory amendment at 40 Ill. Reg. 13486, effective September 16, 2016; amended at 43 Ill. Reg. 3202, effective February 25, 2019.

SUBPART A: GENERAL PROVISIONS FOR BOTH
MEAT AND/OR POULTRY INSPECTION

Section 125.10 Definitions

- a) ~~The Department incorporates by reference the definitions of terms~~Terms shall be as defined in 9 CFR 301, 303.1(d)(2), (ii), (iii) (a), (b), (d), (e) and (f), (iv), (v) and (vi), 381.1, 381.10(d)(2), (ii), (iii)(a), (b), (d), (iv), (v) and (vi), 352.1(b) through (t) and 362.1 (2004; 69 FR 1874, effective January 12, 2004; 83 FR 25302, effective July 30, 2018), unless they are otherwise defined in the Meat and Poultry Inspection Act [225 ILCS 650] or in this Section, ~~as follows:~~

"Act" means the Meat and Poultry Inspection Act [225 ILCS 650].

"Approved veterinarian" means any person who has graduated from a veterinary college that is recognized by the American Veterinary Medical Association.

"Birds" shall mean poultry as defined in Section 2.7 of the Act.

"Condition" means any condition, including, but not being limited to, the state of preservation, cleanliness, or soundness of any product made from rabbits or the processing, handling, or packaging ~~that~~which may affect the wholesomeness of ~~the~~such product.

"Livestock" means cattle, sheep, swine, buffalo, catalo, cattalo, domestic deer, domestic elk, domestic antelope, domestic reindeer, water buffalo, and goats.

"Members of the household" means those persons who occupy a single family unit.

- b) With regard to the definitions of consumer and similar type establishment, the Director has not designated any other type of establishment or institution under these terms other than those specifically stated in the incorporated language.

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- c) With regard to the definitions of retail store, only those sections ~~that~~^{which} are incorporated by reference as stated in Section 125.10(a) shall be included in the definition. References within the incorporated language to the section of the federal rules pertaining to operations of types traditionally and usually conducted at retail stores and restaurants refer to the operations defined in Section 5(A) of the Act. No product exempted from inspection in accordance with Section 5 of the Act shall be prepared in any retail store, restaurant or similar retail-type establishment.
- d) References in the incorporated language to 9 CFR 312 and 313 shall be interpreted as references to Sections 125.90 and 125.220 respectively. References to the Humane Methods ~~of~~^{and} Slaughter Act (~~7 USC 1901 et seq.~~^{of 1978}) shall ~~have the meaning~~^{mean as} set forth in Section 125.220.

(Source: Amended at 43 Ill. Reg. 3202, effective February 25, 2019)

Section 125.100 Records and Reports

- a) The Department incorporates by reference 9 CFR 320.1(b), 320.6(a), 320.7, 381.175(b), 381.180(a) and 381.181 (2004; 69 FR 1874, effective January 12, 2004; 74 FR 31829, effective July 6, 2009; 77 FR 26929, effective May 8, 2012; 78 FR 66826, effective January 6, 2014; 80 FR 79231, effective June 20, 2016; 83 FR 25302, effective July 30, 2018).
- b) Access to the establishment, its premises, records and inventories shall be provided to the Department in accordance with Section 14 of the Act and Section 125.70.
- c) Each person who is required to be licensed in accordance with Section 3 of the Act shall keep records as stated in the incorporated language of 9 CFR 320.1(b) and 381.175(b), except that, for custom slaughtering and custom processing transactions, the recordkeeping requirements shall be those set forth in Section 5(B)(2)(f) of the Act. Records shall be retained for 5 years after December 31 of the year in which the transaction to which the record relates has occurred. If a record must be retained for longer than 5 years because of an on-going investigation or litigation, the Department shall notify the licensee in writing as to which record is to be retained, the reasons for ~~that~~^{such} retention and the retention period. The Department shall consider, when determining the retention period, the court date, if known, or the time needed to conclude the investigation (e.g.,

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considering the type of disease being investigated, the number of animals involved, and laboratory testing procedures, if applicable).

- d) The licensee of the official establishment shall maintain ~~thesesueh~~ records at the establishment. In the case of a broker, the records shall be maintained at the office listed on the application for license.
- e) The Department shall request a licensee to submit an evaluation of the inspection program or of the inspector's performance when the Department is conducting a review of the effectiveness of the Meat and Poultry Inspection Program or when a complaint on the inspector's performance has been received.

(Source: Amended at 43 Ill. Reg. 3202, effective February 25, 2019)

Section 125.142 Hazard Analysis and Critical Control Point (HACCP) Systems

The Department incorporates by reference 9 CFR 417 (2004; 77 FR 26929, effective May 8, 2012; 78 FR 66826, effective January 6, 2014; [83 FR 25302, effective July 30, 2018](#)). ~~The HACCP regulations set forth in 9 CFR 417 and related provisions set forth in 9 CFR 304, 327, and 381 will be applicable as follows:~~

- a) ~~In large establishments, defined as all establishments with 500 or more employees, on October 1, 1998;~~
- b) ~~In smaller establishments, defined as all establishments with 10 or more employees but fewer than 500, on January 25, 1999;~~
- e) ~~In very small establishments, defined as all establishments with fewer than 10 employees or annual sales of less than \$2.5 million, on January 25, 2000.~~

(Source: Amended at 43 Ill. Reg. 3202, effective February 25, 2019)

Section 125.144 Preparation and Processing Operations

The Department incorporates by reference 9 CFR 424 (2004; 76 FR 82077, effective December 30, 2011; 78 FR 14636, effective May 6, 2013; 78 FR 66826, effective January 6, 2014; [83 FR 25302, effective July 30, 2018](#)).

(Source: Amended at 43 Ill. Reg. 3202, effective February 25, 2019)

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SUBPART B: MEAT INSPECTION

Section 125.270 Entry into Official Establishment; Reinspection and Preparation of Product

- a) The Department incorporates by reference 9 CFR 318.1(c) through 318.6, 318.9 ~~through 318.10~~, 318.14 through 318.20, 318.22, 318.23, 318.24, ~~318.300 through 318.311~~ (2007; 76 FR 82077, effective December 30, 2011; 78 FR 66826, effective January 6, 2014).
- b) No meat or meat product shall be brought into an official establishment unless it is inspected or has been prepared in an official establishment or in a federally licensed establishment and is identified by an official inspection legend as set forth in Section 125.90, a federal inspection legend, or is exempt from inspection as stated in Section 125.110. Meat and meat products received in an official establishment during the absence of the inspector shall be identified as set forth in Section 125.200 and, unless exempt from inspection, shall not be used or prepared until they have been reinspected. Any meat and meat product originally prepared at any official establishment may not be returned to any part of ~~that such~~ establishment other than the receiving area until it has been reinspected by the inspector and passed. Wild game carcasses shall comply with Section 5(B)(4) of the Act. The official establishment shall maintain an inventory of non-meat items (e.g., spices, preservatives) ~~that which~~ are received at the official establishment. Any product that is brought on the premises of an official establishment contrary to the provisions of this Section shall be removed immediately from ~~the such~~ establishment by the operator of the establishment.
- c) Reinspections of meat and/or meat products within the official establishment shall be performed through the use of a random digit table.
- d) Docks and receiving rooms for meat and/or meat products or other articles used by the establishment in the preparation of meat products entering an official establishment shall be approved by the inspector if the location of ~~the such~~ docks or receiving rooms will not permit ~~the such~~ product or article to pass through rooms containing inspected and passed products.
- e) The manner of defrosting frozen products and methods of treating to preserve products shall be in accordance with procedures as set forth in the USDA "Meat

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and Poultry Inspection Manual" as adopted in Section 125.20.

- f) Casings or weasand shall be inspected and passed if it is in compliance with the specific provisions as stated in 9 CFR 318.5(i) for passage of ~~those~~ such articles.
- g) The Department does not approve new substances to be used on meat or in meat products, their uses or the levels of use of an approved substance. ~~These~~ Such substances will be permitted to be used and artificial flavorings may be used if they do not adulterate the meat and/or meat product in accordance with Section 2.11 of the Act and are in compliance with the provisions of this Section.
- h) References to exemptions from slaughter and custom slaughter shall mean those exemptions set forth in Section 125.110.
- i) References, within the federal regulations incorporated by reference in subsection (a), language to the federal Poultry Products Inspection Act of 1957 (21 USC 456), to sections 7 and Section 403 of that federal the Act, and to Section 7 of the Act, 9 CFR 303, and paragraph 23(a) of the Act shall be interpreted to comport mean in accordance with the Illinois Meat and Poultry Inspection Act and ~~the rules of~~ this Part.
- j) The Department does not approve thermometers for use in smokehouses, dry rooms and other compartments that are used in the treatment of pork.
- k) Disinfectants shall be those as set forth in Section 125.180.
- l) Adequate vacuum shall be determined through the use of vacuum gauges.
- m) The Department incorporates by reference the Thermally Processed, Commercially Sterile Products provisions of 9 CFR 431 and 431.1 through 431.12 (2018; 83 FR 25302, effective July 30, 2018)~~Canned products which may be processed without steam pressure cooking shall be those products as stated in the "Meat and Poultry Inspection Manual" as adopted by the Department in Section 125.20.~~
- n) ~~The inspector shall permit lots of canned product to be shipped from the official establishment prior to the completion of the incubation period on the representative samples in accordance with the specific provisions in 9 CFR 318.309.~~

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- ~~ne~~) The standards and procedures for determining when ingredients of finished products are in compliance with this Section shall be as set forth in the [USDA "Meat and Poultry Inspection Manual"](#) ~~as adopted by the Department in Section 125.20.~~

(Source: Amended at 43 Ill. Reg. 3202, effective February 25, 2019)

Section 125.280 Meat Definitions and Standards of Identity or Composition

The Department incorporates by reference 9 CFR 319 (2008; 76 FR 82077, effective December 30, 2011; [83 FR 25302, effective July 30, 2018](#)). Methods for the destruction of live trichinae in pork shall be as set forth in Section 125.270 ~~(specifically the incorporated language of 9 CFR 318.10(e)).~~

(Source: Amended at 43 Ill. Reg. 3202, effective February 25, 2019)

SUBPART C: POULTRY INSPECTION

Section 125.390 Entry of Articles Into Official Establishments; Processing Inspection and Other Reinspections; Processing Requirements

- a) The Department incorporates by reference 9 CFR 381.145(b) through 381.146, 381.148, 381.150 through 381.151, 381.200, ~~381.300 through 381.311~~ (2004; 76 FR 82077, effective December 30, 2011).
- b) No poultry or poultry product shall be brought into an official establishment unless it is inspected or has been prepared in an official establishment or in a federally licensed establishment and is identified by an official inspection legend as set forth in Section 125.90, the federal inspection legend, or is exempt from inspection as stated in Section 125.110. However, poultry or poultry products imported into the United States may be transported to an inspection site in accordance with the provisions of 9 CFR 381.200 for reinspection.
- c) Poultry and poultry products received in an official establishment during the absence of the inspector shall be identified as set forth in Section 125.360 and, unless exempt from inspection, shall not be used or prepared until they have been reinspected. Any poultry and/or poultry product originally prepared at any official establishment may not be returned to any part of ~~thesueh~~ establishment

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other than the receiving area until it has been reinspected and passed by the inspector.

- d) The official establishment shall maintain an inventory of non-poultry items (e.g., spices, preservatives) ~~that~~ which are received at the official establishment. Any product that is brought on the premises of an official establishment contrary to the provisions of this Section shall be removed immediately from ~~the~~ such establishment by the operator of the establishment.
- e) Reinspections of poultry and/or poultry products within the official establishment shall be performed through the use of a random digit table.
- f) Poultry feet shall be approved for processing for human food in accordance with the procedures set forth in the [USDA "Meat and Poultry Inspection Manual"](#) as adopted by the Department in Section 125.20.
- g) The Department does not approve new substances to be used on poultry or in poultry products, their uses, or the levels of use of an approved substance. ~~The~~ such substances will be permitted to be used if they will not adulterate the poultry and/or poultry product in accordance with Section 2.11 of the Act and are in compliance with the provisions of this Section.
- h) Ready-to-heat-and-eat poultry or stuffed ready-to-roast poultry may be moved from an official establishment prior to freezing in accordance with ~~the provisions of~~ Section 125.330 (specifically the incorporated language in 9 CFR 381.66(f)(3)).
- i) Any method of cleaning immediate containers used for the holding of poultry and poultry products shall be approved if ~~that~~ such method is in compliance with the sanitation requirements (see Section 125.330).
- j) Canned poultry products ~~that~~ which may be processed without steam-pressure cooking shall be those products ~~as~~ stated in the [USDA "Meat and Poultry Inspection Manual"](#) ~~as adopted by the Department in Section 125.20.~~
- k) The inspector shall permit lots of canned poultry products to be shipped from the official establishment prior to the completion of the incubation period on the representative samples in accordance with the specific provisions in 9 CFR 381.309.

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- 1) Disinfectants ~~that~~^{which} may be used in an official establishment shall be those products on the "List of Proprietary Substances and Nonfood Compounds"~~as~~ adopted by the Department in Section 125.20.

(Source: Amended at 43 Ill. Reg. 3202, effective February 25, 2019)

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- 1) Heading of the Part: Records of Offenders
- 2) Code Citation: 20 Ill. Adm. Code 107
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
107.107	Amendment
107.110	Amendment
107.120	Amendment
107.142	Amendment
107.145	Amendment
107.150	Amendment
107.160	Amendment
107.190	New Section
107.207	Amendment
107.210	Amendment
107.220	Repealed
107.230	Amendment
107.430	Amendment
107.510	Amendment
107.520	Amendment
107.525	Amendment
107.530	Amendment
107.540	Amendment
107.550	Amendment
107.560	Amendment
107.570	Amendment
- 4) Statutory Authority: Implementing 730 ILCS 5/3-2-2, 3-3-2, 3-5-1, 3-5-2, 3-6-3, 3-8-1, 5-4-1, 5-4.5-100 and 5-8-6 and 705 ILCS 405/1-7 and authorized by 730 ILCS 5/3-7-1.
- 5) Effective Date of Rules: March 1, 2019
- 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.

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- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 16574; September 14, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Non-substantive grammatical changes and clarification of the per day multiplier for earned credit.
- 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: In accordance with PA 99-938, 100-3, and 100-575 this rulemaking is proposed to reflect the revised structure for the earned sentence credit program and the minimum standards, exclusionary criteria, and considerations for said awards of credit to reduce the sentences of offenders. Additionally, language has been revised to allow for release of criminal history records/transcripts in accordance with ISP Code.
- 16) Information and questions regarding these adopted rules shall be directed to:

Echo Beekman
Department of Corrections
1301 Concordia Court
P. O. Box 19277
Springfield IL 62794-9277

217/558-2200, extension 6507
Echo.Beekman@doc.illinois.gov

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

DEPARTMENT OF CORRECTIONS

NOTICE OF ADOPTED AMENDMENTS

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER I: DEPARTMENT OF CORRECTIONS
SUBCHAPTER a: ADMINISTRATION AND RULES

PART 107
RECORDS OF OFFENDERS

SUBPART A: ADMISSION DOCUMENTS

Section	
107.10	Applicability
107.15	Responsibilities
107.17	Definitions
107.20	Required Admission Documents

SUBPART B: DIMINUTION OF SENTENCE

Section	
107.100	Applicability
107.105	Responsibilities
107.107	Definitions
107.110	Diminution of Felony Sentences
107.120	Good Time Schedules and Sentence Credit Applicable to Felony Sentences
107.130	Consecutive Sentences
107.140	Concurrent Sentences
107.142	Earned Discretionary Sentence Credit Supplemental Sentence Credit
107.145	Earned Program Sentence Credit
107.150	Revocation of Time and Credit
107.160	Restoration of Time and Credit
107.170	Institution Credits (Repealed)
107.180	Misdemeanant Good Time Allowance (Repealed)
107.190	Reporting of Earned Sentence Credit

SUBPART C: MERITORIOUS GOOD TIME, SUPPLEMENTAL SENTENCE CREDIT,
AND EARNED DISCRETIONARY SENTENCE CREDIT

Section	
107.200	Applicability
107.205	Responsibilities

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- 107.207 Definitions
107.210 Awarding of [Earned Discretionary](#)~~Supplemental~~ Sentence Credit
107.220 Reporting of Supplemental Sentence Credit (~~Repealed~~)
107.230 Revocation and Restoration of [Earned Discretionary](#)~~Supplemental~~ Sentence Credit

SUBPART D: MAINTENANCE OF RECORDS

- Section
107.300 Applicability
107.305 Responsibilities
107.307 Definitions
107.310 Access to Records
107.320 Disclosure of Master Record File Material for Youth Committed to the Juvenile Division – Court Agreement
107.330 Release of Clinical Records to Offenders and Authorized Attorneys (Adult Facilities Excluding Transition Centers) – Court Agreement
107.340 Release of Clinical Records to Offenders and Authorized Attorneys (Transition Centers)

SUBPART E: ACCESS AND REVIEW OF
CRIMINAL HISTORY RECORD INFORMATION

- Section
107.400 Applicability
107.405 Responsibilities
107.410 Definitions
107.420 Right to Access and Review
107.430 Requests for Access and Review
107.440 Challenge of Record

SUBPART F: HIGH SCHOOL EQUIVALENCY
AND PROGRAM SENTENCE CREDIT

- Section
107.500 Applicability
107.505 Responsibilities
107.510 Definitions
107.520 Eligibility for [Earned](#) Program Sentence Credit

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- 107.525 [High School Equivalency \(HSE\) Earned](#)~~General Education Development~~ Program Sentence Credit
- 107.530 Goal Statements
- 107.540 Program Goals
- 107.550 Goal Periods
- 107.560 Award of [High School Equivalency Earned](#)~~GED~~ Program Sentence Credit and Program Sentence Credit
- 107.570 Revocation and Restoration of [Earned](#) Program Sentence Credit

AUTHORITY: Implementing Sections 3-2-2, 3-3-2, 3-5-1, 3-5-2, 3-6-3, 3-8-1, 5-4-1, 5-4.5-100 and 5-8-6 of the Unified Code of Corrections [730 ILCS 5/3-2-2, 3-3-2, 3-5-1, 3-5-2, 3-6-3, 3-8-1, 5-4-1, 5-4.5-100 and 5-8-6] and Section 1-7 of the Juvenile Court Act of 1987 [705 ILCS 405/1-7] and authorized by Section 3-7-1 of the Unified Code of Corrections [730 ILCS 5/3-7-1]. Subparts B and F are also implementing two Supreme Court rulings (Barger v. Peters, 163 Ill.2d 357, 645 N.E.2d 175, 1994 and State of Illinois v. Jameson, 162 Ill.2d 282, 642 N.E.2d 1207, 1994. Subpart D is also implementing two Consent Decrees (Beavers vs. Sielaff, #75 C 317, N.D. Ill., 1977, and Lower vs. Franzen, #78 C 1870, N.D. Ill., 1980) and Section 8-802 of the Code of Civil Procedure [735 ILCS 5/8-802].

SOURCE: Adopted at 8 Ill. Reg. 14572, effective August 1, 1984; amended at 10 Ill. Reg. 20497, effective January 1, 1987; amended at 13 Ill. Reg. 6992, effective May 1, 1989; emergency amendment at 14 Ill. Reg. 12273, effective July 17, 1990, for a maximum of 150 days; modified in response to an objection of the Joint Committee on Administrative Rules at 14 Ill. Reg. 15600, not to exceed the 150 day time limit of the original rulemaking; amended at 14 Ill. Reg. 18461, effective November 1, 1990; emergency amendment at 14 Ill. Reg. 20074, effective December 1, 1990, for a maximum of 150 days; amended at 15 Ill. Reg. 5638, effective April 15, 1991; emergency amendment at 17 Ill. Reg. 16215, effective September 17, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 2939, effective February 14, 1994; amended at 20 Ill. Reg. 6745, effective May 5, 1996; amended at 37 Ill. Reg. 1598, effective February 1, 2013; recodified at 42 Ill. Reg. 16362; amended at 43 Ill. Reg. 3217, effective March 1, 2019.

SUBPART B: DIMINUTION OF SENTENCE

Section 107.107 Definitions

"Chief Administrative Officer" means the highest ranking official of a correctional facility.

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"Compensatory Good Time" means the award of time used to offset the length of an indeterminate sentence, as calculated under the Statutory Good Time Calculations tables awarded at the rate of 7.5 days for each month in custody or on a prorated basis in accordance with the Prorated Compensatory Good Time table (see Section 107.120(c)).

"Day for Day Credit" means the award of time used to offset the length of an indeterminate sentence based upon the date the offender was sentenced, the date the offense was committed, and the remaining portion of the sentence to be served on or after February 1, 1978, as provided in Section 107.120.

"Department" means the Department of Corrections.

"Director" means the Director of the Department.

"Earned Discretionary Sentence Credit" means the award of additional earned sentence credit made on or after January 1, 2018 (effective date of PA 99-0938) to offset the length of an eligible sentence as determined at the sole discretion of the Director, or his or her designee, as set forth in Section 3-6-3(a)(3) of the UCOC.

"Earned Program Sentence Credit" means the award of time to offset the length of a determinate sentence for eligible offenders who have successfully participated in substance abuse programming, Correctional Industries assignments, vocational or academic educational programs, behavior modification programs, life skills courses, or re-entry planning on or after January 1, 2018.

"Program Sentence Credit" means the award of time to offset the length of a determinate sentence for eligible offenders who have successfully participated in substance abuse programming, Correctional Industries assignments, vocational or academic educational programs, behavior modification programs, life skills courses, or re-entry planning prior to January 1, 2018.

"Statutory Good Time" means the award of time to offset the length of a minimum and maximum indeterminate sentence for an offense committed prior to February 1, 1978, as calculated in accordance with the Statutory Good Time Calculations table (see Section 107.120(a) and (b)).

"Statutory Sentence Credit" or "Earned Statutory Sentence Credit" means the award of time to offset the length of a determinate sentence for an offense

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committed on or after February 1, 1978, pursuant to Sections 3-6-3(a)(2), (a)(2.1), (a)(2.3), (a)(2.4), (a)(2.5) and (a)(2.6) of the UCOC.

"Supplemental Sentence Credit" means the award of additional sentence credit made on or after June 22, 2012 but prior to January 1, 2018 to offset the length of sentence based on the offender's good conduct as determined at the sole discretion of the Director, or his or her designee, as set forth in Section 3-6-3(a)(3) of the UCOC.

"UCOC" means the Unified Code of Corrections [730 ILCS 5].

(Source: Amended at 43 Ill. Reg. 3217, effective March 1, 2019)

Section 107.110 Diminution of Felony Sentences

- a) Offenders serving indeterminate sentences shall appear before the Prisoner Review Board prior to their parole eligibility date after having served their minimum sentence or 20 years (whichever is less), less applicable statutory good time, compensatory good time, and day for day credit.
- b) In the event an offender must serve the maximum indeterminate sentence, he or she shall be released after serving the maximum of the sentence, less applicable statutory good time, compensatory good time, and day for day credit.
- c) An offender serving a determinate sentence shall be released after serving his or her determinate sentence, less any applicable credit awarded or earned in accordance with this Part.

(Source: Amended at 43 Ill. Reg. 3217, effective March 1, 2019)

Section 107.120 Good Time Schedules and Sentence Credit Applicable to Felony Sentences

- a) Statutory good time on indeterminate sentences, with reference to the minimum and maximum sentences, shall be calculated in accordance with the following table for offenders sentenced prior to June 1, 1977, if the schedule contained in the table would be more beneficial to the offender than awarding day for day credit as of February 1, 1978.

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Statutory Good Time Calculations for Those
Sentenced Prior to June 1, 1977*

SENTENCE	TIME TO BE SERVED
1 st year	11 months
2 nd year	1 year and 9 months
3 rd year	2 years and 6 months
4 th year	3 years and 2 months
5 th year	3 years and 9 months
6 th year	4 years and 3 months
7 th year	4 years and 9 months
8 th year	5 years and 3 months
9 th year	5 years and 9 months
10 th year	6 years and 3 months
11 th year	6 years and 9 months
12 th year	7 years and 3 months
13 th year	7 years and 9 months
14 th year	8 years and 3 months
15 th year	8 years and 9 months
16 th year	9 years and 3 months
17 th year	9 years and 9 months
18 th year	10 years and 3 months
19 th year	10 years and 9 months
20 th year	11 years and 3 months

*~~AGENCY NOTE~~ AGENCY NOTE: On the maximum sentence, six months of statutory good time is earned for each additional sentence year.

- b) Statutory good time on indeterminate sentences, with reference to the minimum and maximum sentences, shall be calculated in accordance with the following table for all persons sentenced to the Department on or after June 1, 1977, but prior to February 1, 1978, for establishing the time credit for that portion of the sentence that was served prior to February 1, 1978.

Statutory Good Time Calculations for Those
Sentenced On or After June 1, 1997*

SENTENCE	TIME TO BE SERVED
1 st year	9 months

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2 nd year	1 year and 6 months
3 rd year	2 years and 3 months
4 th year	3 years
5 th year	3 years and 9 months

*~~AGENCY NOTE~~AGENCY NOTE: Three months statutory good time shall be earned for each additional sentence year.

- 1) For those offenders whose sentences are calculated under the table in subsection (b), the remaining portion of the sentence served on or after February 1, 1978 shall be credited with day for day credits.
- 2) For an offender who is sentenced on or after June 1, 1977, but prior to February 1, 1978, for an offense committed prior to June 1, 1977, the table in subsection (a) shall be used if it would be more beneficial to the offender in calculating the minimum or maximum sentence or both.
- c) Compensatory good time shall be earned on those indeterminate sentences or portions of a sentence that are calculated under the statutory good time tables. Compensatory good time shall normally be awarded at the rate of 7.5 days for each month in custody. Offenders shall receive compensatory good time on a prorated basis during the month placed in and released from custody in accordance with the following table.

Prorated Compensatory Good Time

<u>INCOMING FELONS</u>		<u>RELEASED FELONS</u>		
Day of Month Received	Days Credit	Scheduled Date of Release	Days Credit	New Release Date
2 - 4	6	1 - 4	0	1 - 4
5 - 9	5	5 - 9	1	4 - 8
10 - 14 15	4	10 - 14	2	8 - 12
15 - 19	3	15 - 19	3	12 - 16
20 - 24	2	20 - 24	4	16 - 20
25 - 28	1	25 - 28	5	20 - 23
29 plus	0	29 plus	6	23

- d) Offenders shall not be eligible to receive compensatory good time against that portion of their sentence that is calculated under day for day credit provisions.

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- 1) An offender shall not be awarded compensatory good time for any month during which he or she is reported by his or her work or program supervisor for carelessness, negligence, or refusal to work, providing that not awarding compensatory good time is recommended by the facility's Adjustment Committee and approved by the Chief Administrative Officer. No offender shall lose any compensatory good time because he or she was unable to work or participate in a facility program through no fault of his or her own.
 - 2) Any offender placed in segregation or confinement for a period of 3 days or more during a given month pursuant to a hearing before an Adjustment Committee shall not be awarded compensatory good time for that month. However, no person shall lose compensatory good time for more than one month pursuant to such a hearing unless he or she is placed in segregation or confinement for at least 10 additional days during the second and subsequent months.
 - 3) Any offender placed on investigative status shall receive compensatory good time for that month if the investigation findings indicate that the offender did not commit a violation.
 - 4) Every offender assigned to a transition center shall be credited with compensatory good time unless an Adjustment Committee finds that he or she has violated disciplinary rules.
 - 5) Awarded compensatory good time may not be revoked.
- e) Day for day credit, with reference to the minimum and maximum sentences, shall be calculated by awarding one day of credit for each day served for all offenders sentenced on or after February 1, 1978, if the credit would be more beneficial to the offender than statutory good time and compensatory good time credit.
 - f) Statutory sentence credit, with reference to determinate sentences entered on or after February 1, 1978, for offenses committed prior to June 19, 1998, shall be calculated by awarding one day of statutory sentence credit for each day served.
 - g) Statutory sentence credit, with reference to determinate sentences for offenses committed on or after June 19, 1998 but prior to January 1, 2018, or earned

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statutory sentence credit, with reference to determinate sentences for offenses committed on or after January 1, 2018, shall be awarded in accordance with the Truth in Sentencing provisions of Section 3-6-3 of the UCOC.

- h) Any offender convicted of a sex offense, as defined in the Sex Offender Registration Act [730 ILCS 150], that was committed on or after June 1, 2008, shall receive no statutory sentence credit or earned statutory sentence credit unless he or she successfully completes or is participating in sex offender treatment. However, if the offender is on a waiting list for treatment but is unable to participate due solely to lack of Department resources, he or she may be awarded statutory sentence credit or earned statutory sentence credit at the discretion of the Director.

(Source: Amended at 43 Ill. Reg. 3217, effective March 1, 2019)

Section 107.142 Earned Discretionary Sentence Credit~~Supplemental Sentence Credit~~

Offenders committed to the Department may be eligible to receive earned discretionary ~~supplemental~~ sentence credit for good conduct in addition to other credit awarded in accordance with this Part. The award of earned discretionary ~~supplemental~~ sentence credit shall be at the sole discretion of the Director, or his or her designee, and shall be awarded in accordance with the provisions of Subpart C.

(Source: Amended at 43 Ill. Reg. 3217, effective March 1, 2019)

Section 107.145 Earned Program Sentence Credit

Offenders who are enrolled in full-time substance abuse programs, Correctional Industries assignments, vocational or academic educational programs, behavior modification programs, life skills courses, or re-entry planning approved by the Department may be eligible to receive earned program sentence credit in addition to other credit awarded in accordance with this Part. Earned program ~~Program~~ sentence credit shall be awarded at the applicable rate for each day during which program goals have been achieved in accordance with Subpart F.

(Source: Amended at 43 Ill. Reg. 3217, effective March 1, 2019)

Section 107.150 Revocation of Time and Credit

- a) Any offender who is found guilty of misconduct or violating departmental rules or

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the terms of parole or mandatory supervised release may lose statutory good time, day for day credit, statutory sentence credit, [earned statutory sentence credit](#), supplemental sentence credit, [earned discretionary sentence credit](#), ~~or~~ program sentence credit, [or earned program sentence credit](#) awarded in accordance with this Part.

- b) Statutory good time may be revoked at the discretion of the Director, or his or her designee, upon the recommendation of the Adjustment Committee and the Chief Administrative Officer, or the respective Deputy Director.
- c) Day for day credit, [earned statutory sentence credit](#), statutory sentence credit, supplemental sentence credit, [earned discretionary sentence credit](#), ~~and~~ program sentence credit, [and earned program sentence credit](#) may be revoked at the discretion of the Director, or his or her designee, provided the cumulative revocation does not exceed 30 days during any 12 month period. If the amount of credit at issue exceeds 30 days, or when, during any 12 month period, the cumulative amount of credit revoked exceeds 30 days, the Department shall submit its recommendation for revocation to the Prisoner Review Board for approval.
- d) When an infraction is committed or discovered within 60 days prior to an offender's scheduled release, the Department may revoke up to 30 cumulative days of day for day credit, statutory sentence credit, [earned statutory sentence credit](#), supplemental sentence credit, [earned discretionary sentence credit](#), ~~and~~ program sentence credit, [and earned program sentence credit](#) without approval of the Prisoner Review Board. If the Department seeks to revoke more than 30 days, its recommendation for revocation of the additional credit shall be submitted to the Prisoner Review Board for approval.

(Source: Amended at 43 Ill. Reg. 3217, effective March 1, 2019)

Section 107.160 Restoration of Time and Credit

- a) Statutory good time, day for day credit, statutory sentence credit, [earned statutory sentence credit](#), supplemental sentence credit, [earned discretionary sentence credit](#), ~~and~~ program sentence credit, [and earned program sentence credit](#) may be restored by the Director, or his or her designee, either by his or her own action or upon the recommendation of:

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- 1) The Administrative Review Board;
 - 2) The Adjustment Committee and the Chief Administrative Officer; or
 - 3) The respective Deputy Director.
- b) In determining the restoration, the Director, or his or her designee, may consider, among other matters:
- 1) The nature of the incident that served as the basis for the revocation;
 - 2) The disciplinary proceedings that led to the revocation;
 - 3) The complete master record file of the offender;
 - 4) Any specific report or recommendation made concerning the offender;
 - 5) The offender's entire disciplinary record;
 - 6) The assignment performance of the offender while in the custody of the Department;
 - 7) The educational program or achievements of the offender while in the custody of the Department; and
 - 8) The action of the offender in:
 - A) Saving the life of an employee or other offender;
 - B) Performing heroic service during a flood, tornado or act of God;
 - C) Volunteering for an exceptionally hazardous or dangerous assignment; or
 - D) Assisting in maintaining control during a general disturbance.
- c) Day for day credit, statutory sentence credit, [earned statutory sentence credit](#), supplemental sentence credit, [earned discretionary sentence credit](#), ~~and~~ program sentence credit, [and earned program sentence credit](#) may be restored at the

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discretion of the Director, or his or her designee, provided the cumulative restoration does not exceed 30 days during any 12 month period. If the cumulative amount of credit recommended for restoration exceeds 30 days, the Director, or his or her designee, shall submit the request for restoration to the Prisoner Review Board. The Board may not restore more credit to an offender than is recommended. Notification of the decision of the Director, or his or her designee, or the Prisoner Review Board shall be provided to the offender.

- d) The offender may petition not more frequently than every three months through the Adjustment Committee for restoration of revoked time or credit, stating the rationale for restoration. If the Adjustment Committee recommends the restoration, the recommendation shall be forwarded through designated channels to the attention of the Director, or his or her designee. Notification of the Director's, or his or her designee's, decision shall be given to the offender.

(Source: Amended at 43 Ill. Reg. 3217, effective March 1, 2019)

Section 107.190 Reporting of Earned Sentence Credit

- a) The Department shall prepare an annual written report that identifies:
- 1) The number of offenders who have been awarded earned sentence credit in accordance with Subparts C and F;
 - 2) The holding offenses of the offenders who have received an award of earned sentence credit;
 - 3) The average number of earned sentence credit days awarded; and
 - 4) The number of revocations of earned sentence credit.
- b) The report shall be submitted to the Governor and General Assembly no later than February 1 annually.
- c) Within 48 hours after submission to the Governor and the General Assembly, the Department shall make the report available on the Department's website.

(Source: Added at 43 Ill. Reg. 3217, effective March 1, 2019)

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SUBPART C: MERITORIOUS GOOD TIME, SUPPLEMENTAL SENTENCE CREDIT,
AND EARNED DISCRETIONARY SENTENCE CREDIT**Section 107.207 Definitions**

"Chief Administrative Officer" means the highest ranking official of a correctional facility.

"Department" means the Department of Corrections.

"Director" means the Director of the Department.

"Earned Discretionary Sentence Credit" means the award of additional earned sentence credit made on or after January 1, 2018 (effective date of PA 99-0938) to offset the length of an eligible sentence as determined at the sole discretion of the Director, or his or her designee, as set forth in Section 3-6-3(a)(3) of the UCOC.

"Meritorious Good Time" means the award of additional good conduct credit prior to June 22, 2012 to offset the length of sentence for offenders based upon meritorious service in specific instances deemed appropriate by the Director or his or her designee.

"Supplemental Sentence Credit" means the award of up to a maximum of 90 or 180 days~~additional~~ sentence credit made on or after June 22, 2012 (effective date of PA 97-0697) but prior to January 1, 2018 (effective date of PA 99-0938) to offset the length of an eligible sentence based on an offender's good conduct as determined at the sole discretion of the Director or his or her designee.

(Source: Amended at 43 Ill. Reg. 3217, effective March 1, 2019)

Section 107.210 Awarding of Earned Discretionary~~Supplemental~~ Sentence Credit

- a) The Director, or his or her designee, may award eligible offenders additional credit up to a maximum of ~~90 or~~ 180 days, in accordance with Section 3-6-3(a)(3) of the UCOC, for good conduct. However, offenders shall not be eligible to receive earned discretionary sentence credit, supplemental sentence credit, meritorious good time, or an aggregation of these credits:

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- 1) ~~Greater~~greater than the statutory maximum during one term of incarceration.
 - 2) If the sentence credit reduces the sentence to less than:
 - A) 85% for offenders required to serve 85% of their sentence; or
 - B) 60% for offenders required to serve 75% of their sentence, except for the offense of gunrunning, which shall not be reduced less than 75%.
- b) In determining whether or not to award ~~earned discretionary~~supplemental sentence credit, the Director, or his or her designee:
- 1) Shall make a determination, either in written or electronic form, that the offender:
 - A) Is eligible, based on his or her holding offenses, to receive earned discretionarysupplemental sentence credit;
 - B) Has served a minimum of 60 days of his or her sentence in the custody of the Department; ~~and~~
 - C) Has received a risk and needs assessment administered with a validated instrument; and
 - ~~DE~~) Has met the eligibility criteria established in this Section.
 - 2) May examine or consider, among other matters:
 - A) The complete master record file of the offender, including, but not limited to, sentencing material including the facts and circumstances of the holding offense, disciplinary records, and reports or recommendations made concerning the offender.
 - B) Results of an available~~Available~~ risk and needs assessment analysis or an evaluation from a validated instrument.

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- C) History of conviction for forcible felony as provided in Section 2-8 of the Criminal Code of 2012~~violent crimes as defined by the Rights of Crime Victims and Witnesses Act [725 ILCS 120].~~
- D) The assignment performance of the offender while in the custody of the Department.
- E) Educational or program performance and achievements of the offender while in the custody of the Department.
- F) Service to the Department, community or State.
- G) Heroic action of the offender such as saving the life of an employee or other offender.
- H) The offender's commitment to~~potential for~~ rehabilitation.
- c) The decision to award earned discretionary~~supplemental~~ sentence credit shall be at the sole discretion of the Director or his or her designee.
- d) No offender shall be eligible to receive earned discretionary~~supplemental~~ sentence credit if he or she:
- 1) Is serving a term of natural life or has been sentenced to death~~sentence for an offense excluded pursuant to Section 3-6-3(a)(3) of the UCOC;~~
 - 2) Is serving a sentence for first degree murder or for the offense of terrorism;
 - 3) Has been found guilty of a 100-level disciplinary offense under 20 Ill. Adm. Code 504; or
 - 4) Has been found guilty of, or has a pending charge resulting from, a criminal offense committed during his or her current term of incarceration; ;
 - 4) ~~Has been returned to the Department for a violation of his or her parole or mandatory supervised release; or~~

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- 5) ~~Has been returned to a facility from an impact incarceration program for voluntary termination or termination for disciplinary reasons.~~
- e) No offender whose court sentencing order recommends substance abuse treatment for offenses committed on or after September 1, 2003 shall be awarded earned discretionary~~supplemental~~ sentence credit unless:
- 1) He or she participates in and completes a substance abuse treatment program; or
 - 2) The Director waives the requirement to participate in or complete the treatment program in specific instances in which the offender is not a good candidate for the program due to medical, programming or operations reasons. When substance abuse treatment is not available, offenders shall be placed on a waiting list for treatment. Offenders on a waiting list who are not placed in a substance abuse treatment program prior to release may be eligible for a waiver and receive earned discretionary~~supplemental~~ sentence credit as determined by the Director or his or her designee.
- f) No offender who has been convicted of a sex offense, as defined in the Sex Offender Registration Act, committed on or after June 1, 2008 shall be awarded earned discretionary~~supplemental~~ sentence credit unless he or she:
- 1) Successfully completes or is participating in sex offender treatment as defined by the Sex Offender Management Board (see 20 Ill. Adm. Code 1905); or
 - 2) Receives a waiver due solely to lack of Department resources.
- g) Habitual juvenile offenders or violent juvenile offenders shall not be eligible for earned discretionary sentence credit~~Supplemental Sentence Credit~~.

(Source: Amended at 43 Ill. Reg. 3217, effective March 1, 2019)

Section 107.220 Reporting of Supplemental Sentence Credit (Repealed)

- a) ~~The Department shall prepare an annual written report that identifies:~~

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- 1) ~~The number of offenders who have been awarded supplemental sentence credit;~~
 - 2) ~~The holding offenses of the offenders who have received an award of supplemental sentence credit;~~
 - 3) ~~The average number of supplemental sentence credit days awarded; and~~
 - 4) ~~The number of revocations of supplemental sentence credit.~~
- b) ~~The report shall be submitted to the Governor and General Assembly beginning January 1, 2014 and annually thereafter.~~
 - c) ~~Within 48 hours after submission to the Governor and the General Assembly, the Department shall make the report available on the Department's website.~~

(Source: Repealed at 43 Ill. Reg. 3217, effective March 1, 2019)

Section 107.230 Revocation and Restoration of Earned Discretionary Supplemental Sentence Credit

Earned discretionary sentence credit~~Supplemental Sentence Credit~~ may be revoked and restored in accordance with Subpart B.

(Source: Amended at 43 Ill. Reg. 3217, effective March 1, 2019)

SUBPART E: ACCESS AND REVIEW OF
CRIMINAL HISTORY RECORD INFORMATION

Section 107.430 Requests for Access and Review

- a) A request to obtain access to and review Criminal History Record Information, local, state or federal, shall be made in writing to the office designated by the Chief Administrative Officer.
- b) A staff member shall inform the offender of any applicable fees and assist the offender in completing and processing all applicable forms.
- c) Upon receipt by the facility of the transcript of the Criminal History Record

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Information, the Department shall release the document to the offender ~~shall be allowed to review the transcript while in the presence of a staff member.~~

- d) ~~The offender shall, upon request, be provided with a copy of the transcript that has been stripped of all personal identifiers, including, but not limited to, the names and addresses of the offender, victims or witnesses.~~

(Source: Amended at 43 Ill. Reg. 3217, effective March 1, 2019)

SUBPART F: HIGH SCHOOL EQUIVALENCY
AND PROGRAM SENTENCE CREDIT**Section 107.510 Definitions**

"Behavior Modification Program" means a program, approved by the Department, designed to provide offenders with the means to identify and alter undesired behavioral patterns.

"Chief Administrative Officer" means the highest ranking official of a correctional facility.

"Correctional Industry Assignments" means work assignments in or job training conducted by Correctional Industries.

"Department" means the Department of Corrections.

"Director" means the Director of the Department.

"Earned Good Conduct Credit" means the award of time to offset the length of sentence for an offender who successfully completed an assigned substance abuse program, Correctional Industries assignment, or educational program prior to June 22, 2012.

"Earned Program Sentence Credit" means the award of time to offset the length of sentence for an eligible offender who successfully completes a substance abuse program, Correctional Industries assignment, educational program, behavior modification program, life skills course, or re-entry planning on or after January 1, 2018.

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"Educational Programs" means courses of academic and vocational instruction offered to persons committed to the Department or courses of academic and vocational instruction approved by the Department.

"~~HSEGED~~ Program Sentence Credit" means the award of ~~9060~~ days credit to offset the length of sentence for an offender who passes the high school level test of ~~High School Equivalency~~~~General Educational Development (HSEGED)~~ while committed to the Department or while held in pretrial detention prior to the offender's current commitment to the Department.

"Instructional Day" means a day in which instruction is provided.

"Life Skills Course" means a program approved by the Department to promote personal skills to better prepare the offender for a productive return to society.

"Program Administrator" means the Education Facility Administrator or other persons designated by the Chief Administrative Officer to be responsible for determining satisfactory participation in programs subject to program sentence credit.

"Program Sentence Credit" means the award of time to offset the length of sentence for offenders who successfully complete a substance abuse program, Correctional Industries assignment, educational program, behavior modification program, life skills course, or re-entry planning program on or after June 22, 2012 but prior to January 1, 2018.

"Re-entry Planning Program" means a program approved by the Department that provides offenders with information on release procedures and the tools to assist them in a positive re-entry into society.

~~"Sentence of Imprisonment for a Felony" means one continuous period or term of incarceration for commission of one or more felonies, provided that each felony was committed prior to the offender's commitment to the Department.~~

"Substance Abuse Program" means a program, approved by the Department, consisting of counseling, education or treatment for drug or alcohol abuse.

(Source: Amended at 43 Ill. Reg. 3217, effective March 1, 2019)

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Section 107.520 Eligibility for Earned Program Sentence Credit

- a) Offenders who, on or after ~~January 1, 2018~~June 22, 2012, are engaged full-time in substance abuse programs, Correctional Industries assignments, academic or vocational education programs, behavior modification programs, life skills courses, or re-entry planning provided or approved by the Department shall be eligible to receive earned program~~program~~ sentence credit at the rate of 0.5 per program day provided:
- 1) They are eligible to receive one day of statutory sentence credit for each day served on their sentence of imprisonment or recommitment as a parole or mandatory supervised release violator in accordance with Subpart B; and
 - 2) They achieve the goals established by the Department within a specified time period.
- b) Offenders shall not be eligible to receive earned program~~program~~ sentence credit at the rate of 0.5 per day if:
- 1) They are assigned to a boot camp or electronic detention program.
 - 2) They are serving a sentence for an excluded offense under the provisions of Section 3-6-3(a)(4) of the UCOC.
 - ~~3) They have been convicted of a felony committed after they have received a previous award of earned good conduct credit or program sentence credit.~~
 - ~~4) They have previously served more than one prior sentence of imprisonment for a felony in an adult correctional facility.~~
 - 35) They are removed from the program for failure to comply with program requirements or for disciplinary reasons.
- c) Offenders who are not eligible under subsection (a) and who enroll full-time in an educational program approved by the Department shall be eligible to receive program sentence credit at the rate of 0.25 per day provided:

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- 1) They are eligible to receive one day of statutory sentence credit for each day served on their sentence of imprisonment or recommitment as a parole or mandatory supervised release violator in accordance with Subpart B;
- 2) The offense for which they were convicted was committed on or after September 10, 1990; through August 10, 1993;
- 3) They have not been convicted of first degree murder, second degree murder, or a Class X felony;
- 4) They have not been convicted of a felony that was committed after a previous award of earned good conduct credit or program sentence credit;
- 5) They achieve the educational goals established by the Department within a specified time period; and
- 6) They are not removed from the program for failure to comply with program requirements or for disciplinary reasons.

d) No offender shall be eligible to receive earned program sentence credit if the award reduces his or her sentence to less than:

- 1) 85% for offenders required to serve 85% of their sentence; or
- 2) 60% for offenders required to serve 75% of their sentence, except for the offense of gunrunning, which shall not be reduced less than 75%.

ed) Full-time assignment to a program for which an offender may be eligible to receive earned program~~program~~ sentence credit shall mean:

- 1) The offender is housed at a residential substance abuse program facility or unit or is normally scheduled to participate in substance abuse programming at least 15 hours per week;
- 2) The offender is normally scheduled to work with or receive job training from Correctional Industries~~correctional industries~~ at least 20 hours per week~~4 hours per day, 5 days per week~~;
- 3) The offender is a student enrolled in an educational program that has

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classes that are normally scheduled to meet a minimum of ~~1015~~ hours per week, or the offender is enrolled in college academics for a minimum of ~~six6~~ credit hours per module or 12 credit hours per semester;

- 4) The offender is enrolled in a behavior modification, life skills course, or re-entry planning program for the number of hours identified in his or her program contract and as determined by the risk and needs assessment.
 - 4) ~~The offender is enrolled in a behavior modification program for which a minimum of 15 hours of participation is required for completion;~~
 - 5) ~~The offender is enrolled in a life skills course for which a minimum of 70 hours of participation is required for completion; or~~
 - 6) ~~The offender is enrolled in a re-entry planning program for which a minimum of 6 hours of participation is required for completion.~~
- e) ~~Offenders shall only be eligible to receive program sentence credit for participation in one full time program or assignment at a time.~~

(Source: Amended at 43 Ill. Reg. 3217, effective March 1, 2019)

Section 107.525 High School Equivalency (HSE) Earned General Education Development Program Sentence Credit

Offenders who are eligible for ~~earned program~~ sentence credit in accordance with Section 107.520 and who have not graduated from high school or passed ~~at the~~ test of ~~HSE General Educational Development (GED)~~ shall be awarded ~~9060~~ days of ~~HSE GED~~ earned program sentence credit if he or she passes ~~HSE the GED~~ test of high school equivalency while committed to the Department or while held in pre-trial detention prior to his or her current incarceration in the Department. The award of ~~HSE GED~~ earned program sentence credit shall be in addition to other awards of earned sentence credit.

(Source: Amended at 43 Ill. Reg. 3217, effective March 1, 2019)

Section 107.530 Goal Statements

- a) Program goals (see Section 107.540) shall be established in writing by the program administrator for offenders who are eligible to receive earned program

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~~program~~ sentence credit or HSEGED earned program sentence credit and shall be signed by the offender.

- b) The goal statement shall include the goal period and the goals the offender is expected to achieve.
- c) Offenders who are enrolled in programming as of January 1, 2018 and do not have an active goal statement shall have a new goal statement established. If eligible for earned program sentence credit in accordance with Section 107.525(a), offenders may be awarded partial earned program sentence credit for the programming completed after January 1, 2018.

(Source: Amended at 43 Ill. Reg. 3217, effective March 1, 2019)

Section 107.540 Program Goals

- a) Program goals may include, but are not limited to, one or more of the following:
- 1) Active participation in the program as demonstrated by being attentive, responsive and cooperative and by maintaining behavioral standards;
 - 2) Adherence to attendance requirements;
 - 3) Achievement of a specified grade level;
 - 4) Attainment of ~~an~~ HSE-GED certificate;
 - 5) Attainment of a specific number of college credits;
 - 6) Maintaining a certain grade;
 - 7) Achievement of specified skills;
 - 8) Achievement of a specified production level;
 - 9) Attendance at individual, group or family counseling;
 - 10) Passing a substance abuse education program final;

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- 11) Passing a substance abuse test, such as a urinalysis, for the detection of the presence of drugs or alcohol;
 - 12) Completion of a specified number of programming hours; or
 - 13) Completion of pre- and post-release program questionnaires.
- b) Goals may, with the approval of the program administrator or the Chief Administrative Officer, be revised in writing and signed by the offender if it is determined that the original goals need to be revised based, among other matters, on a reassessment of the offender's level of competency or ability or program changes. However, the goal period may not be changed except as provided in Section 107.550.

(Source: Amended at 43 Ill. Reg. 3217, effective March 1, 2019)

Section 107.550 Goal Periods

- a) The goal period for offenders who are enrolled in an educational program, except college academic programs, shall be 45 instructional days of attendance or the number of instructional days of attendance required to complete the program if less than 45 instructional days, unless otherwise modified by the Director or his or her designee.
- b) The goal period for offenders who are enrolled in college academic programs and for offenders in the transition centers who are enrolled in any educational program approved by the Department shall be the period of time during which the classes are scheduled, unless otherwise modified by the Director or his or her designee.
- c) The goal period for substance abuse programs shall be the length of the program or 90 consecutive days, whichever is shorter, unless otherwise modified by the Director or his or her designee.
- d) The goal period for behavior modification programs, life skills courses, and re-entry planning programs for which an offender may be eligible to receive earned program sentence credit shall be the number of hours determined to be beneficial based on the offender's risk and needs assessment.

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- d) ~~The goal period for behavior modification programs shall be 15 hours of attendance or the actual time required to complete the program if less than 15 hours, unless otherwise modified by the Director or his or her designee.~~
- e) ~~The goal period for life skills courses shall be a minimum of 70 hours of attendance or the actual time required to complete the course if less than 70 hours, unless otherwise modified by the Director or his or her designee.~~
- f) ~~The goal period for re-entry planning programs shall be six hours of attendance or the actual time required to complete the program if less than six hours, unless otherwise modified by the Director or his or her designee.~~
- eg) The goal period for Correctional Industries assignments shall normally be 90 days, unless otherwise modified by the Director or his or her designee.
- fh) When an offender completes the program early, the goal period shall be revised to the date of completion and the offender shall be eligible to receive program sentence credit for the revised goal period.
- gi) If the offender is removed from the program or assignment due to placement in protective custody, non-voluntary transfers for other than disciplinary reasons, termination or suspension of the program by the Department, release on parole or mandatory supervised release, transfer to work release, placement on electronic detention, or other reasons approved by the Chief Administrative Officer, the goal period may be revised to the date removed from the program. In determining whether to revise a goal period, the Department shall consider, among other factors, the offender's medical and mental health status, protection needs, projected release date, and time in the program. The offender may be eligible to receive program sentence credit for the revised goal period provided satisfactory progress has been made towards achieving stated goals.
- hj) If the offender is removed from the program or assignment prior to completion of the goal period due to reasons other than those stated in subsection (gi) of this Section, the offender shall not receive any ~~earned program~~ ~~program~~ sentence credit for the goal period.

(Source: Amended at 43 Ill. Reg. 3217, effective March 1, 2019)

Section 107.560 Award of High School Equivalency Earned~~GED~~ Program Sentence Credit

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and Program Sentence Credit

Within 15 working days, whenever feasible, after completion of the goal period or removal from the program, the program administrator or Chief Administrative Officer shall:

- a) Determine whether the offender achieved the required goals or was making satisfactory progress toward achieving the goals in accordance with Section 107.550(~~g~~).
- b) Document the determination of ineligibility or the award of the HSE~~GED~~ certificate. Awarded HSE earned~~GED~~ program sentence credit shall only be subject to revocation if it is subsequently determined that the offender was not eligible for the award. Partial HSE earned~~GED~~ program sentence credit shall not be awarded.
- c) Document the determination of ineligibility or the number of calendar days during the goal period for which the offender is eligible to receive earned program sentence credit. The days eligible for the award shall be the number of calendar days during the goal period, less the total number of days of lockdowns, days the offender was absent, and days in which class or the program assignment was cancelled.
- d) Ensure earned program sentence credit is computed at the appropriate rate, 0.25 or 0.5, in accordance with Section 107.520(a) or (c).
- e) The award of HSE earned~~GED~~ program sentence credit or program sentence credit shall be subject to the review and approval of the Director or his or her designee. A copy of the award of HSE earned~~GED~~ program sentence credit or earned program sentence credit shall be filed in the offender's master record file.
- f) Offenders shall be advised in writing of the award of HSE~~GED~~ program sentence credit or program sentence credit or the determination of ineligibility of the award.
- ~~g)~~ ~~Offenders may grieve the decision not to award GED program sentence credit or program sentence credit under 20 Ill. Adm. Code 504.Subpart F.~~
- ~~gh)~~ New goal periods and goals shall be established upon continued placement or re-enrollment in educational programs or continued placement in substance abuse

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programs, behavioral modification programs, life skills courses, re-entry planning, or Correctional Industries assignments in accordance with this Subpart.

(Source: Amended at 43 Ill. Reg. 3217, effective March 1, 2019)

Section 107.570 Revocation and Restoration of Earned Program Sentence Credit

Earned program~~Program~~ sentence credit may be revoked and restored in accordance with Subpart B.

(Source: Amended at 43 Ill. Reg. 3217, effective March 1, 2019)

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- 1) Heading of the Part: Insurance Department Consumer Complaints
- 2) Code Citation: 50 Ill. Adm. Code 926
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
926.10	Repealed
926.20	Amendment
926.30	Amendment
926.40	Amendment
926.EXHIBIT A	Amendment
926.EXHIBIT B	Amendment
- 4) Statutory Authority: Implementing Sections 133, 149, 404(1)(a), 421, and 424 of the Illinois Insurance Code [215 ILCS 5/133, 149, 404(1)(a), 421, and 424] and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401].
- 5) Effective Date of Rules: February 25, 2019
- 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 principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 18347; October 12, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version:

In 926.EXHIBIT A, deleted " ILLINOIS DEPARTMENTAL REGULATIONS" and "ATTACHMENT A" in the header and "IX-156" in the footer.

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In 926.EXHIBIT B, item (C)(3), after "Mobile" add "or Manufactured"; in items (C)(9) and (C)(10), after "Sickness" added "(including PPO)"; in item (C)(12) changed "LHSO" to "Limited Health Service Organization (LHSO)".

- 12) Have all 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 Rulemakings: The amendments remove certain requirements for insurers as a result of the fact that consumer complaints are now tracked and maintained electronically. Some informational items required by the rule are no longer used by the Department and therefore can be eliminated. The Function Code is integrated into the Reason Code, and "Line Type" is renamed "Coverage Code" to make the term more understandable to the general public. The amendments include other technical corrections and remove redundancies and superfluous language. The repeal of Section 926.10 does not reflect any change in the Department's position regarding its authority to enforce this rule, as the Authority Note already provides the relevant information.
- 16) Information and questions regarding these adopted rules shall be directed to:

Robert Rapp, Assistant Deputy Director
Property and Casualty Complaints
Department of Insurance
320 West Washington Street
Springfield IL 62767-0001

or

Sara Stanberry
Health Products Advisor
Department of Insurance
320 West Washington Street
Springfield IL 62767-0001

217/785-1680

217/558-3396

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

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NOTICE OF ADOPTED AMENDMENTS

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER 1: PROVISIONS APPLICABLE TO ALL COMPANIESPART 926
INSURANCE DEPARTMENT CONSUMER COMPLAINTS

Section

926.10	Authority (<u>Repealed</u>)
926.20	<u>Purpose and Scope</u>
926.30	<u>Definitions</u> Purpose
926.40	Complaint Handling Procedure
926.50	Maintenance of Complaint Records
926.60	Severability Provision (Repealed)
926.70	Effective Date (Repealed)

926.EXHIBIT A Complaint Record

926.EXHIBIT B Explanation

AUTHORITY: Implementing Sections 133, 149, 404(1)(a), 421, and 424 of the Illinois Insurance Code [215 ILCS 5] and authorized by Section 401 of the Illinois Insurance Code.

SOURCE: Filed December 2, 1976, effective January 1, 1977; codified at 7 Ill. Reg. 2361; amended at 23 Ill. Reg. 5695, effective May 3, 1999; amended at 43 Ill. Reg. 3246, effective February 25, 2019.

Section 926.10 Authority (Repealed)

~~This Part is promulgated by the Director of Insurance pursuant to Section 401 of the Illinois Insurance Code [215 ILCS 5/401] which empowers the Director...to make reasonable rules and regulations as may be necessary for making effective...the insurance laws of this State. The purpose of this Part is to implement Sections 133, 149, 404(1)(a), 421 and 424 of the Illinois Insurance Code [215 ILCS 5/133, 149, 404(1)(a), 421 and 424].~~

(Source: Repealed at 43 Ill. Reg. 3246, effective February 25, 2019)

Section 926.20 Purpose and Scope

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- a) The purpose of this Part is to establish guidelines for the handling of complaints received by the Department of Insurance against insurers, insurance producers or any other entity licensed, registered or granted a Certificate of Authority as described in this Section. This Part also sets forth minimum complaint record keeping requirements.
- b) This Part ~~applies 926 shall apply~~ to any insurance company licensed to do business in this State ~~that which~~ is transacting the kind or kinds of business described as Class 1, Class 2, or Class 3 in Section 4 of the ~~Illinois Insurance Code [215 ILCS 5/4]~~. This Part also applies to any entity that the Director of Insurance licenses, registers or grants a Certificate of Authority under Chapter 215 of the Illinois Compiled Statutes, and to any insurance producer licensed under Article XXXI of the ~~Illinois Insurance Code~~. ~~Complaint files are deemed, by the Illinois Department of Insurance, to be confidential records and will not be released unless such person or organization is either the complainant and/or the party against whom the complaint has been filed.~~

(Source: Amended at 43 Ill. Reg. 3246, effective February 25, 2019)

Section 926.30 DefinitionsPurpose

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

"Complaint" means~~The purpose of this Part is to establish guidelines for the handling of complaints received by the Department of Insurance against insurers, insurance producers or any other entity licensed, registered or granted a Certificate of Authority as described in Section 926.20 of this Part. This Part also sets forth minimum complaint record keeping requirements. For purposes of this Part, the word "complaint" shall mean~~ any written communication primarily expressing a grievance.

"Department" means the Illinois Department of Insurance.

(Source: Amended at 43 Ill. Reg. 3246, effective February 25, 2019)

Section 926.40 Complaint Handling Procedure

- a) Notification and Response Requirements

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When a complaint is received by the Department ~~of Insurance~~ against an insurer, insurance producer, or other entity identified in Section 926.20 ~~of this Part~~ (respondent), the respondent shall be notified of the complaint. The Department will, in its notification, specify the date when a report is to be received from the respondent, which, in most instances, will be 21 calendar days after notification is sent to the respondent.

b) Contents of Response or Report or Both

- 1) Each respondent shall supply adequate documentation ~~that~~which explains all actions taken or not taken and ~~that~~which were the basis for the complaint;
- 2) Documents necessary to support the respondent's position, or information requested by the Department, shall be furnished with the respondent's reply; and
- ~~3) The respondent's reply shall be in duplicate, but duplicate copies of supporting documents are not required;~~
- ~~4) The respondent's reply shall include the name, telephone number and address of the individual assigned to the complaint;~~
- ~~35) The Department will respect the confidentiality of medical reports and other documents ~~that~~which by law, are confidential. Any other information furnished by a respondent shall be marked "confidential" if the respondent does not wish it to be released to the complainant; ~~and~~~~
- ~~6) The complaint and all documents submitted with the complaint or in response to the complaint are deemed confidential and will not be released to third parties.~~

c) Follow-up or Conclusion

Upon receipt of the respondent's report, the Department ~~of Insurance~~ ~~insurance~~ ~~analyst~~ will evaluate the material submitted and:

- 1) Advise the complainant of the action taken and disposition of the complaint; ~~or~~

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- 2) Pursue further investigation with the respondent or complainant; or
 - 3) Refer the complaint file to the appropriate Division within the Department of Insurance for further regulatory action.
- d) The Department deems complaint files to be confidential records and will not release them to persons other than the complainant and the respondent.

(Source: Amended at 43 Ill. Reg. 3246, effective February 25, 2019)

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Section 926.EXHIBIT A Complaint Record

~~ILLINOIS DEPARTMENTAL REGULATIONS~~~~ATTACHMENT A~~

COMPLAINT RECORD

<u>Column A</u>	<u>Column B</u>	<u>Column C</u>	<u>Column D</u>	<u>Column E</u>	<u>Column F</u>	<u>Column G</u>	<u>Column H</u>
Identification Number	Reason Code Function Code	<u>Coverage</u> <u>Code</u> Line Type	Disposition after Complaint Receipt	Date Received	Date Closed	Insurance Department Complaint	State of Origin

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(Source: Amended at 43 Ill. Reg. 3246, effective February 25, 2019)

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Section 926.EXHIBIT B Explanation

Column

- A. Identification Number. As noted, this refers to the identification number of the complaint ~~and shall also include the license number or other means of identifying any licensee of the Insurance Department (such as an insurance producer) that may have been involved in the complaint.~~
- B. ~~Function Code. Complaints are to be classified by function(s) of the company involved. Separate classifications are to be maintained for underwriting, marketing and sales, claims, policyholder service and miscellaneous.~~ Reason Code. Complaints are ~~also~~ to be classified by the nature of the complaint within one of the involved company's functions of underwriting, marketing and sales, claims, policyholder service, and miscellaneous. The following is the classification required for each function: ~~specified above.~~
- 1) Underwriting
- a) Company underwriting
 - b) Individual's application underwriting (this refers to any complaint regarding where misrepresentations or declarations in the application for insurance that resulted in company action involved in the complaint)
 - c) Cancellation
 - d) Rescission
 - e) Non-renewal
 - f) Premiums and rating
 - g) Delays
 - h) Refusal to insure

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- i) Miscellaneous (not covered by B(1)(a) through (h)above)
- j) Creditable coverage re: Health Insurance Portability and Accountability Act (HIPAA)
- k) Late enrollee (HIPAA)
- l) Special enrollment (HIPAA)
- m) Renewability (HIPAA)
- 2) Marketing and Sales
 - a) General advertising
 - b) Mass marketing advertising – (advertising thatwhich is essentially directed to reach more people than in a one-to-one relationship)
 - c) Insurance producer handling
 - d) Replacement
 - e) Delays
 - f) Alleged misleading statement or misrepresentation
 - g) Miscellaneous (not otherwise covered by this B(2)above)
- 3) Claims
 - a) Claims procedure
 - b) Delays
 - c) Unsatisfactory settlements
 - d) Natural disaster adjusting (hurricane, ~~or~~ flood or other situations thatwhich produce a large number of claims)

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- e) Unsatisfactory settlement offers
 - f) Denial of claim
 - g) Miscellaneous (not otherwise covered by this B(3)above)
- 4) Policyholder service
- a) Failure to respond
 - b) Delays
 - c) Return of premium
 - d) Miscellaneous (not covered by B(4)(a) through (c)above)
 - e) Continuation – State or federal~~Federal~~
- 5) Miscellaneous~~miscellaneous~~
- C. Coverage Code~~Line Type~~. Complaints are to be classified according to the line of insurance involved, as follows:
- 1) Automobile – Personal
 - 2) Automobile – Commercial
 - 3) Homeowners – Farmowners – Mobile or Manufactured Homeowners – Dwelling
 - 4) Commercial Property
 - 5) Inland Marine
 - 6) Individual Life
 - 7) Group Life

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- 8) Annuities
 - 9) Individual Health – Accident & Sickness (including PPO)
 - 10) Group Health – Accident & Sickness (including PPO)
 - 11) HMO individual or group
 - 12) Limited Health Service Organizations (LHSO)
 - 13) Workers' ~~Workmen's~~ Compensation
 - 14) General/Professional liability
 - 15) Miscellaneous (not otherwise covered by this ~~Case~~)
- D. Company Disposition After Complaint Receipt. The complaint record shall note the disposition of the complaint. The following examples are recommended, but are not intended to be required language nor to exhaust the possibilities. These examples are taken from the form used by the ~~State of Illinois~~ Department of Insurance.
- 1) Corrective action was taken
 - a) Rate problem resolved
 - b) Cancellation withdrawn
 - c) Non-renewal rescinded~~Rescinded~~
 - d) Policy restored (Life/A & H)
 - e) Policy issued
 - f) Premium refunded
 - g) Additional monies paid (claims~~Claims~~)

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- h) Coverage extended (~~claims~~Claims)
 - i) Claim reopened
 - j) Claim settled
 - k) Cash surrender paid
 - l) Referral approved
 - m) Provider changed
- 2) No action was deemed necessary
 - a) Contract provisions
 - b) Questions of fact
 - c) Policy not in force
 - d) Cancellation upheld
 - e) Non-renewal upheld
 - f) Return premium correct
 - g) Insufficient information (from complainant)
 - 3) Information was furnished to complainant
- E. Date Received. This refers to the date the complaint was received by the insurer.
- F. Date Closed. This refers to the date on which the complaint was disposed of by the insurer, whether by one action or a series of actions ~~as may be present in connection with some complaints~~.
- G. Insurance Department Complaint. Complaints are to be classified so as to

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indicate if the origin of the complaint was from an insurance department.

- H. State of Origin. The complaint record shall note the state from which the complaint originated. Ordinarily, this will be the state of residence of the complainant.

(Source: Amended at 43 Ill. Reg. 3246, effective February 25, 2019)

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- 1) Heading of the Part: Construction and Filing of Life Insurance and Annuity Forms
- 2) Code Citation: 50 Ill. Adm. Code 1405
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
1405.20	Amendment
1405.30	Amendment
1405.40	Amendment
1405.50	Amendment
1405.70	Amendment
1405.80	Amendment
- 4) Statutory Authority: Implementing Section 143 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/143 and 401].
- 5) Effective Date of Rules: February 25, 2019
- 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 principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 20207; November 16, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? There were none.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No

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- 15) Summary and Purpose of Rulemaking: Previously, Section 1405.40(q) included the final sentence stating: "All individual policies submitted must contain a premium breakdown as to coverage and contain a provision to allow for separation of either part." The very last clause "and contain a provision to allow for separation of either part" meant that if a life insurer sells a policy to a customer that includes a rider for another type of coverage, the insurance carrier must continue to offer coverage under the rider even if the policy to which the rider was attached lapses. This requirement created an unnecessary regulatory burden because the consumer can obtain the ancillary coverage from another carrier. The rule has been amended to remove this language.

Additionally, Section 1405.40(j)(5) has been deleted due to the repeal of 50 Ill. Adm. Code 914.

Other amendments throughout this Part are to remove provisions that effectively duplicate or redirect to statutes; to remove superfluous or outdated requirements that do not need to be specified; to remove unnecessary language and make formatting corrections; and to revise citations to adjust for the relocation of a referenced statutory provision from 215 ILCS 5/500-75 to 215 ILCS 5/500-155 and to adjust for some of the deletions within Part 1405.

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

Mike Chrysler
Deputy Director, Life & Annuities Products
Department of Insurance
320 West Washington Street
Springfield IL 62767-0001

217/558-2744 or 217/782-4515

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

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NOTICE OF ADOPTED AMENDMENTS

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER s: LEGAL RESERVE LIFE INSURANCEPART 1405
CONSTRUCTION AND FILING OF LIFE INSURANCE AND ANNUITY FORMS

Section

1405.10	Authority
1405.15	Definitions
1405.20	Illinois Guidelines for Filing and Approval of Life and Annuity Forms
1405.30	Applications
1405.40	Policy Forms
1405.50	Group Insurance
1405.60	Franchise Life Insurance
1405.70	Annuities
1405.80	Alternate and/or Insert Pages
1405.90	Substitution Filings

AUTHORITY: Implementing Section 143 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/143 and 401].

SOURCE: Filed July 11, 1972, effective August 1, 1972; codified at 7 Ill. Reg. 3466; amended at 12 Ill. Reg. 22184, effective December 16, 1988; amended at 34 Ill. Reg. 5835, effective April 7, 2010; amended at 37 Ill. Reg. 15340, effective September 4, 2013; amended at 39 Ill. Reg. 14552, effective October 22, 2015; amended at 43 Ill. Reg. 3259, effective February 25, 2019.

Section 1405.20 Illinois Guidelines for Filing and Approval of Life and Annuity Forms

Following are some general requirements that should be helpful to industry personnel involved in drafting and filing policy forms.

- a) Policy Forms
 - 1) "Policy Form" Defined. The term "policy form" as used in this Part is defined in the Insurance Code. It means any policy, certificate, endorsement, rider, by-law or other matter incorporated by reference or an application blank. It does not include riders or endorsements issued or made at the request of the individual policyholder relating to the manner

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of distribution of benefits or to the reservation of rights and benefits under a life insurance policy.

- 2) Policy forms exempt from filing are as follows:
 - A) Notice Regarding Replacement (see 50 Ill. Adm. Code 917.70).
 - B) Policy Summaries.
 - C) Buyer's Guides (see 50 Ill. Adm. Code 930.40(a)).
 - 3) Policy forms prohibited pursuant to Sections 143(1) and 224(1)(c) of the Code are as follows:
 - A) Certificates issued in lieu of a duplicate insurance policy.
 - B) Forms containing provisions excluding scuba diving, hang-gliding, motorcycle racing, race car or stock car racing, or hazardous sports.
- b) Form Numbers
- 1) Each "policy form" must be designated by a suitable form number that may be made up of numerical digits or letters, or both, in the lower left-hand corner of the first page. The form number shall be sufficient to distinguish the basic form from all others used by the insurer. Edition date and/or designation of a state where a special edition is required is permitted in this space, and if printed as a continuation of the form number, will be considered a part of the form. The appearance of a company's stock number and/or printing date in proximity to the form number is permitted.
 - A) If a descriptive title is in close proximity to the form number, it will not be considered a part of that number for approval purposes unless inclusion is requested by the company.
 - B) Refer to Section 1405.80 for instructions relating to form numbers when filing a policy on an insert page basis.

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- 2) Since the form number must be sufficient to identify any form that has been issued by a company, each submission must bear a unique number. A recently approved but unissued form may be corrected or changed by filing a substitute page or form, which may retain the original form number.
 - 3) Form numbers may not contain "ICC" at the beginning of the form number due to conflict with Interstate Compact form number requirements.
- c) General Form Requirements pursuant to Section 149 of the Code
- 1) The name of the company shall appear on the form.
 - 2) Policy shall show location of the home office and principal office, if different.
 - 3) Policy shall include the company's consumer assistance telephone number.
 - 4) Policy shall indicate the issue or policy date and the effective date, if different.
 - 5) Rubber stamp deletions, mechanical overprints or paste-over "stickers" are permitted with the prior approval of the Department (for rubber stamp endorsements, see Section 1405.20(d)(~~67~~)).
 - 6) The name or title of any policy or class of policies may not misrepresent the nature of the policy. The title shall be specifically descriptive, such as: Universal, Term, Annuity, Indexed, Equity Indexed, Indexed Linked, Modified Guaranteed Annuity, Endowment or Whole Life. Inclusion of words such as "special", "select", "preferred" or "inflation" are not allowed in the title as they imply receiving something not normally offered in a life policy, in violation of Sections 143(1) and 149 of the Code.
- d) Preparation of Forms
- 1) "Policy forms" must be submitted pursuant to 50 Ill. Adm. Code 916.
 - 2) ~~"Policy forms" submitted for formal approval shall be submitted in the~~

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~~form intended for actual issue. Typewritten forms may be used only for single cases or when their use will be too infrequent to justify other preparation.~~

- ~~23~~) All blank spaces of each policy form must be filled in (completed in John Doe manner). The purpose and use of the form shall be explained in the Filing Description or letter of submission.
- 34) When submitting a "policy form" to which a previously approved application will be attached, reference must be made to the state/company tracking number or SERFF tracking number and approval date and form number of the previously approved application.
- ~~45~~) On applicable life policy forms, nonforfeiture values, if any, for the age and plan of insurance used in filling in the form must be included.
- ~~56~~) On group forms, variable material may be indicated for language that may vary from case to case. Variable material ~~consists~~shall consist of benefit provisions and benefit levels.
- ~~67~~) All rubber stamp endorsements should be submitted for approval under the insurer's letterhead and filed in accordance with 50 Ill. Adm. Code 916.
- ~~78~~) Combination forms (for Life and Accident and Health) shall be submitted to both the Life Unit and the Accident and Health Unit of the Product Evaluation Section.

e) Filing Description or Letter of Submission

A letter of submission must be on company letterhead that shows the name of the company for which the forms are being submitted, signed by a representative of the company authorized to submit forms for filing or approval, and submitted under the Supporting Documentation of the filing. The Filing Description or letter of submission must contain the following information:

- 1) The identifying form number of each form submitted.
- 2) If the form is a new one, not replacing an existing form, a statement to that effect.

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- 3) If the form is intended to supersede another approved form, the company tracking number or SERFF tracking number, the form number and the approval date of the superseded form must be stated, together with a statement describing all material changes to the previously approved forms.
- 4) If a company submits a form that has been previously submitted but has not been approved, the company shall advise the Department of the company tracking number or SERFF tracking number, and the date of submission or disapproval of the previously submitted form and any material changes.
- 5) If the form is other than a policy or contract, give the company tracking number or SERFF tracking number and the form number of the policy or contract form or forms with which it will be used, or, if for more general use, describe the type or group of such forms.
- ~~6) When a form is approved, a final disposition will be issued in the SERFF filing.~~
- 67) Reference to previously approved forms shall provide date of approval of those forms and company tracking number or SERFF tracking number.

(Source: Amended at 43 Ill. Reg. 3259, effective February 25, 2019)

Section 1405.30 Applications

- a) General
 - 1) The application for a policy shall contain spaces for the name and signature of the producer or other licensee who solicited and wrote the application, ~~pursuant to as required by~~ Section 500-~~15575~~ of the Code.
 - 2) The size of the type in the declaration portion of an application must meet a reasonable standard of legibility.
 - 3) In applications providing for home office endorsement, there shall be no change in the amount of insurance or benefits, unless agreed to in writing by the applicant.

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- 4) Applications shall fully comply with the applicable Sections of Article XL of the Code (Insurance Information and Privacy Protection).
- b) Health Questions
- 1) Questions requiring applicant's opinion regarding past or present health of a person proposed for coverage shall be asked as to the best of the applicant's knowledge and belief.
 - 2) Questions regarding an applicant's past or present health that are phrased so as to require factual information rather than a statement of the applicant's opinion need not be qualified as described in subsection (b)(1).
 - 3) Medical Authorization in an application may be handled in one of the following ways:
 - A) By a direct question to be answered "yes" or "no" that clearly indicates the applicant has or has not waived the privilege; or
 - B) By a statement in the declaration immediately above or in close conjunction to the signature line; or
 - C) By a separate authorization requiring a separate signature of the applicant or other person granting the authorization.
- c) Automatic Premium Loan Provision
The application may provide for a specific election of an automatic premium loan provision if that provision is offered in the policy. Failure to elect on the part of the applicant shall result in no election of the automatic premium loan provision, as provided for in Section 1405.40(c).
- d) Dividend Election
If the contract applied for is participating, the application shall provide for election of all available dividend options, as provided for in Section 1405.40(ij).
- e) ~~Premium Mode
"Salary Savings", "Salary Deduction", "Payroll Deduction" and similar designations may be used.~~

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- ef) Replacement
Applications shall be drafted to comply with the replacement provisions of 50 Ill. Adm. Code 917.

(Source: Amended at 43 Ill. Reg. 3259, effective February 25, 2019)

Section 1405.40 Policy Forms

- a) Payment of Premiums
- ~~1)~~ ~~Receipt—Section 224(1)(a) of the Code requires that a policy of life insurance shall contain in substance the following: A provision that all premiums after the first shall be payable in advance either at the home office of the company or to an agent of the company, upon delivery of a receipt signed by one or more of the officers who shall be designated in the policy, when such receipt is requested by the policyholder.~~
 - ~~2)~~ ~~Premium Deposits—Contractual premiums under individual policy forms may be captioned as "Premium deposits" (50 Ill. Adm. Code 909).~~
 - ~~3)~~ ~~Prepayment of Premiums—Specific premiums may be paid in advance, subject to discount.~~
 - 14) Advance Premium Deposits – A fund or account for payment of unspecified premiums (whether by policy or by rider) must conform to the requirements of Section 240 of the Code.
 - 25) Grace Period – Policy must provide for continuance in force during the grace period and deduction (not necessarily payment) of any unpaid premium in settlement under the policy pursuant to Section 224(1)(b) of the Code.
- b) Continuation of Premiums Beyond Maturity
If a policy provides for continuation of premiums, on an optional basis, beyond an initial or normal maturity date, it must be made clear that coverage and all applicable policy provisions also continue while premiums are being paid. The policyholder must be made aware of applicable policy values while premiums are so continued: either by including those values in the policy or by specifying that

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notices of the current value will be sent to the policyholder upon request.

c) Automatic Premium Loan Provision

- 1) Policy may provide benefit on a positive elective basis, but not as an automatic nonforfeiture benefit. For provisions regarding automatic premium loans in applications, see Section 1405.30(c).
- 2) Provision must conform to the loan provision of the policy, subject to Sections 224(1)(f), 229.3 and 229.5 of the Code. The provision must permit revocation of election upon written request.
- 3) *Notification of the policyholder with respect to the initial interest rate on an automatic premium loan must be made as soon as it is reasonably practicable after making the initial loan, but in no event more than 90 days after the initial loan is made. Notification need not be given to the policyholder when a further premium loan is added unless a loan rate increase occurs (Section 229.5(b)(5)(ii) and (iii) of the Code). When a loan rate increase occurs, reasonable advance notice of any increase in rate must be made. In no event shall the notice be given less than 15 days prior to the increase in rate.*

d) Loan Interest Rate

- 1) Provision must conform to Sections 224(1)(f), 229.3 and 229.5 of the Code. Any variable rate must include a specified maximum rate of interest. The Department requires filing of a description of procedure for changing a variable rate and notifying those policyowners who have outstanding loans of the rate change, which must be made on a non-discriminatory basis.
- 2) The interest rate charged on a policy loan or the interest rate charged upon reinstatement of any policy form that was made under a policy issued after January 1, 1982 will not exceed the rate prescribed in Section 229.5 of the Code, either as a maximum rate of not more than 8% or an adjustable maximum interest rate established from time to time by the life insurer as permitted by law, unless the policyholder agrees in writing to the applicability of those provisions.

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- e) **Contestability in Life Policies**
~~1)The period of contestability is limited to a maximum of two years. Permissible exceptions are provisions relative to benefits in the event of total and permanent disability, and provisions which grant additional insurance specifically against death by accident and except for violations of the conditions of the policy relating to naval or military service in time of war or for violation of an express condition, if any, relating to aviation (except riding as a fare paying passenger of a commercial air line flying on regularly scheduled routes between definitely established airports) (Section 224(1)(c) of the Code).~~ 2)The period of contestability shall be determinable from the policy, i.e., by reference to a specified issue date, policy date or effective date, as referred to in subsection (tv).
- f) **Limitation of Coverage**
Any limitation of coverage in event of death by suicide or other specified causes must be confined within the contestability period of the policy to comply with Section 225(l)(c) and (l)(f) of the Code. Exceptions to this restricted limitation are given in Section 224(l)(c) of the Code and subsection 1405.40(tv)(2) of this Section.
- g) **Proof of Death**
~~Section 224(1)(j) of the Code requires due proof of death. The policy may require that due proof of death of the insured shall consist of a certified copy of the death certificate of the insured, or other lawful evidence providing equivalent information, and proof of the claimant's interest in the proceeds.~~
- gh) **Time Limit on Claims**
- 1) **Filing of Death Claims** – There is no time limit for filing death claims if the claim is not conditioned upon other contingencies, i.e., prior disability or accident. Section 224(1)(j) of the Code requires, when there is a claim on a policy due to the death of the insured, settlement shall be made upon receipt of due proof of death. For purposes of this subsection (gh)(1), due proof ~~consists~~shall consist of sufficient evidence to establish in a court a prima facie case for payment of the claim. Therefore, any limitation with respect to death claims arising during and contingent upon the insured's continued disability must be limited to a requirement that proof of disability be furnished within a stipulated period as a condition precedent to consideration of a death claim.

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- 2) Filing of Disability Claims – Reasonable limits are permitted. The form may require notification of disability during lifetime and continuance of disability and may eliminate accrual of benefits because of any disability that was in existence more than one year prior to furnishing proof of disability.
- hi) Participating or Non-Participating
A policy must indicate whether the policy is participating or non-participating.
- ij) Dividend Provisions
The following is applicable to individual policy forms:
 - 1) ~~Required Options—The policy must provide the dividend options required under Section 224(1)(e) of the Code.~~
 - 12) Disposition of Dividends Left With the Company – The policy must indicate what disposition will be made of outstanding dividend credits in event of lapse, termination or maturity of the policy.
 - 23) Other Dividend Options – In addition to the dividend options required under Section 224(1)(e) of the Code, ~~provisions other options (such as a one-year term insurance dividend option) may also be provided by the policy.~~ Provisions pertaining to the automatic withdrawal of any accumulated dividends, or current and unapplied dividends for the purpose of paying premiums unpaid at the end of a grace period, may be included if the policy provides for the notification of the policyholder of the application of dividends and the policyholder is given a minimum of 30 days after the date of the notice within which to direct the insurer to reverse the dividend transaction.
 - 34) One-Year Term Insurance Dividend Option – Provision must be made for the disposition of the value of any one-year term insurance addition in the event of lapse of the policy. The policy may either provide for application of any cash value of the remaining one-year term insurance under nonforfeiture options, or a continuation of the term insurance.
 - 5) ~~Prohibited Provisions—Prohibited provisions regarding individual life policy dividends are cited in 50 Ill. Adm. Code 914.~~

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- jk) Nonforfeiture Values
The nonforfeiture value table must illustrate loan values and options available for each of the first 20 years of the policy or its term, if less, and include a provision that, upon request, the company will furnish an extension of the table. Values and statements in the policy must fulfill the requirements of Section 229.2 of the Code.
- kl) Standard Nonforfeiture Law – Paid-up Insurance Upon Death of Insured (Family Policy)
A spouse or children entitled to paid-up insurance upon the death of a covered person under a family or parent-child policy shall be given the right to obtain the net cash surrender value of the paid-up insurance, and the form shall so state. In lieu of a table of such values, a statement may be included that a notice of the current values will be furnished by the company on request, as provided for in Section 229.2(6) of the Code.
- lm) Inapplicable Language
Inapplicable language is prohibited if the inclusion of that language results in inconsistencies or ambiguities or is misleading, as is required by Section 143 of the Code.
- mn) Back Dating of Life Policy
While the Code prohibits a provision under which any policy purports to be issued or take effect more than six months before the original application was made, this limitation is not applicable in conversion from or exchanges of one form of policy or annuity to or for another form provided credit is given for the reserve accumulation of the converted or terminated policy, and the form clearly spells out acceptable provisions relating to indebtedness, tabular cash values, dividends, effective date, and dividend accumulations, if any, under the new policy, as is prohibited by Section 225(1)(b) of the Code. The conversion or exchange may not result in the policyholder being charged for insurance protection that was not received.
- no) Settlement at Maturity – Commuted Value of Unpaid Installments
The form shall:
- 1) provide the basis for determining any commuted value, as is provided for by Section 224(1)(k) of the Code; and

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- 2) indicate whether benefits at death shall be payable to an estate or to a named beneficiary.

op) Supplemental Benefits

- 1) Supplemental Death and Dismemberment benefits may be added to a life policy when limited to accidental cause only.
- 2) Language in such supplemental benefits that does not employ "result" language, and that establishes an accidental means test or uses words such as "external", "violent", or "visible wound" is prohibited. Additionally, contributory language (e.g., "or indirectly", "wholly or in part", or "contributed to by") is also prohibited. For purposes of this subsection (op)(2), "result" language includes, but is not limited to, death as a result of war, death as a result of suicide and death as a result of flying. For purposes of this subsection (op)(2), "accidental means test" requires that both the cause and result of the accident be an accident.
- 3) Provisions for loss due to accident or accidental injury shall not contain language limiting, reducing or excluding liability for a loss resulting from purely accidental circumstances (e.g., involuntary or unintentional ingestion of poison or an infectious organism, or inhalation of poisonous gases or fumes) as provided for by Section 143 of the Code.
- 4) Other supplemental benefits may be added to the policy for conditions that result in a total and permanent disability, as provided by Section 4 of the Code. For purposes of this subsection (op)(4), "total and permanent disability" means an inability to work and earn money because of an injury or illness from which recovery is unlikely at any time in the future and that is expected to continue indefinitely or result in death.

pe) Combination Life and Accident and Health Coverages in Individual Policies
Life and Accident and Health coverages may be combined in an individual policy, provided all statutory requirements are met and the form meets the other tests for approval in Section 143. All individual policies submitted must contain a premium breakdown as to coverages ~~and contain a provision to allow for separation of either part.~~

qf) Spendthrift and Creditor Clause

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The policy may include a Spendthrift and Creditor Clause providing in substance that, except as may be otherwise provided in the policy, a Beneficiary may not, at or after the maturity of the policy, assign, transfer or encumber any benefits payable under the policy and, to the extent permitted by law, any such benefits shall not be subject to the claims of any creditor of any Beneficiary. Because of the limitations in the statutory provisions relating to the exemption from execution, attachment, garnishment or other process for the debts or liabilities of the insured, no reference to these statutory exemptions is required as is provided for by Sections 238 and 241 of the Code.

~~r~~s) Family Policy – Names of Spouse and Children

- 1) It is necessary to name the spouse and/or children in either the application or policy only when a separate premium is charged for the individual insured in either of such categories.
- 2) For additional family policy guidelines, refer to 50 Ill. Adm. Code 1403.

~~s~~t) Term Life Insurance – Conversion of Term Life Insurance

A form providing term life insurance with conversion rights without evidence of insurability may not withhold such right of conversion because the covered person has established a waiver of premium disability claim. The form may, however, withhold waiver of premium benefits under any new policy resulting from the conversion, or, as an alternative, reduce the face amount in the new policy by not exceeding 25% if waiver of premium benefits is requested and provided in the new policy.

~~u~~) ~~War Clauses—Life Policies~~

~~War clauses in life policies shall comply with 50 Ill. Adm. Code 1402.~~

~~t~~v) Option to Purchase Additional Life Insurance – Incontestability and Suicide Clause

- 1) Any new policy issued pursuant to a purchase option guaranteeing insurability shall provide that the period specified in the incontestability clause shall expire no later than two years from the latter of date of issue of the original policy, date of issue of the rider containing the purchase option, date of change of the original policy requiring proof of insurability or date of last reinstatement of original policy, as is provided for by

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Section 224(1)(c) of the Code.

- 2) Any new policy issued pursuant to a purchase option may contain a limitation of coverage with respect to death by suicide during the period the policy would be contestable in the absence of issuance under the purchase option, as provided for by subsection (f).
- 3) Company shall indicate to the Department how the incontestability provision of the new policy will be amended.
- 4) The request form for the exercise of a purchase option shall be furnished to the Department. It may contain medical questions provided it is clearly stated that such questions are to be answered only if coverages additional to those permitted under the option are applied for.

uw) Insurable Interest at time of Exercising Option

In a guaranteed purchase option, a provision may not be included requiring the existence of an insurable interest when the person exercising the right to purchase is other than the insured.

v*) Riders and Endorsements

- 1) Descriptive Title – Unless the nature of the rider or endorsement is obvious (e.g., Home Office Endorsement), the form shall contain a correct descriptive title. Use of words such as "preferred", "special", "select" or "inflation" is prohibited as provided for by Section 143 of the Code.
- 2) Effective Date – Rider or endorsement shall show its effective date, if other than effective date of policy, either within the text or by reference to a policy provision or in the schedule of benefits.
- 3) Format – Riders and endorsements that are forwarded to the policyowner for attachment to the policy shall contain the following information:
 - A) Name of company.
 - B) Identity of policy and insured, e.g., Attached to and made a part of Policy No. _____ Insured: _____.

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- C) Effective date of the rider or endorsement.
- D) Signature of at least one company official.
- 4) Reduction of Benefits – If benefits are reduced, the reduction may be made only pursuant to a signed request or acceptance of the policy owner.
- 5) Riders or endorsements may not be used to amend another rider or endorsement.

(Source: Amended at 43 Ill. Reg. 3259, effective February 25, 2019)

Section 1405.50 Group Insurance

- a) Group Insurance is defined in Section 230.1 of the Code. Standard Provisions for Group Policies are cited in Section 231.1 of the Code.
- b) Group Insurance Contributory or Non-Contributory
The policy shall state whether it is either contributory or non-contributory.
- e) ~~If a group policy terminates or is amended to terminate any class of insured persons, Section 231.1(k) of the Code requires a limited conversion privilege for every insured person who, at termination, had been insured for at least 5 years prior to the termination.~~
- cd) Paid-Up Term Life Insurance Benefit in Group Ordinary Life
Any group ordinary life insurance form providing a paid-up term life insurance benefit may contain a limitation to the effect that, when the paid-up benefit amounts to less than \$1,000, only the alternative cash value as provided in the form shall be payable.

(Source: Amended at 43 Ill. Reg. 3259, effective February 25, 2019)

Section 1405.70 Annuities

- a) ~~Standard provisions for annuities and pure endowment contracts are stated in Section 226 of the Code and for reversionary or survivorship annuity contracts in Section 227 of the Code.~~

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- ~~b)~~ ~~Group Annuities~~
~~Required and prohibited provisions are not specifically set forth in the Code. Contracts are subject to requirements of Sections 143 and 236 of the Code.~~
- ~~a~~e) Group Variable Annuities
The applicable jurisdiction for group variable annuity contracts is the jurisdiction where the group master policy is delivered.
- ~~b~~d) Fixed Dollar or Flexible Premium Individual Annuity Contracts – Options to Purchase Additional Annuity
If options for the purchase of additional annuity benefits are provided, including a flexible annuity plan, it must be made clear that the payments are considered "premiums" or purchase payments, rather than deposits, to distinguish annuity premiums from premiums placed in a Premium Deposit Reserve Account, as provided for by Section 240 of the Code.
- ~~c~~e) Notice to Policyholder
- 1) The policyholder must be made aware of the amount of annuity purchased, either by including a table of values in the contract, or by specifying in the contract that notices of the current or other values will be sent to the policyholder upon request.
 - 2) The charges, including but not limited to withdrawal and surrender charges, minimum guaranteed interest rates, and a statement of the mortality table to be used must be incorporated in the policy as provided for by Section 229.4a of the Code.
- ~~d~~f) Reinstatement
Evidence of insurability may not be required in order to reinstate an annuity benefit. However, such evidence may be a requirement for reinstatement of any supplemental benefits that may be attached to an annuity contract.
- ~~e~~g) An annuity contract must be incontestable from the date of issue unless it includes an application asking health questions, as provided for by Section 226(1)(b) of the Code.

(Source: Amended at 43 Ill. Reg. 3259, effective February 25, 2019)

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Section 1405.80 Alternate and/or Insert Pages

For "alternate" and/or "insert" pages, a company may use the following guideline:

- a) If the policy jacket or the outside covers are to be used with more than one plan of insurance, the form shall be submitted on this basis. The usual title and brief explanation of the type of policy need not be placed on the jacket or covers if the front cover is less than a full policy page, or if the cover contains a window. In those instances, the applicable material shall be placed in a position on the first (or specification) page so that it would be exposed even when the cover jacket is over the first page, as provided for by Section 224(1)(m) of the Code.
- b) If the policy is submitted and the review is desired with consideration given to each individual page, the insert pages shall be properly identified and the letter of submittal shall list each page as a form.
- c) For submittal of alternate or insert pages to be used with existing policies in supply, if the page is to be inserted at the date of issue of the policy, consideration will be given if the form is properly identified. The submittal letter shall fully explain the changes that would be made.
- d) If a change is to be made on a previously issued policy, with the consent of the policyholder, this change shall be accomplished by an endorsement or rider approved for use in the State of Illinois, as provided for by Section 1405.40(~~v~~)(2) .

(Source: Amended at 43 Ill. Reg. 3259, effective February 25, 2019)

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- 1) Heading of the Part: Recognition of the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits
- 2) Code Citation: 50 Ill. Adm. Code 1412
- 3) Section Number: 1412.50 Adopted Action: Amendment
- 4) Statutory Authority: Implementing Sections 223(3)(a)(i) and 229.2(4c)(h)(vi) and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5].
- 5) Effective Date of Rule: February 25, 2019
- 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 principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 18360; October 12, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all 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 rulemaking currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Section 1412.50(a)(4) cites a provision in 50 Ill. Adm. Code 1409 that has been moved to a different location, so the citation needs to be corrected.
- 16) Information and questions regarding this adopted rule shall be directed to:

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Bruce Sartain, Life Actuary
Illinois Department of Insurance
320 West Washington Street, 4th Floor
Springfield IL 62767-0001

217/785-0903

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

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

PART 1412

RECOGNITION OF THE 2001 CSO MORTALITY TABLE
 FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES
 AND NONFORFEITURE BENEFITS

Section

1412.10	Purpose
1412.20	Definitions
1412.30	Applicability
1412.40	Conditions
1412.50	Applicability of the 2001 CSO Mortality Table to 50 Ill. Adm. Code 1409
1412.60	Gender-Blended Tables
1412.70	Use of 2001 CSO Preferred Class Structure Mortality Table
1412.APPENDIX A 2001 CSO Mortality Tables	
1412.ILLUSTRATION A	Male Composite Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION B	Male Nonsmoker Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION C	Male Smoker Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION D	Female Composite Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION E	Female Nonsmoker Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION F	Female Smoker Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION G	Ultimate Age Nearest Birthday (Male/Female Composite/Nonsmoker/Smoker)
1412.ILLUSTRATION H	Male Composite Select & Ultimate Age Last Birthday
1412.ILLUSTRATION I	Male Nonsmoker Select & Ultimate Age Last Birthday
1412.ILLUSTRATION J	Male Smoker Select & Ultimate Age Last Birthday
1412.ILLUSTRATION K	Female Composite Select & Ultimate Age Last Birthday
1412.ILLUSTRATION L	Female Nonsmoker Select & Ultimate Age Last Birthday
1412.ILLUSTRATION M	Female Smoker Select & Ultimate Age Last Birthday
1412.ILLUSTRATION N	Ultimate Age Last Birthday (Male/Female Composite/Nonsmoker/Smoker)
1412.ILLUSTRATION O	Blended 80% Male, 20% Female Composite Select & Ultimate Age Nearest Birthday

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1412.ILLUSTRATION P	Blended 60% Male, 40% Female Composite Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION Q	Blended 50% Male, 50% Female Composite Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION R	Blended 40% Male, 60% Female Composite Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION S	Blended 20% Male, 80% Female Composite Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION T	Blended Composite Ultimate Age Nearest Birthday
1412.ILLUSTRATION U	Blended 80% Male, 20% Female Nonsmoker Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION V	Blended 60% Male, 40% Female Nonsmoker Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION W	Blended 50% Male, 50% Female Nonsmoker Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION X	Blended 40% Male, 60% Female Nonsmoker Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION Y	Blended 20% Male, 80% Female Nonsmoker Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION Z	Blended Nonsmoker Ultimate Age Nearest Birthday
1412.ILLUSTRATION AA	Blended 80% Male, 20% Female Smoker Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION BB	Blended 60% Male, 40% Female Smoker Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION CC	Blended 50% Male, 50% Female Smoker Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION DD	Blended 40% Male, 60% Female Smoker Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION EE	Blended 20% Male, 80% Female Smoker Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION FF	Blended Smoker Ultimate Age Nearest Birthday
1412.ILLUSTRATION GG	Blended 80% Male, 20% Female Composite Select & Ultimate Age Last Birthday
1412.ILLUSTRATION HH	Blended 60% Male, 40% Female Composite Select & Ultimate Age Last Birthday
1412.ILLUSTRATION II	Blended 50% Male, 50% Female Composite Select & Ultimate Age Last Birthday
1412.ILLUSTRATION JJ	Blended 40% Male, 60% Female Composite Select & Ultimate Age Last Birthday

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1412.ILLUSTRATION KK	Blended 20% Male, 80% Female Composite Select & Ultimate Age Last Birthday
1412.ILLUSTRATION LL	Blended Composite Ultimate Age Last Birthday
1412.ILLUSTRATION MM	Blended 80% Male, 20% Female Nonsmoker Select & Ultimate Age Last Birthday
1412.ILLUSTRATION NN	Blended 60% Male, 40% Female Nonsmoker Select & Ultimate Age Last Birthday
1412.ILLUSTRATION OO	Blended 50% Male, 50% Female Nonsmoker Select & Ultimate Age Last Birthday
1412.ILLUSTRATION PP	Blended 40% Male, 60% Female Nonsmoker Select & Ultimate Age Last Birthday
1412.ILLUSTRATION QQ	Blended 20% Male, 80% Female Nonsmoker Select & Ultimate Age Last Birthday
1412.ILLUSTRATION RR	Blended Nonsmoker Ultimate Age Last Birthday
1412.ILLUSTRATION SS	Blended 80% Male, 20% Female Smoker Select & Ultimate Age Last Birthday
1412.ILLUSTRATION TT	Blended 60% Male, 40% Female Smoker Select & Ultimate Age Last Birthday
1412.ILLUSTRATION UU	Blended 50% Male, 50% Female Smoker Select & Ultimate Age Last Birthday
1412.ILLUSTRATION VV	Blended 40% Male, 60% Female Smoker Select & Ultimate Age Last Birthday
1412.ILLUSTRATION WW	Blended 20% Male, 80% Female Smoker Select & Ultimate Age Last Birthday
1412.ILLUSTRATION XX	Blended Smoker Ultimate Age Last Birthday

AUTHORITY: Implementing Sections 223(3)(a)(i) and 229.2(4c)(h)(vi) and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5].

SOURCE: Adopted at 28 Ill. Reg. 9281, effective July 1, 2004; amended at 31 Ill. Reg. 14708, effective October 16, 2007; amended at 32 Ill. Reg. 19718, effective January 1, 2009; recodified from the Department of Financial and Professional Regulation to the Department of Insurance pursuant to Executive Order 2009-04 at 39 Ill. Reg. 8338; amended at 42 Ill. Reg. 14246, effective July 12, 2018; amended at 43 Ill. Reg. 3278, effective February 25, 2019.

Section 1412.50 Applicability of the 2001 CSO Mortality Table to 50 Ill. Adm. Code 1409

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- a) The 2001 CSO Mortality Table may be applied to 50 Ill. Adm. Code 1409 in the following manner, subject to the transition dates for use found in Section 1412.30 ~~of this Part~~:
- 1) ~~50 Ill. Adm. Code Section~~ 1409.20(a)(2)(B): The net level reserve premium is based on the ultimate mortality rates in the 2001 CSO Mortality Table.
 - 2) ~~50 Ill. Adm. Code Section~~ 1409.30: All calculations are made using the 2001 CSO Mortality Rate and, if elected, the optional minimum mortality standard for deficiency reserves stipulated in subsection (a)(4) ~~of this Section~~. The value of " $q_{x+k+t-1}$ " is the valuation mortality rate for deficiency reserves in policy year $k+t$, but using the unmodified select mortality rates if modified select mortality rates are used in the computation of deficiency reserves.
 - 3) ~~50 Ill. Adm. Code Section~~ 1409.40(a): The 2001 CSO Mortality Table is the minimum standard for basic reserves.
 - 4) ~~50 Ill. Adm. Code Section~~ 1409.40(b): The 2001 CSO Mortality Table is the minimum standard for deficiency reserves. If select mortality rates are used, they may be multiplied by X percent for durations in the first segment, subject to the conditions specified in ~~50 Ill. Adm. Code Section 1409.40(b)(3)(4)(A) through (F)~~. In demonstrating compliance with those conditions, the demonstrations may not combine the results of tests that utilize the 1980 CSO Mortality Table with those tests that utilize the 2001 CSO Mortality Table, unless the combination is explicitly required by regulation or necessary to be in compliance with relevant Actuarial Standards of Practice.
 - 5) ~~50 Ill. Adm. Code Section~~ 1409.50(c): The valuation mortality table used in determining the tabular cost of insurance shall be the ultimate mortality rates in the 2001 CSO Mortality Table.
 - 6) ~~50 Ill. Adm. Code Section~~ 1409.50(e)(4): The calculations specified in ~~50 Ill. Adm. Code Section~~ 1409.50(e) shall use the ultimate mortality rates in the 2001 CSO Mortality Table.

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- 7) ~~50 Ill. Adm. Code Section~~ 1409.50(f)(4): The calculations specified in 50 Ill. Adm. Code Section 1409.50(f) shall use the ultimate mortality rates in the 2001 CSO Mortality Table.
 - 8) ~~50 Ill. Adm. Code Section~~ 1409.50(g)(2): The calculations specified in 50 Ill. Adm. Code Section 1409.50(g) shall use the ultimate mortality rates in the 2001 CSO Mortality Table.
 - 9) ~~50 Ill. Adm. Code Section~~ 1409.60(a)(1)(B): The one-year valuation premium shall be calculated using the ultimate mortality rates in the 2001 CSO Mortality Table.
- b) Nothing in this Section shall be construed to expand the applicability of 50 Ill. Adm. Code 1409 to include life insurance policies exempted under 50 Ill. Adm. Code Section 1409.20(a).

(Source: Amended at 43 Ill. Reg. 3278, effective February 25, 2019)

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- 1) Heading of the Part: Insurance Oversight Data Collection
- 2) Code Citation: 50 Ill. Adm. Code 2907
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
2907.10	Amendment
2907.20	Amendment
2907.30	Amendment
2907.40	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5] and Section 29.2(b) of the Workers' Compensation Act [820 ILCS 305/29.2(b)].
- 5) Effective Date of Rules: February 25, 2019
- 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 principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 18367; October 12, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all 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

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NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and Purpose of Rulemaking: The amendments remove a superfluous requirement for a narrative discussion of a company's reason to re-file corrected data about workers compensation insurance coverage after the company makes an erroneous or incomplete filing. The amendments also make technical corrections and remove redundancies, outdated references, and generally superfluous language.
- 16) Information and questions regarding these adopted rules shall be directed to:

C.J. Metcalf
Deputy Director of Innovation & Market Analysis
Department of Insurance
320 West Washington Street
Springfield IL 62767-0001

217/558-0853

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

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NOTICE OF ADOPTED AMENDMENTS

TITLE 50: INSURANCE
 CHAPTER I: DEPARTMENT OF INSURANCE
 SUBCHAPTER hh: WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY

PART 2907
 INSURANCE OVERSIGHT DATA COLLECTION

Section

2907.10	Purpose and Scope Applicability
2907.20	Definitions Purpose and Scope
2907.30	Reporting Requirement
2907.40	Coding Conventions for the Insurance Oversight Workers' Compensation Data Collection
2907.APPENDIX A	Data Element Definitions
2907.APPENDIX B	Sample Table

AUTHORITY: Implementing and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5] and Section 29.2(b) of the Workers' Compensation Act [820 ILCS 305].

SOURCE: Adopted at 37 Ill. Reg. 10534, effective June 26, 2013; amended at 43 Ill. Reg. 3285, effective February 25, 2019.

Section 2907.10 [Purpose and Scope](#)[Applicability](#)

- a) [The purpose of this Part is to establish content, form and data reporting requirements for information required to be reported to the Director by Section 29.2\(b\) of the Workers' Compensation Act \[820 ILCS 305\]. This Part also establishes the medium by which this information shall be transmitted to the Director.](#)
- b) This Part ~~applies~~[shall apply](#) to each company licensed to write workers' compensation insurance in this State pursuant to Section 4, Class 2(d) of the ~~Illinois Insurance Code [215 ILCS 5/4]~~. These procedures are applicable to all workers' compensation insurance written by insurers licensed by the State of Illinois. The data filings are not to include premiums received from, or losses paid to, other insurers because of the reinsurance assumed by the reporting insurers; nor shall any deductions be made by the reporting insurers for premiums

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ceded to, or for losses recovered from, other insurers because of the reinsurance ceded.

(Source: Amended at 43 Ill. Reg. 3285, effective February 25, 2019)

Section 2907.20 Definitions~~Purpose and Scope~~

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

"Department" means the Illinois Department of Insurance.

"Director" means the~~The purpose of this Part is to establish content, form and data reporting requirements for information required to be reported to the~~ Director of the Illinois Department of Insurance ~~(Director) pursuant to Section 29.2(b) of the Workers' Compensation Act (Act) [820 ILCS 305/29.2(b)]. This Part will also establish the medium by which this information shall be transmitted to the~~ Director.

(Source: Amended at 43 Ill. Reg. 3285, effective February 25, 2019)

Section 2907.30 Reporting Requirement

- a) Scope of Procedure
~~Pursuant to Section 29.2 (b) of the Act, the Director shall promulgate rules requiring each~~ Each insurer licensed to write workers' compensation coverage in the State ~~shall to record and~~ report to the Department information on an aggregate basis ~~to the Department of Insurance (Department)~~ before March 1 of each year, relating to claims in the State opened within the prior calendar year.
- b) Specific data elements to be reported are defined in Appendix A.
- e) ~~In the event that a company files inaccurate or incomplete data or there is some other problem with the data that is filed, a company may need to re file its data with the Department. When this occurs, either at the request of the Department or upon initiation by the company, the company shall provide the Department with a narrative discussion of the reason for the re file. This narrative shall be in the form of an email directed to appropriate Department staff.~~

(Source: Amended at 43 Ill. Reg. 3285, effective February 25, 2019)

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Section 2907.40 Coding Conventions for the Insurance Oversight Workers' Compensation Data Collection

~~For 2013, data described in Section 2907.30 shall be filed with the Director no later than September 1, 2013. Beginning in 2014, all data described in Section 2907.30 shall be filed annually with the Director by March 1 for each preceding calendar year.~~ The data described in Section 2907.30 must be submitted to the Department electronically in a Comma Separated Values (.csv) format. A sample table illustrating the format of the data is included in Appendix B. A template for the data submission is available on the Department's website at <http://insurance.illinois.gov/>.

(Source: Amended at 43 Ill. Reg. 3285, effective February 25, 2019)

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- 1) Heading of the Part: Summary Document and Disclaimer
- 2) Code Citation: 50 Ill. Adm. Code 3401
- 3) Section Number: 3401.ILLUSTRATION A Adopted Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Section 531.19 of the Illinois Insurance Code [215 ILCS 5/531.19].
- 5) Effective Date of Rule: February 25, 2019
- 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 principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 20934; November 30, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? There were none.
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Part 3401.ILLUSTRATION A has been amended to reflect the inclusion of health maintenance organizations into the Illinois Life and Health Insurance Guaranty Association and update terminology due to the adoption of HB 5251, as well as the Association's change of address.
- 16) Information and questions regarding this adopted rule shall be directed to:

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Marcy Savage, Assistant Deputy Director or
Corporate Regulation Section
Department of Insurance
320 West Washington Street
Springfield IL 62767-0001

Sara Stanberry
Health Products Advisor
Department of Insurance
320 West Washington Street
Springfield IL 62767-0001

217/524-0016

217/558-3396

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

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENT

TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF INSURANCE

SUBCHAPTER II: LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION

PART 3401

SUMMARY DOCUMENT AND DISCLAIMER

Section

3401.10	Applicability
3401.20	Purpose
3401.30	Definitions
3401.40	Delivery of Documents Required

3401.ILLUSTRATION A Summary Document and Disclaimer

AUTHORITY: Implementing and authorized by Section 531.19 of the Illinois Insurance Code [215 ILCS 5/531.19].

SOURCE: Adopted at 19 Ill. Reg. 9134, effective July 1, 1995; expedited correction at 19 Ill. Reg. 13090, effective July 1, 1995; amended at 24 Ill. Reg. 16344, effective October 23, 2000; amended at 37 Ill. Reg. 15355, effective January 1, 2014; amended at 38 Ill. Reg. 7926, effective March 27, 2014; amended at 43 Ill. Reg. 3290, effective February 25, 2019.

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Section 3401. ILLUSTRATION A Summary Document and DisclaimerNOTICE OF
PROTECTION PROVIDED BY
ILLINOIS LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION

This notice provides a **brief summary** description of the Illinois Life and Health Insurance Guaranty Association ("the Association") and the protection it provides for policyholders. This safety net was created under Illinois law, which ~~that~~ determines who and what is covered and the amounts of coverage.

The Association was established to provide protection in the unlikely event that your member life, annuity, health maintenance organization or health insurance company becomes financially unable to meet its obligations and is placed into Receivership by the Insurance Department of the state in which the company is domiciled. If this should happen, the Association will typically arrange to continue coverage, ~~and~~ pay claims, or otherwise provide protection in accordance with Illinois law, with funding from assessments paid by other insurance companies and health maintenance organizations.

The basic protections provided by the Association per insured in each insolvency are:

- Life Insurance
 - \$300,000 for ~~in~~ death benefits
 - \$100,000 for ~~in~~ cash surrender or withdrawal values
- Health Insurance
 - \$500,000 for health benefit plans; ~~in hospital, medical and surgical insurance~~ benefits*
 - \$300,000 for ~~in~~ disability insurance benefits
 - \$300,000 for ~~in~~ long-term care insurance benefits
 - \$100,000 for ~~in~~ other types of health insurance benefits
- Annuities
 - \$250,000 for ~~in~~ withdrawal and cash values

* The maximum amount of protection for each individual, regardless of the number of policies or contracts, is \$300,000, except special rules apply with regard to health benefit plan; ~~hospital, medical and surgical insurance~~ benefits for which the maximum amount of protection is \$500,000.

Note: Certain policies and contracts may not be covered or fully covered. For example,

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coverage does not extend to any portion of a policy or contract that the insurer does not guarantee, such as certain investment additions to the account value of a variable life insurance policy or a variable annuity contract. There are also residency requirements and other limitations under Illinois law.

To learn more about these protections, as well as protections relating to group contracts or retirement plans, please visit the Association's website at www.ilhiga.org or contact:

Illinois Life and Health Insurance Guaranty Association
~~901 Warrenville Road, Suite 400~~~~1520 Kensington Road, Suite 112~~
~~Lisle, Illinois 60532-4324~~~~Oak Brook, Illinois 60523-2140~~
~~(773) 714-8050~~

Illinois Department of Insurance
4th Floor
320 West Washington Street
Springfield, Illinois 62767
~~(217) 782-4515~~

Insurance companies, health maintenance organizations and agents are not allowed by Illinois law to use the existence of the Association or its coverage to encourage you to purchase any form of insurance. When selecting an insurance company or health maintenance organization, you should not rely on Association coverage. If there is any inconsistency between this notice and Illinois law, then Illinois law will control.

The Association is not an insurance company or health maintenance organization. If you wish to contact your insurance company or health maintenance organization, please use the phone number found in your policy or contact the Illinois Department of Insurance at DOI.InfoDesk@illinois.gov.

(Source: Amended at 43 Ill. Reg. 3290, effective February 25, 2019)

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NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Grant Application and Award Procedures - Census Participation and Immigrant Community Assistance Grants
- 2) Code Citation: 89 Ill. Adm. Code 1500
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
1500.10	New Section
1500.20	New Section
1500.30	New Section
1500.40	New Section
1500.50	New Section
1500.60	New Section
- 4) Statutory Authority: Authorized by Sections 345 and 355 of PA 100-586
- 5) Effective Date of Rules: February 22, 2019
- 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 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. 18440; October 12, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: This rulemaking codifies the processes for the Census Participation and Immigrant Community Assistance grants. Therefore, the rulemaking was bifurcated to reflect each, adding Sections 1500.40-1500.60. All technical changes recommended by JCAR were made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No

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- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Certain sums were appropriated to the Office of the Secretary of State by the General Assembly to be distributed as grants to qualified applicants. Qualified applicants may be ready, willing, and able to comply with the requirements to receive said grants; however, the Office of the Secretary first needs administrative rules to dictate the application process for interested recipients. The rules set forth herein codify the process the Secretary of State intends to use to select qualified applicants and disburse the grant funds appropriated for each grant.
- 16) Information and questions regarding these adopted rules shall be directed to:

Amy Williams
Legal Advisor
298 Howlett Building
Springfield IL 62756

217/785-3094
Awilliams3@ilsos.net

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

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NOTICE OF ADOPTED RULES

TITLE 89: SOCIAL SERVICES
CHAPTER XIII: SECRETARY OF STATE

PART 1500

GRANT APPLICATION AND AWARD PROCEDURES – CENSUS PARTICIPATION
AND IMMIGRANT COMMUNITY ASSISTANCE GRANTS

SUBPART A: CENSUS PARTICIPATION GRANTS

Section

1500.10	Purpose
1500.20	Grant Application – Encouraging Census Participation
1500.30	Grant Reporting Requirements and Provisions

SUBPART B: IMMIGRANT COMMUNITY ASSISTANCE GRANTS

Section

1500.40	Purpose
1500.50	Grant Application – Assisting Immigrant Communities in Navigation of Government Services
1500.60	Grant Reporting Requirements and Provisions

AUTHORITY: Authorized by Sections 345 and 355 of P.A. 100-586.

SOURCE: Adopted by emergency rulemaking at 42 Ill. Reg. 18511, effective September 25, 2018, for a maximum of 150 days; emergency rule repealed at 43 Ill. Reg. 1394, effective January 10, 2019; adopted at 43 Ill. Reg. 3295, effective February 22, 2019.

SUBPART A: CENSUS PARTICIPATION GRANTS

Section 1500.10 Purpose

Pursuant to Section 345 of P.A. 100-586, the Office of the Secretary of State (SOS) *shall award the sum of \$1,500,000, or so much thereof as may be necessary, to community providers statewide to encourage census participation.*

Section 1500.20 Grant Application – Encouraging Census Participation

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- a) Applicants for these grants shall use the grant application format prepared and made available by SOS for this purpose. The applications will be available on the Secretary of State's website (www.cyberdriveillinois.com (under "Sections")) or by calling 312-814-7242. Public agencies and private sector entities shall be eligible to apply for these grants. Each applicant shall describe itself and shall state whether it is a public agency or private sector entity. Each private sector entity shall describe its legal status (corporation, partnership, not-for-profit, etc.) and its mission. All private sector entities must be authorized to do business in the State of Illinois or, if a not-for-profit entity, authorized to conduct affairs in Illinois. Applicants shall designate the amount of grant funds being requested. Each application shall include a detailed, narrative statement describing the proposed use of the grant funds. Each applicant also shall provide:
- 1) Project Director Name, with Contact Information
 - 2) Description of Ability to Administer the Grant
 - 3) Project Title
 - 4) Project Description
 - 5) Target Audience and Need
 - 6) Project Schedule
 - 7) Methods for Evaluating Outcome
 - 8) Proposed Budget, Details and Explanation of Expenses
- b) Grant applicants must demonstrate in their grant applications that they have satisfactorily met all requirements set forth in this Section, and that they possess the administrative capacity to perform the program, fiscal and reporting functions stipulated in this Section.
- c) SOS may deny a grant application if the requirements of this Section are not met or are inadequately met. SOS will not discriminate on the basis of race, color, religion, gender, age, national origin, disability, marital status, sexual orientation, or military status in the awarding of grants.

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- d) Grant applications not submitted in the required format by the deadline date set forth by the Secretary, or not completed, shall not be considered for funding by SOS.
- e) This shall be a competitive grant application process. A grant review committee will review all grant applications and make recommendations to the Secretary regarding grant awards.
 - 1) The grant review committee will consist of SOS personnel and, at the discretion of the Secretary, additional qualified reviewers.
 - 2) Any additional reviewers will be selected based on their academic qualifications or on their vocational or volunteer experience related to encouraging census participation.
 - 3) No person shall serve on a grant review committee if that person is an applicant for the grant, is employed by an applicant for the grant, has an ownership interest in or receives income from an applicant for the grant, or is related more closely than the fifth degree of consanguinity to an owner or employee of an applicant for the grant.
 - 4) Members of the grant review committee shall independently consider the following criteria, and assign weighted scores up to the total amount of points indicated:
 - A) Abstract: Does the project overview appropriately communicate the proposed project? (50 points)
 - B) Administrative Capacity: Does the applicant have adequate experience and qualifications to accomplish the proposed project of encouraging census participation? Is the applicant a known and trusted voice in the community to be served? (100 points)
 - C) Project Description: Has the applicant provided a comprehensive description of the project, including details about methods, activities and services to be used to encourage census participation? If the applicant is partnering with any other entity, is that partnership fully explained, and are those entities known and trusted voices in the communities to be served? (250 points)

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- D) Target Audience and Need: Has the applicant identified the intended audience and its need for the services proposed? Noting that, "based on the latest census estimates, approximately 16% of Illinois' current population (or 2,019,331 people) lives in hard-to-count neighborhoods" (see www.censushardtocountmaps2020.us), has the applicant set forth a plan for identifying and working in these hard-to-count neighborhoods? (250 points)
 - E) Project Schedule: Does the applicant's timeline clearly illustrate appropriate scheduling of proposed actions and activities? (100 points)
 - F) Evaluation: Is the methodology and strategy that the applicant will use to evaluate the success of the project reasonable? (50 points)
 - G) Budget: Is the proposed budget reasonable, necessary, appropriate and adequate to perform the proposed services? (200 points)
- 5) For purposes of this grant application and review process, the term "community provider" shall mean "an entity that has the capability to provide services or goods to designated communities as necessary to complete the requirements of the grant"; and the term "census participation" shall mean "the act of responding to the census questionnaire by mail, phone or online".
- f) The total sum appropriated for grants to encourage census participation may be awarded to a single applicant, or that sum may be divided into awards to multiple applicants. If grants are awarded to multiple applicants, each selected application will be funded according to the amount of funding available based on the comparative demonstrated need, experience executing the proposed program or plan, and projected outcomes.
 - g) All grant applicants will be notified whether or not their application has been approved. The decision of the Secretary of State regarding the award of grants under this Section is final. Decisions made pursuant to this Section are subject to the Administrative Review Act [735 ILCS 5/Art. III].
 - h) SOS will notify the submitting entity when an application is approved. All approved applicants shall enter into a Grant Agreement provided by SOS before any grant funds will be distributed.

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- i) Anticipated Timeline for Review of Proposals and Issuance of Grants
 - 1) Grant proposals will be due 2 weeks after publication of the request for grant proposals. (2 weeks)
 - 2) After the deadline for filing of grant proposals, all proposals will be copied and distributed to members of the grant review committee. (Approximately 3 days)
 - 3) Members of the grant review committee will individually review and evaluate each grant proposal. (Approximately 2 weeks)
 - 4) The grant review committee meets as a whole to discuss grant applications and make recommendations regarding awarding grants. (Approximately 1 week)
 - 5) Recommendations of the committee are reviewed and grant recipients are announced. (Approximately 1 week)

Section 1500.30 Grant Reporting Requirements and Provisions

- a) As stipulated by the Grant Agreement, the following reports will be completed and transmitted to the Office of the Secretary of State by each grant recipient:
 - 1) Quarterly narrative and financial reports showing expenditures made from grant funds by line item;
 - 2) A final financial report showing all expenditures of grant funds and the return of any non-expended grant funds;
 - 3) A final narrative report evaluating the degree to which the grantee achieved the goals and objectives of the project.
- b) SOS may request additional information and data from any grant applicant.
- c) Though grants awarded pursuant to this Section are not subject to the Grant Accountability and Transparency Act [30 ILCS 708], SOS will not consider grant

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applications submitted by entities included in the Illinois Debarred and Suspended List maintained by the Governor's Office of Management and Budget.

- d) Grant recipients shall maintain books and records relating to the expenditure of grant funds. Books and records, including information stored in computer systems, shall be maintained by the grant recipient for a period of three years from the later of the date of the final grant payment or the completion of the projects for which the grant was issued. Books and records required to be maintained under this Section shall be available for review or audit by the Secretary, the Illinois Attorney General or Illinois Auditor General. Failure to maintain books and records required by this Section shall establish a presumption in favor of the Secretary for the recovery of any grant funds paid by the Secretary or his or her designee.
- e) Grants made under this Section are subject to the provisions of the Illinois Grant Funds Recovery Act [30 ILCS 705]. Actions brought under that Act may include, but are not limited to, a grant recipient's failure to spend funds in accordance with the application, grant agreement, or approved amendment or the failure to comply with reporting procedures stipulated in this Section. If a provision of this Section conflicts with a provision of the Illinois Grant Funds Recovery Act, then the provision of the Illinois Grant Funds Recovery Act controls.
- f) Obligations of SOS to fund this grant program will cease immediately without penalty or further payment being required if the funds for the grants are not available to SOS.

SUBPART B: IMMIGRANT COMMUNITY ASSISTANCE GRANTS

Section 1500.40 Purpose

Pursuant to Section 355 of P.A. 100-586, the Office of the Secretary of State (SOS) *shall award the sum of \$2,500,000, or so much thereof as may be necessary, for grants to community providers statewide to assist immigrant communities in navigating government services.*

Section 1500.50 Grant Application – Assisting Immigrant Communities in Navigation of Government Services

- a) Applicants for grants to assist immigrant communities in navigating government services shall use the grant application format prepared and made available by

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SOS for this purpose. The applications will be available on the Secretary of State's website (www.cyberdriveillinois.com (under "Sections")) or by calling 312-814-7242. Public agencies and private sector entities shall be eligible to apply for these grants. Each applicant shall describe itself and shall state whether it is a public agency or private sector entity. Each private sector entity shall describe its legal status (corporation, partnership, not-for-profit, etc.) and its mission. All private sector entities must be authorized to do business in the State of Illinois or, if a not-for-profit entity, authorized to conduct affairs in Illinois. Applicants shall designate the amount of grant funds being requested. Each application shall include a detailed, narrative statement describing the proposed use of the grant funds. Each applicant also shall provide:

- 1) Project Director Name, with Contact Information
 - 2) Description of Ability to Administer the Grant
 - 3) Project Title
 - 4) Project Description
 - 5) Target Audience and Need
 - 6) Project Schedule
 - 7) Methods for Evaluating Outcome
 - 8) Proposed Budget, Details and Explanation of Expenses
- b) Grant applicants must demonstrate in their grant applications that they have satisfactorily met all requirements set forth in this Section and that they possess the administrative capacity to perform the program, fiscal and reporting functions stipulated in this Section.
- c) SOS may deny a grant application if the requirements of this Section are not met or are inadequately met. SOS will not discriminate on the basis of race, color, religion, gender, age, national origin, disability, marital status, sexual orientation, or military status in the awarding of grants.

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- d) Grant applications not submitted in the required format by the deadline date set forth by the Secretary, or not completed, shall not be considered for funding by SOS.
- e) This shall be a competitive grant application process. A grant review committee will review all grant applications and make recommendations to the Secretary regarding grant awards.
 - 1) The grant review committee will consist of SOS personnel and, at the discretion of the Secretary, additional qualified reviewers.
 - 2) Any additional reviewers will be selected based on their academic qualifications or on their vocational or volunteer experience related to assisting immigrant communities in navigating government services.
 - 3) No person shall serve on a grant review committee if that person is an applicant for the grant, is employed by an applicant for the grant, has an ownership interest in or receives income from an applicant for the grant, or is related more closely than the fifth degree of consanguinity to an owner or employee of an applicant for the grant.
 - 4) Members of the grant review committee shall independently consider the following criteria, and assign weighted scores up to the total amount of points indicated:
 - A) Abstract: Does the project overview appropriately communicate the proposed project? (50 points)
 - B) Administrative Capacity: Does the applicant have adequate experience and qualifications to accomplish the proposed project? Is the applicant a known and trusted voice in the community to be served? (100 points)
 - C) Project Description: Has the applicant provided a comprehensive description of the project, including details about methods, activities and services to be used in assisting immigrant communities in navigating government services? If the applicant is partnering with any other entity, is that partnership fully

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explained, and are those entities known and trusted voices in the communities to be served? (250 points)

- D) Target Audience and Need: Has the applicant identified the intended audience and its need for assistance in navigating government services? (250 points)
 - E) Project Schedule: Does the applicant's timeline clearly illustrate appropriate scheduling of proposed actions and activities? (100 points)
 - F) Evaluation: Is the methodology and strategy that the applicant will use to evaluate the success of the project reasonable? (50 points)
 - G) Budget: Is the proposed budget reasonable, necessary, appropriate and adequate to perform the proposed services? (200 points)
- 5) For purposes of this grant application and review process, the term "community provider" shall mean "an entity that has the capability to provide services or goods to designated communities as necessary to complete the requirements of the grant".
- f) The total sum appropriated for grants to assist immigrant communities in navigating government services may be awarded to a single applicant, or that sum may be divided into awards to multiple applications. If grants are awarded to multiple applicants, each selected application will be funded according to the amount of funding available based on the comparative demonstrated need, experience executing the proposed program or plan, and projected outcomes.
 - g) All grant applicants will be notified whether or not their application has been approved. The decision of the Secretary of State regarding the award of grants under this Section is final. Decisions made pursuant to this Section are subject to the Administrative Review Act [735 ILCS 5/Art. III].
 - h) SOS will notify the submitting entity when an application is approved. All approved applicants shall enter into a Grant Agreement provided by SOS before any grant funds will be distributed.
 - i) Anticipated Timeline for Review of Proposals and Issuance of Grants

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- 1) Grant proposals will be due 2 weeks after publication of the request for grant proposals. (2 weeks)
- 2) After the deadline for filing of grant proposals, all proposals will be copied and distributed to members of the grant review committee. (Approximately 3 days)
- 3) Members of the grant review committee will individually review and evaluate each grant proposal. (Approximately 2 weeks)
- 4) The grant review committee meets as a whole to discuss grant applications and make recommendations regarding awarding grants. (Approximately 1 week)
- 5) Recommendations of the committee are reviewed and grant recipients are announced. (Approximately 1 week)

Section 1500.60 Grant Reporting Requirements and Provisions

- a) As stipulated by the Grant Agreement, the following reports will be completed and transmitted to the Office of the Secretary of State by each grant recipient:
 - 1) Quarterly narrative and financial reports showing expenditures made from grant funds by line item;
 - 2) A final financial report showing all expenditures of grant funds and the return of any non-expended grant funds;
 - 3) A final narrative report evaluating the degree to which the grantee achieved the goals and objectives of the project.
- b) SOS may request additional information and data from any grant applicant.
- c) Though grants awarded pursuant to this Section are not subject to the Grant Accountability and Transparency Act [30 ILCS 708], SOS will not consider grant applications submitted by entities included in the Illinois Debarred and Suspended List maintained by the Governor's Office of Management and Budget.

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- d) Grant recipients shall maintain books and records relating to the expenditure of grant funds. Books and records, including information stored in computer systems, shall be maintained by the grant recipient for a period of three years from the later of the date of the final grant payment or the completion of the projects for which the grant was issued. Books and records required to be maintained under this Section shall be available for review or audit by the Secretary, the Illinois Attorney General or Illinois Auditor General. Failure to maintain books and records required by this Section shall establish a presumption in favor of the Secretary for the recovery of any grant funds paid by the Secretary or his or her designee.
- e) Grants made under this Section are subject to the provisions of the Illinois Grant Funds Recovery Act [30 ILCS 705]. Actions brought under that Act may include, but are not limited to, a grant recipient's failure to spend funds in accordance with the application or approved amendment or the failure to comply with reporting procedures stipulated in this Section. If a provision of this Section conflicts with a provision of the Illinois Grant Funds Recovery Act, then the provision of the Illinois Grant Funds Recovery Act controls.
- f) Obligations of SOS to fund this grant program will cease immediately without penalty or further payment being required if the funds for the grant are not available to SOS.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

DEPARTMENT OF INSURANCE

Heading of the Part: Premium Fund Trust Account (Repealer)

Code Citation: 50 Ill. Adm. Code 3113

Section Numbers: 3113.10 3113.50
3113.20 3113.60
3113.30 3113.70
3113.Exb. A

Date Originally Published in the *Illinois Register*: 10/12/18
42 Ill. Reg. 18372

At its meeting on 2/19/19, the Joint Committee on Administrative Rules objected to the above-referenced rulemaking because DOI has not addressed JCAR's concerns about the possibility of policy outside of rule. Sec. 1-70 of the IAPA requires agency statements of general applicability that implement, apply, interpret, or prescribe policies affecting the rights of persons outside the agency to be expressed in rule. Sec. 5-20 of the IAPA requires the standards for an agency's use of discretionary powers in implementing a statute to be stated in rule.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall constitute withdrawal of this proposed rulemaking. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

DEPARTMENT OF LABOR

Heading of the Part: Minimum Wage Law

Code Citation: 56 Ill. Adm. Code 210

Section Numbers: 210.110

Date Originally Published in the *Illinois Register*: 9/28/18
42 Ill. Reg. 17091

At its meeting on 2/19/19, the Joint Committee on Administrative Rules objected to the above-referenced rulemaking because the Department has not sufficiently responded to JCAR inquiries about the rulemaking.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall constitute withdrawal of this proposed rulemaking. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of February 12, 2019 through February 25, 2019. The following rulemakings are scheduled for the March 12, 2019 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start of First Notice</u>	<u>JCAR Meeting</u>
3/27/19	<u>Department of Agriculture</u> , Animal Welfare Act (8 Ill. Adm. Code 25)	10/26/18 42 Ill. Reg. 19115	3/12/19
3/27/19	<u>Department of Agriculture</u> , Hatcheries, Poultry Flocks, and Produce Thereof (8 Ill. Adm. Code 55)	10/26/18 42 Ill. Reg. 19120	3/12/19
3/27/19	<u>Department of Agriculture</u> , Diseased Animals (8 Ill. Adm. Code 85)	10/26/18 42 Ill. Reg. 19125	3/12/19
3/27/19	<u>Department of Agriculture</u> , Equine Infectious Anemia Control (8 Ill. Adm. Code 116)	10/26/18 42 Ill. Reg. 19132	3/12/19
3/27/19	<u>Department of Agriculture</u> , Meat and Poultry Inspection Act (8 Ill. Adm. Code 125)	10/26/18 42 Ill. Reg. 19136	3/12/19
4/5/19	<u>Treasurer</u> , Uniform Disposition of Unclaimed Property Act (Repealer) (74 Ill. Adm. Code 760)	9/28/18 42 Ill. Reg. 17121	3/12/19

4/5/19	<u>Treasurer</u> , Revised Uniform Disposition of Unclaimed Property Act (74 Ill. Adm. Code 760)	9/28/18 42 Ill. Reg. 17145	3/12/19
4/5/19	<u>Education</u> , Gifted Education (23 Ill. Adm. Code 227)	7/6/18 42 Ill. Reg. 12920	3/12/19
4/5/19	<u>Department of Natural Resources</u> , The Illinois Oil and Gas Act (62 Ill. Adm. Code 240)	12/21/18 42 Ill. Reg. 23546	3/12/19
4/6/19	<u>Environmental Protection Agency</u> , Accreditation of Environmental Laboratories (35 Ill. Adm. Code 186)	12/28/18 42 Ill. Reg. 24373	3/12/19
4/6/19	<u>Environmental Protection Agency</u> , Procedure for the Certification of Operations of Wastewater Treatment Works (35 Ill. Adm. Code 380)	5/18/18 42 Ill. Reg. 8033	3/12/19
4/7/19	<u>Department of Human Services</u> , Office of the Inspector General Investigations of Alleged Abuse or Neglect in State-Operated Facilities and Community Agencies (59 Ill. Adm. Code 50)	12/21/18 42 Ill. Reg. 23535	3/12/19
4/10/19	<u>Department of Public Health</u> , Compassionate Use of Medical Cannabis Pilot Program (77 Ill. Adm. Code 946)	12/7/18 42 Ill. Reg. 21571	3/12/19
4/10/19	<u>Secretary of State</u> , Certificates of Title, Registration of Vehicles (92 Ill. Adm. Code 1010)	12/28/19 42 Ill. Reg. 24826	3/12/19
4/10/19	<u>Secretary of State</u> , Remittance Agents (92 Ill. Adm. Code 1019)	12/28/18 42 Ill. Reg. 24846	3/12/19
4/10/19	<u>State Employees' Retirement Systems</u> , The Administration and Operation of the State	1/4/19	3/12/19

Employees' Retirement System of Illinois (80
Ill. Adm. Code 1540)

43 Ill. Reg.
159

PROCLAMATIONS

2018-240**Domestic Violence Awareness Month**

WHEREAS, domestic violence is a prevalent social problem that not only harms the victim, but also negatively impacts a victim's family, friends, and community at large; and,

WHEREAS, domestic violence exists in all neighborhoods and cities, and affects people of all ages, genders, racial, ethnic, economic, and religious backgrounds; and,

WHEREAS, the health-related costs of rape, physical assault, stalking, trafficking, and homicide by intimate partners exceeds \$8.3 billion every year; and,

WHEREAS, the annual cost of lost productivity in the workplace due to domestic violence is estimated to be \$5.8 billion; and,

WHEREAS, through the month of October, the Illinois Coalition Against Domestic Violence and its 50 member organizations will hold numerous events across the state in observance of Domestic Violence Awareness Month, including walk/runs, silent witness events, candlelight vigils, and marches;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim October 2018 as **DOMESTIC VIOLENCE AWARENESS MONTH** in Illinois.

Issued by the Governor September 24, 2018

Filed by the Secretary of State February 22, 2019

2018-241**Flag Lowering - Officer Samuel Jimenez**

WHEREAS, all citizens owe a tremendous debt of gratitude to the men and women of law enforcement who selflessly serve to protect our lives and keep our families safe; and,

WHEREAS, every day, these men and women face great risks and in many cases put their lives on the line to perform their duties; and,

WHEREAS, on Monday, November 19, 2018, 28-year-old Chicago Police Officer Samuel Jimenez was killed in the line of duty responding to a call for aide with a domestic dispute at Mercy Hospital; and,

WHEREAS, a graduate of Foreman High School and Northeastern Illinois University, Officer Jimenez joined the Chicago Police Department in February 2017; and,

PROCLAMATIONS

WHEREAS, Officer Jimenez is survived by his wife, Crystal; his three children, as well as many family and friends; and,

WHEREAS, a funeral service for Officer Samuel Jimenez will be held on Monday, November 26, 2018, at Chapel of St. Joseph on the campus of Shrine of Our Lady of Guadalupe;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby order all persons or entities governed by the Illinois Flag Display Act to fly their flags at half-staff from sunrise on Saturday, November 24, 2018, until sunset on Monday, November 26, 2018, in honor and remembrance of Chicago Police Officer Samuel Jimenez whose selfless service and sacrifice is an inspiration to the residents of the Land of Lincoln.

Issued by the Governor November 21, 2018

Filed by the Secretary of State February 22, 2019

2018-242**Bill of Rights Day**

WHEREAS, on December 15, 1791, the First Congress ratified the first 10 amendments to the United States Constitution; and,

WHEREAS, these 10 amendments, also termed the Bill of Rights, incorporated vital American freedoms into our Constitution; and,

WHEREAS, the inalienable freedoms protected by the Bill of Rights – like our First Amendment rights to free speech, religion, peaceable assembly, and a free press – are fundamental liberties that continue to define our great nation and ensure our liberty; and,

WHEREAS, the rights and freedoms incorporated in the Bill of Rights are animated by an American spirit of equality, liberty, and justice for all; and,

WHEREAS, the people of the great State of Illinois and all Americans enjoy these shared liberties, made possible only because of our brave servicemen and women who serve both at home and abroad to defend our freedom and the American way of life;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim December 15, 2018, as **BILL OF RIGHTS DAY** in Illinois in recognition of our founders and the legacy of this great nation.

Issued by the Governor November 27, 2018

PROCLAMATIONS

Filed by the Secretary of State February 22, 2019

2018-243**Pearl Harbor Remembrance Day**

WHEREAS, on December 7, 1941, Japanese bomber planes attacked unsuspecting American sailors and soldiers stationed at Pearl Harbor; and,

WHEREAS, during that attack, more than 2,000 Americans were killed, including approximately 110 servicemen from Illinois, and more than 1,170 were wounded during the bombardment, which outraged Americans as few other events in our nation's history had previously; and,

WHEREAS, in response, President Franklin Roosevelt and Congress promptly declared war against Japan and its allies, therefore entering World War II; and,

WHEREAS, Illinois National Guard soldiers were among the first to engage with enemy forces after the attack on Pearl Harbor as the Maywood, Illinois-based Company B, 192nd Tank Battalion defended the Philippines from Japanese invaders; and,

WHEREAS, many of these soldiers and other service members from Illinois sacrificed their lives or would suffer tremendously at the hands of enemy captors throughout the war; and,

WHEREAS, the United States' sailors, soldiers, and airmen performed superbly on all fronts. Together, a Grand Coalition of French, English, Russian, and American servicemen conducted mass campaigns and operations within the Pacific, African, and European theaters; and,

WHEREAS, on May 7, 1945, Germany surrendered, which was soon followed by Japan's surrender on August 14th of that same year; and,

WHEREAS, during the war, more American sailors and soldiers were mobilized than at any other time in our history; by the war's end, more than eight million Americans were serving in the Army alone; and,

WHEREAS, thanks to the Grand Coalition, our servicemen and women, and all those at home who contributed to the war effort, the world was made safer for liberty and freedom, the rights of all peoples everywhere; and,

WHEREAS, this year marks the 77th anniversary of the attack on Pearl Harbor and the 73rd anniversary of the end of the Second World War; and,

PROCLAMATIONS

WHEREAS, although we can never repay all those who faithfully and honorably served during the war, we will always remember what they did and fought for;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim December 7, 2018, as **PEARL HARBOR REMEMBRANCE DAY** in Illinois and order all persons or entities governed by the Illinois Flag Display Act to fly their flags at half-staff on such day from sunrise until sunset in memory of all the heroes who died in the attack on Pearl Harbor, and in tribute to all the men and women whose sacrifices made the world safer for liberty and freedom.

Issued by the Governor November 27, 2018

Filed by the Secretary of State February 22, 2019

2018-244**Illinois Statehood Day**

WHEREAS, Monday, December 3, 2018, marks Illinois' 200th birthday, as Illinois became the 21st state in the union on December 3, 1818; and,

WHEREAS, the Illinois Bicentennial has been a celebration between December 3, 2017, and December 3, 2018, which is our state's 200th birthday; and,

WHEREAS, the Illinois Bicentennial reminds us all that, every day in Illinois, amazing things are born, built, and grown; and,

WHEREAS, the Illinois Bicentennial honors the many ways that Illinois has influenced American history, achievement, culture, innovation, and more; and,

WHEREAS, the Illinois Bicentennial is a once-in-a-lifetime invitation to fall in love with Illinois all over again; and,

WHEREAS, together, we can inspire pride in Illinois and show the world what makes the state so great;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim December 3, 2018, as **ILLINOIS STATEHOOD DAY** and the official kickoff to our yearlong Illinois Bicentennial Celebration, and invite all citizens to participate and celebrate in the upcoming year by visiting www.illinois200.com and using the hashtag #IllinoisProud.

Issued by the Governor December 3, 2018

Filed by the Secretary of State February 22, 2019

PROCLAMATIONS

2018-245**Flag Lowering – President George H. W. Bush**

WHEREAS, George H.W. Bush, former President of the United States, was born on June 12, 1924; and,

WHEREAS, President George H.W. Bush joined the U.S. Armed forces on his 18th birthday in 1942, earned his wings in June 1943, and at the time was the Navy's youngest pilot; and,

WHEREAS, President George H.W. Bush served as the forty-first President of the United States of America; and,

WHEREAS, prior to his presidency, George H.W. Bush served in the House of Representatives, as the U.S. Ambassador to the United Nations, as Director of the Central Intelligence Agency, and as Vice President during the presidency of Ronald Reagan; and,

WHEREAS, on November 30, 2018, President George H.W. Bush passed away; and,

WHEREAS, President George H.W. Bush was preceded in death by his wife of 73 years, Barbara, and daughter, Robin; he is survived by five of his children, seventeen grandchildren, eight great grandchildren, as well as many family and friends; and,

WHEREAS, the people of the State of Illinois and the United States mourn the loss of President George H.W. Bush; and,

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby order all persons or entities governed by the Illinois Flag Display Act to fly their flags at half-staff from sunrise on Saturday, December 1, 2018 until sunset on Sunday, December 30, 2018 in honor and remembrance of President George H.W. Bush, whose lifetime of public service and dedication to the United States of America is an inspiration to the residents of the Land of Lincoln.

Issued by the Governor December 6, 2018

Filed by the Secretary of State February 22, 2019

2018-246**Flag Lowering - Corporal Daniel Baker**

WHEREAS, all citizens owe a tremendous debt of gratitude to the men and women of the armed forces who selflessly serve to protect our lives and keep our families safe; and,

PROCLAMATIONS

WHEREAS, every day, these men and women face great risks and in many cases put their lives on the line to perform their duties; and,

WHEREAS, Corporal Daniel Baker was a proud member of the United States Marine Corps, representing the State of Illinois admirably; and,

WHEREAS, Corporal Baker is survived by his parents, Duane and Elizabeth Baker, his sister Adelle, his grandparents Herman and Eva Baker and Dr. Daniel and Joanne Baer, as well as many aunts, uncles, cousins, and other relatives; and,

WHEREAS, a memorial service for Corporal Daniel Baker will be held on Saturday, December 22, 2018, at Northfield Christian Fellowship in Tremont;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby order all persons or entities governed by the Illinois Flag Display Act to fly their flags at half-staff from sunrise on Thursday, December 20, 2018, until sunset on Saturday, December 22, 2018, in honor and remembrance of Corporal Daniel Baker whose selfless service and sacrifice is an inspiration to the residents of the Land of Lincoln.

Issued by the Governor December 19, 2018

Filed by the Secretary of State February 22, 2019

2018-247**Flag Lowering - Officer Conrad Gary**

WHEREAS, all citizens owe a tremendous debt of gratitude to the men and women of law enforcement who selflessly serve to protect our lives and keep our families safe; and,

WHEREAS, every day, these men and women face great risks and in many cases put their lives on the line to perform their duties; and,

WHEREAS, on Monday, December 17, 2018, 31-year-old Chicago Police Officer Conrad Gary was killed in the line of duty while in pursuit of a suspect; and,

WHEREAS, Officer Gary graduated from Eastern Illinois University in 2009, served in the United States Air Force from 2010-2015, and joined the Chicago Police Department in March of 2017; and,

WHEREAS, Officer Gary is survived by his wife, Kelly; daughter, Tess; parents, Michael and Kim; as well as many family and friends; and,

PROCLAMATIONS

WHEREAS, a funeral service for Conrad Gary will be held on Friday, December 21, at St. Rita of Cascia Parish;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby order all persons or entities governed by the Illinois Flag Display Act to fly their flags at half-staff from sunrise on Wednesday, December 19, 2018, until sunset on Friday, December 21, 2018, in honor and remembrance of Chicago Police Officer Conrad Gary whose selfless service and sacrifice is an inspiration to the residents of the Land of Lincoln.

Issued by the Governor December 19, 2018

Filed by the Secretary of State February 22, 2019

2018-248**Flag Lowering- Officer Eduardo Marmolejo**

WHEREAS, all citizens owe a tremendous debt of gratitude to the men and women of law enforcement who selflessly serve to protect our lives and keep our families safe; and,

WHEREAS, every day, these men and women face great risks and in many cases put their lives on the line to perform their duties; and,

WHEREAS, on Monday, December 17, 2018, 36-year-old Chicago Police Officer Eduardo Marmolejo was killed in the line of duty while in pursuit of a suspect; and,

WHEREAS, Officer Marmolejo previously worked as an emergency room technician at Advocate Christ Medical Center before joining the Chicago Police Department in April of 2016; and,

WHEREAS, Officer Marmolejo is survived by his wife, Maria; three daughters; parents Manuel and Rebecca, as well as many family and friends; and,

WHEREAS, a funeral service for Officer Eduardo Marmolejo will be held on Saturday, December 22, at St. Rita of Cascia Parish;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby order all persons or entities governed by the Illinois Flag Display Act to fly their flags at half-staff from sunrise on Thursday, December 20, 2018, until sunset on Saturday, December 22, 2018, in honor and remembrance of Chicago Police Officer Eduardo Marmolejo whose selfless service and sacrifice is an inspiration to the residents of the Land of Lincoln.

Issued by the Governor December 19, 2018

Filed by the Secretary of State February 22, 2019

PROCLAMATIONS

2018-249**Radon Awareness Month**

WHEREAS, radon is a colorless, odorless, tasteless radioactive gas that is released from the decay of uranium in soil and can seep into homes and buildings to dangerous levels; and,

WHEREAS, the Centers for Disease Control and Prevention recognizes radon as the leading cause of home-related deaths in the United States; and,

WHEREAS, the Surgeon General of the United States issued a national health advisory warning Americans that indoor radon is the second-leading cause of lung cancer in the nation; and,

WHEREAS, according to the United States Environmental Protection Agency, more than 21,000 lung cancer deaths every year are related to radon, with as many as 1,160 men and women in Illinois at risk of developing radon-related lung cancer every year; and,

WHEREAS, this health risk is preventable as radon can be detected with a simple test and fixed through well-established venting techniques; and,

WHEREAS, the Illinois Radon Awareness Act requires sellers to provide anyone buying a home, condominium, or other residential property in Illinois with information about indoor radon exposure and its link to lung cancer; and,

WHEREAS, the Illinois Radon Resistant Construction Act requires all one – and two-family dwellings to be built using techniques to reduce home radon concentrations; and,

WHEREAS, the Illinois Emergency Management Agency and the American Lung Association partner to provide radon information and guidance to families about home radon tests and will join organizations throughout the United States in January to raise awareness about the health risks posed by radon;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim January 2019 as **RADON AWARENESS MONTH** in Illinois, and urge all residents to test their homes for radon and reduce their risk of developing lung cancer by taking actions to lower radon levels in their homes when necessary.

Issued by the Governor December 27, 2018

Filed by the Secretary of State February 22, 2019

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 43, Issue 10 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

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