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February 8, 2019 Volume 43, Issue 6

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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 FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004
- 2) Code Citation: 68 Ill. Adm. Code 1240
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
1240.500	Amendment
1240.505	Amendment
1240.520	Amendment
1240.530	Amendment
1240.535	Amendment
1240.540	Amendment
1240.550	Amendment
1240.565	Repealed
1240.570	Amendment
1240.585	Amendment
1240.600	Amendment
1240.610	Amendment
1240.700	Amendment
- 4) Statutory Authority: Implementing the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 [225 ILCS 447] and authorized by Sections 2105-15(7) and 2105-100(b) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7) and 2105-100(b)]
- 5) A Complete Description of the Subjects and Issues Involved: This proposed rulemaking implements a provision of PA 100-44 that moved the responsibility for Illinois State Police certification of fingerprint equipment from the fingerprint vendor (individual licensee) to the licensed agency. It also implements a provision of PA 100-712 that active duty police officers who work a second job as a private armed security guard and who are therefore exempt from the requirement of having a firearm control card will continue to be exempt after they retire from or leave the police department. It also adds a definition of "usher" and clarifies that active duty police officers who are working second jobs as unarmed or armed security guards or private investigators and who are exempt from the requirement to have a permanent employee registration card or firearm control card must be employed by this State, a political subdivision of this State, or a federal agency. The proposed rulemaking also includes a list of the weapons that a firearm control card holder can carry as provided in Section 24-2 of the Criminal Code and clarifies who may certify the firearm re-qualifications and that when agencies annually

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verify the current peace officer status of any of their employees, they must obtain a signed and dated letter from the officer's chief of police. It also updates the reference to the FBI's fingerprint guide from the old edition (2006) to the new edition (2014) and requires fingerprint vendors to provide a transmission control receipt to the fingerprinted person. The rule also modifies the requirement that an employee must report any arrests or convictions to the Division and their employer to just convictions and it eliminates the process and fees for obtaining duplicate licenses. The proposed rule clarifies that the Division may accept alternative canine training if the training was conducted by a law enforcement agency, the military, or a training facility located outside of the State that is substantially similar to the training required under the rules.

- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355:
None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes, in Section 1240.535(c)(2)(B).
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

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

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

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Private detectives, security contractors, alarm contractors, locksmiths, fingerprint vendors, canine handlers/trainers and agencies and employees regulated under the Act may be affected.
 - B) Reporting, bookkeeping or other procedures required for compliance: Please see the new and revised requirements that follow in the proposed amendments to this Part.
 - C) Types of professional skills necessary for compliance: Training and/or experience in various security or other related areas are necessary for licensure.
- 14) Small Business Impact Analysis:
- A) Types of businesses subject to the proposed amendments:
54 – professional, scientific and technical services
 - B) Categories that the Agency reasonably believes the rulemaking will impact, including:
 - ii – regulatory requirements and
 - vii – training requirements.
- 15) Regulatory Agenda on which this rulemaking was summarized: July 2018

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1240

PRIVATE DETECTIVE, PRIVATE ALARM, PRIVATE SECURITY,
FINGERPRINT VENDOR, AND LOCKSMITH ACT OF 2004

SUBPART A: PRIVATE DETECTIVE

Section

- 1240.10 Application for Examination and Licensure – Private Detective
- 1240.20 Application for Licensure – Private Detective Agency

SUBPART B: PRIVATE ALARM

Section

- 1240.100 Application for Examination and Licensure – Private Alarm Contractor
- 1240.110 Application for Licensure – Private Alarm Contractor Agency

SUBPART C: PRIVATE SECURITY

Section

- 1240.200 Application for Examination and Licensure – Private Security Contractor
- 1240.210 Application for Licensure – Private Security Contractor Agency

SUBPART D: LOCKSMITH

Section

- 1240.300 Application for Examination and Licensure – Locksmith
- 1240.310 20-Hour Basic Training Course – Locksmith
- 1240.320 Recordkeeping Requirements – Locksmith (Repealed)
- 1240.330 Application for Licensure – Locksmith Agency

SUBPART E: PROPRIETARY SECURITY FORCE

Section

- 1240.400 Registration of Proprietary Security Force

SUBPART F: GENERAL

Section

- 1240.500 Definitions
- 1240.501 Licensee-in-charge

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1240.502	Application for Branch Office License
1240.505	20-Hour Basic Training Course – Private Detective, Private Alarm Contractor, Private Security Contractor and Proprietary Security Force Employee
1240.510	Firearm Training Course
1240.515	Approval of Firearm Training Programs and Firearm Instructors
1240.520	Permanent Employee Registration Card
1240.525	Refusal to Issue Employee Registration Card or Firearm Control Card Due to Criminal History Record Information
1240.530	Firearm Control Cards
1240.535	Recordkeeping Requirements
1240.540	Reporting Requirements
1240.550	Renewals
1240.555	Endorsement (Repealed)
1240.560	Restoration
1240.561	Inactive Status
1240.565	Requests for Duplicate Certificates (Repealed)
1240.570	Fees
1240.575	Conduct of Hearings
1240.580	Investigation by the Division
1240.585	Granting Variances

SUBPART G: FINGERPRINT VENDOR

Section	
1240.600	Application for Licensure – Fingerprint Vendor
1240.610	Licensure – Fingerprint Vendor Agency
1240.620	Fingerprint Vendor – Standards, Unethical, Unauthorized, or Unprofessional Conduct
1240.630	Fingerprint Vendor – Training

SUBPART H: CANINE HANDLER

Section

1240.700	Canine Handler Training Course Requirements
1240.710	Canine Handler Authorization Card
1240.720	Canine Handler Training Program
1240.730	Canine Trainer Authorization Card
1240.740	Canine Handler and Canine Training Instructor – Unprofessional Conduct

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NOTICE OF PROPOSED AMENDMENTS

AUTHORITY: Implementing the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 [225 ILCS 447] and authorized by Sections 2105-15(7) and 2105-100(b) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7) and 2105-100(b)].

SOURCE: Rules and Regulations Promulgated for the Administration of the Illinois Detective Act, effective October 7, 1975; amended at 4 Ill. Reg. 22, p. 251, effective May 15, 1980; codified at 5 Ill. Reg. 11032; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; amended at 6 Ill. Reg. 8208, effective July 15, 1982; emergency amendment at 8 Ill. Reg. 903, effective January 6, 1984, for a maximum of 150 days; Part repealed and new Part adopted at 9 Ill. Reg. 18512, effective November 15, 1985; transferred from Chapter I, 68 Ill. Adm. Code 240 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1240 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2967; amended at 12 Ill. Reg. 20143, effective November 18, 1988; amended at 15 Ill. Reg. 3051, effective February 11, 1991; amended at 17 Ill. Reg. 1579, effective January 26, 1993; amended at 19 Ill. Reg. 954, effective January 17, 1995; amended at 19 Ill. Reg. 11473, effective July 28, 1995; emergency amendment at 19 Ill. Reg. 13460, effective September 8, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 3191, effective February 2, 1996; emergency amendment at 20 Ill. Reg. 14924, effective October 31, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 3135, effective March 4, 1997; amended at 24 Ill. Reg. 587, effective December 31, 1999; emergency amendment at 27 Ill. Reg. 1307, effective January 13, 2003, for a maximum of 150 days; emergency expired June 11, 2003; amended at 27 Ill. Reg. 9587, effective June 13, 2003; old Part repealed, new Part adopted at 28 Ill. Reg. 16209, effective December 2, 2004; amended at 36 Ill. Reg. 1486, effective February 3, 2012; amended at 36 Ill. Reg. 9938, effective July 13, 2012; amended at 38 Ill. Reg. 7879, effective March 25, 2014; amended at 43 Ill. Reg. _____, effective _____.

SUBPART F: GENERAL

Section 1240.500 Definitions

"Act" means Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 [225 ILCS 447].

"Board" means the Private Detective, Private Alarm, Private Security, Fingerprint Vendor and Locksmith Board.

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

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"Director" means the Director of the Division of Professional Regulation with the authority delegated by the Secretary.

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

"ISP" means the Illinois State Police.

"Qualified Instructor" – An individual employed or retained by a licensed agency under the Act who can provide the basic training as outlined in the Act. This shall include:

A licensed private detective, private alarm contractor, private security contractor or locksmith active and in good standing;

A registered employee, retained or employed by a licensed agency, who has a minimum of 5 years experience in the discipline being taught;

Registered employees of licensed agencies with a least 3 years full-time supervisory experience in the area in which the individual will conduct training;

Full time or part-time faculty employed by an institution under the jurisdiction of the Illinois Board of Higher Education or the Illinois Community College Board to teach firearms training courses or security training courses.

A registered employee, retained or employed by a licensed agency, who has a baccalaureate degree in education, business, law enforcement or other related degree to provide training in the discipline to be taught or has 3 years previous experience as a corporate trainer or equivalent in another industry.

For private alarm contractors, a qualified instructor may also include factory trained and certified personnel on the types of systems or work being trained; National Institute of Certification in Engineering Technologies (NICET) certified personnel; or a Certified Protection Professional (CPP) as designated by the American Society for Industrial Security.

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"Related to" – The immediate family living in the same household.

"Restored" – A court has declared an individual to be competent, as referenced in Section 35-30 of the Act.

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

"Traffic Offense" – As used in Section 35-30(1)(C) of the Act, means a minor offense concerning the operation and use of a motor vehicle or is related to motor vehicles and that does not rise to the level of a felony or misdemeanor.

"Usher" means a person who escorts or directs people to their seats, as in a theater, church or stadium, or acts as a doorkeeper or ticket taker but does not perform any of the functions of a private security contractor as defined in Section 5-10 of the Act.

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

Section 1240.505 20-Hour Basic Training Course – Private Detective, Private Alarm Contractor, Private Security Contractor and Proprietary Security Force Employee

- a) Every person employed as a registered employee of a private detective, private alarm or private security agency certified under the Act or as an armed employee of a proprietary security force shall complete, within 30 days after commencing employment, a course of basic training. The training shall be a minimum of 20 hours of classroom basic training related to the employment and shall be certified to by the employer. For purposes of this Section, "classroom instruction" shall mean instruction that takes place in a setting where those individuals receiving the training learn through lectures, study papers, class discussion, textbook study or other means of organized formal education techniques (i.e., video or closed-circuit instruction but not including on-line courses or instruction), as distinguished from on-the-job training.
- b) Registered employees of a private security contractor agency who provide guarding or other private security related functions, in addition to the classroom training required under subsection (a), within 6 months after their employment, shall complete an additional 8 hours of training on subjects to be determined by

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the employer. This training may be site-specific and may be conducted on the job.

- c) In addition to the basic training provided for in subsections (a) and (b), registered employees of a private security contractor agency who provide guarding or other private security related functions shall complete an additional 8 hours of refresher training on subjects to be determined by the employer each calendar year commencing with the calendar year following the employee's first employment anniversary date. The refresher training may be site-specific and may be conducted on the job.
- d) Upon successful completion of the training prescribed in subsections (a) through (c), each individual shall be issued, by the employer or the instructor, a Certification of Completion of Basic Training and/or refresher training courses signed by the instructor or the employer. The licensee-in-charge shall be responsible for the documentation of the training. Documentation of the refresher training shall consist of the date and location of the training, the subject matter covered and instructor or employee who administered the training. The Certificate of Completion of Basic Training and/or refresher training courses may be reproduced digitally provided the form is printed out and signed and the printed form is a virtual identical copy of the current form in use by the Division.
- e) The Certification shall be the permanent record of training and shall be retained by the individual as proof of the training. During the term of the individual's employment with an agency licensed by the Division, the Certification or a certified copy shall be filed by the employer with the employee statement required by Section 35-30(b) of the Act and shall remain in the file during the term of employment. Upon termination of employment, the original Certification shall be returned to the employee.
- f) In the case of an employee who is employed by more than one employer, a notarized copy of the Certification of Completion of Basic and/or Refresher Training shall be kept with the employee statement required by Section 35-30(b) of the Act in lieu of the original Certification.
- g) Copies of basic training, additional training, site-specific training and refresher training materials shall be made available to Division personnel upon request.

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

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Section 1240.520 Permanent Employee Registration Card

- a) Any person seeking employee registration under Section 35-30 of the Act shall file an application with the Division, on forms provided by the Division, along with the following:
 - 1) One of the following:
 - A) Copy of the verification of fingerprint processing from ISP or from one of the ISP live scan vendors whose equipment has been certified by ISP or a fingerprint vendor agency licensed by the Division;
 - B) Out-of-state residents unable to utilize the ISP electronic fingerprint process may submit to ISP one fingerprint card issued by ISP, accompanied by the fee specified by ISP; or
 - C) In lieu of fingerprints, verification, on forms provided by the Division, of proof of retirement as a peace officer, as defined in Section 5-10 of the Act, within 12 months prior to application. The verification shall be signed by the applicant's employer;
 - 2) The required registration fee specified in Section 1240.570.
- b) An agency may employ an applicant in a temporary capacity in accordance with Section 35-30(k) of the Act by:
 - 1) submitting the required application in accordance with subsection (a) on behalf of the person or verifying with the Division that an application has been submitted for the individual;
 - 2) verifying on the Division's website (www.idfpr.com) that the applicant has no criminal conviction pursuant to the ISP criminal history check;
 - 3) maintaining a separate roster of the names of all employees whose applications are pending; and
 - 4) meeting any other requirements set forth in this Part or the Act.

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- c) If no record is found relating to the fingerprints and the applicant is otherwise qualified under the Act, the Division shall issue to the applicant a permanent employee registration card that shall be valid for the period specified on the face of the card and shall be renewable upon the conditions set forth in Section 1240.550 ~~of this Part~~.
- d) A valid permanent employee registration card shall serve as proof to an employer that the bearer is eligible for employment.
- e) Exempt employees are as follows:
- 1) Private Detective. Persons who have no access to confidential or detective related information and who otherwise do not provide traditional detective related services are exempt from employee registration. Examples of exempt employees include reception personnel. Confidential or detective related information is that which pertains to employee files, scheduling, client contracts or technical data.
 - 2) Private Alarm Contractor. Persons who have no access to confidential or alarm related information and who otherwise do not provide traditional alarm related services are exempt from employee registration. Examples of exempt employees include, but are not limited to, employees working in the capacity of reception personnel. Confidential or security information is that which pertains to employee files, scheduling, client contracts or technical alarm data.
 - 3) Private Security Contractor. Persons who have no access to confidential or security information and who otherwise do not provide traditional security services are exempt from employee registration. Examples of exempt employees include, but are not limited to, employees working in the capacity of ticket takers, cashiers, drivers, ushers and reception personnel. Confidential or security information is that which pertains to employee files, scheduling, client contracts or technical security data.
 - 4) Locksmith. *Persons who have no access to confidential or security information and who otherwise do not provide traditional locksmith services, as defined in this Act, are exempt from employee registration. Examples of exempt employees include, but are not limited to, employees*

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working in the capacity of key cutters, cashiers, drivers, and reception personnel. Confidential or security information is that which pertains to employee files, scheduling, client contracts, master key charts, access codes, or technical security and alarm data. (Section 30-5(10) of the Act)

- 5) Fingerprint Vendor
 - A) Persons who have no access to confidential or security information and who otherwise do not provide or operate fingerprint equipment or other equipment designed to obtain fingerprint images for the purpose of providing fingerprint images and associated demographic data to ISP are exempt from employee registration. Examples of exempt employees include, but are not limited to, employees working in the capacity of cashiers, ushers and reception personnel. Confidential or security information is that which pertains to employee files, scheduling, client contracts or technical security data.
 - B) *No registered employee of a licensed fingerprint vendor agency may operate live scan fingerprint equipment or other equipment designed to obtain fingerprint images for the purpose of providing fingerprint images and associated demographic data to ISP. (Section 31-20(d) of the Act)*
- 6) Individuals currently employed by this State, a political subdivision of this State, or a federal agency as peace officers, as defined in Section 5-10 of the Act, who are in good standing are not required to obtain permanent employee registration cards. If the individual ceases to be employed as a peace officer, then the agency is required to obtain a permanent employee registration card in accordance with this Section.
- 7) All employees of any agency licensed under the Act who reside outside of Illinois and who perform no duties in Illinois.
- 8) Clerical or administrative personnel who do not perform services for clients but prepare or assist in the preparation of reports, memoranda, correspondence or other documents or records that contain confidential information are not exempt from employee registration.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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- f) A registered employee of a private detective agency shall not hold himself or herself out as a private detective or use the title "private detective", but may use the title "private investigator" provided that he or she reports the name of the private detective agency that employs him or her.

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

Section 1240.530 Firearm Control Cards

- a) Each employer shall make a request to the Division, on forms supplied by the Division, for the issuance of a firearm control card for each licensee or employee whose duties include the use, carrying or possession of a firearm. Each employee shall have an active permanent employee registration card issued in accordance with Section 1240.520 prior to applying for a firearm control card unless employed by a proprietary security force in accordance with Section 1240.400.
- b) Upon verification by the Division that the individual licensees or employees have completed the required firearm training course within the 2 years preceding the request for a firearm control card, and meet all the requirements of the Act for issuance of a firearm control card, the Division shall issue a card to the employer for each licensee or employee. If the licensee's or employee's firearm training was completed more than 2 years before the request for a firearm control card, the employer shall submit evidence that the licensee or employee has requalified on the firing range within one year preceding the request.
- c) The firearm control card shall be retained by the licensee or employee for the term of employment. Upon termination of employment, the card and any copies shall be returned to the Division by the employer, and the employer shall terminate the firearm control card in the Division's online system. ~~In the event a licensee or employee fails to return a firearm control card to the employer, the employer shall notify the Division in writing of the failure and the reason why the card was not returned.~~
- d) No licensee or employee may carry a firearm until the requirements of this Section have been satisfied. A licensee or employee who has been issued a license to carry a concealed firearm under the Firearm Concealed Carry Act [430 ILCS 66] is not exempt from compliance with the requirements of this Section. An armed licensee or employee shall be in possession of a valid firearm control card

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or otherwise be in compliance with this Section at all times that he or she is engaged in employment related duties.

- e) If a licensee or employee is employed by more than one agency, regardless of whether the agencies are owned or operated by the same person or different persons, that licensee or employee must possess a separate firearm control card for each agency.
- f) Individuals employed by this State, a political subdivision of this State, or a federal agency as peace officers, as defined in Section 5-10 of the Act, who are in good standing are not required to obtain firearm control cards. If the individual ceases to be employed as a peace officer, then the individual is required to obtain a firearm control card in accordance with this Section, unless the individual obtains a permanent employee registration card, possesses a valid Firearm Owner's Identification card, and is in compliance with the federal Law Enforcement Officers Safety Act of 2004. If the former peace officer will be carrying a firearm under these latter conditions, the agency employing the individual shall submit a notice to the Division, on forms provided by the Division, with the fee required under Section 1240.570. The employing agency shall resubmit the notice every 2 years thereafter. If the individual ceases employment with the agency, the employing agency shall give notice to the Division within 14 days.
- g) A person licensed as a fingerprint vendor or any employee of a licensed fingerprint vendor agency may not possess or carry a firearm in the course of providing fingerprinting services. This subsection shall not apply to an active duty sworn peace officer acting within the scope of his or her duties.
- h) The Division shall not grant or authorize the issuance of a firearm control card to a fingerprint vendor or any employee of a licensed fingerprint vendor agency unless:
 - 1) the individual is licensed as a private detective, private alarm contractor or private security contractor; ~~or~~
 - 2) the individual is employed by a private detective agency, private alarm contractor agency or private security agency licensed under the Act who carries a weapon while engaged in the performance of his or her official duties providing detective, private security contracting or alarm contractor

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services within the course and scope of his or her employment during the hours and times the employee is scheduled to work or is commuting between his or her home or place of employment, provided that the individual is not providing fingerprinting services while possessing or carrying a firearm; or

- 3) the person is employed by an armed proprietary security force registered under this Act who carries a weapon while engaged in the performance of his or her official duties within the course and scope of his or her employment during the hours and times the employee is scheduled to work or is commuting between his or her home or place of employment, provided that the individual is not providing fingerprinting services.

A) The firearm control card shall authorize the holder to carry one or more of the following weapons: revolver, semi-automatic handgun, rifle or shotgun. The firearm control card shall specify which of these weapons the holder is authorized to carry. Any holder of a firearm control card may carry a stun or taser, tear gas gun projector, or billy club or similar device.

B) Any firearm requalification required under the Act or this Part shall be certified by a registered firearm instructor, the licensee-in-charge of the agency employing the firearm control card holder, or, for a member of an armed proprietary security force, its security director.

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

Section 1240.535 Recordkeeping Requirements

- a) Each employer licensed under the Act shall maintain a file on each employee pursuant to Section 35-30 of the Act. The employee file shall be maintained by the agency for 5 years after termination of the employee, shall be accessible to duly authorized representatives of the Division with 24 hours prior notice (72 hours notice for files more than 2 years old), and shall contain the following information:

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- 1) A photograph of the employee taken within 10 days after the date the employee commences employment. The photo shall be replaced every 3 calendar years;
- 2) The employee's statement required in Section 35-30(b) of the Act;
- 3) All correspondence or documents related to the character and integrity of the employee received by the employer from an official source or law enforcement;
- 4) The employee identification card of a terminated employee pursuant to Section 35-30(h);
- 5) A copy of the weapons discharge report, if applicable, during the course of the employee's duties or activities;
- 6) Application for employment;
- 7) Certification of Completion of Basic Training and/or refresher training courses as provided in Section 1240.505 ~~of this Part~~;
- 8) Certificate of Firearm Training, if applicable (or notarized copy as provided in Section 1240.510 ~~of this Part~~) verified by the licensee in charge;
- 9) Copy of employee's permanent employee registration card and firearm control card and active Firearm Owner's Identification Card (FOID), if applicable;
- 10) Certification or certified copy of requalification (Section 1240.510);
- 11) Copy of employee's certification of completion of canine handler training, canine handler authorization card and canine trainer authorization card, if applicable;
- 12) Copy of the verification of fingerprint processing from ISP or from one of the ISP live scan vendors whose equipment has been certified by ISP or a fingerprint vendor agency licensed by the Division;

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- 13) A copy of the Division's webpage (www.idfpr.com) showing that an applicant has no criminal conviction pursuant to the ISP criminal history check for individuals employed prior to issuance of the permanent employee registration card; and
 - 14) For active peace officers, the agency employee file shall include a copy of the current police identification card and, within 14 days after employment a signed and dated letter from the peace officer's chief of police or his/her designee (or Division verification of employment form) indicating current status as a peace officer, as well as items set forth in subsections (a)(1), (4), (5) and (6). The agency shall annually re-verify by obtaining another signed and dated letter from the peace officer's chief of police or his/her designee indicating current status as a peace officer and maintain proof of the employee's qualifications for the peace officer exemption.
- b) Private alarm contractors who provide monitoring services shall maintain a separate roster of the names of all licensed agencies and/or individuals, including license number, from whom they accept monitoring contracts or assignments. The roster shall be made available to the Division upon 24 hours notice. It shall be considered unprofessional conduct, subject to discipline by the Division, for a licensed alarm contractor or agency to accept monitoring contracts or assignments from an unlicensed entity.
- c) Fingerprint Vendors Records
- 1) A fingerprint vendor or fingerprint vendor agency shall document in the form of a work order the date, time and location where each and every fingerprint service is provided;
 - 2) The fingerprint vendor shall require each individual seeking to be fingerprinted to present a Primary, Secondary or Requesting Agency authorized form of identification in order to be fingerprinted by the fingerprint vendor. The work order shall describe the form of identification presented by the individual seeking to be fingerprinted.
 - A) Primary Identification – The work order shall include the name, address, date of birth, aliases, telephone number and driver's license number or Secretary of State issued State identification number from a valid driver's license or Secretary of State issued

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State identification card of the person requesting to be fingerprinted, the signature of that person, and the Transaction Control Number (TCN) for that fingerprint request.

- B) Secondary Identification – The work order shall include all of the information set forth in subsection (c)(2)(A). In the absence of a driver's license or State identification number, the work order shall contain verification that the individual seeking to be fingerprinted provided at least ~~two~~ forms of identity verification described within the Identity Verification Program Guide (~~20142006~~) developed and available from the National Crime Prevention and Privacy Compact Council at the Federal Bureau of Investigation's website (<http://www.fbi.gov/services/cjis/compact-council/identity-verification-program-guide-booklet> ~~http://www.fbi.gov/about-us/cjis/ee~~), no later amendments or editions apply. A copy of the documentation used to establish identity verification shall be attached as part of the work order.
- C) Requesting Agency Authorized Identification – The work order shall include all of the information set forth in subsection (c)(2)(A). If the individual is unable to provide a driver's license, Secretary of State issued State identification or any identity verification set forth in subsection (c)(2)(B), the agency requesting the individual to be fingerprinted must authorize an alternative form of identification to be used to verify the identity of the individual seeking to be fingerprinted. The work order must contain documentation confirming that the requesting agency authorized the use of an alternative form of identification in the absence of a Primary or Secondary form of identity verification. A copy of the requesting agency authorized identity verification documentation shall be attached as part of the work order;
- 3) All work orders shall contain the name and license number of the licensed fingerprint vendor who performed the services;
- 4) If a licensee is employed by more than one fingerprint vendor agency, the employer that the licensed employee is providing fingerprint services for must be identified on the work order by the agency license number;

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- 5) All work orders, including fee applicant submissions, shall be maintained for a minimum of ~~two~~ years from the date of printing. The records may be maintained in an electronic format so long as the records cannot be altered. Corrections may be made but must be noted in the record;
- 6) Each fee applicant submission shall contain the originating identifier (ORI) number of the agency requesting the fingerprints;
- 7) Beginning January 1, 2014, all work orders, including fee applicant submissions, must contain a photograph of the individual who was fingerprinted. The photos shall be maintained in an electronic format and shall be forwarded to ISP along with any request for criminal history record information or other information;
- 8) A licensed fingerprint vendor must develop a written policy, made available to the public, establishing a retention schedule and guidelines for permanently destroying identifiers and other biometric information when the initial purpose for collecting or obtaining the identifiers or information has been satisfied or after 3 years from the individual's last interaction with the licensed fingerprint vendor, whichever occurs first. Absent a valid warrant or subpoena issued by a court of competent jurisdiction, a private entity in possession of biometric identifiers or biometric information must comply with its established retention schedule and destruction guidelines;
- 9) Work order forms, including fee applicant submissions, required to be kept under this Section shall be available for inspection by the Division or by ISP at the discretion of the Division or ISP, respectively. The Division shall have the right to audit records of a licensed fingerprint vendor to ensure compliance with the Act and this Part;
- 10) A licensed fingerprint vendor shall provide and obtain a signed consent form from the applicant prior to the fingerprinting of any individual fingerprinted for all civil submissions (i.e., passport, adoption and employment related criminal background checks, etc.). The privacy statement within the consent form must be pre-approved by ISP;
- 11) [A licensed fingerprint vendor shall provide to a fingerprinted individual a transmission control receipt that includes the transaction control number](#)

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and the name and license number of the licensed fingerprint vendor taking the fingerprints.

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

Section 1240.540 Reporting Requirements

- a) All licensees and registrants shall notify the Division in writing within 30 days after any convictions, ~~arrests, felony information, and/or indictments~~ against him or her and shall provide a copy of that notification to his or her current employer, if any.
- b) All agencies shall submit a monthly roster of employees with PERC applications pending with the Division.
- c) All agencies shall submit a weapons discharge report, on forms provided by the Division, along with the police report of the incident, within 30 days after the incident.

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

Section 1240.550 Renewals

- a) Beginning with the May 1999 renewal, every individual license issued under the Act shall expire on May 31 every 3 years. The holder of a license may renew such license during the month preceding the expiration date by paying the required fee set forth in Section 1240.570 and providing proof of liability insurance as evidenced by a certificate of insurance from the insurer.
- b) Beginning with the May 1999 renewal, every certificate of registration for an agency and every branch office and proprietary security force certificate issued under the Act shall expire on August 31 every 3 years. The holder of a certificate of registration may renew such certificate during the month preceding the expiration date by paying the required fee.
- c) Beginning with the May 2000 renewal, every employee registration card issued under the Act shall expire on May 31 every 3 years. The holder of the card may renew the card during the month preceding the expiration date by submitting the required fee to the Division.

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- d) It is the responsibility of each licensee and employee registration card holder to notify the Division of any change of address. Failure to receive a renewal form from the Division shall not constitute an excuse for failure to renew one's license or employee registration card or to pay the renewal fee. Practicing on an expired license or employee registration card is unlicensed practice and subject to discipline under Section 45-10 of the Act.
- e) Every firearm control card shall expire on the date specified on the face of the card. The card shall be renewed upon proof that:
- 1) The employee has been requalified on the firing range within one year preceding the renewal date; and
 - 2) The employee continues to be employed by the agency to which the card was issued.
- f) No employer shall, after the expiration of a firearm control card, employ the holder of the card in an armed capacity.
- g) In addition to the other requirements of this Section, fingerprint vendor and/or fingerprint vendor agency licensees, as applicable, shall provide the following in order to renew:
- 1) verification by the fingerprint vendor agency that the applicant's fingerprinting equipment and software meets all specifications outlined in Section 1240.600 and that the equipment has been scheduled for recertification if required by ISP, or the licensee has received notice from ISP that recertification is not required at the time of renewal. The licensed ~~agency~~vendor shall maintain all correspondence or notices related to recertification of equipment that have been received from ISP for a period of 6 years since the last renewal of the vendor's license. The correspondence or notices shall be made available to the Division upon request. Current certification with ISP is a continuing requirement of licensure. The requirements of this subsection (g)(1) shall apply to a fingerprint vendor under the conditions specified in Section 1240.600;
 - 2) verification that the fingerprint vendor licensee or a fingerprint vendor agency on behalf of the fingerprint vendor currently maintains insurance

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in the type and amounts required in Section 1240.600. Insurance in the type and amounts required in Section 1240.600 shall be a continuing requirement for licensure;

- 3) the licensee shall provide proof, acceptable to the Division, that the requirements of subsections (g)(1) and (2) have been met.

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

Section 1240.565 Requests for Duplicate Certificates (Repealed)

- a) ~~Requests for duplicate certificates to replace ones that have been lost, stolen or destroyed shall be made in writing to the Division and shall be made by the individuals to whom the certificates were issued.~~
- b) ~~Any person requesting a duplicate firearm control card shall first file a report with the local police authority that specifies the circumstances under which the firearm control card was lost, stolen or destroyed.~~
- e) ~~Requests for a duplicate firearm control card shall be accompanied by an affidavit from the person making the request, specifying the date and with what police authority the above mentioned police report was filed, and summarizing the circumstances under which the firearm control card was lost, stolen or destroyed. The fee, as required by Section 1240.570, shall also accompany the request.~~
- d) For purposes of this Section, the word "certificates" shall mean and include the following:
 - 1) ~~Individual licenses (private detective, private security contractor, private alarm contractor, fingerprint vendor and locksmith)~~
 - 2) ~~Certificate of Registration for an agency~~
 - 3) ~~Licensee Pocket Cards~~
 - 4) ~~Permanent Employee Registration Cards~~
 - 5) ~~Certification of Completion of Firearm Training~~

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- 6) ~~Firearm Control Card~~
- 7) ~~Canine Handler Authorization Card~~
- 8) ~~Canine Trainer Authorization Card~~

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

Section 1240.570 Fees

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

- a) Application Fees
 - 1) The fee for application for a license as a private detective, security contractor, alarm contractor, or locksmith is \$500. In addition, applicants for an examination shall be required to pay, either to the Division or to the designated testing service, a fee covering the cost of providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Division or the designated testing service, shall result in the forfeiture of the examination fee.
 - 2) The fee for application for a license as a fingerprint vendor is \$150.
 - 3) The fee for application for an agency license is \$500.
 - 4) The fee for application for a branch office license is \$200.
 - 5) The fee for issuance of a permanent employee registration card is \$55.
 - 6) The fee for issuance of a firearm control card is \$75.
 - 7) The fee for issuance of an armed proprietary security force registration is \$300.
 - 8) The fee for the ISP fingerprint training course is the fee, if any, charged by ISP.

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- 9) The fee for ISP equipment certification or recertification is the fee, if any, charged by ISP.
 - 10) The fee for certification as a firearm instructor is \$75.
 - 11) The fee for issuance of a canine handler authorization card is \$75.
 - 12) The fee for issuance of a canine trainer authorization card is \$100.
 - ~~13) The fee for issuance of a duplicate/replacement canine handler authorization card or a canine trainer authorization card is \$20.~~
 - ~~14) The fee for reissuance of a canine handler authorization card to an agency that has changed its name is \$10.~~
 - ~~13)15) The fee for approval of a canine handler training program is \$100.~~
 - ~~14)16) The fee for approval of a canine instructor training program is \$100.~~
 - 15) The fee for filing a notice pursuant to Section 1240.530(f) (former peace officer serving in an armed capacity) is \$25.
- b) Renewal Fees
- 1) The fee for the renewal of a private detective, private alarm contractor, private security contractor or locksmith license shall be calculated at the rate of \$150 per year.
 - 2) The fee for the renewal of a fingerprint vendor license shall be calculated at the rate of \$50 per year.
 - 3) The fee for the renewal of an agency license is \$450 for the renewal period.
 - 4) The fee for the renewal of a branch office license is \$200 for the renewal period.

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- 5) The fee for the renewal of a permanent employee registration card is \$45 for the renewal period.
 - 6) The fee for the renewal of a firearm control card is \$45 for the renewal period.
 - 7) The fee for the renewal of an armed proprietary security force registration is \$200 for the renewal period.
 - 8) The fee for renewal of certification as a firearm instructor is \$45.
 - 9) The fee for renewal of a canine handler authorization card is \$45.
 - 10) The fee for renewal of a canine trainer authorization card is \$45.
- c) General Fees
- 1) The fee for the restoration of a license other than from inactive status is \$50 plus payment of all lapsed renewal fees; the fee for restoration from inactive status is the current renewal fee.
 - ~~2) The fee for the issuance of a duplicate/replacement license, agency certificate of registration, permanent employee registration card, Certification of Firearm Training, firearm control card, or a certificate issued for a change of name or address, other than during the renewal period, is \$20. No fee is required for name and address changes on Division records when no duplicate license is issued.~~
 - ~~3) The fee for reissuance of a firearm control card to an agency that has changed its name is \$10.~~
 - ~~2)4) The fee for electronic fingerprint processing by ISP or one of the ISP live scan vendors whose equipment has been certified by ISP or a fingerprint vendor agency licensed by the Division is the cost of processing that shall be made payable to the vendor.~~
 - ~~3)5) The fee for a certification of a licensee's record for any purpose is \$20.~~

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- ~~4)6)~~ The fee to have the scoring of an examination administered by the Division reviewed and verified is \$20, plus any fee charged by the testing service.
- ~~7)~~ ~~The fee for a wall certificate showing licensure shall be the actual cost of producing the certificate.~~
- ~~8)~~ ~~The fee for a roster of licensees or registrants shall be the actual cost of producing the roster.~~
- ~~5)9)~~ The fee for approval of a firearm training program is \$100.

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

Section 1240.585 Granting Variances

~~a)~~The Director may grant variances from this Part in individual cases where he/she finds that:

- ~~a)1)~~ The provision from which the variance is granted is not statutorily mandated;
- ~~b)2)~~ No party will be injured by the granting of the variance; and
- ~~c)3)~~ The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.
- ~~b)~~ ~~The Director shall notify the Board of the granting of such variance, and the reasons therefor, at the next meeting of the Board.~~

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

SUBPART G: FINGERPRINT VENDOR

Section 1240.600 Application for Licensure – Fingerprint Vendor

- a) An applicant for licensure as a fingerprint vendor shall submit an application, on forms supplied by the Division, that shall include the following:
- 1) verification that the applicant is at least 18 years of age.

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- 2) one of the following:
 - A) Copy of the verification of fingerprint processing from ISP or from one of the ISP live scan vendors whose equipment has been certified by ISP or a fingerprint vendor agency licensed by the Division. Applicants shall not take fingerprints of themselves for processing;
 - B) Out-of-state residents unable to utilize the ISP electronic fingerprint process may submit to ISP one fingerprint card issued by ISP, accompanied by the fee specified by ISP at 20 Ill. Adm. Code 1215.50; or
 - C) In lieu of fingerprints, verification, on forms provided by the Division, of proof of retirement as a peace officer, as defined in Section 5-10 of the Act, within 12 months prior to application. The verification shall be signed by the applicant's employer.
- 3) certification issued by ISP that the applicant has successfully completed a fingerprint vendor training course conducted or authorized by ISP.
- 4) proof of at least \$1,000,000 of general liability insurance held by the applicant as evidenced by a certificate of insurance from the insurer. A fingerprint vendor employed by a licensed fingerprint vendor agency may provide proof that his or her actions as a fingerprint vendor are covered by the liability insurance of his or her employer.
- 5) the required fees specified in Section 1240.570.
- 6) certification issued by ISP that the applicant's fingerprinting equipment and software meets all specifications of ISP if the applicant is not employed by a fingerprint vendor agency or is not required to obtain a fingerprint vendor agency license. Compliance with the ISP fingerprinting equipment and software specifications is a continuing requirement for licensure and shall be provided to Division personnel upon request.
- 7) proof that the applicant maintains an office location in Illinois and attestation that the applicant will operate from that location when

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providing fingerprint services unless authorized to provide services from a location other than the stated office location.

- 8) all other information the Division deems relevant to determine the applicant's qualifications under the Act and this Part.
- b) Failure to maintain general liability insurance and failure to provide the Division with written proof of the insurance, upon request, shall result in cancellation of the license without a hearing.
 - c) In addition to any other requirements, an applicant for licensure shall meet the following:
 - 1) Has not been convicted of any felony in any jurisdiction or at least 10 years have elapsed since the time of full discharge from a sentence imposed for a felony conviction;
 - 2) Is of good moral character. Good moral character is a continuing requirement of licensure. Conviction of crimes other than felonies may be used in determining moral character, but shall not constitute an absolute bar to licensure, except when the applicant is a registered sex offender;
 - 3) Has not been declared by any court of competent jurisdiction to be incompetent by reason of mental or physical defect or disease, unless a court has subsequently declared him or her to be competent;
 - 4) Is not suffering from dependence on alcohol or from narcotic addiction or dependence;
 - 5) Has not been dishonorably discharged from the armed forces of the United States;
 - 6) Submits his or her fingerprints, in accordance with the provisions of the Act and this Part, including but not limited to the payment of any required fees;
 - 7) Has not violated any provision of the Act or this Part;
 - 8) Pays all required licensure fees.

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- d) A person licensed as a fingerprint vendor or any employee of a licensed fingerprint vendor agency may not possess or carry a firearm in the course of providing fingerprinting services. This subsection shall not apply to an active duty sworn peace officer acting within the scope of his or her duties.
- e) The Division shall not grant or authorize the issuance of a firearm control card to a fingerprint vendor or any employee of a licensed fingerprint vendor agency unless the person is authorized to carry a firearm under the Act or authorized in accordance with Section 1240.530(i).
- f) Upon certification of the applicant's fingerprinting equipment by ISP as provided in subsection (a)(6) or in Section 1240.610(c), an unlicensed person may operate the fingerprinting equipment and otherwise take and submit fingerprints provided that the unlicensed person submits to the Division an application for licensure as a fingerprint vendor within 30 days after the ISP certification. In addition, the unlicensed person must have successfully completed a fingerprint vendor training course conducted or authorized by ISP. In the event the Division denies the application, the applicant shall cease operating the fingerprinting equipment and otherwise taking or submitting fingerprints.

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

Section 1240.610 Licensure – Fingerprint Vendor Agency

- a) An applicant for licensure as a fingerprint vendor agency shall, in accordance with Section 31-15 of the Act, file an application with the Division, on forms provided by the Division, together with the following:
 - 1) Business name and address of the fingerprint vendor agency. If fingerprint services are provided at a location other than the business address, a branch office license shall not be necessary;
 - 2) Anyone doing business as (d/b/a) names used by the fingerprint vendor agency and proof of legal authorization to use that name;
 - 3) The type of business (sole proprietorship, partnership, corporation, etc.):
 - A) If a partnership, a listing of all partners and their addresses;

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- B) If a corporation, a copy of the Articles of Incorporation and a listing of all members of the board of directors. If the corporation is a foreign corporation, a copy of the authorization to conduct business in Illinois and a list of all members of the board of directors shall be submitted;
- C) If a limited liability company, a copy of the Articles of Organization and a listing of all members of the board of directors;
- 4) The name of the licensed fingerprint vendor who is and who shall remain responsible for the daily activities of the fingerprint vendor agency;
- 5b) The device identification number (ID number) of all fingerprinting machines utilized by the fingerprint vendor agency and their locations;
- 6) Certification issued by ISP that the applicant's fingerprinting equipment and software meets all specifications of ISP. Compliance with the ISP fingerprinting equipment and software specifications is a continuing requirement for licensure. The certification shall be provided to Division personnel upon request.
- b)e) An applicant for a fingerprint vendor agency shall name at least one officer or executive employee who is a licensed fingerprint vendor under the Act who is responsible for the daily activities of the fingerprint vendor agency, and any unlicensed officers or directors of the corporation or limited liability company who have been determined by the Division to be persons of good moral character. Maintaining at least one officer or executive employee who is a licensed fingerprint vendor under the Act who shall be responsible for the daily activities of the fingerprint vendor agency shall be a continuing requirement of licensure.
- c)d) When the accuracy, relevance or sufficiency of any submitted documentation or information is questioned by the Division because of lack of information, discrepancies or conflicts in information given, or a need for clarification, the applicant seeking licensure shall be requested to:
 - 1) Provide information as may be necessary; and/or

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- 2) Appear for an interview before the Board to explain the accuracy, relevance or sufficiency of any submitted documentation or information or lack of information, discrepancies or conflicts in information given.

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

SUBPART H: CANINE HANDLER

Section 1240.700 Canine Handler Training Course Requirements

- a) No licensed private detective, licensed private security contractor, or registered employee of a private detective agency or private security contractor agency shall use or handle a trained canine to protect persons or property or to conduct investigations until that person has satisfactorily completed a canine handler training course approved by the Division and has been issued a canine handler authorization card by the Division. The canine handler training course shall consist of basic training and specialized training and shall include both classroom instruction and practical field experience as set forth in this Section.
- b) Basic training shall consist of a minimum of 100 hours and shall include:
 - 1) canine handling safety procedures;
 - 2) basic veterinary health and wellness principles, including canine first aid;
 - 3) principles of canine conditioning;
 - 4) canine obedience techniques;
 - 5) search patterns and techniques; and
 - 6) legal guidelines affecting canine odor detection operations.
- c) Specialized training shall consist of a minimum of 80 hours of additional training related to the particular canine discipline or disciplines in which the canine and canine handler are to be used and may include, without limitation:
 - 1) patrol;

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- 2) narcotics odor detection;
 - 3) explosives odor detection;
 - 4) cadaver odor detection; or
 - 5) any other specialized detection discipline in which the canine and canine handler are to be used.
- d) All odor detection certification conducted with the canines shall use the actual explosive materials, controlled substances, fire accelerants, or sample human tissue to which the canine is being trained to identify and respond.
- e) All training facilities shall be maintained in a safe and good working condition. The Division may conduct on-site inspections and may consider the following factors:
- 1) display of all required licenses under the Act and any other licenses required under federal or State law;
 - 2) safety of persons and property in the area;
 - 3) operational rules and policies;
 - 4) canine training logs;
 - 5) display of canine care logs;
 - 6) storage of training materials;
 - 7) training documentation and records; and
 - 8) kennel facility compliance with United States Department of Agriculture animal welfare guidelines.
- f) Upon completion of the training, each canine handler must successfully complete a written and practical examination. The canine training facility shall make a copy of the examination or a copy of any person's examination or related records available to the Division upon request. Passage of the written examination shall

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require a score of 70%. Passage of the field examination shall be determined by the canine training facility in accordance with United States Police Canine Association, Inc. (USPCA) Certification Standards (2012), no later editions or amendments included, or other nationally recognized standards. Every canine handler and canine shall be required to recertify annually according to the USPCA Certification Standards.

- g) Each canine trainer shall issue a certification of completion of canine handler training for each person who successfully completes the course. This certification shall include the name of the canine handler, the name or identification of the canine with which he or she is certified to work, the patrol and/or detection specialty or specialties the canine handler and canine are certified to perform, the name of the canine instructor, and the name of the agency employing the canine instructor. This certification shall be the permanent record of canine handler training and shall be retained by the canine handler as proof of the training. During the term of a canine handler's employment with an agency licensed by the Division, the certification or a copy of the certification shall remain in the employee's file as maintained by the employer. Upon termination of employment, an original certification shall be returned to the employee.
- h) Upon application to the Division prior to 7/1/14, any canine handler who completed training from a canine training facility prior to the effective date of this Subpart and whose course syllabus meets or exceeds the requirements of this Section, shall be deemed by the Division to have complied with the requirements of this Section.
- i) The training requirements of this Section shall be waived for a person who holds an active canine trainer authorization card issued by the Division.
- j) The Division may accept other training as meeting the requirements of this Section if the training was conducted by a law enforcement agency, the military, or a training facility located outside of the State of Illinois and is substantially similar to the training required under this Section.

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

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- 1) Heading of the Part: Use Tax
- 2) Code Citation: 86 Ill. Adm. Code 150
- 3)

<u>Section Number:</u>	<u>Proposed Action:</u>
150.803	New Section
- 4) Statutory Authority: 35 ILCS 105/2; 35 ILCS 105/12; 20 ILCS 2505/2505-90
- 5) A Complete Description of the Subjects and Issues Involved: These regulations implement the provisions of Article 80 of PA 100-587, the FY2019 Budget Implementation Act ("Act"). Prior to the Act, an out-of-State retailer (a "remote seller") had to maintain a physical presence in Illinois before it could be required to collect and remit Illinois Use Tax on sales of tangible personal property to Illinois purchasers. The Act, however, created a new type of nexus which does not require a physical presence. The Act's nexus standards are substantially similar to provisions enacted by South Dakota and upheld in the recent U.S. Supreme Court case, *South Dakota v. Wayfair, Inc.*, No. 17-494 (U.S. June 21, 2018). Effective October 1, 2018, the Act requires remote sellers to register with the Department and collect and remit Use Tax on sales to Illinois purchasers if they meet specific selling thresholds. Retailers whose cumulative gross receipts from sales of tangible personal property to purchasers in Illinois are \$100,000 or more, or who enter into 200 or more separate transactions for the sale of tangible personal property to purchasers in Illinois, must register and collect and remit Use Tax. The Act provides that retailers must determine on a quarterly basis whether they meet either of the selling thresholds for the immediately preceding 12-month period; if they meet either of the selling thresholds, they are required to collect and remit Use Tax and file returns for the subsequent year. These regulations implement the provisions of the Act. They provide key definitions; explain how retailers assess their selling activities by making quarterly lookback determinations; and provide rules that retailers must apply in determining if they have met either of the selling thresholds. Examples are provided throughout the regulations. The regulations also generally describe the relationship of these regulations to other nexus regulations, the types of retailers that may be affected by these new nexus provisions, and the Use Tax that must be collected, including the way it is distributed in Illinois.
- 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? Yes

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- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

Jerilynn Troxell Gorden
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield IL 62794

217/782-2844

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Retailers meeting the thresholds established for collection of the Use Tax will be affected.
- B) Reporting, bookkeeping or other procedures required for compliance: Bookkeeping, tax collection and reporting
- C) Types of professional skills necessary for compliance: Bookkeeping
- 14) Small Business Impact Analysis:
- A) Types of businesses subject to the proposed amendment:
44-45 Retail Trade

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B) Categories that the Agency reasonably believes the rulemaking will impact, including:

- ii regulatory requirements;
- viii record keeping;

15) Regulatory Agenda on which this rulemaking was summarized: July 2018

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

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 150
USE TAX

SUBPART A: NATURE OF THE TAX

Section	
150.101	Description of the Tax
150.105	Rate and Base of Tax
150.110	How To Compute Depreciation
150.115	How To Determine Effective Date
150.120	Effective Date of New Taxes
150.125	Relation of Use Tax to Retailers' Occupation Tax
150.130	Accounting for the Tax
150.135	How to Avoid Paying Tax on Use Tax Collected From the Purchaser

SUBPART B: DEFINITIONS

Section	
150.201	General Definitions

SUBPART C: KINDS OF USES AND USERS NOT TAXED

Section	
150.301	Cross References
150.305	Effect of Limitation that Purchase Must be at Retail From a Retailer to be Taxable
150.306	Interim Use and Demonstration Exemptions
150.310	Exemptions to Avoid Multi-State Taxation
150.311	Commercial Distribution Fee Sales Tax Exemption (Repealed)
150.315	Non-resident Exemptions
150.320	Meaning of "Acquired Outside This State"
150.325	Charitable, Religious, Educational and Senior Citizens Recreational Organizations as Buyers
150.330	Governmental Bodies as Buyers
150.331	Persons Who Lease Tangible Personal Property to Exempt Hospitals
150.332	Persons Who Lease Tangible Personal Property to Governmental Bodies
150.335	Game or Game Birds Purchased at Game Breeding and Hunting Areas or Exotic

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- Game Hunting Areas
- 150.336 Fuel Brought into Illinois in Locomotives
- 150.337 Food, Drugs, Medicines and Medical Appliances When Purchased for Use by a Person Receiving Medical Assistance under the Illinois Public Aid Code
- 150.340 Manufacturing Machinery and Equipment; Production Related Tangible Personal Property; Department Determination of Amount of Exemption (Repealed)

SUBPART D: COLLECTION OF THE USE TAX FROM USERS BY RETAILERS

- Section
- 150.401 Collection of the Tax by Retailers From Users
- 150.405 Tax Collection Brackets
- 150.410 Tax Collection Brackets for a 2¼% Rate of Tax (Repealed)
- 150.415 Tax Collection Brackets for a 2½% Rate of Tax (Repealed)
- 150.420 Tax Collection Brackets for a 2¾% Rate of Tax (Repealed)
- 150.425 Tax Collection Brackets for a 3% Rate of Tax (Repealed)
- 150.430 Tax Collection Brackets for a 3⅛% Rate of Tax (Repealed)
- 150.435 Tax Collection Brackets for a 3¼% Rate of Tax (Repealed)
- 150.440 Tax Collection Brackets for a 3½% Rate of Tax (Repealed)
- 150.445 Tax Collection Brackets for a 3¾% Rate of Tax (Repealed)
- 150.450 Tax Collection Brackets for a 4% Rate of Tax (Repealed)
- 150.455 Tax Collection Brackets for a 4⅛% Rate of Tax (Repealed)
- 150.460 Tax Collection Brackets for a 4¼% Rate of Tax (Repealed)
- 150.465 Tax Collection Brackets for a 4½% Rate of Tax (Repealed)
- 150.470 Tax Collection Brackets for a 4¾% Rate of Tax (Repealed)
- 150.475 Tax Collection Brackets for a 5% Rate of Tax (Repealed)
- 150.480 Tax Collection Brackets for a 5⅛% Rate of Tax (Repealed)
- 150.485 Tax Collection Brackets for a 5¼% Rate of Tax (Repealed)
- 150.490 Tax Collection Brackets for a 5½% Rate of Tax (Repealed)
- 150.495 Tax Collection Brackets for a 5¾% Rate of Tax (Repealed)
- 150.500 Tax Collection Brackets for a 6% Rate of Tax (Repealed)
- 150.505 Optional 1% Schedule (Repealed)
- 150.510 Exact Collection of Tax Required When Practicable
- 150.515 Prohibition Against Retailer's Representing That He Will Absorb The Tax
- 150.520 Display of Tax Collection Schedule (Repealed)
- 150.525 Methods for Calculating Tax on Sales of Items Subject to Differing Tax Rates

SUBPART E: RECEIPT FOR THE TAX

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Section
150.601 Requirements

SUBPART F: SPECIAL INFORMATION FOR TAXABLE USERS

Section
150.701 When and Where to File a Return
150.705 Use Tax on Items that are Titled or Registered in Illinois
150.710 Procedure in Claiming Exemption from Use Tax
150.715 Receipt for Tax or Proof of Exemption Must Accompany Application for Title or Registration
150.716 Display Certificates for House Trailers
150.720 Issuance of Title or Registration Where Retailer Fails or Refuses to Remit Tax Collected by Retailer from User
150.725 Direct Payment of Tax by User to Department on Intrastate Purchase Under Certain Circumstances
150.730 Direct Reporting of Use Tax to Department by Registered Retailers

SUBPART G: REGISTRATION OF OUT-OF-STATE RETAILERS

Section
150.801 When Out-of-State Retailers Must Register and Collect Use Tax
150.802 Trade Show Appearances
[150.803 Wayfair Nexus – Nexus Without Physical Presence](#)
150.805 Voluntary Registration by Certain Out-of-State Retailers
150.810 Incorporation by Reference

SUBPART H: RETAILERS' RETURNS

Section
150.901 When and Where to File
150.905 Deduction for Collecting Tax
150.910 Incorporation by Reference
150.915 Itemization of Receipts from Sales and the Tax Among the Different States from Which Sales are Made into Illinois

SUBPART I: PENALTIES, INTEREST, STATUTE OF LIMITATIONS
AND ADMINISTRATIVE PROCEDURES

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Section
150.1001 General Information

SUBPART J: TRADED-IN PROPERTY

Section
150.1101 General Information

SUBPART K: INCORPORATION OF ILLINOIS
RETAILERS' OCCUPATION TAX REGULATIONS BY REFERENCE

Section
150.1201 General Information

SUBPART L: BOOKS AND RECORDS

Section
150.1301 Users' Records
150.1305 Retailers' Records
150.1310 Use of Signs to Prove Collection of Tax as a Separate Item
150.1315 Consequence of Not Complying with Requirement of Collecting Use Tax
 Separately From the Selling Price
150.1320 Incorporation by Reference

SUBPART M: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section
150.1401 Claims for Credit – Limitations – Procedure
150.1405 Disposition of Credit Memoranda by Holders Thereof
150.1410 Refunds
150.1415 Interest

150.TABLE A Tax Collection Brackets

AUTHORITY: Implementing the Use Tax Act [35 ILCS 105] and authorized by Section 2505-90 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-90].

SOURCE: Adopted August 1, 1955; amended at 4 Ill. Reg. 24, p. 553, effective June 1, 1980; amended at 5 Ill. Reg. 5351, effective April 30, 1981; amended at 5 Ill. Reg. 11072, effective

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October 6, 1981; codified at 6 Ill. Reg. 9326; amended at 8 Ill. Reg. 3704, effective March 12, 1984; amended at 8 Ill. Reg. 7278, effective May 11, 1984; amended at 8 Ill. Reg. 8623, effective June 5, 1984; amended at 11 Ill. Reg. 6275, effective March 20, 1987; amended at 14 Ill. Reg. 6835, effective April 19, 1990; amended at 15 Ill. Reg. 5861, effective April 5, 1991; emergency amendment at 16 Ill. Reg. 14889, effective September 9, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 1947, effective February 2, 1993; amended at 18 Ill. Reg. 1584, effective January 13, 1994; amended at 20 Ill. Reg. 7019, effective May 7, 1996; amended at 20 Ill. Reg. 16224, effective December 16, 1996; amended at 22 Ill. Reg. 21670, effective November 25, 1998; amended at 24 Ill. Reg. 10728, effective July 7, 2000; amended at 25 Ill. Reg. 953, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1821, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 5059, effective March 23, 2001; amended at 25 Ill. Reg. 6540, effective May 3, 2001; amended at 25 Ill. Reg. 10937, effective August 13, 2001; amended at 26 Ill. Reg. 971, effective January 15, 2002; amended at 26 Ill. Reg. 9902, effective June 24, 2002; amended at 27 Ill. Reg. 1607, effective January 15, 2003; emergency amendment at 27 Ill. Reg. 11209, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; emergency amendment at 28 Ill. Reg. 15266, effective November 3, 2004, for a maximum of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 7079, effective April 26, 2005; emergency amendment at 32 Ill. Reg. 8806, effective May 29, 2008, for a maximum of 150 days; emergency expired October 25, 2008; amended at 32 Ill. Reg. 17554, effective October 24, 2008; amended at 32 Ill. Reg. 19149, effective December 1, 2008; amended at 38 Ill. Reg. 20022, effective October 1, 2014; amended at 39 Ill. Reg. 11085, effective July 21, 2015; amended at 40 Ill. Reg. 13471, effective September 12, 2016; amended at 42 Ill. Reg. 15446, effective July 27, 2018; emergency amendment at 42 Ill. Reg. 17247, effective September 11, 2018, for a maximum of 150 days; amended at 42 Ill. Reg. 23143, effective November 29, 2018; amended at 43 Ill. Reg. _____, effective _____.

SUBPART G: REGISTRATION OF OUT-OF-STATE RETAILERS

Section 150.803 Wayfair Nexus – Nexus Without Physical Presence

- a) Background. An out-of-state retailer (a "remote retailer") making sales to Illinois purchasers from locations outside Illinois is required to register with the Department and collect and remit Use Tax on those sales if it falls within the definition of a "retailer maintaining a place of business in this State" in Section 2 of the Use Tax Act [35 ILCS 105]. The Department is authorized to require these retailers to act as tax collectors because they have established sufficient contacts, or nexus, with Illinois. There are two groups of remote retailers that must collect Use Tax on sales to Illinois purchasers:

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- 1) Remote Retailers With a Physical Presence in Illinois. Prior to October 1, 2018, remote retailers must have a physical presence in Illinois before they can be required to collect Use Tax. The types of activities constituting a physical presence, as limited by the series of court cases described in this subsection (a)(1), are found in Section 2 of the Use Tax Act's definition of a "retailer maintaining a place of business in this State". (See 35 ILCS 105/2.) The physical presence requirement was established in a series of United States Supreme Court decisions. See, for example, Scripto v. Carson, 362 U.S. 207 (1960); National Bellas Hess v. Department of Revenue of the State of Illinois, 386 U.S. 753 (1967); Quill Corporation v. North Dakota, 504 U.S. 298 (1992). In 1996, the Illinois Supreme Court ruled that remote retailers need only "more than the slightest" physical presence to be required to collect Use Tax. See Brown's Furniture v. Wagner, 171 Ill. 2d 410 (1996). Any remote retailer that currently has a physical presence in Illinois will continue to be required to act as a Use Tax collector. Regulations describing these types of retailers are found at 86 Ill. Adm. Code 150.801 and 150.802.

NOTE: The provisions of this Section do not apply to remote retailers with a physical presence in Illinois.

- 2) Remote Retailers Without a Physical Presence in Illinois. In South Dakota v. Wayfair, Inc., No. 17-494 (U.S. June 21, 2018), the U.S. Supreme Court upheld a South Dakota statute that imposed tax collection obligations on remote retailers that met specific selling thresholds but had no physical presence in the state. This decision abrogated the longstanding physical presence requirement of Quill, deeming it "unsound and incorrect". Illinois P.A. 100-587 enacted nexus standards, effective October 1, 2018, that are virtually identical to those upheld in Wayfair. This Section explains the requirements for "Wayfair nexus" in Illinois.
- b) Wayfair Nexus. P.A. 100-587 requires remote retailers with no physical presence in Illinois to register and to collect and remit Use Tax, as provided in this subsection (b):
 - 1) Beginning October 1, 2018, a retailer making sales of tangible personal property to purchasers in Illinois from outside of Illinois must register with the Department and collect and remit Use Tax if:

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- A) The cumulative gross receipts from sales of tangible personal property to purchasers in Illinois are \$100,000 or more; or
- B) The retailer enters into 200 or more separate transactions for the sale of tangible personal property to purchasers in Illinois.
- 2) A retailer shall determine on a quarterly basis, ending on the last day of March, June, September, and December, whether he or she meets either of the criteria of subsection (b)(1) for the preceding 12-month period. If the retailer meets either of the criteria of subsection (b)(1) for a 12-month period, he or she is considered a retailer maintaining a place of business in Illinois and is required to collect and remit the Use Tax and file returns for one year.
- A) At the end of that one-year period, the retailer shall determine whether he or she met either of the criteria of subsection (b)(1) during the preceding 12-month period. If the retailer met either of the criteria in subsection (b)(1) for the preceding 12-month period, he or she is considered a retailer maintaining a place of business in Illinois and is required to collect and remit Use Tax and file returns for the subsequent year.
- B) If, at the end of a one-year period, a retailer that was required to collect and remit the Use Tax determines that he or she did not meet either of the criteria in subsection (b)(1) during the preceding 12-month period, the retailer shall subsequently determine on a quarterly basis, ending on the last day of March, June, September, and December, whether he or she meets either of the criteria of subsection (b)(1) for the preceding 12-month period. [35 ILCS 105/2(9)]
- c) Preliminary Evaluation of Applicability of This Section. This Section is not applicable to the specific types of remote retailers described in subsections (c)(1) and (c)(2). Remote retailers are cautioned to first evaluate these provisions to determine whether they must proceed to calculate the thresholds under subsection (c)(3).

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1) This Section applies only to remote retailers who do not have a physical presence in Illinois. While remote retailers may believe they do not have a physical presence in Illinois, they must carefully examine their activities in making this determination. Many times, such retailers actually do have a physical presence in Illinois because they maintain inventory in Illinois from which sales are filled. When sales made to Illinois purchasers are filled from Illinois inventory, these retailers incur Retailers' Occupation Tax liability on those sales (for further information on these transactions, see subsection (g)(4)). The presence of inventory in Illinois creates physical presence nexus for these remote retailers with respect to sales they make from outside Illinois that are not filled from their Illinois inventory. As a result of this physical presence nexus, they are required to collect Use Tax on sales made to Illinois purchasers from outside Illinois that are not filled from their Illinois inventory. Remote retailers that engage in these types of selling are not subject to this Section because they already have nexus through their physical presence in Illinois.

2) This Section does not apply to remote retailers who exclusively make nontaxable sales (i.e., 100% of their sales to Illinois purchasers are exempt).

EXAMPLE: If Remote Retailer A's only activities are sales of exempt manufacturing machinery and equipment to Illinois manufacturers, it is not required to register with the Department. If Remote Retailer A makes any taxable sales, however, this Section applies and it must determine whether it meets either of the thresholds in subsection (b)(1) and is required to collect Use Tax.

3) Calculation of the Number of Separate Transactions or Amount of Gross Receipts. Wayfair nexus is created if a remote retailer's cumulative gross receipts from sales of tangible personal property to purchasers in Illinois are \$100,000 or more, or if it enters into 200 or more separate transactions for the sale of tangible personal property to purchasers in Illinois.

A) "Gross receipts" means all the consideration actually received for a sale by the remote retailer. See 86 Ill. Adm. Code 130.401 for additional information regarding gross receipts.

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- B) "Illinois purchaser" means a person in Illinois who, through a sale at retail, acquires the ownership of tangible personal property for a valuable consideration. [35 ILCS 105/2]
- C) "Entering into a sale" occurs when a remote retailer has taken action that binds it to a sale. This may occur even though the tangible personal property that has been sold has not yet shipped to the purchaser.

EXAMPLE: On August 20, 2018, a remote retailer takes actions binding it to a sale that is scheduled for shipment on October 15. This sale must be included in the calculation used to determine the retailer's sales transactions for its initial lookback period (see subsection (d)(1)).

- D) "Separate transactions" means sales transactions that are documented on separate invoices, regardless of the manner in which the tangible personal property is delivered to the purchaser.

EXAMPLE 1: A purchaser orders 12 items of clothing from a remote retailer. He receives an invoice confirming his order of 12 items. However, due to a back order, 3 of the clothing items are shipped separately from the other 9 items. Shipment of the 3 back-ordered items, even with a separate shipping invoice, is not considered a separate transaction because the original transaction was invoiced as one sale.

EXAMPLE 2: A purchaser places an order of home repair tools at 8:00 a.m. from a remote retailer. She receives an invoice confirming her order at 8:15 a.m. At 2:00 p.m., the purchaser realizes she needs 5 other tools to complete the job, and orders these tools from the same remote retailer. The remote retailer confirms this order with a separate invoice. In this example, two different transactions have occurred. This is the case, even if the retailer sends all the ordered tools to the purchaser in one package.

EXAMPLE 3: A mother places an order with Company B for care packages to be delivered to her son's dormitory at 8 scheduled

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intervals during the school year. Each delivery is separately invoiced. These are counted as 8 separate transactions.

E) Remote retailers must apply the following rules governing whether a transaction should be included or excluded when determining if they meet either of the thresholds in subsection (b)(1):

i) Sales for resale must be excluded. (See 86 Ill. Adm. Code 130.201.)

EXAMPLE: Remote Retailer A makes sales of seedlings to Company B. Company B provides a resale certificate indicating that 60% of the seedlings will be sold to customers at retail (a purchase for resale) and that it will use 40% of the seedlings in its landscaping business (a purchase for use). If Remote Retailer A calculates the threshold using gross receipts, it should include only 40% of the gross receipts. If it calculates the threshold using transactions, however, the entire transaction with Company B must be included.

ii) Sales of tangible personal property that is required to be registered with an agency of this State, including motor vehicles, watercraft, aircraft, and trailers, that are made from locations outside Illinois to Illinois purchasers must be excluded. Taxes on these items will continue to be paid, as required by Section 10 of the Use Tax Act, by purchasers as a condition of titling or registering these items.

iii) Occasional sales must be excluded. (See 86 Ill. Adm. Code 130.110.) Occasional sales are not considered sales at retail. For example, a retailer that engages in selling computers and software over the Internet closes a regional office in Michigan. As part of that closure, it sells its office furniture and printing equipment on an Internet marketplace platform. Transactions and gross receipts from these sales are excluded from the calculation because they are not considered sales at retail.

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- iv) Sales made by a remote retailer that are subject to Retailers' Occupation Tax must be excluded. For example, sales made by a remote retailer at an Illinois trade show that are subject to Retailers' Occupation Tax are excluded for purposes of calculating the thresholds in subsection (b)(1).
 - v) All sales of tangible personal property, other than those excluded by this subsection (c)(3)(E), even if they are exempt from tax, must be included for purposes of calculating the thresholds in subsection (b)(1).
- d) Determination of Obligation to Begin Tax Collection on October 1, 2018; Determination of Obligation to Continue Tax Collection
- 1) In order to determine if it is required to begin collecting Use Tax on October 1, 2018 for sales made on and after October 1, 2018, a remote retailer must examine its selling activities for the period September 1, 2017 through August 31, 2018. If it met either of the thresholds in subsection (b)(1) during this period, it must register with the Department and collect Use Tax for a one-year period on sales made to Illinois purchasers on and after October 1, 2018. Filing frequency may be monthly or quarterly, as provided in accordance with regulations at 86 Ill. Adm. Code 130.501 (monthly filing applies when a retailer's average monthly tax liability exceeds \$200) and 130.502 (quarterly filing applies when a retailer's average monthly tax liability does not exceed \$200). For monthly filers, the first return for sales made in October 2018 is due on or before November 20, 2018.
 - 2) At the end of the one-year collection period in subsection (d)(1), the remote retailer must examine its sales for the year it collected Use Tax. If it determines its sales to Illinois purchasers met either of the thresholds in subsection (b)(1) during that year, it must continue to collect taxes for another year. The remote retailer must make this analysis each year thereafter that it is required to collect Use Tax.
 - 3) Alternatively, if, at the end of the one-year collection period in subsection (d)(1), the remote retailer determines that its sales to Illinois purchasers

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did not meet either of the thresholds in subsection (b)(1) during that year, it may discontinue acting as a Use Tax collector.

- A) The Department strongly recommends that remote retailers continue collecting the Use Tax as a courtesy to their Illinois purchasers, as those purchasers will still incur a Use Tax liability that they must otherwise self-assess and remit directly to the Department. Remote retailers may change their filing frequency with the Department at this time in accordance with 86 Ill. Adm. Code 130.501 (monthly, as noted in subsection (d)(1)), 130.502 (quarterly, as noted in subsection (d)(1)), or 130.510 (annual filing applies if a retailer's average monthly tax liability does not exceed \$50).
- B) If a remote retailer is no longer required to collect Use Tax and chooses to discontinue collection, it must notify the Department.
- C) If a remote retailer is no longer required to collect Use Tax and has chosen to discontinue collection, it must redetermine, on a rolling quarterly basis, whether it is obligated to once more begin collecting Use Tax. For each quarter ending on the last day of March, June, September, and December, the remote retailer must examine its sales for the immediately preceding 12-month period to determine whether it met either of the thresholds in subsection (b)(1). If it met either of those thresholds during that 12-month lookback period, it must collect Use Tax for the following 12-month period. At the end of that 12-month period, it must examine its sales as provided in subsections (d)(2) and (d)(3) to determine if it must continue to collect tax.
- e) Determination of Tax Collection Obligation of Remote Sellers that First Begin Making Sales After October 1, 2018. Remote retailers that first begin making sales to Illinois purchasers after October 1, 2018 must determine, on a quarterly basis, whether they are obligated to begin collecting tax. For each quarter ending on the last day of March, June, September, and December, the remote retailer must examine its sales for the immediately preceding 12-month period to determine whether it met either of the thresholds in subsection (b)(1). If it met either of those thresholds during that 12-month lookback period, it must collect Use Tax for the following 12-month period. At the end of that 12-month period,

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it must examine its sales as provided in subsections (d)(2) and (d)(3) to determine if it must continue to collect tax.

EXAMPLE 1: Remote Retailer A makes sales to Illinois customers beginning on November 1, 2019. At the end of December (its first quarterly period), it calculates that it made 500 sales transactions to Illinois purchasers. As a result, it is required to collect taxes on sales to Illinois purchasers for a one-year period beginning January 1, 2020 through December 31, 2020. On December 31, 2020, it must examine its sales to Illinois purchasers for the one-year lookback period beginning January 1, 2020 through December 31, 2020 to determine if it must continue to collect tax.

EXAMPLE 2: Remote Retailer A makes sales to Illinois customers beginning on December 1, 2019. At the end of December 2019 (its first quarterly period), it calculates that it has not met the selling thresholds for the previous 12-month period. Remote Retailer A is not required to begin collecting taxes at this time. At the end of March 2020 (its next quarterly period), however, it determines that it made \$200,000 in sales for the preceding 12-month period. As a result, it is required to collect taxes on sales to Illinois purchasers for a one-year period beginning April 1, 2020 through March 31, 2021. On March 31, 2021, it must examine its sales to Illinois purchasers for the one-year lookback period beginning April 1, 2020 through March 31, 2021 to determine if it must continue to collect tax.

- f) Affected Remote Retailers. Remote retailers are advised to closely examine all their activities to determine if they are required to register under the new nexus standards of P.A. 100-587. For instance, remote retailers that voluntarily collect Use Tax may become mandatory Use Tax collectors. Other remote retailers, such as telephone, television and catalog sellers, may be required to register and collect and remit Use Tax on sales to Illinois purchasers. Other types of remote retailers that may be required to register could include:
- 1) remote retailers without physical presence in Illinois who make sales to Illinois purchasers using a traditional drop-ship arrangement. (See 86 Ill. Adm. Code 130.225.)
 - 2) remote retailers without physical presence who make sales to Illinois purchasers using an Internet marketplace platform.

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- 3) remote retailers that meet the "safe harbor" rules for trade shows, but who may nonetheless meet the new Wayfair thresholds. (See 86 Ill. Adm. Code 150.802.)

EXAMPLE: Retailer A operates a booth at a trade show and meets the "safe harbor" rules for trade show attendance. Prior to October 1, 2018, it would not be required to collect Use Tax on sales made from outside Illinois to Illinois purchasers because it is not considered to have a physical presence in Illinois. On August 1, 2018, however, it determines that it has met the thresholds under this Section for collecting Use Tax on sales made from outside Illinois to Illinois customers. Beginning October 1, 2018, it is required to collect and remit Use Tax on all sales to Illinois purchasers.

NOTE: It must also remit Retailers' Occupation Tax on any sales it makes to purchasers at an Illinois trade show. (See Section 150.802 (e).)

- 4) Internet Auctioneers. 86 Ill. Adm. Code 130.1915 provides additional information regarding the tax liability of auctioneers.
- g) Tax Collection. Once a remote retailer determines it has nexus, it must register with the Department and collect and remit Use Tax on the sales it makes to Illinois purchasers from its out-of-state location. Remote retailers are subject to all provisions of the Use Tax Act and regulations promulgated under that Act. (See 86 Ill. Adm. Code 150.)
- 1) Sales made to purchasers by remote retailers from out-of-state locations are subject to the State 6.25% Use Tax (1% for qualifying low rate items; see 86 Ill. Adm. Code 130.310 and 130.311).
- 2) Illinois tax statutes do not authorize local jurisdictions, except for the City of Chicago, to impose Use Tax on general merchandise (the tax imposed by the City of Chicago is collected by the City of Chicago and not by the Department). As a result, there is no local Use Tax for remote retailers to collect on returns filed with the Department.
- 3) Illinois tax statutes only authorize local jurisdictions to impose occupation taxes upon retailers who are engaged in the business of selling tangible personal property within that jurisdiction. Activities that constitute

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"engaging in the occupation of selling tangible personal property" are described in Department regulations (for example, 86 Ill. Adm. Code 270.115). Typical examples include brick and mortar stores making over-the-counter sales. Retailers that engage in selling tangible personal property in Illinois are subject to the 6.25% State Retailers' Occupation Tax and any applicable local occupation taxes.

- 4) It is important to note that a remote retailer that incurs a Use Tax collection obligation may also make some sales that are subject to State and local retailers' occupation tax. For instance, a retailer will incur State and local retailers' occupation tax when the tangible personal property sold by the remote retailer is in an inventory in the possession of the retailer located within a jurisdiction in Illinois at the time of its sale. (See, for example, 86 Ill. Adm. Code 270.115(d)(3)(A).) As a result, remote retailers are cautioned to examine the nature of their selling operations, since some sales may be subject to State and local retailers' occupation tax.

h) Tax Distribution – Differences in Distribution of Use Tax and Retailers' Occupation Tax

- 1) Use Tax remitted by remote sellers is distributed differently than Retailers' Occupation Tax and local occupation taxes. The 1.25% local share of the State 6.25% Use Tax is deposited into the State and Local Sales Tax Reform Fund (see 30 ILCS 105/6z-17). After amounts are transferred to the Tax Compliance and Administration Fund, specific percentages are allocated to the City of Chicago, the Regional Transportation Authority Occupation and Use Tax Replacement Fund, and the Madison County Mass Transit District. Next, specific amounts are transferred into the Build Illinois Fund. The remainder of the monies are transferred into the Local Government Distributive Fund [30 ILCS 115], from which they are distributed to all municipalities and counties (except for Chicago, which is distributed as described in this subsection (h)(1)) based upon the population of each municipality or county in proportion to the total State population.
- 2) In contrast, the 1.25% local share of the 6.25% State Retailers' Occupation Tax, as well as the entire amount of locally-imposed occupation taxes, are distributed to the local taxing jurisdiction in which the selling occurred.

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The location in which selling occurs is determined in accordance with Department regulations (for example, 86 Ill. Adm. Code 270.115).

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

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- 1) Heading of Part: Cyber Navigator Program
- 2) Code Citation: 26 Ill. Adm. Code 213
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
213.10	New Section
213.20	New Section
213.30	New Section
213.40	New Section
213.50	New Section
- 4) Statutory Authority: Implements Section 1A-55 of the Illinois Election Code [10 ILCS 5/1A-55] and is authorized to adopt rulemaking by that Section.
- 5) A Complete Description of the Subjects and Issues Involved: This rule is mandated by PA 100-587, which requires the State Board of Elections to create a Cyber Navigator Program to support the efforts of Illinois' election authorities to defend against cyber breeches and detect and recover from cyber-attacks.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: The Harvard Belfer Center's State and Local Election Cybersecurity Playbook; The Center for Internet Security's handbook for Elections Infrastructure Security (published February 2018); The Center for Internet Security's CIS Controls.
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does the 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 Cyber Navigator Program will enhance the cybersecurity of the State's election infrastructure, and help protect it from cyber-attacks.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this Notice to:

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Kenneth R. Menzel, General Counsel
Illinois State Board of Elections
2329 S MacArthur Blvd.
Springfield IL 62704

217/782-4141
fax: 217/782-5959
kmenzel@elections.il.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: Cyber Navigator staff should have a familiarity with industry cybersecurity frameworks, including NIST and the CIS Controls. They should additionally have adequate technical proficiency to assist local election offices with their implementation
- 14) Small Business Impact Analysis: None
- 15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because at the time the regulatory agenda was required to be filed, this rulemaking was not anticipated.

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

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TITLE 26: ELECTIONS

CHAPTER I: STATE BOARD OF ELECTIONS

PART 213

CYBER NAVIGATOR PROGRAM

Section

213.10	General Provisions and Definitions
213.20	Infrastructure – Illinois Century Network (ICN) Connectivity
213.30	Outreach – Cyber Security Information Sharing
213.40	Personnel – Cyber Navigators
213.50	Participation in Cyber Navigator Program

AUTHORITY: Implementing and authorized by Section 1A-55 of the Election Code [10 ILCS 5/1A-55].

SOURCE: Adopted by emergency rulemaking at 42 Ill. Reg. 16769, effective August 30, 2018; emergency expired January 26, 2019; adopted at 43 Ill. Reg. _____, effective _____.

Section 213.10 General Provisions and Definitions

- a) *The State Board of Elections shall provide by rule, after at least 2 public hearings of the Board and in consultation with the election authorities, a Cyber Navigator Program to support the efforts of election authorities to defend against cyber breaches and detect and recover from cyber-attacks. The rules shall include the Board's plan to allocate any resources received in accordance with the Help America Vote Act of 2002 (HAVA) Pub. L. No. 107-252, 116 Stat. 1666 (codified at 42 USC 15301 et seq. (2002)) and provide that no less than half of any funds received shall be allocated to the Cyber Navigator Program. The Cyber Navigator Program will be designed to provide equal support to all election authorities, with allowable modifications based on need. The remaining half of the Help America Vote Act funds shall be distributed as the State Board of Elections may determine, but no grants may be made to election authorities that do not participate in the Cyber Navigator Program. (Section 1A-55 of the Code)*
- b) Definitions

"Board" – The Illinois State Board of Elections.

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"Code" – The Illinois Election Code [10 ILCS 5].

"Compromised" – The state in which a computer system, network, or data has had its integrity, availability, or confidentiality undermined by an attacker.

"Cyber" – Of, relating to, or involving computers or computer networks (such as the internet).

"Cyber Navigator" – Cybersecurity personnel directed by the State to enhance the cybersecurity posture of election jurisdictions.

"Cybersecurity" – The activity, process, ability, capability, or state by which information and communications systems and the information contained in those systems are protected from, and/or defended against, damage, unauthorized use or modification, or exploitation.

"Cybersecurity Posture" – Overall cyber security strength, particularly as it relates to the internet and vulnerability to outside threats.

"Database" – A structured set of data held in a computer, especially one that is accessible in various ways.

"Department of Innovation and Technology" or "DoIT" – The State agency with responsibility for the information technology (IT) functions of agencies under the jurisdiction of the Governor. This term also includes the agency tasked with managing the Illinois Century Network.

"EI-ISAC" – The Elections Infrastructure Information Sharing and Analysis Center.

"Illinois Century Network" or "ICN" – A service that creates and maintains high speed telecommunications networks providing communication links to and among Illinois schools, institutions of higher education, libraries, museums, research institutions, State agencies, units of local government, and other local entities providing services to Illinois citizens.

"MS-ISAC" – The Multi-State Information Sharing and Analysis Center.

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"Phishing" – The fraudulent attempt to obtain sensitive information such as usernames, password and credit card details, often for malicious reasons, by disguising as a trustworthy entity in an electronic communication.

"STIC" – The Statewide Terrorism and Intelligence Center

"Spear-phishing" – A more targeted form of phishing in which attackers first gain knowledge of their intended target and in which the intended target is a small group or individual.

"Whitelist" – A list of items that are granted access to a certain system or protocol. When a whitelist is used, all entities are denied access, except those included in the whitelist.

- c) The Board will use no less than half of the funds from the 2018 HAVA Election Security Grant to implement the Cyber Navigator Program as provided in this Part.

Section 213.20 Infrastructure – Illinois Century Network (ICN) Connectivity

- a) The Board will modify the Statewide voter registration database, including the electronic canvas transmissions, to allow for connection from local election jurisdictions via an ICN established internal network.
 - 1) The Board will make a reasonable effort for all direct connectivity to the Board's Statewide registration database to be from known whitelisted IP addresses.
 - 2) Once all jurisdictions are connected via the ICN, the Board will require all system traffic between the election jurisdiction and the Board to use private IP addressing.
- b) Each election jurisdiction participating in the Cyber Navigator Program shall connect to the Board's Statewide voter registration database via the ICN or shall enter into an agreement to connect via the ICN as soon as practicable.
- c) The Board will take the appropriate steps to establish an Interagency Agreement with DoIT to provide the election jurisdictions access to a reliable ICN connection, for the purposes outlined in this Section.

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- d) The Board shall take all reasonable steps to have DoIT provide such protective services as listed below to each election authority's connection on the ICN.
 - 1) A firewall shall be configured such that it provides protections for the election authority's connection through the ICN.
 - 2) Software shall be installed to provide protection against attempted Distributed Denial of Service Attacks (DDoS).
 - 3) Election jurisdiction connections on the ICN shall be eligible to receive DoIT's Security Operation Center (SOC) 24/7 monitoring.
 - 4) Election jurisdiction connections shall have Albert Sensor, or comparable device, intrusion detection.

Section 213.30 Outreach – Cyber Security Information Sharing

The Board shall establish an Interagency Agreement with the Illinois State Police's Statewide Terrorism and Intelligence Center (STIC) to develop a cyber security outreach and/or awareness program. The Interagency Agreement shall include the following:

- a) The Board shall hire at least one individual as the Program Manager and he/she shall:
 - 1) Work with the Cyber Navigators to compile relative information for distribution to all affected parties.
 - 2) Be assigned to STIC as the coordinator for conducting outreach to county election officials and election boards in the State of Illinois.
 - 3) Contact or meet each county election official and election board commission staff. The Program Manager shall use already established professional associations and networks to facilitate the communication.
 - 4) Identify the election official and person in charge of IT in each county and shall also identify the election board commissioners' person in charge of IT.

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- 5) Process applications for those who have a "need to know" to receive information classified as For Official Use Only. The Program Manager shall maintain a database of these persons.
 - 6) Disseminate information on "best practices" identified by DoIT or the Cyber Navigators to each county election official and election board or commission staff.
 - 7) Share cyber-related information with the county election officials, election boards, and those in charge of the IT of those officials/boards/commissions. This information will come from a variety of sources, including, but not limited to: FBI, Department of Homeland Security, MS-ISAC, STIC. The Program Manager shall identify the official's/board's/commission's information needs and ensure these requirements are being met.
 - 8) On a daily basis, research and gather information pertinent to cyber attacks and cyber resiliency. The Program Manager shall disseminate information daily by e-mail to vetted partners and produce intelligence notes based on information received from program participants by researching, validating, and analyzing the data.
 - 9) Serve as a resource to assist county election officials and election boards with information on who to contact (e.g., STIC, FBI, DHS, MS-ISAC, DoIT, and the Illinois National Guard) regarding response to cyber attacks. STIC already has relationships with these entities.
 - 10) Facilitate training webinars and conferences for information sharing.
 - 11) Provide routine administrative updates to the Board and produce an annual report assessing the effectiveness of the program.
 - 12) Be responsible for maturing the program.
 - 13) Oversee security awareness training for election authorities and their staff.
- b) Participants in the Cyber Navigator Program shall at least once per calendar year complete an online security awareness training on common areas of vulnerabilities, including spear-phishing and phishing assessments.

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- c) Data Sharing Related to a Known Compromise of an Election System
 - 1) Election authorities shall notify the Board as soon as reasonably possible in the event of a security compromise related to any of their election systems.
 - 2) The Board shall notify all election authorities as soon as reasonably possible in the event of a security compromise related to the Board's statewide registration database.

Section 213.40 Personnel – Cyber Navigators

- a) The Board shall take steps to pursue entering into an interagency agreement with DoIT to provide cyber security personnel resources for an election jurisdiction cyber assistance program. These personnel will be known as Cyber Navigators and they:
 - 1) shall work to increase election jurisdictions' cyber security posture;
 - 2) analyze system and network documentation for accuracy;
 - 3) recommend that software updates and patches are regularly applied to information systems;
 - 4) make recommendations for secure e-mail accounts and best practices regarding these accounts;
 - 5) provide guidance for anti-malware tools and their deployment on both servers and workstations;
 - 6) perform risk assessments for each election jurisdiction;
 - 7) assist jurisdictions and/or their IT departments with assessing their systems based on the Center for Internet Security's recommended procedures.
- b) The proposed interagency agreement will direct DoIT to provide 9 Cyber Navigators on a personal services contract basis for an initial 12 month "startup" phase. The ongoing need will be evaluated as the program matures. The Board

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shall pay the associated costs (payroll, travel, etc.) using 2018 HAVA Election Security Grant funds, if available. The duties of these individuals is outlined in subsection (a).

Section 213.50 Participation in Cyber Navigator Program

In order for an election authority to be eligible for funds from the 2018 HAVA Election Security Grant, the jurisdiction must participate in the Cyber Navigator Program. Election authorities participating in the Cyber Navigator Program shall submit a completed Certification of Participation in the program that must be received by the Board no later than March 15, 2019 to be eligible for funds from the 2018 HAVA Election Security Grant.

- a) Election Authority Minimum Requirements
 - 1) The election authority must utilize the ICN for connectivity to the Board as outlined in this Part or enter into an agreement to do so as soon as practicable.
 - 2) The election authority must participate in the outreach portion of the program, including:
 - A) Register with at least the Election Infrastructure EI-ISAC;
 - B) Work with the Program Manager to establish two-way data sharing; and
 - C) At least one designee from the election authority shall complete the security awareness training on at least a yearly basis as outlined in Section 213.30(b).
 - 3) The election authority shall allow the Cyber Navigators to complete a risk assessment and an analysis against the Center for Internet Security's recommended procedures.
- b) Program Manager/Cyber Navigator Requirements
 - 1) The Program Manager shall provide in writing to the Board verification for each election authority that has met its requirements as outlined in subsection (a).

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- 2) The Cyber Navigator shall provide in writing to the Program Manager verification for each election authority under review by that Navigator that has met the requirements outlined in subsection (a)(3).

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- 1) Heading of the Part: General Provisions
- 2) Code Citation: 23 Ill. Adm. Code 2700
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
2700.15	Amendment
2700.30	Amendment
2700.50	Amendment
- 4) Statutory Authority: Implementing the Higher Education Student Assistance Act [110 ILCS 947]; Title IV of the Higher Education Act of 1965, as amended (20 USC 1070 et seq., as amended by P.L. 105-244); and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)].
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being revised in three areas to implement State statutory amendments and clarify issues that have arisen during the previous year.

Specifically, language is being added to support the provisions of PA 100-926, which requires public institutions to annually provide its students or the students' parents or guardians with education loan information related to the amount of the student's or parent's borrowing.

Additionally, revisions are being made to clarify that documents acceptable as proof of Illinois residency are not limited to those listed in the rules.

Finally, the date of laws incorporated by reference is being updated.
- 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: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)] and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Jackie Eckley
Agency Rules Coordinator
Illinois Student Assistance Commission
500 West Monroe, 3rd Floor
Springfield IL 62704

217/782-5161
jackie.eckley@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: None
- 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 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSIONPART 2700
GENERAL PROVISIONS

Section

2700.10	Summary and Purpose
2700.15	Incorporations by Reference
2700.20	Definitions
2700.30	General Institutional Eligibility Requirements
2700.40	General Applicant Eligibility Requirements
2700.50	Determining Applicant Eligibility
2700.55	Use, Security and Confidentiality of Information
2700.60	Audits and Investigations
2700.70	Appeal Procedures
2700.80	Contractual Agreement Requirements

AUTHORITY: Implementing the Higher Education Student Assistance Act [110 ILCS 947]; Title IV of the Higher Education Act of 1965, as amended (20 USC 1070 et seq., as amended by P.L. 105-244); and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)].

SOURCE: Adopted at 9 Ill. Reg. 20783, effective January 1, 1986; amended at 11 Ill. Reg. 3167, effective January 29, 1987; amended at 11 Ill. Reg. 14099, effective August 10, 1987; amended at 12 Ill. Reg. 11510, effective July 1, 1988; amended at 13 Ill. Reg. 8626, effective July 1, 1989; transferred from Chapter IX, 23 Ill. Adm. Code 1700 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2700 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17854; amended at 14 Ill. Reg. 10538, effective July 1, 1990; amended at 16 Ill. Reg. 11206, effective July 1, 1992; amended at 17 Ill. Reg. 10541, effective July 1, 1993; amended at 18 Ill. Reg. 10282, effective July 1, 1994; amended at 19 Ill. Reg. 8343, effective July 1, 1995; amended at 20 Ill. Reg. 9170, effective July 1, 1996; amended at 21 Ill. Reg. 11066, effective July 18, 1997; amended at 22 Ill. Reg. 11072, effective July 1, 1998; amended at 23 Ill. Reg. 7550, effective July 1, 1999; amended at 24 Ill. Reg. 9121, effective July 1, 2000; amended at 25 Ill. Reg. 8383, effective July 1, 2001; amended at 26 Ill. Reg. 9980, effective July 1, 2002; amended at 27 Ill. Reg. 10320, effective July 1, 2003; amended at 29 Ill. Reg. 9884, effective July 1, 2005; amended at 30 Ill. Reg. 11600, effective July 1, 2006; amended at 31 Ill. Reg. 9478, effective July 1, 2007; amended at 32 Ill. Reg.

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10269, effective July 1, 2008; amended at 33 Ill. Reg. 9742, effective July 1, 2009; amended at 34 Ill. Reg. 8543, effective July 1, 2010; amended at 37 Ill. Reg. 9497, effective July 1, 2013; amended at 38 Ill. Reg. 13356, effective July 1, 2014; amended at 39 Ill. Reg. 8390, effective July 1, 2015; amended at 40 Ill. Reg. 1963, effective January 7, 2016; amended at 43 Ill. Reg. _____, effective _____.

Section 2700.15 Incorporations by Reference

- a) The Commission incorporates by reference 34 CFR 600, 668, 674, 675, 676, 682, 685 and 690 (July 1, ~~2019~~2014). No incorporation by reference in this Section includes any later amendment or edition beyond the date stated. The Code of Federal Regulations is available online.
- b) Copies of the appropriate material are available for inspection at the Illinois Student Assistance Commission offices at:

1755 Lake Cook Road, Deerfield IL 60015-5209

500 West Monroe, Springfield IL 62704-1876

100 West Randolph, Suite 3-200, Chicago IL 60601-3219

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

Section 2700.30 General Institutional Eligibility Requirements

- a) ISAC Program Participation Agreement
 - 1) All institutions shall execute an ISAC Program Participation Agreement in order to participate in ISAC gift assistance programs.
 - 2) The ISAC Program Participation Agreement shall identify the ISAC programs under which the institution's students may receive benefits.
 - 3) The ISAC Program Participation Agreement shall include provisions requiring institutions to comply with statutes, federal regulations and State rules.
 - 4) The ISAC Program Participation Agreement may be modified or

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terminated in accordance with 23 Ill. Adm. Code 2790, Limitation, Suspension or Termination Proceedings.

- b) With respect to ISAC student assistance programs, institutions shall develop and maintain procedures to verify the consistency and accuracy of information received from their enrolled recipients.
- c) Institutions shall be subject to possible limitation, suspension or termination of eligibility for failure to comply with statutes, regulations, rules or procedures and for failure to maintain the standards required by this Section for initial participation. (See 23 Ill. Adm. Code 2790.)
- d) Postsecondary institutions that participate in gift assistance programs shall annually submit to ISAC a copy of their tuition refund policy. [TheSueh](#) submissions shall not be considered ISAC approval of [thesueh](#) policies.
- e) Postsecondary institutions that participate in MAP are required to have in place or establish a program, determined by the institution, that is intended to improve MAP recipients' success, retention and completion in higher education at that institution. Institutions shall annually submit to ISAC retention, completion and graduation rate data as well as advising and support program information. This information is intended to enhance ISAC's ability to evaluate and improve MAP effectiveness.
- f) Postsecondary institutions that participate in gift assistance programs shall annually report their tuition and fee charges, as well as initial MAP advance payment requests, to ISAC on or before June 1 preceding each academic year.
 - 1) Failure to report any cost changes by the deadline will cause the prior year's charges to be used as part of the calculation process for gift assistance benefits. Failure to report the assessment of a fee charge by the deadline will result in that fee charge being ineligible for payment under ISAC gift assistance programs.
 - 2) The report shall match specific fee charges with the gift assistance programs that may finance the fee. [TheseSueh](#) categorizations by the institution shall not be considered ISAC approval.
 - 3) The Illinois National Guard Grant and the Illinois Veteran Grant (IVG)

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Programs may finance only a portion of certain fee charges. (See 23 Ill. Adm. Code 2730.30(a) and 2733.30(e).)

- A) Example: One fee finances both tuition and text book expenses. Only the portion of the fee that is attributable to tuition expenses may be financed with program benefits.
 - B) Institutions with such a fee shall certify what percentage of the fee is eligible to be financed with program benefits. Certification shall be performed by the institution's chief fiscal officer.
- g) Institutions shall submit additional reports, data and information to ISAC as may be requested. These inquiries include, but are not limited to, surveys, enrollment confirmations and evaluation instruments.
- h) Annually Provided Information
- 1) Public universities or community colleges that enroll students who are eligible to receive financial aid, and that receive education loan information for a student enrolled in that institution, are required to annually (on a date determined by the institution) provide to the student or parent or guardian (whichever may be appropriate based on adherence to applicable privacy laws) the following information:
 - A) an estimate of the total amount of education loans taken out by the student or parent or guardian;
 - B) an estimate of the potential payoff amount of the incurred education loans or a range of the total payoff amount, and monthly repayment amounts that a similarly situated borrower may incur for the amount of loans the student or the parent or the guardian has taken out at the time the information is provided, including principal and interest amounts;
 - C) the percentage of the borrowing limit the student or parent or guardian has reached at the time the information is provided; and
 - D) any financial resources available to the student or the parent or guardian.

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- 2) *The information provided under this subsection (h) may include a statement that the estimates and ranges are general in nature and are not meant as a guarantee or promise of the actual projected amount.*
- 3) *In this subsection (h) education loan means any State or federal education loan or other loan that is used primarily to finance a postsecondary education and cost of attendance at a public university or community college. [110 ILCS 947/83]*
- i) Additional institutional eligibility requirements are contained in subsequent Parts of ISAC's rules.
- ii) Postsecondary institutions may apply to participate in ISAC-guaranteed loan programs in accordance with 23 Ill. Adm. Code 2720.
- kj) Postsecondary institutions may apply to participate in ISAC gift assistance programs in accordance with this subsection (kj).
- 1) The Commission approves participation in ISAC gift assistance programs for an institution rather than for specific academic programs within an institution.
- 2) Prior to applying for participation in ISAC gift assistance programs, the institutional applicant must have authority to operate a postsecondary institution in Illinois. (See 23 Ill. Adm. Code 1030.)
- 3) Institutional applicants that are fully accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools and have degree-granting authority may be approved to participate in ISAC gift assistance programs provided the institution meets and maintains the requirements of subsections (kj)(4)(C) and (D).
- 4) Public or private not for profit institutional applicants that do not meet the requirements of subsection (kj)(3) may be approved to participate in ISAC gift assistance programs if the institution has:
- A) obtained candidate status for the Higher Learning Commission of the North Central Association of Colleges and Schools

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accreditation.

- B) applied for and is seeking degree-granting authority.
 - C) obtained at least 3 letters indicating the transferability of academic credit from the applicant institution to other institutions. The letters must be from institutions that are approved to participate in the Monetary Award Program (MAP) and are accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools.
 - D) an adequate number of qualified persons to administer their responsibilities under ISAC's rules for gift assistance programs. In determining whether an institution employs an adequate number of qualified persons, the Commission considers the number of students aided, the number of programs in which the institution participates, the number of applications evaluated, the amount of funds administered, and the financial aid delivery system used by the institution.
- 5) Institutional applicants must also supply ISAC with audited financial statements, prepared by an independent third party in accordance with generally accepted accounting principles, to establish financial responsibility. (See, e.g., 34 CFR 668.15.)
- 6) Once approved to participate in ISAC gift assistance programs by the Commission, an institution shall receive provisional eligibility for a minimum of 5 academic years. An institution with provisional eligibility must petition the Commission for full eligibility. Full eligibility will be granted if the institution meets the requirements of subsection (k)(3) and if there are no outstanding audit exceptions.
- l) As a condition of eligibility for participation in ISAC student assistance programs, postsecondary institutions shall have a valid Program Participation Agreement with ED (see section 487 of the HEA (20 USC 1094)) and shall report their Office of Postsecondary Education Identification (OPE-ID) number to ISAC.
- m) In order to begin and to continue participation in ISAC-administered student assistance programs, institutions must also demonstrate administrative capability

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and financial responsibility, as defined by federal regulations. (See, e.g., 34 CFR 668.15 and 668.16.) An institution's failure to meet and maintain those standards can lead to limitation, suspension or termination proceedings. (See 23 Ill. Adm. Code 2790.)

- nm) Institutions that have been assigned multiple main OPE-ID numbers will be considered separate entities by ISAC. Different campus codes associated with the same main OPE-ID number will not be considered separate entities.
- on) An institution shall notify ISAC of its Federal Employer Identification Number (FEIN) in order to receive payment pursuant to any ISAC-administered program.
- pe) When an approved institution has a change of ownership resulting in a change of control, a change of location, or a change of name as defined by federal regulations, the institution's Program Participation Agreement with ED may be terminated. After an institution has undergone a change of status affecting its participation in any Title IV federal student financial aid programs, the institution may have its eligibility with ISAC reinstated by the execution of a new Program Participation Agreement with ED (see, e.g., 34 CFR 600.31 et seq.) and by the submission and Commission approval of a new application for participation with ISAC.

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

Section 2700.50 Determining Applicant Eligibility

- a) The evaluation of applicant eligibility is the responsibility of both ISAC and the institution.
- b) No applicant is announced eligible for assistance by ISAC unless the application establishes prima facie eligibility. ISAC consults with other appropriate State and federal agencies in the process of reviewing application data. These agencies include, but are not limited to, the U.S. Department of Education (ED), U.S. Internal Revenue Service (IRS), U.S. Citizenship and Immigration Services ~~Bureau~~(USCIS), Illinois Department of Healthcare and Family Services, Illinois Department of Revenue, and Illinois Department of Children and Family Services.

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- c) Institutions shall determine (in accordance with ISAC's rules or federal regulations) whether an applicant is eligible for ISAC gift assistance based upon enrollment in a particular academic program and the eligibility criteria of the ISAC gift assistance being sought.
- d) Specific eligibility criteria for each ISAC gift assistance program can be found in its respective Section of this Part.
- e) The institution is required to verify the residency of all applicants to ISAC gift assistance programs for which Illinois residency is a requirement.
 - 1) An institution is not required to verify residency if:
 - A) The applicant received payment of a MAP award during the previous academic year; or
 - B) The applicant was enrolled in an ISAC-approved MAP institution or an ISAC-approved Illinois high school (see Section 2700.30) for the preceding consecutive 12 months prior to the start of the academic year for which assistance is requested.
 - 2) Notwithstanding the exceptions named in subsection (e)(1), the institution shall verify residency:
 - A) When an applicant has changed dependency status during the academic year to become an independent student; or
 - B) If the institution has any information that indicates the applicant may not be a resident of Illinois.
 - 3) Data from one or more of the documents listed in this subsection (e)(3) may provide proof that an applicant (or parent) is an Illinois resident, as defined in Section 2700.20. The institution may choose to request documents that are in addition to, or instead of, those listed. For an independent student applicant, the dates recorded on the documents must indicate the applicant has resided in Illinois for the relevant 12 continuous, full months.
 - A) A valid State of Illinois tax return or federal tax transcript

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- B) Illinois high school or college transcript
 - C) Illinois driver's license
 - D) Utility or rent bills in the applicant's (or parent's) name
 - E) Illinois auto registration card
 - F) Residential lease in the applicant's (or parent's) name
 - G) Wage and tax statements (IRS Form W-2)
 - H) Statement of benefits history from the Illinois Department of Healthcare and Family Services
 - I) State of Illinois identification card issued by the Secretary of State
 - J) Statement of benefits from the Illinois Department of Employment Security
 - K) Statement of benefits from the Social Security Administration
 - L) Illinois voter's registration card
 - M) Property tax bill
 - N) IRS Form 1099-Miscellaneous Income Statements
- 4) If an applicant is a resident of Illinois, but the institution cannot document this fact, the applicant or the institution may verify residency through ISAC's appeal process. (See Section 2700.70.)
- f) For all other eligibility criteria, if the institution has any information that indicates that the applicant does not meet the eligibility requirements of ISAC-administered programs, or if an applicant is selected for verification in conjunction with federal student assistance, that applicant shall be verified for ISAC-administered programs. A selected applicant must be verified for ISAC programs even if the applicant is ineligible for federal student assistance.

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- g) By requesting payment for ISAC gift assistance programs, the postsecondary institution is certifying that the applicants are eligible for the assistance being sought.
- h) If an institution subsequently determines a student is no longer eligible for all or part of the awarded assistance, the institution must inform ISAC and submit the appropriate refund within 60 days after the receipt of payment or the end of a term, whichever is later.
- i) Institutions may request first term payment even though verification is not yet complete. If, after verification, an ISAC payment adjustment is appropriate, institutions must submit the appropriate refund. If verification is not completed within 60 days after the conclusion of the regular school year, the institution shall return the first term payment to ISAC. For other than the first term of eligibility in an academic year, the verification process must be completed before the institution may request payment.
- j) When an institution adjusts an applicant's eligibility pursuant to Title IV, Part F, of the Higher Education Act of 1965, as amended (20 USC 1087kk et seq.), the institution shall retain documentation that demonstrates the appropriateness of the adjustment.
- k) If an institution erroneously certifies an applicant to be eligible, or a student is otherwise determined to be ineligible for ISAC gift assistance programs, ISAC will recover the erroneous payment from the institution.

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

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- 1) Heading of the Part: Monetary Award Program (MAP)
- 2) Code Citation: 23 Ill. Adm. Code 2735
- 3) Section Number: 2735.30 Proposed Action: Amendment
- 4) Statutory Authority: Implementing Section 35 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/35 and 20(f)].
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being revised to more accurately reflect the processing cycle for MAP. Additionally, language is being added to respond to legislation (PA 100-823), which requires ISAC to annually publish a priority deadline date for renewing applicants to ensure those applicants receive a grant.
- 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 rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)] and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Jackie Eckley
Agency Rules Coordinator
Illinois Student Assistance Commission
500 West Monroe, 3rd Floor

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

Springfield IL 62704

217/782-5161

jackie.eckley@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: None
- 15) Regulatory Agenda on which this rulemaking was summarized: January 2019

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSIONPART 2735
MONETARY AWARD PROGRAM (MAP)

Section

2735.10	Summary and Purpose
2735.20	Applicant Eligibility
2735.30	Program Procedures
2735.35	Dislocated Workers
2735.40	Institutional Procedures
2735.50	Advance Payment Option
2735.60	Contractual Agreement Requirements (Repealed)

2735.APPENDIX A Advance Payment Formula

AUTHORITY: Implementing Section 35 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/35 and 20(f)].

SOURCE: Adopted at 9 Ill. Reg. 20857, effective January 1, 1986; amended at 11 Ill. Reg. 3225, effective January 29, 1987; amended at 11 Ill. Reg. 14134, effective August 10, 1987; amended at 12 Ill. Reg. 11546, effective July 1, 1988; transferred from Chapter IX, 23 Ill. Adm. Code 1735 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2735 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17864; amended at 14 Ill. Reg. 7242, effective May 1, 1990, amended at 16 Ill. Reg. 11296, effective July 1, 1992; emergency amendment at 16 Ill. Reg. 19237, effective November 23, 1992, for a maximum of 150 days; emergency expired on April 22, 1993; emergency amendment at 17 Ill. Reg. 6672, effective April 15, 1993, for a maximum of 150 days; emergency expired on September 18, 1993; amended at 17 Ill. Reg. 10596, effective July 1, 1993; amended at 17 Ill. Reg. 22576, effective January 1, 1994; amended at 19 Ill. Reg. 8369, effective July 1, 1995; amended at 20 Ill. Reg. 9227, effective July 1, 1996; old Part repealed, new Part adopted at 21 Ill. Reg. 11184, effective July 18, 1997; amended at 22 Ill. Reg. 11149, effective July 1, 1998; amended at 23 Ill. Reg. 7592, effective July 1, 1999; amended at 24 Ill. Reg. 9187, effective July 1, 2000; amended at 25 Ill. Reg. 8424, effective July 1, 2001; amended at 26 Ill. Reg. 10024, effective July 1, 2002; amended at 27 Ill. Reg. 10349, effective July 1, 2003; amended at 28 Ill. Reg. 10043, effective July 15, 2004; amended at 29 Ill. Reg. 9920, effective July 1, 2005; amended at 30 Ill. Reg. 11654, effective July 1, 2006; amended at 36 Ill. Reg. 9432, effective

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July 1, 2012; amended at 37 Ill. Reg. 9528, effective July 1, 2013; amended at 39 Ill. Reg. 8434, effective July 1, 2015; amended at 43 Ill. Reg. _____, effective _____.

Section 2735.30 Program Procedures

- a) An application for a MAP grant must be submitted annually. An applicant uses the form which the United States Department of Education (ED) designates as an application form for federal student financial aid. (See ~~section~~Section 483 of the Higher Education Act of 1965, as amended (20 USC 1070a).)
- b) Applicants, spouses and the parents of applicants are required to submit financial information on the application that will be kept confidential, regarding income, asset value and non-taxable income.
- c) ~~Priority~~ Deadline Date for Renewing Applicants~~Consideration Dates~~
No later than September 30, the Commission will annually publish a priority deadline date for renewing applicants. In this subsection (c), renewing applicant means a student attending an institution of higher learning who received a MAP grant during the prior academic year. [110 ILCS 947/35] Subject to appropriation, a renewing applicant who files by the published priority deadline date shall receive a grant if he or she continues to meet the program's eligibility requirements under this Section. A renewing applicant's failure to apply by the priority deadline date would not disqualify an applicant from receiving a grant if sufficient funding is available to provide awards after that date. In order to receive priority consideration for a full year award, an application from a student who had applied for a MAP grant for the previous regular school year must have a FAFSA receipt date of no later than August 15 of, or immediately prior to, the regular school year for which the application is being made. In order to receive priority consideration for a full year award, an application from a student who had not applied for a MAP grant for the previous regular school year must have a FAFSA receipt date of no later than September 30 of the regular school year for which the application is being made.
- d) Priority Processing Guidelines
 - 1) ~~Students who file applications will be considered for full or partial year MAP awards based on available funds and the following:~~
 - A) ~~For applications with a FAFSA receipt date of no later than August~~

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~~15 of or preceding the regular school year for which assistance is being requested, students who had not applied for a MAP award the previous regular school year and students who did apply for a MAP award the previous regular school year will both be considered for full year awards;~~

~~B) For applications with a FAFSA receipt date of August 16 or later, but no later than September 30, students who had not applied for MAP awards the previous regular school year will be considered for full year awards; while students who did apply for a MAP award the previous regular school year will be considered for second semester or second and third quarter awards only;~~

~~C) For applications with a FAFSA receipt date of October 1 or later, and until the date of final suspension of award announcements for that regular school year, all students will be considered for second semester/second and third quarter awards only.~~

- ~~d2) Awards~~ During the time periods referenced above, awards will be announced concurrently, both to students who had not ~~received~~ applied for a MAP award the previous regular school year and to students who did ~~receive~~ apply for a MAP award during the previous regular school year. Award announcements will be made concurrently through the date of suspension of award announcements.
- ~~e3) If it becomes necessary to suspend the processing of award announcements in order to remain within appropriated funding levels, the suspension will be applied concurrently to students who had not ~~received~~ applied for a MAP award for the previous regular school year and to students who did ~~receive~~ apply for a MAP award the previous regular school year.~~
- ~~f4) Corrections to applications received prior to the final suspension of award announcements will be processed and announced up to two months after the final suspension date or until the completion of the processing cycle, whichever comes first.~~
- ~~e) Students eligible for second semester/second and third quarter awards who have a FAFSA receipt date of August 16 or later and who are graduating mid-year may request that their second semester/second or third quarter award be used for first semester/quarter.~~

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- f) ~~To the extent necessary to administer the program within the limits of the MAP appropriation, the Commission may adjust the priority consideration dates and the priority processing guidelines established by this Section.~~
- g) When an application is incomplete, a notice will be sent to the applicant. The applicant then has an opportunity to furnish the missing information; however, depending on processing schedules, the applicant may be considered only for subsequent term awards.
- h) Applicants are informed that they are MAP recipients on the basis of application data supplied to ISAC. ISAC will recalculate awards for those applicants whose applications are not in basic agreement with their financial records, after receipt of corrected data. All announced MAP recipients are subject to verification.
- i) The Commission shall annually establish and publicize guidelines for the release of or increase in MAP awards as additional funds become available.
- j) MAP grants are applicable only toward tuition and mandatory fees. MAP grants may not exceed the:
- 1) maximum award specified at [Section 35\(c\) of the Higher Education Student Assistance Act \[110 ILCS 947\]](#)/~~35(e)~~; or
 - 2) institution's tuition and mandatory fee charges on file with ISAC.
- k) The maximum MAP grant available to a recipient attending a public community college is limited to the in-district tuition and mandatory fees. It is the recipient's responsibility to make arrangements to pay the additional costs incurred as an out-of-district student.
- l) For each credit hour of MAP benefits paid on behalf of the recipient, the recipient will be assessed one MAP paid credit hour toward his or her maximum usage. For each credit hour used, payment will be made to the school on behalf of the recipient in an amount equal to $\frac{1}{15}$ of the student's calculated term award amount, with a minimum of three hours and a maximum of 15 hours paid per term.
- m) A recipient may receive the equivalent of 135 semester credit hours of MAP benefits paid. Eligibility may be extended for one additional term if the recipient

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has accumulated fewer than 135 MAP paid credit hours but does not have enough credit hours of payment remaining for the number of hours for which he or she is enrolled for the term.

- n) A recipient may use no more than 75 MAP paid credit hours while enrolled at the freshman or sophomore level. Eligibility may be extended for one additional term at the freshman or sophomore level if the recipient has accumulated fewer than 75 MAP paid credit hours, but does not have enough credit hours of payment remaining for the number of hours for which he or she is enrolled for the term. Upon progressing to the junior level or above, the recipient may use the remaining balance of MAP paid credit hours, up to the 135 credit hour maximum.
- o) The MAP grant shall not pay for academic programs intended to prepare a student for the high school equivalency certificate or for a high school diploma.
- p) The MAP grant shall not pay for audit courses, credit-by-examination and/or life experience, graduate-level courses leading to a degree above the baccalaureate level, or noncredit course offerings (except qualifying remedial courses). Remedial courses shall be eligible for MAP payment provided the student has been accepted into an eligible degree/certificate program and is taking the remedial courses as part of that program. Payment shall not be made for more than the equivalent of one year of remedial course work (i.e., 30 semester hours or 45 quarter hours).
- q) The MAP grant may be used by students repeating previously passed courses for the first time. The MAP grant may not be used for courses that a student has previously passed two or more times.
- r) If a recipient withdraws from enrollment after the expiration of the tuition refund/withdrawal adjustment period, the recipient shall receive MAP grant payment for tuition and mandatory fee costs incurred up to the term award provided the institution's tuition refund policy indicates the recipient has incurred charges in the amount of the claim.
- s) MAP paid credit hours are assessed to a recipient whenever MAP funds are disbursed on behalf of the recipient.
- t) MAP grant payment is subject to the limits of dollars appropriated to ISAC by the General Assembly.

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- u) It is the responsibility of MAP recipients to gain admission to approved Illinois institutions of higher learning. Illinois institutions of higher learning are not obligated to admit MAP recipients. The institution is obligated to provide MAP recipients the same facilities and instruction, on the same terms, as are provided to other students.

- v) If a recipient's academic program involves out-of-state and/or foreign study, subsection (j) applies and enrollment must be in accordance with ~~subsection (j)~~ and the following provisions:
 - 1) The recipient must be enrolled at the ISAC-approved institution of higher learning, and the out-of-state/foreign study must be applicable to the student's degree or certificate program at the student's institution of record.

 - 2) The ISAC-approved institution of higher learning must record the course credits on the official academic transcript as institutionally earned credit and not as transfer credit.

 - 3) An institution shall not request more than two semesters/three quarters of MAP assistance for any one qualified applicant enrolled on a full-time basis, or four semesters/six quarters of MAP for an applicant-enrolled on a half-time basis.

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

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NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Community Behavioral Health Care Professional Loan Repayment Program
- 2) Code Citation: 23 Ill. Adm. Code 2753
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
2753.10	New Section
2753.15	New Section
2753.20	New Section
2753.30	New Section
- 4) Statutory Authority: Implementing the Community Behavioral Health Care Professional Loan Repayment Act [110 ILCS 996] and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)].
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being added in response to the creation of a new program resulting from legislation during the spring 2018 session of the Illinois General Assembly (PA 100-862).
- 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 rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)] and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED RULES

Jackie Eckley
Agency Rules Coordinator
Illinois Student Assistance Commission
500 West Monroe, 3rd Floor
Springfield IL 62704

217/782-5161
jackie.eckley@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: None
- 15) Regulatory Agenda on which this rulemaking was summarized: January 2019

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED RULES

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSIONPART 2753
COMMUNITY BEHAVIORAL HEALTH CARE PROFESSIONAL
LOAN REPAYMENT PROGRAM

Section	
2753.10	Summary and Purpose
2753.15	Definitions
2753.20	Applicant Eligibility
2753.30	Program Procedures

AUTHORITY: Implementing the Community Behavioral Health Care Professional Loan Repayment Program Act [110 ILCS 996] and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947].

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

Section 2753.10 Summary and Purpose

- a) *The Community Behavioral Health Care Professional Loan Repayment Program is intended to provide loan repayment assistance to qualified mental health and substance abuse professionals in an effort to recruit and retain them to practice in underserved or rural areas and to address this State's community-based behavioral health care workforce shortage that causes disparities in access to critical mental health and substance use services. [110 ILCS 996/5]*
- b) This Part governs the Community Behavioral Health Care Professional Loan Repayment Program. Additional rules and definitions are contained in General Provisions (23 Ill. Adm. Code 2700).

Section 2753.15 Definitions

"Physician" means a person licensed by this State to practice medicine in all its branches and includes any person holding a temporary license, as provided in the Medical Practice Act of 1987 [225 ILCS 60].

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"Psychiatrist" or "Licensed Psychiatrist" means a physician who has successfully completed a residency program in psychiatry accredited by either the Accreditation Council for Graduate Medical Education or the American Osteopathic Association. [110 ILCS 996/10]

"Health Professional Shortage Area" or "HPSA" means the geographical area in the State of Illinois that the U.S. Department of Health and Human Services has designated as an area that has a shortage of mental health professionals.

"HPSA Database" means a searchable database provided by the U.S. Health Resources & Services Administration (HRSA) that allows the user to find data regarding designated HPSAs and their relative shortage areas.

Section 2753.20 Applicant Eligibility

A qualified applicant shall be:

- a) a resident of Illinois;
- b) a United States citizen or eligible noncitizen;
- c) a borrower with an outstanding balance due on an eligible educational loan;
- d) an individual who is not in default on a federally guaranteed educational loan and does not owe a refund on a grant or scholarship program administered by ISAC;
- e) a qualifying behavioral health professional who meets licensing requirements of the Department of Financial and Professional Regulation or certification as a Certified Alcohol and Drug Counselor from the Illinois Alcoholism and Other Drug Abuse Professional Certification Association;
- f) *an individual who, for at least 12 consecutive months prior to applying for the grant, has worked as a behavioral health professional in a community mental health center in an underserved or rural mental HPSA; and*
- g) *an individual who, for each year during which a grant is received, fulfills a separate 12 month period as a behavioral health professional in a community mental health center in an underserved or rural mental HPSA. [110 ILCS 996/30]*

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Section 2753.30 Program Procedures

- a) Eligible educational loans include:
 - 1) Stafford Loans;
 - 2) Perkins Loans;
 - 3) Graduate PLUS Loans;
 - 4) consolidation loans;
 - 5) medical student loans;
 - 6) Supplemental Loans for Students;
 - 7) alternative loans; and
 - 8) other types of government and institutional loans used for education expenses.

- b) Non-eligible loans include:
 - 1) credit card payments;
 - 2) Parent PLUS Loans;
 - 3) loans that have been paid in full;
 - 4) loans from lending institutions that are not governed by State or federal regulations or loans from individuals or family members;
 - 5) any portion of a consolidated loan that cannot be directly attributed to the applicant; and
 - 6) non-education loans, such as home equity loans.

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- c) All applicants annually must complete an ISAC application for the loan repayment program.
 - 1) Applications are available on ISAC's website and at ISAC's Springfield, Deerfield and Chicago offices.
 - 2) If the application is incomplete, ISAC will notify the applicant, who will have an opportunity to furnish the missing information. The application will only be considered for processing as of the date the application is complete and received at ISAC's Deerfield office. No applications will be considered for processing if received after the published date unless funds remain available for disbursement.
 - 3) Renewal applicants may be required to submit a history of prior awards in order to show program proceeds do not exceed the total amount of outstanding eligible educational loans, including award proceeds received that were not used to repay educational loans.
- d) Grant assistance under this program may be received for up to 4 years.
- e) ISAC shall select the recipients from among those who have submitted complete applications, including qualified new applicants and those who filed timely renewal applications and have supplied information required in subsection (c).
- f) The total number of grants awarded in a given fiscal year and the amount of each award as limited by subsection (g) is contingent upon available funding. If funding is insufficient to pay all eligible applicants, awarding will be determined in the following order:
 - 1) renewal applicants;
 - 2) new applicants, whose awards shall be divided based on the applicant pool between rural and underserved areas of the State;
 - 3) using the mental HPSA database to rank eligible applicants in each area (rural and underserved), a priority shall be given to applicants in the areas that have the highest degree of shortage (score) for that applicant's profession.

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- A) If an applicant works for an organization located in a mental HPSA that has satellite clinics and the applicant works in more than one of the clinics, the highest mental HPSA score where the applicant works shall apply.
 - B) If an applicant works for different employers in multiple mental HPSAs having different degrees of shortage, the location having the highest mental HPSA score shall apply.
- 4) Applications shall be given consideration in the order in which they were received in each of the foregoing categories.
- g) The amount repaid by ISAC to the grantee shall be no more than the borrower's remaining balance on all eligible educational loans minus any grant payment made under this Part that was not used to pay the loan holder and shall not exceed:
- 1) \$35,000 per year for a psychiatrist;
 - 2) \$15,000 per year for an advanced practice registered nurse or a physician assistant;
 - 3) \$12,000 per year for a psychologist who holds a doctoral degree;
 - 4) \$6,500 per year for a licensed clinical social worker or a licensed clinical professional counselor; and
 - 5) \$2,500 per year for a substance use professional.
- h) Proceeds will be remitted directly to the holder of the loans to be repaid when the beneficiary designates ISAC as his or her disbursing agent for this purpose.
- i) The recipient and loan holder shall submit information for eligible educational loans in sufficient time for ISAC to make payments for each year in which the funds are awarded.
- j) If the recipient's loan holder receives an overpayment, the loan holder shall return the amount of the overage to ISAC. A supplemental request must be made by the recipient and processed by ISAC for any funds to be paid to another holder.

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- k) When multiple loans are held by a single lending institution, the loan holder shall distribute the payment to one loan until paid in full.
- l) When possible, all loans held at a single lending institution shall be paid in full before monies are distributed to another loan holder.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Nurse Educator Loan Repayment Program
- 2) Code Citation: 23 Ill. Adm. Code 2758
- 3) Section Number: 2758.20 Proposed Action: Amendment
- 4) Statutory Authority: Implementing Article 10 of the Nurse Educator Assistance Act [110 ILCS 967/10] and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947 and 20(f)].
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being revised to clarify the time period necessary to fulfill the eligibility requirement of nursing instruction.
- 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 rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)] and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Jackie Eckley
Agency Rules Coordinator
Illinois Student Assistance Commission
500 West Monroe, 3rd Floor

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

Springfield IL 62704

217/782-5161

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- 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: January 2019

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSIONPART 2758
NURSE EDUCATOR LOAN REPAYMENT PROGRAM

Section

2758.10	Summary and Purpose
2758.20	Applicant Eligibility
2758.30	Program Procedures

AUTHORITY: Implementing Article 10 of the Nurse Educator Assistance Act [110 ILCS 967] and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947].

SOURCE: Adopted at 31 Ill. Reg. 9510, effective July 1, 2007; amended at 43 Ill. Reg. _____, effective _____.

Section 2758.20 Applicant Eligibility

- a) A qualified applicant shall be:
 - 1) a resident of Illinois;
 - 2) a United States citizen or eligible noncitizen;
 - 3) a nurse educator who, for each year during which repayment is received, fulfills a separate 12 month period~~recipient who has worked as a nurse educator~~ instructing practical or professional nurses in an approved Illinois institution ~~for at least the past 12 consecutive months prior to the date of each application for the program;~~
 - 4) a borrower with an outstanding balance due on an eligible educational loan;
 - 5) an applicant who is not in default on a federal guaranteed educational loan or owes a refund on a grant or scholarship program administered by ISAC; and

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- 6) a nurse educator who meets licensing requirements of the Department of Financial and Professional Regulation.

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

ILLINOIS BOARD OF HIGHER EDUCATION

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- 1) Heading of the Part: Tuition and Fee Waiver Guidelines
- 2) Code Citation: 23 Ill. Adm. Code 1075
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
1075.100	Amendment
1075.500	Amendment
1075.700	Repealed
- 4) Statutory Authority: Implementing Section 9.29 and authorized by Section 9.05 of the Board of Higher Education Act [110 ILCS 205/9.29 and 9.05] as amended by PA 100-824, effective August 13, 2018.
- 5) Effective Date of Rules: January 24, 2019
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? The rulemaking does not include incorporation by reference pursuant to Section 5-75 of the Illinois Administrative Procedure Act.
- 8) A copy of the adopted rulemaking is on file in the Board of Higher Education's office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 17980, 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 the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No

ILLINOIS BOARD OF HIGHER EDUCATION

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- 15) Summary and Purpose of Rulemaking: To amend the existing rules to implement recent amendments to the Board of Higher Education Act. PA 100-824 prohibits the Board from limiting the amount of tuition revenue that a public university may waive each year.
- 16) Information and questions regarding these adopted rules shall be directed to:

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

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

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

ILLINOIS BOARD OF HIGHER EDUCATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER II: BOARD OF HIGHER EDUCATION

PART 1075

TUITION AND FEE WAIVER GUIDELINES

Section

1075.100	Purpose
1075.200	Definitions
1075.300	Waiver Accounting Classifications
1075.400	Fiscal Year Reporting
1075.500	Standard Tuition and Fee Waiver Chart of Accounts
1075.600	Institutional Requirements
1075.700	Waiver Limits (Repealed)

AUTHORITY: Implementing Section 9.29 and authorized by Section 9.05 of the Board of Higher Education Act [110 ILCS 205].

SOURCE: Adopted at 31 Ill. Reg. 3134, effective February 7, 2007; amended at 33 Ill. Reg. 17329, effective December 8, 2009; amended at 43 Ill. Reg. 1775, effective January 24, 2019.

Section 1075.100 Purpose

This Part provides uniform tuition and fee waiver definitions and guidelines to be used by all Illinois public universities in reporting tuition and fee waivers to the Board of Higher Education and the Illinois General Assembly. ~~In addition, this Part sets forth the undergraduate waiver limitation policies established by the Board of Higher Education.~~

(Source: Amended at 43 Ill. Reg. 1775, effective January 24, 2019)

Section 1075.500 Standard Tuition and Fee Waiver Chart of Accounts

Institutions must report waivers to the Board and Illinois General Assembly using the following waiver categories. The Board must approve all university requests for additional waiver reporting categories.

- a) Mandatory Waivers shall be granted in accordance with the following statutes:

ILLINOIS BOARD OF HIGHER EDUCATION

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- 1) Teachers Scholarships: Special Education Grants [110 ILCS 947/65.15]
 - 2) General Assembly Scholarships [105 ILCS 5/30-9]
 - 3) Reserve Officers' Training Corps Scholarships [105 ILCS 5/30-~~16.146~~]
 - 4) Department of Children and Family Services Scholarships and Fee Waiver [20 ILCS 505/8]
 - 5) Partial Tuition Waivers for Children of University Employees [110 ILCS 305/7f, ~~520/8f~~, 660/5-90, 665/10-~~9094~~, 670/15-90, 675/20-~~9094~~, 680/25-~~9094~~, 685/30-90, and 690/35-90]
 - 6) Senior Citizen Courses Act [110 ILCS 990]
 - 7) Honorary Scholarships [110 ILCS 305/9]
 - 8) Illinois Veteran Grants [110 ILCS 947/40]
 - 9) Illinois National Guard Grants [110 ILCS 947/45]
 - 10) MIA/POW Scholarships [105 ILCS 5/30-14.2]
- b) Discretionary Waivers
- 1) Faculty and Staff Waivers
 - A) Faculty and Administrators
 - B) Civil Service Staff: University Employees
 - C) Civil Service Staff: Interinstitutional and Related Agencies
 - D) Retired University Employees
 - E) Children of Deceased Employees
 - 2) Student Talent and Merit Waivers

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- A) Academic or Other Talent
 - B) Athletic
 - C) Gender Equity in Intercollegiate Athletics [110 ILCS 205/9.24]
 - D) Foreign Exchange Students
 - E) Out-of-State Students
 - F) Foreign Students
 - G) Fellowships
- 3) Student Need Waivers
 - A) Financial Aid Waivers
 - B) Special Program Waivers
 - 4) Student Service Waivers
 - A) Cooperating Professionals
 - B) Research Assistants
 - C) Teaching Assistants
 - D) Other Assistants
 - E) Contract/Training Grants

(Source: Amended at 43 Ill. Reg. 1775, effective January 24, 2019)

Section 1075.700 Waiver Limits (Repealed)

- a) ~~The amount of undergraduate tuition revenue that a public university may waive is limited to three percent of total available undergraduate tuition revenue, subject~~

ILLINOIS BOARD OF HIGHER EDUCATION

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~~to the exceptions listed in subsection (b). Total available undergraduate tuition revenue is the total of all tuition charged and waived.~~

- b) ~~Waivers excluded from the three percent limit include:~~
- ~~1) Mandatory waivers granted in accordance with Section 1075.500(a) of this Part;~~
 - ~~2) Gender Equity in Intercollegiate Athletics waivers;~~
 - ~~3) Foreign Exchange Student waivers;~~
 - ~~4) Civil Service Staff: University Employee waivers;~~
 - ~~5) Civil Service Staff: Interinstitutional and Related Agencies waivers;~~
 - ~~6) Waivers offered through Board approved bilateral or multilateral tuition reciprocity agreements; and~~
 - ~~7) Financial aid waivers for Illinois resident students demonstrating financial need.~~
- e) ~~Waivers expended by a public university above the three percent limit may result in an equal amount being adjusted from the university budget during the next Board budget cycle.~~

(Source: Repealed at 43 Ill. Reg. 1775, effective January 24, 2019)

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- 1) Heading of the Part: Chief Procurement Officer for Public Institutions of Higher Education Standard Procurement Rules
- 2) Code Citation: 44 Ill. Adm. Code 4
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
4.5	Amendment
4.8	Amendment
4.9	New Section
4.10	Amendment
4.13	New Section
4.15	Amendment
4.1005	Amendment
4.1080	New Section
4.1510	Amendment
4.1515	Amendment
4.1525	Amendment
4.1535	Amendment
4.2005	Amendment
4.2010	Amendment
4.2012	Amendment
4.2013	Amendment
4.2015	Amendment
4.2020	Amendment
4.2025	Amendment
4.2030	Amendment
4.2033	New Section
4.2035	Amendment
4.2036	Amendment
4.2037	Amendment
4.2043	Amendment
4.2045	Amendment
4.2046	Amendment
4.2050	Amendment
4.2055	Amendment
4.2060	Amendment
4.2065	Amendment
4.2067	Amendment

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4.2080	Amendment
4.2084	Amendment
4.2086	Amendment
4.2560	Amendment
4.2565	New Section
4.2570	Amendment
4.2580	New Section
4.3005	Amendment
4.4025	Amendment
4.4030	Amendment
4.4505	Amendment
4.4510	Amendment
4.4515	Amendment
4.4520	Amendment
4.4525	Amendment
4.4530	Amendment
4.4535	Amendment
4.4540	Amendment
4.4545	Amendment
4.4570	Amendment
4.4595	New Section
4.5002	Amendment
4.5005	Amendment
4.5009	Amendment
4.5010	Amendment
4.5011	Amendment
4.5012	Amendment
4.5013	Amendment
4.5014	Amendment
4.5017	New Section
4.5035	Amendment
4.5036	Amendment
4.5037	Amendment
4.5039	Amendment
4.5040	New Section
4.5080	New Section
4.5400	Amendment
4.5420	Amendment

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4.5422	New Section
4.5424	New Section
4.5426	New Section
4.5440	Repealed
4.5460	Repealed
4.5500	New Section
4.5550	Amendment
4.5560	Amendment
4.7015	Amendment

- 4) Statutory Authority: The Illinois Procurement Code [30 ILCS 500], the Governmental Joint Purchasing Act [30 ILCS 525], the Business Enterprise for Minorities, Women, and Persons with Disabilities Act [30 ILCS 575], and the Illinois Human Rights Act [775 ILCS 5].
- 5) Effective Date of Rules: February 15, 2019
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes

The rulemaking includes incorporation by reference in Section 4.15 in the definition of "expatriated entity", which defines an expatriated entity as a foreign incorporated entity that is treated as an inverted domestic corporation under Section 835(b) of the Homeland Security Act of 2002 [6 USC 395(b)] or any subsidiary of that entity. The definition also references the federal regulations found at 26 CFR 1.7874-3 as being available to use to determine when 6 USC 395(b)(3) applies. A corresponding reference to the Illinois Tax Act [35 ILCS 5] and the Federal Food, Drug, and Cosmetics Act [21 ILCS 301] is found in Section 4.5017 of the proposed rules.

The rulemaking also includes incorporation by reference in Section 4.15 in the definition of "HUBZone Business", which defines HUBZone Business as a business that operates and employs people in Historically Underutilized Business Zones (HUBZone) as designated by the federal HUBZone Empowerment Act [15 USC 657(a)]. A corresponding reference to the federal regulations found at 13 CFR 126 for determining HUBZones is found in Section 4.4595(d) of the adopted rules.

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- 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. 17986; October 12, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The following changes were made in response to comments received during the first notice or public comment period:

The proposed change to Section 4.1060 was withdrawn.

Sections 4.2010(f)(4)(D) and 4.2015(e)(2)(C) were modified to better identify when bids and offers may be rejected when option prices are materially unbalanced.

Section 4.2020(a) was modified from a "minimum of three vendors" to "multiple vendors".

Language was added to Section 4.2020(c)(1) to clarify that trade-in value is not to be considered in determining whether a contract is under the small purchase limit.

Language was added in Section 4.2035(d) to identify that for architect, engineering, and land surveying services with an estimated basic professional service fee of \$25,000 or more, the SPO is required to publish notice of award or notice of intent to award to the Bulletin for a minimum of 14 days prior to execution of the contract.

Language was added in Section 4.2035(j) for professional and artistic contract awards that where annualized value cannot be determined, ranking by price is required.

Language was added to Section 4.2046(b) to identify that the standards of responsibility include compliance with laws including goals and other preferences under the Code and the Business Enterprise for Minorities, Women and Persons with Disabilities Act.

Language was also added to Section 4.2046(c) to identify a SPO may request information, determine prior compliance on State contracts with the standards for responsibility, and disqualify vendors who breach the standards of responsibility in the performance of prior State contracts.

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Language was added to Section 4.2060(e) to provide that at least 6 months prior to exercising a renewal, a university is required to review a vendor's performance to determine if good faith efforts toward meeting contract goals were met by the vendor. The language provides that except for construction and construction-related service contracts, no renewal shall be authorized if the university determines food faith efforts were not exercised in meeting the contract goals agreed to by the vendor. Language was added to Section 4.2065 to require a university to notify a SPO of any contract that is cancelled or terminated for cause. Cancellation or termination of a contract for cause may be used in future determinations of responsibility.

Language was added to Section 4.2080(a)(9) to include performance reviews as part of the public procurement file (less information that is exempt from disclosure under the Freedom of Information Act or as otherwise required by law such as the Architectural, Engineering and Land Surveying Qualifications Based Selection Act). Additional language was added to Section 4.2080(a)(10) that performance reviews shall be conducted timely and shall include evaluation of contract goals agreed to in a vendor's utilization plan. Additional language was added that universities shall provide the CPO-HE with notification of any vendor who does not demonstrate good faith efforts toward meeting the goals agreed to in the utilization plan. Language was added that allows the CPO-HE and universities to consider if a vendor did not meet its goals or show good faith effort toward meeting the goal in future determinations of responsibility.

Language was added to Section 4.2086(c) to require performance reviews to include evaluation of whether a vendor met contract goals. Additional language was added requiring universities to notify the CPO of any vendor who fails to demonstrate good faith efforts toward meeting the contract goals and allows for the consideration of lack of good faith effort in future determinations of responsibility. Language was stricken from Section 4.2086(c)(3) requiring universities to provide a monthly report to the SPO.

Section 4.4535(a) was modified to identify that Qualified Not-for-Profit Agencies include accredited vocational programs. Additional changes were made in Section 4.4535 to recognize the inclusion of accredited vocational programs.

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

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

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- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The adopted amendments implement the changes of the Illinois Procurement Code, which was amended in PA 99-406, PA 99-428, PA 99-552, PA 100-23, PA 100-43, PA 100-203, PA 100-333, PA 100-391, PA 100-551, PA 100-580, PA 100-610, PA 100-611, PA 100-698, PA 100-701, PA 100-709, PA 100-757, PA 100-801, PA 100-863, PA 100-881, PA 100-951, PA 100-1047, and PA 100-1114. Other Acts that were amended that affect the Illinois Procurement Code include the Governmental Joint Purchasing Act (amended in PA 100-0043 and PA 100-0863), the Business Enterprise for Minorities, Women, and Persons with Disabilities Act (amended in PA 99-462, PA 99-514, PA 99-0642, PA 100-391, and PA 100-801), and the Illinois Human Rights Act (amended in relevant part in PA 100-43 and PA 100-698).

The adopted amendments implement the changes of these public acts for the Chief Procurement Office for Public Institutions of Higher Education. The amendments identify the fiduciary responsibilities of CPO personnel, exemptions from the Procurement Code, instruction on publication requirements for exempt transactions, further define terms, clarify the structure and procurement authority oversight of the CPO-HE and SPOs, and provide direction to universities on reporting misconduct, waste and inefficiency. The amendments provide for the inclusion of the Illinois Mathematics and Science Academy in the procurement authority of the CPO-HE, clarify how to access information located on the Illinois Procurement Bulletin, and identify what information must be published to the Procurement Bulletin and when it must be published including data about certified Business Enterprise Program and Veteran Business Program vendors that submitted responses to competitive solicitations.

The amendments allow for use of an electronic procurement portal, increase the threshold for conducting competitive solicitations to \$100,000, provide that universities shall not artificially divide solicitations to avoid a competitive process, outline what good cause is for replacing a subcontractor, clarify when pre-solicitation assistance must be reported to the Procurement Policy Board, and allow for an exception to prohibited bidder/offeree status when it is determined to be in the best interest of the State and when the vendor is essential to research administered by a university. The amendments establish transparency requirements for pre-submission conferences, for the opening and publication of bids and proposals, for the conduct of demonstrations, for how evaluation

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committees are chosen, for how evaluations are conducted, and for the confidentiality and handling of potential conflicts of interests by evaluation committee members. The amendments include instruction on including options or alternates as part of a solicitation and clarify the conduct of negotiations.

The amendments clarify procedures for noncompetitive solicitations (small purchases, sole source and emergency) including requirements for consideration of small and diverse vendors, allow for a statement (instead of an affidavit) to be filed for emergency procurements, establish a process for conducting best-value procurements, update the rules on when the evaluation of pricing data in professional and artistic solicitations is necessary, provide for the consideration of diverse and veteran-owned businesses in tie bids or proposals, and update the changes made to responsive bidder/offeror requirements. The amendments require specifications to include language on reducing barriers to participation by small and diverse vendors, identify specifications that are essential and those that are optional, allow for the preparation of specifications by persons other than university personnel when there is no conflict of interest, allow energy conservation, energy savings, and dark fiber network contracts to be entered for more than 10 years, and prohibit contracts for food where the vendor does not allow food donations to food banks.

The amendments describe the requirements for compliance with changes made to the Business Enterprise Act for contract renewals, clarify the responsibility of the Procurement Policy Board in reviewing contract renewals or extensions that exceed \$250,000, clarify when contracts may be cancelled, identify the content of the public procurement file, identify record retention and audit requirements for vendors and subcontractors, update requirements for filing contracts with the Comptroller, and amend the criteria for the timely execution of contracts prior to the receipt of supplies or services being rendered. The amendments provide direction for when contracts are performed outside of the United States, update contracting requirements for compliance with the Illinois Department of Human Rights Act, clarify exemptions allowed under the Steel Products Procurement Act for construction contracts, provide instruction for change orders on construction contracts, and implement legislative changes to lease requirements.

The amendments provide guidance on the order in which preferences are applied, update the resident bidder/offeror preference, implement changes for contracts that use soybean oil-based ink or vegetable oil-based ink, and make minor grammatical changes throughout the rules. The amendments make changes to the use of qualified not-for-

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profit agencies for persons with significant disabilities, update gas mileage and flex fuel requirements for vehicle purchases, establish small business contracting processes, and require universities to consider in all solicitations the policies of the Business Enterprise Act. The amendments establish rules for application of the HUBZone Business preference.

The amendments update the disclosure and certification requirements of the Code, clarify conflicts of interest and potential conflicts of interest, prohibit universities from contracting with expatriated entities except in limited circumstances, and allow for a cure period for bids and offers when the State Board of Elections registration of a vendor is deficient and there is a good faith effort to comply. The amendments clarify the communication reporting requirements, require the reporting of anticompetitive practices, and implement legislative changes made to the Governmental Joint Purchasing Act on governmental and nongovernmental joint purchases. The amendments update instruction for protests, for the suspension and debarment of vendors, and who may conduct inspections.

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

Shirley Webb
Deputy Chief Procurement Officer
Chief Procurement Office for Public Institutions of Higher Education
401 S. Spring Street
Room 513 Stratton Office Building
Springfield IL 62706

217/836-2376
shirley.j.webb@illinois.gov

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

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NOTICE OF ADOPTED AMENDMENTS

TITLE 44: GOVERNMENT CONTRACTS, GRANTMAKING, PROCUREMENT
AND PROPERTY MANAGEMENT

SUBTITLE A: PROCUREMENT AND CONTRACT PROVISIONS

CHAPTER II: CHIEF PROCUREMENT OFFICER FOR
PUBLIC INSTITUTIONS OF HIGHER EDUCATION

PART 4

CHIEF PROCUREMENT OFFICER FOR
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SUBPART A: GENERAL

Section

4.1	Title
4.3	Authority
4.5	Policy
4.8	Implementation of This Part
4.9	Application
4.10	General Exemptions Application
4.13	Additional Exemptions Applicable to Higher Education (Repealed)
4.14	Certification, Hearing and Registration Waivers Applicable to Higher Education (Repealed)
4.15	Definition of Terms Used in This Part
4.25	Property Rights

SUBPART B: PROCUREMENT RULES, POLICIES AND PROCEDURES

Section

4.525	Rules
4.530	Policies and Procedures

SUBPART C: PROCUREMENT AUTHORITY

Section

4.1005	Procurement Authority
4.1010	Appointment of State Purchasing Officers (Repealed)
4.1011	Procurement Authority of the CPO (Repealed)
4.1030	Other Procurement Authority of the Universities (Repealed)

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- 4.1060 Delegation
4.1080 Illinois Mathematics and Science Academy ~~(Repealed)~~

SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

- Section
4.1501 Illinois Procurement Bulletin – Higher Education
4.1510 Publication of Higher Education Bulletin
4.1515 Registration
4.1525 Bulletin Content
4.1535 Vendor Portal
4.1545 Supplemental Notice (Repealed)
4.1550 Error in Notice
4.1560 Alternate and Supplemental Notice
4.1580 Direct Solicitation
4.1585 Notice Time
4.1595 Availability of Solicitation Document

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

- Section
4.2005 General Provisions
4.2010 Competitive Sealed Bidding
4.2012 Multi-Step Sealed Bidding
4.2013 Reverse Auctions
4.2015 Competitive Sealed Proposals
4.2020 Small Purchases
4.2025 Sole Source and Sole Economically Feasible Source Procurement
4.2030 Emergency Procurements
[4.2033 Best Value Procurements](#)
4.2035 Competitive Selection Procedures for Professional and Artistic Services
4.2036 Other Methods of Source Selection
4.2037 Tie Bids and Proposals
4.2038 Modification or Withdrawal of Bids or Proposals
4.2039 Mistakes
4.2040 Cancellation of Solicitations; Rejection of Bids or Proposals

SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

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NOTICE OF ADOPTED AMENDMENTS

- Section
- 4.2043 Suppliers
- 4.2044 Vendor List
- 4.2045 Vendor Prequalification
- 4.2046 Responsibility

SUBPART G: BID, PROPOSAL AND PERFORMANCE SECURITY

- Section
- 4.2047 Security Requirements

SUBPART H: SPECIFICATIONS AND SAMPLES

- Section
- 4.2050 Specifications and Samples

SUBPART I: CONTRACTS

- Section
- 4.2055 Types of Contracts
- 4.2060 Duration of Contracts – General
- 4.2065 Cancellation of Contracts
- 4.2067 Contract Amendments and Change Orders

SUBPART J: PROCUREMENT FILES

- Section
- 4.2080 Public Procurement File
- 4.2084 Record Retention
- 4.2086 [Contract Filing with the Comptroller](#)

SUBPART K: WORKING CONDITIONS

- Section
- 4.2560 Prevailing Wage
- [4.2565 Contracts Performed Outside the United States](#)
- 4.2570 Equal Employment Opportunity; Affirmative Action

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4.2580 Successor Contractor

SUBPART L: CONSTRUCTION AND
CONSTRUCTION RELATED PROFESSIONAL SERVICES

Section
4.3005 Construction and Construction Related Professional Services

SUBPART M: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

Section
4.4005 Real Property Leases and Capital Improvement Leases
4.4010 Authority
4.4015 Method of Source Selection
4.4020 RFI-RPL Process
4.4025 Lease Requirements
4.4030 Purchase Option
4.4035 Rent Without Occupancy
4.4040 Local Site Preferences
4.4042 Historic Area Preference
4.4044 Emergency Lease Procurement

SUBPART N: PREFERENCES

Section
4.4505 Procurement Preferences
4.4510 Resident Bidder and Offeror Preference
4.4515 Soybean Oil-Based Ink and Vegetable Oil-Based Ink
4.4520 Recycled Supplies~~Materials~~
4.4525 Recyclable Supplies (Paper)
4.4526 Environmentally Preferable Procurement
4.4530 Correctional Industries
4.4535 Qualified Not-for-Profit Agencies for Persons with Significant~~Severe~~ Disabilities
4.4540 Gas Mileage, Flex-Fuel, Biodiesel and Hybrid Requirements
4.4545 Small Businesses~~Business~~
4.4550 Illinois Agricultural Products
4.4555 Corn-Based Plastics
4.4557 Veterans and Service-Disabled Veterans

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- 4.4570 Contracting with Businesses Owned and Controlled by Minorities,
[Women](#)~~Females~~ and Persons with Disabilities
4.4575 Domestic Products
4.4578 Bio-Based Products
4.4579 Notice of Preferences (Repealed)
[4.4595 HUBZone Business Contracts](#)

SUBPART O: ETHICS

- Section
4.5002 Continuing Disclosures; False Certification
4.5005 Bribery
4.5009 Felons
4.5010 Prohibited Bidders and Contractors
4.5011 Debt Delinquency
4.5012 Collection and Remittance of Illinois Use Tax
4.5013 Conflicts of Interest Prohibited by the Code
4.5014 Environmental Protection Act Violations
4.5015 Lead Poisoning Prevention Act Violations
4.5016 Negotiations for Future Employment
[4.5017 Expatriated Entities](#)
4.5020 Exemptions
4.5021 Bond Issuances
4.5023 Other Conflicts of Interest
4.5030 Revolving Door Prohibition
4.5035 Disclosure of Financial Interests and Potential Conflicts of Interest
4.5036 Disclosure of Business in Iran
4.5037 Vendor Registration, Certification and Prohibition on Political Contributions
4.5038 Lobbying Restrictions
4.5039 Procurement Communication Reporting Requirement
[4.5040 Reporting and Anticompetitive Practices](#)
4.5055 Supply Inventory
[4.5080 Sexual Harassment Policy](#)

SUBPART P: CONCESSIONS

- Section
4.5325 Concessions

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SUBPART Q: JOINT AND COOPERATIVE PURCHASING

Section	
4.5400	General
4.5420	Governmental Joint Purchasing Act Contracts
<u>4.5422</u>	<u>Nongovernmental Joint Purchasing</u>
<u>4.5424</u>	<u>Group Purchasing Organizations</u>
<u>4.5426</u>	<u>Piggyback Contracts</u>
4.5440	Other Joint Purchasing <u>(Repealed)</u>
4.5460	No Agency Relationship <u>(Repealed)</u>

SUBPART R: DISPUTES AND PROTESTS

Section	
<u>4.5500</u>	<u>General</u>
4.5550	Protests

SUBPART S: SUSPENSION AND DEBARMENT

Section	
4.5560	Suspension and Debarment

SUBPART T: VIOLATION OF STATUTE OR RULE

Section	
4.5620	Violation of Statute or Rule

SUBPART U: HEARING PROCEDURES

Section	
4.5700	General
4.5710	Informal Process
4.5720	Hearing Officers
4.5730	Notice of Hearing
4.5740	Written Comments and Oral Testimony
4.6500	General (Repealed)
4.6510	No Agency Relationship (Repealed)

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SUBPART V: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

Section

4.7000	Severability
4.7005	Supply Inventory (Repealed)
4.7010	University Furnished Property
4.7015	Inspections
4.7020	Taxes, Licenses, Assessments and Royalties
4.7030	No Waiver of Sovereign Immunity

AUTHORITY: Implementing and authorized by Section 5-25 of the Illinois Procurement Code [30 ILCS 500].

SOURCE: Adopted by emergency rulemaking at 22 Ill. Reg. 13905, effective July 1, 1998, for a maximum of 150 days; amended by emergency rulemaking at 22 Ill. Reg. 19096, effective October 1, 1998, for a period to expire November 27, 1998; adopted at 22 Ill. Reg. 20964, effective November 20, 1998; amended at 32 Ill. Reg. 16388, effective September 24, 2008; recodified, pursuant to PA 96-795, from 44 Ill. Adm. Code 526 to 44 Ill. Adm. Code 4 at 35 Ill. Reg. 10151; amended at 36 Ill. Reg. 10951, effective August 6, 2012; recodified Title heading at 39 Ill. Adm. Code 5903; amended at 40 Ill. Reg. 456, effective January 15, 2016; amended at 40 Ill. Reg. 11260, effective September 1, 2016; Subpart Q and R headers recodified at 42 Ill. Reg. 18550; amended at 43 Ill. Reg. 1781, effective February 15, 2019.

SUBPART A: GENERAL

Section 4.5 Policy

The principles of competitive bidding and economical procurement practices shall apply to all purchases and contracts by or for the universities, except as otherwise provided by law, this Part and other applicable rules. It is the policy of the CPO-HE that all activities of the State Purchasing Officers (SPOs) and ~~others conducting procurement related activity~~other designees related to the procurement process maximize the value of the expenditure of public funds in procuring contracts, and that those appointed to conduct procurement related activity~~and~~ act in a manner that maintains public trust in the integrity of the process.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

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Section 4.8 Implementation of This Part

- a) This Part establishes rules necessary and appropriate to implement the procurement authority granted by the Code to the CPO-HE relating to the procurement of supplies, including inventory level, services, real estate and capital improvement leases, and, as applicable, construction and concessions, and necessary rulemaking under the authority of the Code.
- b) This Part is intended to make procurement actions of the public universities uniform and consistent among and within the universities under the jurisdiction of the CPO-HE ~~in order~~ to facilitate participation in procurements, encourage competition, and ensure that procurements are conducted in a fair and open manner. Implementation by and within the universities shall be consistent with this Part. Operational interpretations are to be made in a flexible manner designed to secure the universities' needs and protect the interests of the universities and the State of Illinois.
- c) The CPO-HE and each SPO and PCM owe a fiduciary duty in carrying out their responsibilities under the Code.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.9 Application

- a) The Code and this Part shall apply regardless of the source of the funds with which the contracts are paid, including federal assistance moneys, except as provided in Sections 4.10 and 4.13 of this Part [30 ILCS 500/1-10(b) and 1-13(a)].
- b) The Code and this Part apply to procurements for which bidders, offerors, potential contractors, contractors or vendors were first solicited on or after July 1, 1998. [30 ILCS 500/1-10(a)]
- c) For purposes of this Part, the term bidder, offeror, potential contractor, contractor or vendor may be used interchangeably unless the context indicates otherwise.

(Source: Added at 43 Ill. Reg. 1781, effective February 15, 2019)

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Section 4.10 General ExemptionsApplication

~~The Code and this Part apply to procurements for which bidders, offerors, potential contractors, contractors or vendors were first solicited on or after July 1, 1998. [30 ILCS 500/1-10(a)] For purposes of this Part, the terms bidder, offeror, potential contractor, contractor or vendor may be used interchangeably unless the context indicates otherwise.~~

- a) Except as specifically provided in the Code, the Code and this Part do not apply to:
- 1a) *contracts between the State and its political subdivisions or other governments, or between State governmental bodies, ~~except as specifically provided in the Code.~~ (For purposes of this subsection (a), "governmental bodies" includes the State universities and their governing boards, community colleges and their governing boards and school districts. This provision applies to contracts between governmental entities; it does not apply to State universities use of contracts established by other governmental entities);*
 - 2b) *grants, ~~(except for the filing requirements of Section 20-80 of the Code);~~*
 - 3e) *purchase of care;*
 - 4d) *hiring of an individual as employee and not as an independent contractor, whether pursuant to an employment code or policy or by contract directly with that individual;*
 - 5e) *collective bargaining contracts;*
 - 6f) *purchase of real estate, except that notice of this type of contract with a value of more than \$25,000 must be published in the Procurement Bulletin within 10 calendar days after the deed is recorded in the county of jurisdiction (This applies to purchases whether outright or by means of an installment purchase. The exercise of an option to purchase in a real estate lease is exempt, but the underlying lease is not exempt from this Part). The notice shall identify the real estate purchased, the names of all parties to the contract, the value of the contract, and the effective date of the contract;*

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- ~~7g)~~ *contracts necessary to prepare for anticipated litigation, enforcement actions, or investigations, provided that the chief legal counsel to the Governor shall give his or her prior approval when the procuring agency is one subject to the jurisdiction of the Governor, and provided that the chief legal counsel of any other procuring entity subject to the Code shall give his or her prior approval when the procuring entity is not one subject to the jurisdiction of the Governor. Anticipated litigation is that which a university may prosecute or defend before a court or administrative body and actions necessary to prepare for and conduct the effective legal prosecution or defense of litigation, including, but not limited to, the retention of counsel, investigators, expert witnesses and court reporters. This Section is applicable to equipment or services necessary in the furtherance of covert activities lawfully conducted by a university;*
- ~~h)~~ *Contracts for services to Northern Illinois University by a person, acting as an independent contractor, who is qualified by education, experience, and technical ability and is selected by negotiation for the purpose of providing non-credit educational service activities or products by means of specialized programs offered by the university;*
- ~~8i)~~ *Procurement expenditures by the Illinois Conservation Foundation when only private funds are used;* ~~j) Procurement expenditures by the Illinois Health Information Exchange Authority involving private funds from the Health Information Exchange Fund. "Private funds" means gifts, donations, and private grants; [30 ILCS 500/1-10(b)]~~
- ~~9k)~~ *Public-Private agreements entered into according to the procurement requirements of Section 20 of the Public-Private Partnerships for Transportation Act and design-build agreements entered into according to the procurement requirements of Section 25 of the Public-Private Partnerships for Transportation Act;*
- ~~10l)~~ *Contracts for legal, financial, and other professional and artistic services entered into on or before December 31, 2018 by the Illinois Finance Authority in which the State of Illinois is not obligated. Such contracts shall be awarded through a competitive process authorized by the Board of the Illinois Finance Authority and are subject to Sections 5-30, 20-160,*

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50-13, 50-20, 50-35, and 50-37 of the Code, as well as the final approval by the Board of the Illinois Finance Authority of the terms of the contract; and

- 11) *Contracts for services, commodities, and equipment to support the delivery of timely forensic science services in consultation with and subject to the approval of the CPO as provided in Section 5-4-3a(d) of the Unified Code of Corrections [730 ILCS 5], except the requirements of Sections 20-60, 20-65, 20-70, and 20-160 and Article 50 of the Code; however, the CPO may, in writing with justification, waive any certification required under Article 50 of this Code. For any contracts for services that are currently provided by members of a collective bargaining unit, the applicable terms of the collective bargaining agreement shall be followed.*
 - 12) *Contracts for participation expenditures required by a domestic or international trade show or exhibition of an exhibitor, member, or sponsor;*
 - 13) *Contracts with a railroad or utility that require the State to reimburse the railroad or utilities for the relocation of utilities for construction or other public purpose. [30 ILCS 500/1-10(b)]*
- b) *After October 1, 2017, universities shall publish in the Bulletin notice of each contract entered into under Section 1-10(b) of the Code, except for those procured under subsections (a)(1), (a)(2) and (a)(5) of this Section. Notice shall be published within 14 calendar days after contract execution. The CPO-HE shall prescribe the form and content of the notice.*
- c) *The CPO-HE shall submit a report to the Governor and General Assembly no later than November 1 of each year that shall include, at a minimum, an annual summary of the monthly information reported to the CPO-HE by the universities. The CPO-HE will structure the required Bulletin publication to serve as a university's report, but the CPO-HE may request a report or additional information from a university if Bulletin publication is insufficient. At a minimum, this information published to the Bulletin shall include:*
- 1) *the name of the contractor;*

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- 2) a description of the supply or service provided;
 - 3) the total amount of the contract;
 - 4) the term of the contract; and
 - 5) the exception to the Code utilized.
- d) A copy of any or all of these contracts shall be made available to the CPO-HE within 14 days after request, unless a more immediate response is required.
- e) ~~*Except for that part of a record subject to attorney-client privilege, the CPO-HE may access any records necessary to review whether a contract, purchase or other expenditure is exempt under Section 1-10 of the Code [30 ILCS 500/1-10(i)]*~~

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.13 Additional Exemptions Applicable to Higher Education ~~(Repealed)~~

- a) Except as provided in this Section, the Code shall not apply to procurements made by or on behalf of universities for any of the following:
- 1) Memberships in professional, academic, research, or athletic organizations on behalf of a university, an employee of a university, or a student at a university.
 - 2) Procurement expenditures for events or activities paid for exclusively by revenues generated by the event or activity, gifts or donations for the event or activity, private grants, or any combination thereof.
 - 3) Procurement expenditures for events or activities for which the use of specific potential contractors is mandated or identified by the sponsor of the event or activity, if the sponsor is providing a majority of the funding for the event or activity.

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- 4) Procurement expenditures necessary to provide athletic, artistic or musical services, performances, events, or productions by or for a university.
 - 5) Procurement expenditures for periodicals, books, subscriptions, database licenses, and other publications procured for use by a university library or academic department, except for expenditures related to procuring textbooks for student use or materials for resale or rental.
 - 6) Procurement expenditures for placement of students in externships, practicums, field experiences, and for medical residencies and rotations.
 - 7) Contracts for programing and broadcast license rights for university-operated radio and television stations.
 - 8) Procurement expenditures necessary to perform sponsored research and other sponsored activities under grants and contracts funded by the sponsor or by sources other than State appropriations.
 - 9) Contracts with a foreign entity for research or other educational activities, provided the foreign entity either does not maintain an office in the United States or is the sole source of the service or product. [30 ILCS 500/1-13(b)]
- b) Except as provided in this Section, the provisions of the Code shall not apply to contracts for:
- 1) medical supplies;
 - 2) medical services necessary for the direct delivery of patient care and treatment at medical, dental, or veterinary teaching facilities utilized by:
 - A) Southern Illinois University;
 - B) the University of Illinois; or

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- C) *any university-operated health care center or dispensary that provides care, treatment, and medications for students, faculty and staff. [30 ILCS 500/1-13(b-5)]*
- c) *Procurements made on or behalf of universities for the fulfillment of a grant shall be made in accordance with the Code to the extent practicable. [30 ILCS 500/1-13(c)].*
- 1) *A university may request a waiver of contract, registration, certification, and hearing requirements if compliance is impracticable.*
- 2) *A university shall provide the CPO-HE with specific reasons for the waiver, including the necessity to contract with a particular contractor, and shall certify the university's good faith efforts to comply with the provisions of the Code. The CPO-HE shall provide a written justification for any waiver granted to a university.*
- 3) *Notwithstanding any waiver of the registration requirements of Section 20-160 of the Code, no business entity and any affiliated entity or person may make campaign contributions if otherwise prohibited under Section 50-37 of the Code.*
- 4) *For purposes of this Section, "grant" means non-appropriated funding provided by a federal or private entity to support a project or program administered by a public institution of higher education and any non-appropriated funding provided to a sub-recipient of the grant. [30 ILCS 500/1-13(f)]*
- d) *Notice of each contract entered by a university identified in subsections (a) and (b) and each waiver issued in subsection (c) shall be published in the Bulletin within 14 calendar days after contract execution. The CPO-HE shall prescribe the form and content of the notice.*
- e) *The CPO-HE shall submit a report to the Governor and General Assembly no later than November 1 of each year that shall include, at a minimum, an annual summary of the monthly information reported to the CPO-HE by the universities. The CPO-HE will structure the required Bulletin publication to serve as the university's report, but the CPO-HE may request a report or additional*

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information from a university if Bulletin publication is insufficient. At a minimum, this information published to the Bulletin shall include:

- 1) the name of the contractor;
 - 2) a description of the supply or service provided;
 - 3) the total amount of the contract,
 - 4) the term of the contract;
 - 5) the exception to the Code utilized; and
 - 6) the justification for any waiver granted under subsection (c).
- f) A copy of any or all of these contracts shall be made available to the CPO-HE within 14 days after request, unless a more immediate response is required.

(Source: Former Section 4.13 repealed at 40 Ill. Reg. 456, effective January 15, 2016; new Section 4.13 added at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.15 Definition of Terms Used in This Part

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

"Amendment" – A written modification to a contract. An amendment may memorialize an action authorized by specific language in the contract (e.g., exercise of an option or showing price decrease or increase based on CPI), or may memorialize nonmaterial changes (e.g., change in names of notice contacts or number of periodic status meetings). An amendment may also be a change order as defined in this Section.

"Best Interest of the State" – For purposes of this Part, best interest of the State also includes best interest of the procuring university.

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"Bid" – The response submitted by a bidder in a competitive sealed bidding process, to an ~~(Invitation for Bid)~~ or to a multi-step sealed bidding process.

"Bidder" – *One who submits a response in a competitive sealed bidding process, to an invitation for bid, or to a multi-step sealed bidding process. [30 ILCS 500/1-15.02]* ~~Any person who submits a bid. A person or entity (other than an individual acting as a sole proprietor) may qualify as a bidder only if the person or entity is a legal entity authorized to do business in Illinois prior to submitting the bid.~~

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

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

"Building Services" – Repairs to or maintenance of the structure, but does not include janitorial, window washing services, or services provided by university employees.

"Bulletin" – The volume of the Illinois Procurement Bulletin published by the CPO-HE, unless the context clearly means the volume of another CPO or the Illinois Procurement Bulletin generally.

"Change Order" – *A change in a contract term, other than as specifically provided for in the contract, which is determined necessary to address needs that are best met by the contract holder, and that authorizes or necessitates any increase or decrease in the cost of the contract or the time ~~for~~ completion. [30 ILCS 500/1-15.12]* A change order is an amendment to the contract.

"Chief Procurement Office" – *The offices to which the Chief Procurement Officers are appointed pursuant to Section 10-20 of the Code. [30 ILCS 500/1-15.13]*

"Chief Procurement Officer" or "CPO-HE" – The Chief Procurement Officer for Public Institutions of Higher Education, as created by Section 10-20(3) of the

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Code, or a designee.

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

"Concession" – The right granted by a license, lease or other agreement to use State property, whether tangible or intangible. Also includes the right to engage in a certain activity on the lessor's property (e.g., a refreshment or parking concession).

"Construction" – As used in this Part, ~~means~~ *building, altering, repairing, improving, or demolishing any public structure or building, or making improvements of any kind to public real property. Construction does not include the routine operation, routine repair or routine maintenance of existing structures, buildings, or real property.* [\[30 ILCS 5/1-15.20\]](#)

"Construction Agency" – *The Capital Development Board for construction or remodeling of State-owned facilities; the Illinois Department of Transportation for construction or maintenance of roads, highways, bridges, and airports; the Illinois Toll Highway Authority for construction or maintenance of toll highways; the Illinois Power Agency for construction, maintenance, and expansion of Agency-owned facilities, as defined in Section 1-10 of the Illinois Power Agency Act [\[20 ILCS 3855\]](#); and any other State agency (including universities) entering into construction contracts as authorized by law or by delegation from the Chief Procurement Officer.* [30 ILCS 500/1-15.25]

"Construction Manager Services" – Services provided in the planning, pre-construction and construction phases of a construction project.

"Construction-related Professional Services" – Services performed that are governed by the Architectural, Engineering, and Land Surveying Qualifications-Based Selection Act [30 ILCS 535]. "Professional Services" as used in this Part means those services within the scope of the practice of architecture, professional engineering, structural engineering, or registered land surveying, as defined by the laws of this State.

"Construction Support" – Equipment, supplies and services necessary to the operation of a construction agency's construction program, but does not include construction-related services.

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

"Contract" – *All types of State agreements, regardless of what they may be called, for the procurement, use, or disposal of supplies, services, professional or artistic services, or construction or for leases of real property for which the State is the lessee, or capital improvements, and including renewals, master contracts, contracts for financing through use of installment or lease-purchase arrangements, renegotiated contracts, amendments to contracts, and change orders.* [30 ILCS 500/1-15.30] The term "contract" includes, but is not limited to purchase, installment purchase, lease and rental contracts. The term contract, as used in the Code and this Part, does not include: supplies or services the terms governing which are established by tariff of the Illinois Commerce Commission or the Federal Communications Commission, and for which there is no authorized competition, bonds, Certificates of Participation or contracts relating to bonds or Certificates of Participation issued by or on behalf of a State agency when the contractor or vendor is neither selected nor paid by the State agency. Also referred to as a "State contract" or a "university contract".

"Contract Award" – Except as otherwise defined in this Section for specific categories of procurements, *the determination that a particular vendor has been selected from among other potential vendors to receive a contract, subject to resolution of any protest and the successful completion of final negotiations.* "Contract award" is evidenced by the posting of a Notice of Award or a Notice of Intent to Award to the respective volume of the Illinois Procurement Bulletin after all State agency required and SPO approvals have been obtained. [30 ILCS 500/15-25(b-5)]

"Contract Let" – The act of awarding a contract to a bidder that responded to an invitation for bids as part of a letting.

"Contractor" or "Vendor" – An individual, firm, partnership, corporation, joint venture or other legal entity that seeks, or has entered into, a contract with a State agency as defined in Section 1-15.30 of the Code. The terms contractor and

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vendor are used interchangeably for the purposes of the Code and this Part. In appropriate circumstances, the term shall also include subcontractors.

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

"Designee" – A person or category of persons identified by the CPO-HE or an SPO, in writing, to exercise procurement authority or to assist with the procurement process. A designee acts under procurement authority of the CPO-HE or SPO and has the responsibility for taking procurement actions in accordance with applicable laws, rules and policies, as limited by the terms of the delegation.

"Domestic Product" – A product that meets the requirements of the Procurement of Domestic Products Act [30 ILCS ~~5175/7~~].

"Electronic Procurement" – The conducting of some or all procurement functions over the internet. [30 ILCS 500/1-15.40]

"Emergency ~~Statement~~Affidavit" – The ~~statement~~affidavit filed with the Auditor General and the Procurement Policy Board setting forth the actual or estimated amount expended, the name of the contractor involved, and the conditions and circumstances requiring the emergency procurement.

"Emergency Contract Award" – For purposes of an emergency contract, an emergency contract is awarded on the earlier of the date a State agency communicates to a vendor to start work, notice is published on the Illinois Procurement Bulletin identifying the vendor of the required ~~supplies~~goods or services, or the date the contract is signed by both parties.

"Estimated Cost" – The amount expected to be paid for a procurement transaction. It is representative of all known work and may include potential and expected unscheduled work arising out of the requirements. The total estimated contract cost is not necessarily equivalent to the maximum cost.

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"Evaluation Criteria" – The standards or factors by which the vendor and its bid or offer may be evaluated. These criteria may include, but are not limited to, specialized experience, technical qualifications, competence, capacity to perform, past performance, experience with similar projects, assignment of personnel to the project, and other appropriate factors.

"Expatriated Entity" – A foreign incorporated entity that is treated as an inverted domestic corporation under section 835(b) of the Homeland Security Act of 2002 (6 USC 395(b)) or any subsidiary of that entity. The federal regulations found at 26 CFR 1.7874-3 may be used to determine when 6 USC 395(b)(3) applies. [30 ILCS 500/1-15.120]

"Fiduciary Duty" – A CPO's, SPO's, or PCM's obligation to serve the best interest of the State of Illinois.

"Germane" – Closely or significantly related to, arising out of, or directly incidental to the original contract. Additional work or materials are germane if they are of small or minor importance, or are ordinary and comparatively unimportant departures from the details in the specifications. Changes that are a substantial departure from the nature, scope or scale of the original contract are not germane. (See Attorney General Opinion S-939.)

"Grant" – Unless otherwise specified, Means the furnishing by the State of assistance, whether financial or otherwise, to any person to support a program authorized by law. It does not include an award the primary purpose of which is to procure an end product for the direct benefit or use of the State agency making the grant, whether in the form of goods, services, or construction. A contract that results from such an award is not a grant and is subject to the Code. [30 ILCS 500/1-15.42] When a grantor provides a grant or award to a university that authorizes or allows the university to award subgrants or subawards, the subgrant or subaward shall also be deemed a grant that is made by the university as agent of the grantor.

"Grounds Services" – Lawn care, landscaping, and snow and ice removal services.

"HUBZone Business" – A business that operates and employs people in Historically Underutilized Business Zones (HUBZone) as designated by the

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federal HUBZone Empowerment Act (15 USC 657a). [30 ILCS 500/45-95(a)].

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

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

"Letting" – A construction agency's act of advertising an invitation for bids for one or more construction projects.

"Master Contract" – A definite quantity, indefinite quantity or requirements contract awarded under the Code through which universities may place purchase orders. Master contracts include use by a single university, or for multiple State purchasing entities or other entities as authorized under the Governmental Joint Purchasing Act [30 ILCS 525].

"Multiple Award" – An award that is made to two or more bidders or offerors for similar supplies, services, or construction-related services.

"Natural Resources Services" – Services consist of non-supervisory activities of a routine, repetitive, non-discretionary nature not needing special expertise, training or education. These services include, but are not limited to, assisting in the operation of tree nurseries, fish hatcheries, game farms and sanctuaries; cleaning and maintenance of specialized facilities; repairing fences and building cages; mowing; and trail and ancillary facility repair.

"Offer" or "Proposal" – The response submitted by an offeror in a competitive sealed proposal process or to a Request for Proposals or Request for Information for real estate or capital improvement leases.

~~"Offeror" or "Respondent" – Any person who submits a proposal in response to a competitive sealed proposal process or a request for proposals. [30 ILCS 500/1-15.52] A person who responds to a Request for Proposal or Request for Information for real estate or capital improvement leases. A person or entity (other than an individual acting as a sole proprietor) may qualify as an offeror only if the person or entity is a legal entity authorized to do business in Illinois~~

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~~prior to submitting the offer.~~

"Person" – Any business, public or private corporation, partnership, individual, union, committee, club, unincorporated association or other organization or group of individuals, or other legal entity. [30 ILCS 500/1-15.55]

"Procurement Compliance Monitor" or "PCM" – An individual appointed by the Executive Ethics Commission under Section 10-15 of the Code to oversee and review procurement processes.

"Procurement Officer" – The Chief Procurement Officer or appropriate State Purchasing Officer who is responsible for the particular procurement action.

"Procurement Policy Board" or "PPB" – The body created by Section 5-5 of the Code.

"Proposal" or "Offer" – The response to a Request for Proposals or Request for Information for real estate or capital improvement leases.

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

"Purchase of Care" – A contract with a person for the furnishing of medical, educational, psychiatric, vocational, ~~rehabilitative~~rehabilitation, social, or human services directly to a recipient of a State aid program [30 ILCS 500/1-15.68]. Purchase of care includes the furnishing of services directly to recipients of State aid programs or applicants for a State aid program. Purchase of care contracts may include some services that are administrative in nature, as long as the contract primarily provides direct care to recipients of State aid programs. Examples of purchase of care contracts include, but are not limited to, contracts related to care coordination programs under Title XIX of the Social Security Act, including contracts with managed care organizations; primary care case management services; prepaid ambulatory health plans; prepaid inpatient health plans; and direct care services provided under the Children and Family Services Act [20 ILCS 505]. Contracts that do not pertain to direct services to State aid recipients or that are primarily administrative in nature exceed the scope of the definition of a purchase of care contract and are not exempt from the requirements

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of the Code.

"Purchasing Agency" – A State agency that enters into a contract at the direction of a State Purchasing Officer authorized by a Chief Procurement Officer or at the direction of a Chief Procurement Officer. [30 ILCS 500/1-15.70]

"Quality Based Selection" or "QBS" – The [source selection method for procurement of architectural, engineering and land surveying services](#), as defined by the Architectural, Engineering and Land Surveying Qualifications Based Selection Act [\[30 ILCS 535\]](#).

["Qualified HUBZone Small Business Concern" – A business that qualifies under the HUBZone program administered by the U.S. Small Business Administration. \[30 ILCS 500/45-95\(a\)\]](#)

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

"Renewal" – An agreement between the parties to a contract to authorize an additional contract period under the terms and conditions of the renewal provision in the original contract. Any renewal of a real estate lease for which a renewal provision is not present may be allowed [in accordance with](#) ~~pursuant to~~ Sections 4.4015 and 4.4025.

"Request for Information" or "RFI" – The process of requesting information from interested parties to aid the State in decision making. This type of RFI is not a procurement method and will not result in a participant receiving a contract.

"Request for Information for Real Property or Capital Improvement Leases" or "RFI-Real Property Leases" [or "RFI-RPL"](#) – The process of seeking proposals for leases of real property or capital improvements as outlined under Article 40 of the Code.

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

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"Request for Proposals-Professional and Artistic" or "RFP-P&A" – The process by which a purchasing agency requests information from offerors, including all documents, whether attached or incorporated by reference, used for soliciting proposals for professional and artistic services as defined in Section 1-15.60 of the Code.

"Requesting Agency" – The agency that requests that the CPO-HE or SPO conduct a procurement for its use. All procurements reserved to the CPO-HE that have not been delegated must be initiated by a purchase request.

"*Responsible Bidder*", "[Responsible Potential Contractor](#)" or "Responsible Offeror" – *A person who has the capability in all respects to perform fully the contract requirements and who has the integrity and reliability that will assure good faith performance. A responsible bidder or offeror shall not include a business or other entity that does not exist as a legal entity at the time a bid or offer is submitted for a State contract. [30 ILCS 500/1-15.80]*

"*Responsive Bidder*" – *A person who has submitted a bid that conforms in all material respects to the Invitation for Bids. [30 ILCS 500/1-15.85]*

"*Responsive Offeror*" – *A person who has submitted an offer that conforms in all material respects to the Request for Proposals. [30 ILCS 500/1-15.86]*

"Scoring Tool" – The document used to record the method used by the individuals evaluating the responses to a solicitation to judge qualifications or otherwise show whether or how well the responses met requirements set forth in the solicitation.

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

"Site Technician Services" – These services consist of non-supervisory activities of a routine, repetitive, non-discretionary nature not needing special expertise, training or education. These services include, but are not limited to, the maintenance of the site, including operating small farm-type equipment and trucks that do not require a Class C or D driver's license.

"Solicitation" – The document (e.g., IFB, QBS, RFP, RFP-P&A, or RFI-Real

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Property Lease) posted to the Procurement Bulletin requesting interested parties to submit a response for evaluation by the State. A request for information to determine if there is any interest on the part of a university in the supplies or services of a vendor or vendors, or on the part of a vendor or vendors in providing the supplies or services, is not considered a solicitation.

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

"Specifications" – Any description, provision or requirement pertaining to the physical or functional characteristics or of the nature of a supply, service or other item to be procured under a contract. Specifications may include a description of any requirement for inspecting, testing or preparing a supply, service, professional or artistic service, construction, or other item for delivery. [30 ILCS 500/1-15.95]

"State" – As appropriate, collectively or individually, the State of Illinois, a State agency as defined in this Section, and all officers and employees of the foregoing.

"State Agency" – Generally, all boards, commissions, agencies, institutions, authorities, and bodies politic and corporate of the State, created by or in accordance with the constitution or statute, of the executive branch of State government and does include colleges, universities, and institutions under the jurisdiction of the governing boards of the University of Illinois, Southern Illinois University, Illinois State University, Eastern Illinois University, Northern Illinois University, Western Illinois University, Chicago State University, Governors State University, Northeastern Illinois University, and the Board of Higher Education. However, this term does not apply to public employee retirement systems or investment boards that are subject to fiduciary duties imposed by the Illinois Pension Code [40 ILCS 5] or to the University of Illinois Foundation or any other university foundation. "State agency" does not include units of local government, school districts, community colleges under the Public Community College Act [110 ILCS 805], and the Illinois Comprehensive Health Insurance Board. [30 ILCS 500/1-15.100] For purposes of this Part, State agency means only State universities that are under the jurisdiction of the CPO-HE, unless the context indicates otherwise.

"State Purchasing Officer" or "SPO" – An individual appointed by the CPO-HE [in](#)

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~~accordance with pursuant to~~ Section 10-10 of the Code and assigned to exercise procurement authority at the direction of the CPO-HE.

"State Witness" – An employee of the State ~~who observes, designated by the CPO HE or SPO of procuring agency, to observe~~ the opening of bids or sealed proposals.

"Subcontract" – A contract between a person and another person who has a contract subject to the Code, pursuant to which the subcontractor provides to the contractor or, if the contract price exceeds \$50,000, another subcontractor some or all of the goods, services, real property, remuneration, or other monetary forms of consideration that are the subject of the primary contract and includes, among other things, subleases from a lessee of a State agency. For purposes of the Code, a "subcontract" does not include purchases of goods or supplies that are incidental to the performance of a contract by a person who has a contract subject to the Code. [30 ILCS 500/1-15.107]

"Subcontractor" – A person or entity who enters into a contractual agreement with a total value of \$50,000 or more with a person or entity who has ~~or is~~ seeking a contract subject to the Code pursuant to which the person or entity provides some or all of the goods, services, real property, remuneration or other monetary forms of consideration that are the subject of the primary State contract, including subleases from a lessee of a State contract. For purposes of the Code, a person or entity is not a "subcontractor" if that person only provides goods or supplies that are incidental to the performance of a contract by a person who has a contract subject to the Code. [30 ILCS 500/1-15.108]

"Subfactor" – A subset of a main evaluation factor. Main evaluation factors are identified in the solicitation.

"Supplies" – All personal property, including, but not limited to, equipment, materials, printing, and insurance and the financing of those supplies that can be procured regularly or are available on the commercial market. [30 ILCS 500/1-15.110] For purposes of this Part, the term "goods" is equivalent to the term "supplies".

"Supplier" – Any person or entity providing supplies, including, but not limited to, equipment, materials, printing, and insurance, and the financing of those supplies

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that can be procured regularly or are available on the commercial market. [30 ILCS 500/1-15.111]

"University" – The colleges, universities and institutions under the jurisdiction of the governing boards identified in the definition of "state agency" in accordance with pursuant to Section 1-15.100 of the Code. For purposes of the Code and this Part only, "university" also includes the Illinois Math and Science Academy. The terms "university" and "public institution of higher education" are used interchangeably for the purposes of the Code and this Part.

"Unsolicited Bid" or "Unsolicited Offer" or "Unsolicited Proposal" – Any bid, offer or proposal other than one submitted in response to a solicitation.

"Utilization Plan" – A form and additional documentations included in all bids or proposals that demonstrate a vendor's proposed utilization of vendors certified by the Business Enterprise Program (see 30 ILCS 575) and the Veterans Business Program (Section 45-57 of the Code) to meet the targeted goal. The utilization plan shall demonstrate that the vendor has either:

met the entire contract goal; or

requested a full or partial waiver and made good faith efforts towards meeting the goal. [30 ILCS 575/2(A)(11)]

~~"Vendor" – An individual, firm, partnership, corporation, joint venture or other legal entity that seeks, or has entered into, a contract with a State agency as defined in Section 1-15.30 of the Code. The terms contractor and vendor are used interchangeable for the purposes of the Code and this Part. In appropriate circumstances, the term shall also include subcontractors.~~

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

SUBPART C: PROCUREMENT AUTHORITY

Section 4.1005 Procurement Authority

- a) The CPO-HE appointed by the Executive Ethics Commission will exercise the procurement authority created by the Code for the benefit of the State of Illinois

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and the universities under the jurisdiction of the CPO. The Executive Ethics Commission may appoint a temporary acting CPO to act in the absence of the CPO-HE, such as during illness, vacation or other extended leave.

- b) The CPO-HE's procurement authority extends to supplies, services, construction not under the jurisdiction of the Capital Development Board or the Department of Transportation, real estate leases and all other categories of need subject to the Code. The authority extends to all aspects of the procurement process, including, but not limited to: pre-solicitation activities, solicitation preparation, source selection, evaluation, award, approval or rejection of proposed contracts, dispute resolution and records subsequent to identification of need, except as otherwise provided for in the Code.
- c) Any reference in the Code or this Part directing or authorizing a university to take procurement action is subject to the overall procurement authority of the CPO-HE and SPO as set forth in the Code and this Part.
- d) The CPO-HE exercises procurement authority through one or more SPOs or temporary acting SPOs and university and other staff assigned to the procurement function. The CPO-HE may assign an SPO to one or more universities or may make assignments on a functional basis. The CPO-HE may appoint a temporary acting SPO with limited authority to act with an appointed SPO. In the absence of an appointed SPO, the CPO-HE may exercise the procurement authority of an SPO or may appoint a temporary acting SPO. Unless the Code or this Part prohibits a designee from performing a procurement action, the CPO-HE may delegate procurement action to an SPO or other designee. The CPO-HE may reserve certain procurement activities to the CPO-HE and reserves the right to review and modify or overturn any action of an SPO or any other designee.
- e) An SPO will exercise procurement authority in accordance with direction and limitations established by the CPO-HE. SPOs have roles and responsibilities established in Section 10-10 of the Code. Each university shall recognize the SPOs' statutory roles and shall cooperate with SPOs in the conduct of their actions. The SPO will act primarily to review, authorize and approve university procurement actions. The CPO-HE, ~~in consultation with a representative of the several universities,~~ will determine and identify, in writing, procurement activities that must be conducted by the CPO-HE or an SPO ~~and those that may be delegated to the universities.~~ Activities not reserved to the CPO-HE or SPO will

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be conducted by the university staff with CPO-HE/SPO oversight.

- f) Each university shall determine an appropriate number of qualified staff and related resources to meet the procurement needs of the university. University staff remain university employees at all times, including while acting under authority of the CPO-HE.
- g) The university is responsible for determining the need for a particular procurement. If the SPO or CPO-HE has a question regarding the need for a particular procurement, the SPO or CPO-HE may require a signed statement from a university official outside the procurement office confirming that the proposed procurement for the stated need is in the best interest of the university.
- h) University procurement staff are responsible for:
 - 1) ensuring that all procurement activities, including those submitted to the SPO or CPO-HE for review, authorization or approval, are in accordance with the Code, this Part, other applicable laws and rules, the policy direction of the CPO-HE and internal policies of the university; and
 - 2) obtaining all State and university approvals applicable to the particular stage of the procurement process.
- i) The CPO-HE and, ~~pursuant to Section 10-10 of the Code,~~ the SPO, at the direction of the CPO-HE, has *the authority to review any contract or contract amendment prior to execution to ensure that applicable procurement and contracting standards were followed and approve or reject proposed contracts for a purchasing agency. [30 ILCS 500/10-10(a)].* In addition to this authority, the CPO-HE may authorize a university to enter into contracts without specific approval of the CPO-HE or SPO.
 - 1) The CPO-HE shall determine in writing which contracts must be reviewed by the CPO-HE or SPO for approval or rejection prior to execution by the university. These approval authorities may be modified or revoked at any time by the CPO-HE or the SPO, when appropriate. In the absence of written direction, the university shall enter into contracts for its needs.
 - 2) Any written determination regarding approval authorization by the

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CPO-HE or SPO shall be maintained by the CPO-HE and distributed to the SPO, university head, university purchasing director and the State Comptroller.

- 3) Because all fiscal authority for the universities is vested in their governing boards under their organizing statutes, only those contracts signed in accordance with board of trustees procedures are valid obligations of a university. If the CPO-HE or SPO approves a proposed contract, the university must sign in order for the contract to be legally binding on the university. The university may decline to sign a contract even if approved by the CPO-HE or SPO.
 - 4) If the CPO-HE or SPO approves a proposed contract for a university, in no event shall the CPO-HE or SPO have or assume any responsibility or obligation under the contract, financial or otherwise, to any party or person.
- j) Procurement Compliance Monitors (PCMs)
- 1) PCMs have roles and responsibilities established in Section 10-15 of the Code. This includes overseeing and reviewing the procurement process, having access to records and systems, and attending any procurement meeting.
 - 2) Each university shall recognize these statutory roles and shall cooperate with PCMs in the conduct of their actions. Cooperation includes providing notice of, and access to, procurement meetings and access to all procurement related records in whatever format they may exist, including documents, databases and systems. Failure to cooperate and resolve issues may be reported to the chief executive officer of the university and in certain cases may require reporting to the Office of the Executive Inspector General.
 - 3) Should a PCM request review of a contract before final execution, the university shall not execute the contract until approved by the SPO after consultation with the PCM and the university.
- k) Inquiries

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Any offeror, respondent, SPO, State agency, university, subcontractor or person may contact the CPO-HE at <http://www.cpohe.illinois.gov> concerning any procurement matter and obtain information concerning the procurement process or a pending procurement to meet the objectives of Section 1-5 of the Code and Section 4.5 of this Part. The CPO-HE shall take all measures, within its means and resources, in conformity with the Code and this Part, to address any inquiries ~~in order~~ to effectuate the aims of the Code and this Part. All contacts shall be placed in the procurement file and in compliance with Section 50-39 of the Code.

- 1) Notification
In consultation with the CPO-HE, an SPO or PCM shall advise a university in writing of any misconduct, waste or inefficiency with respect to a university procurement and give the university opportunity to correct or resolve the issue. If the university does not correct the issue, the SPO or PCM shall report the problem to the Office of the Inspector General and the CPO-HE. The Attorney General's Office shall also be notified if collusion or other anticompetitive practice is suspected.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.1080 Illinois Mathematics and Science Academy (~~Repealed~~)

The Illinois Mathematics and Science Academy and its SPO shall procure supplies and services for the operation of the Academy through the CPO-HE. All such procurements for the Academy shall be made in accordance with the requirements of this Part.

(Source: Former Section 4.1080 repealed at 36 Ill. Reg. 10951, effective August 6, 2012; new Section 4.1080 added at 43 Ill. Reg. 1781, effective February 15, 2019)

SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

Section 4.1510 Publication of Higher Education Bulletin

The CPO-HE will publish the Bulletin in electronic form ~~at least one time per month~~ and may update the Bulletin as needed. A link to the Bulletin can be found on the CPO-HE maintained websites at <http://www.procure.stateuniv.state.il.us> and <http://www.cpohe.illinois.gov>.

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(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.1515 Registration

Prospective vendors and other interested parties must complete the Bulletin registration screens ~~in order~~ to download solicitations and other procurement-related documents and to receive email notices, including notices of award.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.1525 Bulletin Content

- a) The Bulletin will contain all content required by the Code. The Bulletin may include reference information of general interest (e.g., how to access the other volumes of the Illinois Procurement Bulletin, notice of new legislation, announcements and determinations) and may serve as the CPO-HE's website. The CPO-~~HE~~ shall determine whether the CPO-~~HE~~, SPO or a designee will publish notices to the Bulletin. This determination shall be based upon considerations such as operational efficiencies, staff resources, system capabilities, workload and timing considerations.
- b) Notice of each procurement ~~published~~ shall be published in the Illinois Procurement Bulletin for at least 14 days and contain at least the following information, as applicable:
 - 1) the name of the purchasing university;
 - 2) a brief description of the supplies or services sought in the particular solicitation;
 - 3) a procurement reference number, if used;
 - 4) the date the procurement is first offered (procurements that require notice shall not be distributed to vendors prior to the date the notice is first published in the Bulletin);
 - 5) the date, time and location for making submissions;

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- 6) the method of source selection;
- 7) the name of the State Purchasing Officer in charge and the name of the university person on the purchasing staff assigned to the procurement (university buyer);
- 8) instructions on how to obtain a comprehensive purchase description and any disclosure and contract forms;
- 9) encouragement to prospective vendors to hire qualified:
 - A) Veterans;
 - B) Illinois minorities, women, persons with disabilities; and
 - C) Residents discharged from any Illinois adult correctional center.
- c) Notice of each contract let or awarded that was subject of a notice in subsection (b) shall be placed in the Bulletin and shall be immediately issued electronically to those bidders or offerors submitting responses to the solicitation. Bidders and offerors must register (see Section 4.1515) and sign up for email notices. Should the Bulletin fail to send notice to bidders or offerors submitting responses to the solicitation, the time for filing a bid protest will be extended up to 7 days.
- d) The SPO shall publish the notice of award or notice of intent to award to the Bulletin for a minimum of 14 days prior to execution of the contract, unless a shorter time is authorized by the Code or this Part. This notice shall contain at least the following information:
 - 1) all the information published in subsection (b)(1) through (7);
 - 2) the name of each vendor who submitted a response and the vendor selected for award;
 - 3) the contract price for the vendor selected for award;
 - 4) the total number of vendors who responded;

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- 5) the number of unsuccessful vendors;
- 6) for each vendor who submitted a response, including the awarded vendor:
 - A) BEP Firms
 - i) the name or names of the certified Business Enterprise Program (BEP) firms identified in the vendor's submitted utilization plan~~the vendor's name~~;
 - ~~B)~~ ~~the bid amount (for IFBs);~~
 - ii) ~~C)~~ the amount and percentage of business proposed to be conducted by businesses owned by BEP vendors, to be performed by a certified Business Enterprise Program (BEP) vendor as reflected in each~~the~~ utilization plan;
 - B) VBP Firms
 - i) the name or names of the certified Veterans Business Program (VBP) firms identified in the vendor's submitted utilization plan;
 - ii) ~~D)~~ the amount and percentage of business proposed to be conducted by businesses owned by VBP vendors, to be performed by a certified Service Disabled Veteran Owned Small Business or certified Veteran Owned Small Business as reflected in each~~the~~ utilization plan;
 - iii) ~~7)~~ the total number of VBP vendors, Veteran Owned Small Businesses and Service Disabled Veteran Owned Small Businesses that submitted responses; and
- 78) the information recorded at the solicitation opening, including bid amount, and any other disclosures required to be published in the Bulletin.
- e) If a university wishes to award to other than the lowest responsive and responsible vendor in accordance with ~~pursuant to~~ Sections~~Section~~ 20-10(g) and 35-30(f) of

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the Code, an SPO must make a written determination that awarding to the lowest responsive and responsible vendor is not in the best interest of the university and must post in the Bulletin a written explanation with the notice of award. The written explanation must also be filed [by the SPO](#) with the Legislative Audit Commission and must include:

- 1) a description of the university's needs;
 - 2) a determination that the anticipated cost will be fair and reasonable;
 - 3) a listing of all responsible and responsive bidders; and
 - 4) the name of the bidder selected, the total contract price, and the reasons for selecting that bidder.
- f) Notice of each contract renewal shall be approved by an SPO and posted in the Bulletin within 14 days after the determination by the university to [execute a renewal of ~~renew~~](#) the contract. The date of the determination to [execute a renewal~~renew~~](#) shall be the date of the last approval required by the university to move forward with the renewal. Each university shall identify the renewal approval process, [including the requirements contained in Section 8i of the Business Enterprise for Minorities, Women and Persons with Disabilities Act \[30 ILCS 578\]](#), and shall ensure the renewal notice contains the required information and is posted to the Bulletin within the prescribed time. The notice shall include ~~all of the~~ information required ~~by under~~ subsection (~~db~~) or shall reference this information electronically. The notice may include attachment of or reference to the original Bulletin notice.
- g) Notice of renegotiated contracts and change orders, or series of change orders, shall be conducted and published in accordance with Section 4.2067.
- h) The following information regarding emergency procurements shall be published in the Bulletin within 5 ~~business~~ days after emergency contract award:
- 1) name of the procuring university;
 - 2) name of the vendor selected for award;

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- 3) brief description of what services or supplies the vendor intends to provide;
 - 4) total cost (if only an estimate is known, it shall be published, but a subsequent notice repeating all required information shall be published when the final amount is known);
 - 5) reasons for using the emergency method of source selection;
 - 6) name of the CPO, SPO and name of the university buyer in charge of the procurement;
 - 7) name of the university person who authorized the emergency contract action; and
 - 8) [statementaffidavit](#) of emergency procurement, if available, and, if not available, to be published as an amendment to the notice within 10 days after the emergency procurement.
- i) In addition to the requirements of subsection (h), notice of hearing to extend an emergency contract must be posted in the Bulletin no later than 14 days prior to the hearing. A completed emergency extension justification form as prescribed by the CPO-HE shall be published as part of the notice of hearing.
- j) The following information regarding [intent to enter a sole source contractprocurements](#) shall be published in the Bulletin at least 14 days prior to the required public hearing:
- 1) name of the purchasing university;
 - 2) name of the intended sole source vendor;
 - 3) a description of what services or supplies the vendor intends to provide;
 - 4) name of the SPO and university buyer in charge of the procurement;
 - 5) the date, time and location of the scheduled public hearing, with an explanation that the hearing will be cancelled if no person registers to

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attend; and

- 6) a completed sole source justification form as prescribed by the PPB.
- k) Each university shall post in the Bulletin a copy of its annual report of utilization of businesses owned by minorities, ~~women~~females, and persons with disabilities. Posting is due within 10 days after the university submits its report to the Business Enterprise Council ~~in accordance with pursuant to~~ Section 6(c) of the Business Enterprise for Minorities, ~~Women~~Females, and Persons with Disabilities Act ~~[30 ILCS 575]~~.
- l) The CPO-HE shall allow the universities to post in the Bulletin, at least annually, the reports of the granting of university concession required by Section 53-25 of the Code.
- m) Notice of other matters shall be published as required by law or at the direction of the CPO-HE.
- n) The CPO-HE may allow another CPO or another governmental entity to publish procurement related notices and other matters of public interest to the Bulletin.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.1535 Vendor Portal

- a) In consultation with the PPB and universities, the CPO-HE may establish a vendor portal, use another CPO's vendor portal, or jointly operate a vendor portal with other CPOs if a single portal better serves the needs of State agencies and the vendor community. A vendor portal shall allow potential vendors to:
 - 1) Provide certifications, disclosures, registrations and other documentation needed to do business with the State in advance of a particular procurement;
 - 2) Submit the vendor's registration number, with a confirmation that the vendor portal information is accurate and current, as part of the vendor's response to a competitive solicitation or other contracting process, and with the understanding that the universities will be relying on the

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information when evaluating solicitation responses and awarding contracts.

- b) The CPO-HE may accept the registration number of a vendor from another CPO's vendor portal provided that the vendor certifies that vendor portal information is current.
- c) Once registered in the vendor portal, vendors must ~~reregister~~ ~~re-register~~ annually ~~in order~~ to continue utilizing their vendor portal number in lieu of paper and this ~~annual~~ update satisfies the annual recertification for ~~multi-year~~ contracts and subcontracts of more than one year in duration or for any renewal term required by Section 50-2 of the Code.
- d) A vendor is not required to register in the vendor portal as a condition of conducting business with any university.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

Section 4.2005 General Provisions

- a) Method of Source Selection. *Unless otherwise authorized by law, all State contracts shall be awarded by competitive sealed bidding, in accordance with Section 20-10 of the Code, except as provided elsewhere in the Code. The CPO-HE may determine the method of solicitation and contract for all procurements pursuant to the Code. The CPO-HE shall have the sole authority to develop and distribute uniform documents for the solicitation, review and acceptance of all bids, offers and responses and the award of contracts.* [30 ILCS 500/20-5, 20-155]
- b) Solicitation Response
 - 1) All bids/offers received shall be date and time_stamped and stored in a secure manner (e.g., locked file cabinet, safe, locked room, secure

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[electronic portal](#), or other secure location) by the person responsible for receiving bids and offers.

- 2) No information regarding bids/offers received shall be disclosed to anyone prior to opening, except as authorized by the SPO. The SPO, in consultation with the university purchasing director, shall determine who is authorized to have information prior to opening. The name and title of the person authorized to have this information and the name and title of the person disclosing the information shall be documented in the procurement file. University personnel may confirm receipt of the bid or offer to the bidder or offeror, but no information is to be given otherwise.
 - 3) If a bid or offer is opened for identification purposes or in error, the procurement file shall include a signed statement explaining the reason for the mistake or error, including the name of every person involved. The bid or offer shall be re-sealed until the time set for the opening of the solicitation.
- c) Late Bids or Proposals, Late Withdrawals and Late Modifications
- 1) Any bid or proposal (include any modification, withdrawal or other procurement-related submission) received after the time and date for receipt, or at other than the specified location, is late. A submission that is delivered to the wrong location but is subsequently delivered to the correct location by the date and time specified shall be considered. State employees shall not be responsible for ensuring subsequent delivery of misdelivered items. Delivery at the specified location and time shall be the sole responsibility of the bidder or offeror.
 - 2) No late submission will be considered unless the SPO determines it would have been timely but for the action or inaction of State personnel directly serving the procurement activity (e.g., providing the wrong address). It is the responsibility of the bidder or offeror to ensure delivery at the time and to the place specified. Vendors submitting a late response will be notified and given the opportunity to retrieve the submission at their cost. Late ~~submissions~~[submissions](#) not returned to the vendor will be destroyed after all related procurement activity is complete and the resulting contract has been executed.

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- 3) Records shall be made and kept for each late bid or proposal, late modification, or late withdrawal.
 - 4) Any other submission that has a time or date deadline shall be treated in the same manner as a late bid or late proposal.
- d) Solicitation Modifications
- 1) The SPO may, prior to the date or time for submitting a bid or proposal, approve an extension of the date or time for the convenience of the university.
 - 2) The SPO may approve modification to the bid or proposal for reasons other than extending the date or time.
 - 3) If notice cannot be made at least 72 hours in advance of the time the responses are due, the SPO shall approve an extension of time to respond for a reasonable period of time or shall authorize cancellation of the solicitation. The SPO, after consultation with the university, shall determine which action best meets the needs and interests of the university and best promises transparency, competitiveness and other policies of the Code.
 - 4) All notices under this subsection (d) shall be published in the Bulletin.
- e) Bid/Proposal Firm Time
- 1) Unless otherwise provided in the solicitation, the vendor's bid/proposal must be kept firm for at least 30 days after the opening date.
 - 2) After opening bids or proposals, the SPO may request bidders or offerors to extend the time during which the university may accept the bids or proposals, provided that, with regard to bids, no other change is permitted. This extension does not provide an opportunity for others to submit bids or proposals.
- f) Electronic and Fax Submissions and Communications

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- 1) Solicitation responses, notices and other official procurement-related communications may be made in electronic form if stated in the solicitation. The CPO-HE shall establish or approve the use and method of electronic submission. Submissions that must be secure will be opened at the designated date, time and place only by an authorized person.
 - 2) Procurement-related communications that reflect final agreements or settlements in relation to protests, suspensions, debarments or contract matters must be signed by submitting a scanned copy of an original signature or by digital signature using an approved security process. Electronic communications must meet the same substantive requirements as paper communications except as allowed to reflect the different means of communication.
 - 3) *Electronic signatures must meet the minimum security requirements if established by the Department of Central Management Services [5 ILCS 175/25-101(c)] and the accompanying regulations (14 Ill. Adm. Code 105.300).*
 - 4) Fax or email submissions are acceptable for small purchases.
- g) Only One Bid or Proposal Received
- 1) If only one bid or proposal is received, the SPO may award to the single bidder or offeror if the SPO finds: ~~that~~
 - A) the price submitted is fair and reasonable, and ~~that~~ other prospective bidders or offerors had reasonable opportunity to respond; or
 - B) there is not adequate time for resolicitation.
 - 2) Otherwise the SPO may cancel the procurement.
- h) Alternate or Multiple Bids or Proposals
- 1) Alternate bids or proposals may be accepted if: ~~A)~~ permitted by the

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solicitation and in accordance with instructions in the solicitation, ~~or~~

~~B) only one vendor responded, in which case the alternate submission may be evaluated and treated in accordance with Section 4.2025 (Sole Economically Feasible Source Procurement); or~~

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

2) Multiple bids or proposals may be accepted if permitted by the solicitation and submitted in accordance with instructions in the solicitation.

i) Multiple Items

A solicitation may call for pricing of multiple items of similar or related type. Award shall be as specified in the solicitation based on an individual line item, a group total of certain items, a core list, a "market basket" of related items representative of the total requirement, a grand total of all items, or other grouping method.

j) All or None Bids or Proposals

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

k) Conditioning Bids or Proposals Upon Other Awards

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

l) Unsolicited Bids or Offers

An award may not be made based on an unsolicited offer in place of the notice and competition requirements of the Code and this Part.

m) Clarification of Bids and Proposals

The university may request that a vendor clarify its bid or proposal as a part of the evaluation process. A copy of the clarification request must be provided to the SPO. A clarification is not an opportunity to make material changes or for submission of best and final offers as authorized elsewhere in this Part.

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- n) Assignment, Novation or Change of Name
- 1) Assignment and Novation. All assignments and novations must be in writing. No university contract may be assigned or novation entered into without the prior written consent of the CPO-HE or SPO, provided, however, that a vendor may assign money receivable under a contract after due notice to the State. The assignee or transferee, except in the case of assignment of payment only, must meet all requirements for contracting with the university. Any purported assignment or novation without prior written consent shall be null and void.
 - 2) Recognition of a Successor in Interest; Novation. When in the best interest of the university, a successor in interest may be recognized in a written novation agreement in which the transferor and the transferee agree that:
 - A) the transferee assumes all of the transferor's obligations;
 - B) the transferee meets all requirements for contracting with the university;
 - C) the transferor waives all rights under the contract as against the university, and it is understood that the university does not waive any applicable right or remedy against the transferor unless expressly stated in the Novation Agreement; and
 - D) unless the transferor guarantees performance of the contract by the transferee, the transferee shall, if required by the university, furnish a satisfactory performance bond.
 - 3) Change of Name. A vendor may submit to the university a written request to change the name in which it holds a contract with the university. The name change shall not alter the parties, any of the terms and conditions of the contract or the obligations of the vendor.
- o) Contracting for Installment Purchase Payments, Including Interest
Contracts may provide for installment purchase payments, including interest charges, over a period of time. The interest rate may not exceed that established

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by law, including the Bond Authorization Act [30 ILCS 305].

- p) **Incorporation by Reference**
A solicitation may incorporate documents by reference provided that the solicitation specifies where the documents can be obtained.
- q) **Use of Source Selection Method that is Not Required**
For procurements that are subject to the Procurement Code, if a university uses a method of source selection that it is not, by law, required to use (e.g., use of a competitive sealed bid for a small purchase), the university is bound to compliance with the Code and this Part ~~rules~~ governing the method of source selection used.
- r) **Vendor Signature**
A bid or proposal submitted unsigned will be evaluated if the vendor submits a written signature acceptable to the SPO within the time specified by the SPO.
- s) **Stringing**
Dividing or planning procurements to avoid use of competitive procedures (stringing) is prohibited. Periodic purchases of similar supplies from several different vendors to maintain inventory is not stringing unless the purchases are planned to avoid use of competitive procedures. When the university or SPO identifies three or more purchases of the same item or similar items with a total value exceeding the small purchase limit during any 12 month period, the university purchasing director and the SPO shall jointly determine whether the circumstances, including, but not limited to, frequency of purchases, cost of individual purchases and future needs, warrant issuing a competitive or other consolidated procurement.
- t) **Confidential Data**
A vendor must clearly identify, by page and paragraph, any information submitted to the State claimed to be exempt from the disclosure requirement of the Illinois Freedom of Information Act [5 ILCS 140] (FOIA), including information the vendor claims is a trade secret or other competitively sensitive, confidential or proprietary information belonging to the vendor.
- 1) The vendor must identify the basis of the claim of exemption from FOIA and show how that basis applies to the request for exemption. Information

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submitted without a claim of exemption from FOIA may be disclosed to the public without notice or permission.

- 2) Information submitted with a claim of confidentiality or exemption from FOIA may still be disclosed to the public if determined under applicable law that the claim or exemption does not meet the requirements for withholding the information under FOIA.
- u) Notice of Subcontractor
- 1) Any contract entered into under this Part shall state whether the services of a subcontractor will be used. *The contract shall include the names and addresses of all known subcontractors with subcontracts with an annual value of more than \$50,000, the general type of work to be performed by each subcontractor, and the expected amount of money each will receive under the contract.* [30 ILCS 500/20-120(a)] A subcontract shall include all certifications required by Article 50 of the Code.
 - 2) If, at any time during the term of the contract, a contractor desires to add or change any subcontractors with subcontracts with an annual value of more than \$50,000, the contractor shall promptly notify the university, in writing, of the names and addresses of the proposed subcontractors, the general type of work to be performed by the proposed subcontractor, and the expected amount of money each new or replaced subcontractor will receive under the contract.
 - 3) No contractor shall change a subcontractor listed in the original bid or proposal, except for documented good cause. Any substitute subcontractor must meet all requirements of the Code applicable to subcontractors.
 - A) Good cause may include, but is not limited to:
 - i) failure of the subcontractor to execute a written contract after a reasonable period of time after the written contract is presented to the subcontractor by the contractor;
 - ii) bankruptcy of the subcontractor;

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- iii) death or disability of the subcontractor, if the subcontractor is an individual;
 - iv) dissolution of the subcontractor, if the subcontractor is a corporation or partnership;
 - v) failure of the subcontractor to meet bond requirements as specified in the solicitation;
 - vi) subcontractor becomes ineligible to perform on the subcontract because the subcontractor is suspended, debarred or otherwise ineligible to perform;
 - vii) a series of failures by the subcontractor to perform in accordance with the specifications, terms and conditions of its subcontract;
 - viii) failure of the subcontractor to comply with a requirement of law applicable to the subcontractor; or
 - ix) failure or refusal of the subcontractor to perform the subcontract.
- BA) A request of a contractor for a substitution of a listed subcontractor shall be submitted in writing to the university and shall include the reasons for the request. Consent of the university for a substitution shall be made in writing and be included in the procurement file.
- C) Any substitution of an approved BEP subcontractor must be approved in accordance with 30 ILCS 575 and 44 Ill. Adm. Code 10 as it applies to universities.
- DB) Failure of a contractor to comply with this Section may result in cancellation of its contract and be grounds for suspension or debarment~~is a breach of contract.~~
- v) Pre-Solicitation Assistance

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- 1) *For purposes of this subsection (v), "business" includes all individuals with whom a business is affiliated, including, but not limited to, any officer, agent, employee, consultant, independent contractor, director, partner, manager or shareholder of a business. [30 ILCS 500/50-10.5(e)]*

- 2) ~~Except as provided in subsection (v)(5), Section 50-10.5(e) of the Code prohibits any person or business from submitting a bid or proposal or entering into a contract if the person or business assisted an employee of the State of Illinois who, by the nature of his or her duties, has the authority to participate personally and substantially in the decision to award a contract by reviewing, drafting, directing or preparing any IFB, RFP or RFI or provided similar assistance except as part of a publicly issued opportunity to review drafts of all or part of these documents. [30 ILCS 500/50-10.5(e)]~~

- 23) Non-Prohibited Acts. This Section does not prohibit a person or business from submitting a bid or proposal or entering into a contract if the person or business:
 - A) Initiated a communication with an employee of the university to provide general information about ~~industry trends and innovations~~, products, services or industry best practices.
 - B) Responded to a communication initiated by an employee of the university for the purposes of providing information to evaluate new products, trends, services or technologies.
 - C) Provided written material to a university employee obtained from public sources, such as through an internet search, or literature packets obtained in conjunction with an event such as a trade show.
 - D) Provided, at the request of the university, general marketing material or makes a general sales presentation to show the person's qualifications or product capabilities. Material may be personalized for the procuring agency provided any

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personalization is obtained from ~~publicly~~^{publically} available sources.

- E) Provided technology, supplies or services demonstrated to the university that represent industry trends and innovation and is not specifically tailored to meet the university's needs.
 - F) Asked for clarification on a published solicitation provided:
 - i) the response did not provide a competitive advantage to the person or business who asked for clarification; and
 - ii) the question and answer were published to the Bulletin as an addendum to the solicitation.
 - G) Provided market costs or production time to a person performing construction-related services to help determine the estimated costs and time to complete a construction project.
- 34) Prohibited Acts
- A) Specifications. With the exception of standard specifications that a vendor makes available to any potential purchaser, a person or business may not submit specifications to a university for a particular transaction unless requested by a university employee. An SPO or person designated by the SPO must approve an employee's request for the specifications.
 - B) Assistance to University Employees. A person or business is prohibited from bidding on a solicitation and from having a contract or subcontract if the person or business assisted an employee of the university who, by the nature of his or her duties, has the authority to participate personally and substantially in the decision to award a contract. Assistance to a university employee may include any of the following:
 - i) Drafting (writes or assists the university with writing all or part of the procurement document);

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- ii) Reviewing (reads the document or comments on the procurement document or signified approval or disapproval);
 - iii) Directing (giving instructions or commands or in supervising or overseeing the preparation of the procurement document);
 - iv) Preparing (any activity relating to organizing or distributing the documents, including through the Procurement Bulletin); or
 - v) Providing similar assistance (e.g., conducting research or providing any advice used in drafting, reviewing, directing or preparing procurement documents).
- C) A person (and its affiliated or related entities) that contracts with a university to write specifications for a particular procurement may not submit a bid or proposal or receive a contract or subcontract for that procurement.

45) Exceptions.

- A) Any person or business who responds to an advertised request for information or other ~~publicly~~~~publically~~ available opportunity to provide information related to the procurement need or to review drafts of all or part of proposed procurement documents shall not be disqualified by virtue of responding to the State's ~~publicly~~~~publically~~ advertised request.
- B) The CPO-HE may permit a university to accept a bid or enter into a contract or subcontract with a business that assisted a university in determining need or that assisted in reviewing, drafting or preparing documents related to a bid or contract, provided:
- i) The bid or contract is essential to research administered by the university;

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y) Evaluation Committee

- 1) Evaluation committee members shall be determined by the university, tailored to the particular solicitation, and include, as appropriate, technical or other personnel with expertise to ensure a comprehensive evaluation of offers.
- 2) Evaluation committee members and any technical or other personnel with expertise assisting with the evaluation must not have any conflicts of interest or apparent conflicts of interest and must commit to the time necessary to complete all evaluations and attend any necessary evaluation meetings.
- 3) Scoring and recommendation of any committee member who does not complete the entire evaluation and scoring will not be considered in determining the final scores.
- 4) After consultation with the university purchasing director, evaluation committee members may be removed by the SPO for failure to comply with instructions or directions or to ensure the integrity of the procurement. The SPO shall state in writing the reasons for removing a committee member.
- 5) The SPO has the right to attend all evaluation meetings.

z) Confidentiality and Conflicts

- 1) To protect the integrity of the procurement process, persons having access to confidential procurement information or participating in the procurement process may be required to execute a confidentiality and conflict of interest form as prescribed by the CPO-HE.
- 2) Bids and offers and any modifications shall be opened in a manner to avoid disclosing contents to competitors. Until an award recommendation is made, no university personnel or contractual agents, other than the evaluation committee and those assigned to the procurement, may review the bids or offers, except with justification from the purchasing director and approved by the SPO.

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- 3) While the procurement is on-going, a university shall not disclose any information related to the procurement to any other bidder, offeror, or any other person not assigned to the procurement, other than information that was recorded, read and made publicly available at the opening of the bids or offers. After completion of the evaluation and award recommendation, the university may conduct discussions with management and the board of trustees if necessary to obtain approval for award prior to publishing the award in the Bulletin.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.2010 Competitive Sealed Bidding

- a) Application
Competitive sealed bidding, also referred to as Invitation for Bids, is the required method of source selection except as allowed by the Code and this Part. The provisions of this Section apply to each procurement required to be conducted by competitive sealed bidding.
- b) Invitation for Bids
- 1) Use. An Invitation for Bids is used to initiate a competitive sealed bid procurement.
 - 2) Content. An IFB shall include, at a minimum, the following:
 - A) instructions and information to potential bidders concerning the bid submission requirements, including the time and date set for receipt of bids, the address of the location to which bids are to be delivered and the maximum time for bid acceptance by the university;
 - B) the purchase description, evaluation factors, delivery or performance schedule and such inspection and acceptance requirements as are not included in the purchase description;
 - C) the contract terms and conditions;

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- D) State mandated certifications, disclosures and registration requirements; and
 - E) A form or format that will specify or organize the manner of price submission.
- 3) Delivery-Related Costs. Unless otherwise provided in the solicitation, the bid price includes transportation, transit insurance, delivery, installation and any other costs.
- c) Amendments to Invitations for Bids
- 1) Form. Amendments to IFBs shall be clearly identified and shall reference the portion of the IFB they amend.
 - 2) Distribution. Amendments shall be made available by posting on the Bulletin.
 - 3) Timeliness. Amendments shall be made available at least 72 hours prior to the date or time for submitting a bid to allow prospective bidders to consider them in preparing their bids. If notice cannot be made at least 72 hours in advance of the time responses are due, the solicitation shall be cancelled and reissued or the SPO shall extend the time to respond for a reasonable period of time. The SPO, after consultation with the university, shall determine which action best meets the needs and interests of the university and best promotes transparency, competitiveness and other policies of the Code.
- d) Pre-Opening Modification or Withdrawal of Bids
- 1) Procedure. Bids may be modified or withdrawn by written notice received at the location designated in the IFB prior to the time and date set for bid opening.
 - 2) Disposition of Bid Security. If a bid is withdrawn in accordance with this Section, the bid security, if any, shall be returned to the bidder.

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- 3) Records. All documents relating to the modification or withdrawal of bids shall be made a part of the appropriate procurement file.
- e) Opening and Recording of Bids
- 1) Bids and modifications shall be opened publicly at the time, date and place designated in the IFB in the presence of a State witness or through an electronic procurement system approved by the CPO-HE.
 - 2) The person opening bids shall not serve as witness. ~~The name of each bidder, the bid price, and such other information as is deemed appropriate by the CPO-HE or SPO shall be recorded and read aloud or otherwise made available.~~ The name of the person opening the bids, the name of the person serving as the State witness, the name of each bidder, the bid price, and such other information determined by the CPO-HE or SPO shall be recorded on a form prescribed by the CPO-HE, read aloud, signed by the person opening the bids and the State witness, and otherwise made available through an electronic procurement system approved by the CPO-HE shall also be recorded at the opening. The person opening the bid and the State witness may sign electronically.
- f) Bid Evaluation and Award
- 1) General. The contract is to be awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the IFB, except as permitted in the Code and this Part. The IFB shall set forth the requirements and criteria that will be used to determine the lowest responsive bidder. No bid shall be evaluated on the basis of any requirements or criteria that are not disclosed in the IFB.
 - 2) Responsibility. Responsibility of prospective vendors is covered by Section 4.2046 (Responsibility).
 - 3) Responsiveness. A bid must conform in all material respects to the IFB.
 - A) Product or Service Acceptability. The IFB shall set forth any evaluation criteria to be used in determining product or service acceptability. It may require the submission of bid samples,

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descriptive literature, technical data, references, licenses, or other information or material. It may also provide for accomplishing any of the following prior to award:

- i) inspection or testing of a product or service prior to award for such characteristics as quality or workmanship;
 - ii) examination of such elements as appearance, finish, taste or feel;
 - iii) other examinations to determine whether the product or service conforms to any other purchase description requirements.
- B) The acceptability evaluation is not conducted for the purpose or determining whether one bidder's product or service capability is superior to another, but only to determine that a bidder's offering is acceptable as set forth in the IFB. Any bidder's offering that does not meet the acceptability requirements shall be rejected.
- 4) Price:
- A) Following determination of product or service acceptability as set forth in this subsection (f), bids will be evaluated to determine which bidder offers the lowest cost to the State in accordance with the evaluation criteria set forth in the IFB. Only objectively measurable criteria that are set forth in the IFB shall be applied in determining the lowest bidder. Examples of such criteria include, but are not limited to, transportation cost, administrative cost and ownership or life-cycle cost formulas. Evaluation factors need not be precise predictors of actual future costs, but, to the extent possible, the evaluation factors shall be reasonable estimates based upon information the State has available concerning future use and shall treat all bids equitably. ~~Pricing for optional supplies or services, or for renewal terms, may be considered, particularly when the pricing for those items or terms is unbalanced when compared to other pricing in the bid.~~

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- B) The IFB shall identify in the solicitation what parts or features of the work are essential and what options may be included in the project. An option is a right to purchase additional supplies or services identified in the solicitation and directly relates to additional features or services of the underlying supply or service. All options must be clearly identified in the solicitation as optional work.
- C) The solicitation shall identify how the university will evaluate bids to determine the lowest cost for award purposes by identifying whether options will or will not be included in the price evaluation.
- D) The State expects prices for the required and optional supplies and services to be the lowest competitive market prices available for a customer of like type and of like circumstance. If the university solicits required and optional supplies or services, but awards based on the required supplies and services, the university may reject any response to the solicitation if the required or optional prices are materially unbalanced in relation to each other. For example, if a vendor submits an artificially low price for the required supplies and services but has submitted an artificially high price for the options, the prices are presumed to be unbalanced. Unbalanced prices are not conducive to competitive comparison and may not be in the best interests of the State.
- E) Evaluation of options does not obligate the university to exercise those options. If a university adds, during the contract term or renewal, options not accepted at the time of contract award, a change order shall be executed based on the price provided in the contract. Notice of the exercise of the options shall be published to the Bulletin 14 days in advance of exercise of the options.
- F) Pricing for any renewal terms identified in the solicitation shall be applied in determining the lowest cost to the university. A renewal term is not an option.

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- G) Negotiations. Negotiations are permitted with the lowest responsible bidder to obtain a reduction in the price of the bid.
- 5) ~~No Disclosure of Information. Until an award recommendation is made, no university personnel or contractual agents other than the evaluators and those assigned to the procurement may review the bids, except with justification from the purchasing director and approved by the SPO. The university conducting the procurement shall not disclose any information contained in any bid with any other bidder other than information that was recorded, read and made publicly available at the opening of the bids. After completion of the evaluation and award recommendation, the university may conduct discussions with management and board of trustees if necessary to obtain approval for award prior to publishing the award in the Bulletin. If discussions within the university are necessary to evaluate the bids, the SPO shall require that confidentiality and conflict of interest statements be executed.~~

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.2012 Multi-Step Sealed Bidding

- a) **Definition**
Multi-step sealed bidding is a two-phase process consisting of a technical first phase composed of one or more steps in which bidders submit unpriced technical offers to be evaluated by the State, and a second phase in which those bidders whose technical offers are determined to be acceptable during the first phase have their price bids considered.
- b) **Conditions for Use**
The multi-step sealed bidding method may be used when it is determined in writing by the SPO that it is not practical to prepare initially a definitive purchase description that will be suitable to permit an award based on price. Multi-step sealed bidding may be used when it is considered desirable:
- 1) to invite and evaluate possible diverse technical offers to determine their acceptability to fulfill the purchase description requirements; and

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- 2) to conduct discussions for the purposes of facilitating understanding of the technical offer and purchase description requirements and, when appropriate, obtain supplemental information, permit revisions of technical offers, or amend the purchase description.
- c) **Pre-Submission Conference in Multi-Step Sealed Bidding**
Prior to the submission or evaluation of unpriced technical offers, a pre-submission conference as contemplated by Section 4.2005(~~w~~) (Pre-Submission Conference) may be conducted by the SPO or designee.
- d) **Procedure for Phase One of Multi-Step Sealed Bidding**
 - 1) **Form.** Multi-step sealed bidding shall be initiated by the issuance of an Invitation for Bids in the form required by Section 4.2010 (Competitive Sealed Bidding), except as otherwise provided in this subsection (d). In addition to the requirements set forth in Section 4.2010, the multi-step IFB shall state:
 - A) that it is a multi-step sealed bid procurement, that only unpriced technical offers are requested, and that priced bids will be considered only in the second phase and only from those bidders whose unpriced technical offers are found acceptable in the first phase;
 - B) the criteria to be used in the evaluation of the unpriced technical offers;
 - C) that the SPO or designee may conduct oral or written discussions of the unpriced technical offers; and
 - D) that the item being procured shall be furnished generally in accordance with the bidder's technical offer as found to be finally acceptable and shall meet the requirements of the IFB.
 - 2) **Amendments to the IFB.** After receipt of unpriced technical offers, amendments to the IFB shall be distributed only to bidders who submitted unpriced technical offers, and those bidders shall be permitted to submit new unpriced technical offers or to amend those submitted. If, in the

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opinion of the SPO, a contemplated amendment will significantly change the nature of the procurement, the IFB may be canceled in accordance with Section 4.2040 (Cancellation of Solicitation; Rejection of Bids or Proposals) and a new IFB issued.

- 3) Receipt and Handling of Unpriced Technical Offers. Unpriced technical offers submitted by bidders shall be opened in the presence of at least one State witness or through an electronic procurement system approved by the CPO-HE. ~~Technical offers shall not be disclosed to unauthorized persons.~~
 - 4) Evaluation of Unpriced Technical Offers. Unpriced technical offers submitted by bidders shall be evaluated solely in accordance with the criteria set forth in the IFB.
 - 5) Unacceptable Unpriced Technical Offer. When the SPO determines a bidder's unpriced technical offer does not meet criteria, the offer shall be rejected.
 - 6) Discussions. The university, in consultation with the SPO, may conduct discussions with a bidder to determine in greater detail the bidder qualifications and to explore with the bidder its ability to provide the specific supply or service and the bidder proposed method of performance. Each bidder shall be given fair opportunity to make revisions authorized as a result of discussions.
- e) Procedure for Phase Two
- 1) Initiation. Upon the completion of phase one, the SPO or designee shall either:
 - A) open priced bids submitted in phase one (if priced bids were required to be submitted) from bidders whose unpriced technical offers were found to be acceptable; or
 - B) if priced bids have not been submitted, invite each acceptable bidder to submit a priced bid.

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- 2) Conduct. Phase two shall be conducted as any other competitive sealed bid procurement except that only price and related factors are evaluated.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.2013 Reverse Auctions

- a) CPO-HE Authorization
A university may procure supplies or services (other than for professional and artistic services, telecommunications services, communication services, information services, and construction projects, including design professional services) through means of a reverse auction if the CPO-HE has made a determination that use of a reverse auction is in the best interests of the State. The CPO-HE shall publish in the Bulletin that bids will be received in an electronic auction manner as part of the notice of IFB.
- b) Reverse Auction Process
The CPO-HE or designee shall conduct a reverse auction through a two-step IFB process consisting of bid prequalification and price submission.
 - 1) Prequalification
 - A) An invitation to prequalify shall be issued requesting the submission of information addressing vendor qualifications and responsibility; addressing vendor specifications and/or samples; confirming acceptance of auction procedures; and requiring agreement to accept a contract using State contract terms and conditions if selected for award in the price only part of the process. No pricing information shall be submitted or considered in the prequalification step of the process.
 - B) The prequalification bids shall not be opened publicly, but the opening shall be recorded and witnessed by a State witness or through an electronic procurement system approved by the CPO-HE. Prequalification information will be evaluated on a pass/fail basis and vendors will be notified directly as to whether they met or did not meet the prequalification criteria.

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- 2) Price
 - A) An IFB shall be sent to those vendors who passed prequalification. The response shall be limited to the submission of prices in the form specified in the IFB. The IFB shall establish any minimum bid increments.
 - B) Prices shall be submitted electronically. The CPO-HE or designee shall cause the prices to be displayed as submitted, but the prices as displayed will not identify the name of the vendor. Vendors may reduce their price at any time during the active period of the auction.
 - C) When the low price is substantially lower than other prices submitted, the CPO-HE or designee may request that the bidder confirm the price and, if an error has occurred, may allow withdrawal in accordance with the Code and this Part.
- c) Technical Difficulties
 - 1) The auction time may be extended or rescheduled by the CPO-HE or designee if technical difficulties at the State site do not allow the auction to be conducted as intended. Participants will be notified of an extension or a rescheduling.
 - 2) If technical difficulties occur at a vendor site such that the vendor cannot electronically submit a price, the CPO-HE or designee may accept a fax and will then enter the price for the vendor. Faxed prices will not be accepted later than 5 minutes before the originally scheduled end of the auction or if the faxed prices are higher than the then-existing low price.
- d) Reverse Auction Training
The CPO-HE or designee may provide instructions or training to prequalified vendors regarding auction procedures and technology.
- e) Disclosure of Reverse Auction Information

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After the end of the reverse auction, the names of those who participated in either step of the process ~~shall be disclosed~~ and the final price submitted by each participant shall be published to the Bulletin.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.2015 Competitive Sealed Proposals

- a) Competitive Sealed Proposals may be used whenever permitted by the Code and as described in this Part.
- b) The Competitive Sealed Proposal method of source selection may be used to procure the following categories. Note that the following services, if they are professional and artistic, must be procured in accordance with ~~pursuant to~~ Section 4.2035.
 - 1) electronic data processing equipment, software and services;
 - 2) telecommunications equipment, software and services;
 - 3) consulting services;
 - 4) employee benefits and management of those benefits; and
 - 5) insurance and banking services.
- c) Competitive Sealed Proposals may be used on a case-by-case basis to procure other needs when it is determined in writing by the SPO that competitive sealed bidding is either not practicable or advantageous.
- d) The Competitive Sealed Proposal method differs from competitive sealed bidding in two ways: it permits discussions with competing offerors and changes in their proposals, including price and it allows comparative judgmental evaluations to be made when selecting among acceptable proposals for award of the contract. Factors to be considered in determining whether competitive sealed bidding is either not practical or advantageous include:
 - 1) When evaluation factors involve the relative abilities of offerors to

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perform, including degrees of experience or expertise, when the types of supplies or services may require the use of comparative, judgmental evaluations to evaluate them adequately, or when the type of need to be satisfied involves weighing aesthetic values to the extent that price is a secondary consideration;

- 2) whether oral or written discussions may need to be conducted with offerors concerning technical and price aspects of their proposals;
 - 3) whether offerors may need to be afforded the opportunity to revise their proposals, including price;
 - 4) whether award may need to be based upon a comparative evaluation, as stated in the Request for Proposals, of differing price, quality and contractual factors in order to determine the most advantageous offering to the State. Quality factors include technical and performance capability and the content of the technical proposal;
 - 5) whether the primary consideration in determining award may not be price; and
 - 6) if prior procurements indicate that competitive sealed proposals may result in more beneficial contracts for the State.
- e) Content of the Request for Proposals
The RFP shall be prepared in accordance with Section 4.2010 (Competitive Sealed Bidding), provided that it shall also include:
- 1) a statement that discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award;
 - 2) a statement of when and how price should be submitted;
- A) The RFP shall identify in the solicitation what parts or features of the work are essential and what options may be included in the project. An option is a right to purchase additional supplies or services identified in the solicitation and directly relates to

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additional features or services of the underlying supply or service. All options must be clearly identified in the solicitation as optional work.

- B) The solicitation shall identify how the university will evaluate offers to determine the most advantageous proposal for award purposes by identifying whether options will or will not be included in the evaluation.
- C) The State expects prices for the required and optional supplies and services to be the lowest competitive market prices available for a customer of like type and of like circumstance. If the university solicits required and optional supplies or services, but awards based on the required supplies and services, the university may reject any response to the solicitation if the required or optional prices are materially unbalanced in relation to each other. For example, if a vendor submits an artificially low price for the required supplies and services but has submitted an artificially high price for the options, the prices are presumed to be unbalanced. Unbalanced prices are not conducive to competitive comparison and may not be in the best interests of the State.
- D) Evaluation of options does not obligate the university to exercise those options. If the university adds options not accepted at the time of contract award, a change order shall be executed based on the price provided in the contract. Notice of the exercise of the options shall be published to the Bulletin 14 days in advance of exercise of the options.
- E) Pricing for any renewal terms identified in the solicitation shall be applied in determining the price. A renewal term is not an option; and
- 3) a statement that revisions may be requested, after discussions, for the purpose of obtaining best and final offers.
- f) Receipt and Registration of Proposals

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- 1) ~~Proposals and modifications shall be opened publicly at the time, date and place designated in the RFP in the presence of a State witness, or through an electronic procurement system approved by the CPO-HE. Opening shall be witnessed by a university employee or by any other person present, but the person opening proposals shall not serve as witness. A record shall be prepared that shall include the name of each offeror, the number of modifications received, if any, a description sufficient to identify the supply or service item offered, and a notation that the package contains a price proposal. The record of proposals shall be open to public inspection after award of the contract.~~
 - 2) ~~The person opening the proposals shall not serve as a witness. The name of the person opening the proposals, the name of the person serving as the State witness, the name of each offeror, the number of modifications received (if any), a description sufficient to identify the supply or service item offered, a notation that the package contains a price proposal, and such other information as determined by the CPO-HE or SPO shall be recorded on a form prescribed by the CPO-HE, read aloud, and otherwise made available through an electronic procurement system approved by the CPO-HE. Proposals and modifications shall be opened in a manner to avoid disclosing contents to competitors. Until an award recommendation is made, no university personnel or contractual agents, other than the evaluation committee and those assigned to the procurement, may review the proposals, except with justification from the purchasing director and approved by the SPO. The university conducting the procurement shall not disclose any information contained in any proposal with any other offeror other than information that was recorded, read and made publicly available at the opening of the proposals. After completion of the evaluation and award recommendation, the university may conduct discussions with management and board of trustees if necessary to obtain approval for award prior to publishing the award in the Bulletin. If discussions within the university are necessary to evaluate the proposals, the SPO shall require confidentiality and conflict of interest statements be executed.~~
- g) Evaluation of Proposals
- 1) Evaluation Factors in the RFP. The RFP shall state all of the evaluation

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factors, including price, and their relative importance. Evaluation subfactors, if any, and their relative importance must be finalized prior to the opening and made available for inspection and copying upon opening. However, all price subfactors and their relative ranking must be shown in the RFP.

A) Demonstrations or presentations may be part of the evaluation criteria if provided for in the solicitation. The results of a demonstration or presentation may be included in scoring the proposal or to confirm the validity of the written proposal.

B) The criteria for demonstrations or presentations shall relate to the performance and intended use of the supply or service.

C) The RFP shall state the criteria for being invited to provide a demonstration or presentation.

D) Demonstrations or presentations shall be conducted in a manner that provides fair and equitable treatment to offerors.

~~2) Evaluation Committee. Evaluation committee members shall be determined by the university, tailored to the particular solicitation, and include, as appropriate, technical or other personnel with expertise to ensure a comprehensive evaluation of offers. Evaluation committee members must not have any conflicts of interest or apparent conflicts of interest and must commit to the time necessary to complete all evaluations and attend any necessary evaluation meetings. Scoring and recommendation of any committee member who does not complete the entire evaluation and scoring will not be considered in determining the final scores. After consultation with the university purchasing director, evaluation committee members may be removed by the SPO for failure to comply with instructions or directions of the SPO or to ensure the integrity of the procurement. The SPO shall state in writing his or her reasons for removing a committee member. The SPO has the right to attend any and all evaluation meetings.~~

23) Evaluation. The evaluation shall be based solely on the evaluation factors set forth in the RFP and no other factors shall be considered, except as

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communicated in advance to each proposer with opportunity to make necessary adjustments to the proposal.

- A) Numerical rating systems shall be used unless another scoring tool is authorized by the SPO. Any scoring tool shall reflect the evaluation criteria and ranking set forth in the RFP and any subfactors identified at the opening.
 - B) Proposals shall be submitted in two parts: the first, covering items except price, and the second, covering price. The first part shall be evaluated and ranked independent of the second part of all proposals. Each member of the evaluation committee must read and evaluate the first part individually and independently of all other members. All fields of the individual scoring sheet must be completed by each member of the evaluation committee.
 - C) After completion of the individual evaluations, the evaluation committee may meet to discuss the proposals to ensure full understanding of the proposals~~should meet to confirm the individual scores and reach consensus~~. The evaluation committee shall meet if~~consider~~ significant or substantial variance of scores, divergent scoring comments, or other information ~~that~~ suggests the need for further discussion.
 - D) No committee member shall attempt to unduly influence another member's scores by virtue of his or her individual or organizational rank within the university. After consideration of comments, individual evaluators may, for good cause, adjust their scores on their individual scoring sheets.
 - E) Evaluation of the first and second part may be conducted simultaneously, provided different evaluators are used to evaluate each part and no information is exchanged between the two sets of evaluators prior to completion of the evaluation. The price proposal shall be opened in the presence of a State witness and distributed to the appropriate evaluators.
- h) Proposal Discussions with Individual Offerors

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- 1) Purposes of Discussions. Discussions are held to:
 - A) promote understanding of the University's requirements and the offerors' proposals (e.g., determine in greater detail milestones, deliverables and timelines for completion of work); and
 - B) facilitate arriving at a contract that will be most advantageous to the State, taking into consideration price and the other evaluation factors set forth in the RFP.
 - 2) Conduct of Discussions. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussions and clarifications of proposals. Discussion may be conducted by the university, in consultation with the SPO, with vendors reasonably susceptible of being awarded a contract based on qualifications and price. If during the discussions it is determined there is a need for any substantial revision of, or change to, the RFP, the RFP shall be canceled and may be resolicited to incorporate the clarification or change. Auction techniques (revealing one offeror's price to another) and disclosure of any information from competing proposals are prohibited. Any substantial oral clarification of a proposal shall be reduced to writing by the offeror.
 - 3) Best and Final Offers. The SPO may request best and final offers from those offerors deemed acceptable after completion of any discussions. Best and final offers shall be submitted by a specified date and time. The SPO may conduct additional discussions or require another submission of best and final offers. The scope of the best and final offer and the number of vendors allowed to participate shall be defined by the SPO. The primary objective of best and final offers is to maximize the university's ability to obtain best value, based on the requirements and the evaluation factors set forth in the solicitation. If an offeror does not submit either a notice of withdrawal or another best and final offer, the offeror's immediately previous offer will be construed as its best and final offer.
- i) Award
- An award shall be made by the SPO pursuant to a written determination showing the basis on which the award was found to be most advantageous to the State,

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taking into consideration price and evaluation factors set forth in the RFP. The contract file shall contain the basis on which the award is made. Any changes negotiated after award, other than reduction in price, must be submitted to the SPO for approval prior to contract execution. ~~After the most advantageous finding is presented to the SPO, the university may request a reduction in the price only term of the proposal.~~

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.2020 Small Purchases

- a) By August 1 of each year, each ~~Each~~ university shall prepare and submit to the CPO-HE for approval its, by July 1 of each year, small purchase procurement practices that will apply for the current fiscal year. Those practices shall ~~that~~ ensure maximum reasonable competition and promote small businesses, diversity, transparency and other statutory policies. For all purchases of \$20,000 or more, quotes must be sought from multiple vendors, be in writing, promote small and diverse businesses, and be maintained in the procurement file. ~~Documentation of each purchase shall be maintained in the procurement file.~~
- b) Application. Purchases shall not be artificially divided so as to avoid a competitive procurement.
- 1) Individual procurements of \$100,000 ~~\$0,000~~ or less for supplies or services, other than professional and artistic, may be made without the notice or level of competition otherwise required of competitive sealed solicitations. ~~These small purchase maximums shall be subject to the annual cost of living increases set forth in subsection (b)(3).~~
 - 2) Procurements for construction and construction-related services of \$100,000 or less may be made without the notice or level of competition otherwise required of competitive sealed solicitations. ~~These small purchase maximums shall be subject to the annual cost of living increases set forth in subsection (b)(3).~~
 - 3) ~~The CPO-HE shall announce any change identified by the United States Department of Labor in the Consumer Price Index for All Urban Consumers for the period ending each December 31. That percentage~~

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~~change shall be used to recalculate the small purchase maximums applicable for the fiscal year beginning July 1. The CPO HE shall publish on the Bulletin the current small purchase maximums.~~

- 34) Procurements of \$100,000 or less ~~than \$20,000~~ for professional and artistic services and that have a nonrenewable ~~non-renewable~~ term of one year or less may be made without the prior notice or level of competition otherwise required of competitive sealed solicitations. Notice of award of these small professional and artistic service contracts must be published in the Bulletin within 14 days after contract execution, and shall include the name of the SPO, reason for the exception, description of the procurement, name of the university decision maker, contract reference number and contract price.
- c) Determination of Small Purchase Status
- 1) In determining whether a contract is under the small purchase limit, the stated value of the supplies or services, plus any optional supplies and services, and the value of any renewals, determined in good faith, shall be utilized. Trade-in value is not to be considered in determining whether a contract is under the small purchase limit. When the value is calculated month-to-month or in a similar fashion, the amount shall be calculated for a 12 month period.
 - 2) If only a unit price or hourly rate is known, the contract shall be considered small and shall have a not-to-exceed limit applicable to the type of procurement (see subsection (a)).
 - 3) If, after signing the contract, the actual cost of completing the contract is determined to exceed the small purchase amount, and the SPO determines that a supplemental procurement is not economically feasible or practicable because of the immediacy of the agency's needs or other circumstances, the SPO must follow the procedures for sole source or emergency procurement, whichever is applicable, to complete the contract.
- d) Repetitive Need
If there is a repetitive need for small procurements of the same type (which may

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be evidenced by a pattern of small purchases, as determined by the university or the SPO), the university shall consult with the SPO to consider whether issuing a competitive sealed bid or proposal for procurement of those needs is in the best interests of the State.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.2025 Sole Source and Sole Economically Feasible Source Procurement

- a) **Application**
The provisions of this Part apply to procurements from a sole source and sole economically feasible source unless the estimated amount of the procurement is within the limit set in Section 4.2020 (Small Purchases) or unless emergency conditions exist as defined in Section 4.2030 (Emergency Procurements), in which case those other procedures may be used.
- b) **Conditions for Use of Sole Source and Sole Economically Feasible Source Procurement Method**
Sole source procurement is permissible when a requirement is available from only a single supplier. Sole economically feasible source is permissible when only one supplier is deemed economically feasible. A requirement for a particular proprietary item does not justify a sole source procurement if more than one vendor is authorized to provide that item. The following are examples of circumstances that could necessitate sole source and sole economically feasible source procurement, but are not exhaustive:
- 1) compatibility of equipment, accessories, replacement parts or service is a paramount consideration;
 - 2) items are needed for trial use or testing of a specific product or service;
 - 3) item is for commercial resale and obtained from the manufacturer or sole authorized distributor;
 - 4) noncompetitive ~~non-competitive~~ public utility services;
 - 5) item is copyrighted or patented and the item or service is not available except from the holder of the copyright or patent;

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- 6) media for advertising;
 - 7) art, entertainment services or athletic events;
 - 8) radio and television broadcast rights;
 - 9) procurements related to participation in mandated educational, professional, research, public service or athletic activities of organizations of which the university is a member. These procurements may include, but are not limited to, dues and membership fees, travel and lodging and facility usage fees;
 - 10) federal or State grant requires a specific named vendor as a condition of the grant;
 - 11) items required by an existing franchise agreement;
 - 12) items that are required for research and no other source is able to meet the need as documented by the principal researcher; or
 - 13) new, latest edition textbooks that are only available from the publisher or sole distributor in classroom quantities.
- c) Sole Source Determination
- 1) As soon as a need is identified by the university, the SPO must be contacted to determine the appropriate procurement method. The final determination as to whether a procurement shall be made as a sole source or sole economically feasible source procurement shall be made by the SPO, based on a request made by a university. The request shall be in writing on a form prescribed by the PPB and shall include the basis for the sole source or sole economically feasible source determination. Prior to authorizing the university to enter into a contract based on the sole source or sole economically feasible source request, the CPO-HE shall offer to conduct a public hearing and make a final determination as required by Section 20-25(a) of the Code. Any request for hearing must be made at least 5 calendar days prior to the date of the scheduled hearing. If no

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request for hearing is made, the hearing will be cancelled. No sole source or sole economically feasible source procurement may proceed without final approval by the CPO-HE.

- 2) To support a sole source request, the university may use research material available from the internet, trade shows, publications, peer networking and similar sources. A justification must be provided detailing why the need could not be obtained through a competitive process. That a vendor has supplied samples, demonstrated its product, provided the supplies or services through prior small purchases, or engaged in a pilot project is not sufficient justification, in and of itself, to support a sole source.

- de) Hearing
Any hearing required shall be conducted in accordance with Subpart U.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.2030 Emergency Procurements

- a) Authority to Make Emergency Procurements
The provisions of this Part apply to every procurement over the small purchase limit set in Section 4.2020 (Small Purchases) made under emergency conditions. A university shall have the authority to make emergency procurements when an emergency condition arises and the need cannot be met through normal procurement methods.
- b) Statutory Emergency Conditions
A statutory emergency condition exists:
 - 1) when there exists a threat to public health or public safety;
 - 2) when immediate expenditure is needed for repairs to university property in order to protect against further loss or damage to university property;
 - 3) to prevent or minimize serious disruption in critical university services that affect health, safety, or collection of substantial State revenues; or
 - 4) to ensure the integrity of university records.

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- c) Quick Purchase. The quick purchase emergency method of source selection is allowed in certain situations, including, but not limited to:
- 1) protecting the health and safety of any person;
 - 2) items are available on the spot market or at discounted prices for a limited time so that good business judgment mandates a "quick purchase" immediately to take advantage of the availability and price;
 - 3) rare items, such as articles of historical value or art collections, are available for a limited time;
 - 4) the opportunity to obtain entertainment, speakers and athletic and other events or performances (not exempt under Section 1-13 of the Code) is available for a limited time;
 - 5) immediate action is necessary to avoid lapsing or loss of federal or donated funds.
- d) Scope of Emergency Conditions
Emergency procurement shall be limited to those supplies, services, construction or other items necessary to meet the emergency need. In certain situations, the purchase to meet the immediate need (i.e., the temporary solution) may, by necessity, also be the permanent solution. In this event, the notice shall describe that circumstance.
- e) Source Selection Methods
Any method of source selection, whether or not identified in this Part, may be used to conduct the procurement in emergency situations. Whenever practical, existing State contracts shall be utilized. Such competition as is practicable shall be obtained recognizing the need to obtain the item in time to meet the emergency need. Documentation of all efforts made to obtain competition, including efforts at diversity, shall be made part of the procurement file.
- f) Determination and Record of Emergency Procurement
- 1) Determination. The university shall make a written determination stating

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the basis for an emergency procurement, showing that the situation meets criteria for an emergency established by the Code and this Part and providing the reason for selecting the particular vendor. These determinations shall be kept in the contract file.

- 2) Emergency Contract Award. For purposes of an emergency contract, an emergency contract is awarded on the earliest of the date a university communicates to a vendor when to start work, the date of publication on the Illinois Procurement Bulletin identifying the selected vendor of the required ~~supplies~~ goods or services, or the date the contract is signed by both parties. Documentation of the contract award date shall be part of the procurement file.
- 3) ~~Statement Affidavit~~. The university shall prepare ~~a statement~~ a statement ~~an affidavit~~ for each emergency procurement (including statutory, quick purchases and extensions of emergency contracts beyond 90 days) and shall file it with the CPO-HE, PPB and Auditor General within 10 days after the contract is awarded. The statement shall be submitted electronically through the Bulletin, but if the Bulletin is not available, the statement shall be submitted through alternate means. The ~~statement affidavit~~ shall include the following information:
 - A) the vendor's name;
 - B) the amount and type of the contract (if only an estimate of the amount is available immediately, the record shall be supplemented with the final amount once known);
 - C) a description of what the vendor will do or provide;
 - D) the reasons for using the emergency method of source selection.
- 4) Publication. Notice of the emergency procurement shall be published in the Bulletin as specified in Sections 15-25(c) and 20-30 of the Code no later than 5 days after the contract is awarded and shall include a description of the procurement, the reasons for the emergency procurement, the emergency statement, and the total cost. When only an estimate of the total cost is known at the time of publication, the estimate

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shall be identified as an estimate and published. When the total cost is determined, it shall also be published in like manner before the 10th day of the next succeeding month. ~~A copy of the affidavit must be attached to the notice, if available and, if not available, must be attached as an amendment to the notice within 10 days after the emergency procurement.~~

- g) Duration of Emergency Contract
- 1) The term of the temporary solution emergency contract shall be limited to the time reasonably needed for a competitive procurement for the permanent solution, not to exceed 90 days.
 - 2) A temporary solution emergency contract may be extended beyond 90 days if the CPO-HE determines additional time is necessary and the contract scope and duration are limited to the emergency. Prior to execution of the extension, a public hearing shall be held at which any person may present testimony.
 - 3) Notice of Extension. Notice of intent to extend an emergency contract shall be published in the Bulletin at least 14 days prior to a public hearing. Notice shall include at least a description of the need for the emergency extension, the vendor, and the date, time and location of the public hearing.
 - 4) The initial determination as to whether an emergency shall be extended for a term longer than 90 days shall be requested by the university, in the form of an extension request submitted to the SPO using the form prescribed by the CPO-HE. The request shall include the justification for the extension. Prior to execution of the extension, a public hearing shall be held at which any person may present testimony. The CPO-HE may conduct the hearing or may authorize a hearing officer to hold the hearing and make a recommendation. The CPO-HE shall make a final determination as required by Section 20-30(a) of the Code. The final determination shall be published in the Bulletin. The term of the proposed contract extension may be shortened or lengthened as determined by the CPO-HE.
- h) Contract Extension Hearing
- The hearing shall be conducted in accordance with Subpart U.

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(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.2033 Best Value Procurements

- a) Definition – A best value procurement means a contract award determined by objective criteria related to price, features, functions, and life-cycle costs that may include:
- 1) total cost of ownership, including warranty, under which all repair costs are borne solely by the warranty provider; repair costs; maintenance costs; fuel consumption; and salvage value;
 - 2) product performance, productivity, and safety standards;
 - 3) the supplier's ability to perform to the contract requirements; and
 - 4) environmental benefits, including reduction of greenhouse gas emissions, reduction of air pollutant emissions, or reduction of toxic or hazardous materials.
- b) A best value source selection may only be used for purchases of heavy mobile fleet vehicles and off-road construction equipment. The total annual value of vehicles and equipment purchased through the best value source selection shall not exceed \$20,000,000 per university. [30 ILCS 500/25-85] Each university shall track expenditures made under this method of source selection and shall report annually the cumulative value of these expenditures to the CPO-HE.
- c) A best value procurement shall be conducted in accordance with Section 4.2015 (Competitive Sealed Proposals). In addition to the requirements of Section 4.2015, the solicitation document shall:
- 1) Specify what performance factors will be given weighted value.
 - 2) Identify all evaluation factors to be used in determining the successful offeror.

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- 3) Give substantial weight to pricing in the evaluation of the successful offeror.
- d) Award will be made to the offeror proposing the best combination of performance, qualifications, price and other factors identified in the evaluation criteria.
- e) In addition to the publication requirements contained in Section 4.1525(d) (Bulletin Content), upon the written request of any person or entity that submitted an offer, notice of award shall be posted 24 hours in advance of contract execution in a public place at the offices of the university. The solicitation document shall identify where the notice of award shall be posted.
- f) Protests may be filed by any person or entity that submitted an offer and will be conducted in accordance with Section 4.5550 (Protests). Within 10 days after filing a protest, the protesting offeror shall file a full and complete statement with the CPO-HE or Protest Review Officer identifying the grounds for the protest and any facts in support of the protest.

(Source: Added at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.2035 Competitive Selection Procedures for Professional and Artistic Services

- a) Application
 - 1) The provisions of this Section apply to every procurement of professional and artistic services except those subject to the Architectural, Engineering and Land Surveying Qualifications Based Selection Act [30 ILCS 535] and except as provided in subsection (e).
 - 2) "*Professional and artistic services*" means those services provided under contract to a university by a person or business, acting as an independent contractor, qualified by education, experience and technical ability [30 ILCS 500/1-15.60].
- b) Professional and artistic services are further defined as follows:
 - 1) "Qualified by education" means the individual who would perform the

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services must have the level of experience appropriate to the task, as specified in the Request for Proposals.

- 2) "Qualified by experience" means the individual who would perform the services must have the level of general experience specified in the Request for Proposals.
 - 3) "Qualified by technical ability" means the individual who would perform the services demonstrates a high degree of skill or ability in performing services that are the same, similar or closely related in nature to those specified in the Request for Proposals.
 - 4) An essential element distinguishing professional services from other services is confidence, trust and belief in not only the ability, but the talent, of the individual performing the service.
 - 5) Professional and artistic services are primarily for intellectual or creative skills. Contracts for services primarily involving manual skills or labor are not professional and artistic services contracts.
 - 6) If the professional or artistic contract is with a firm or other business entity, the individuals whose education, experience and technical ability provided the basis on which the firm or other business entity was selected must meet the qualifications.
 - 7) When a university requires services that meet the requirements of this subsection (b), the competitive selection procedures described in this Section must be followed. Services that do not meet the requirements of this Section must be procured in accordance with the other methods of source selection authorized by the Code and this Part.
- c) The categories of services enumerated in this subsection (c) shall be considered and procured as professional and artistic services. With regard to other services, the SPO may determine whether the factors identified in subsection (b), when applied to particular services to be procured, require the services to be procured as professional and artistic under these competitive selection procedures, or as services that are subject to one of the other methods of source selection authorized by the Code and this Part. The following categories are examples of disciplines

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that would always be professional and artistic services:

- 1) law;
 - 2) accounting;
 - 3) medicine;
 - 4) dentistry;
 - 5) clinical psychology; and
 - 6) custom-produced art.
- d) Architect, engineering and land surveying services shall be procured in accordance with ~~pursuant to~~ the source selection procedures of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act [30 ILCS 535] and are. ~~These procurements are not~~ subject to the procedures for all other professional services established in the Code or this Part. For professional services with an estimated basic professional service fee of \$25,000 or more, the SPO shall publish notice of award or notice of intent to award to the Bulletin for a minimum of 14 days prior to execution of the contract.-
- e) Conditions for Use of Competitive Selection Procedures.
Except as authorized under Section 20-25 (Sole Economically Feasible Source Procurement) or Section 20-30 (Emergency Procurements) of the Code, these competitive selection procedures shall be used for all procurements of professional and artistic services of ~~\$20,000 or more~~ than \$100,000.
- 1) Services of \$100,000 or less ~~than \$20,000~~ and for a nonrenewable term of one year or less may be procured in accordance with Section 4.2020 (Small Purchases) of this Part, except notice of the contract must be published as provided in accordance with Section 35-35(b) of the Code and include the name of the CPO-HE or SPO and a brief explanation of the reason for the exception ~~in subsection (m)~~.
 - 2) Dividing or planning procurements to avoid use of competitive procedures (stringing) is prohibited. If there is a repetitive need for small professional

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and artistic procurements of the same type that may be evidenced by a pattern of small purchases, as determined by the university or the SPO, the university shall consult with the SPO to consider whether issuing a competitive sealed proposal for those needs is in the best interests of the State.

- f) Request for Proposals
Professional and artistic services shall be procured using an RFP.
- 1) Contents. The RFP shall be in the form specified by the CPO-HE and shall contain at least the following information:
- A) the type of services required;
 - B) a description of the work involved;
 - C) an estimate of when and for how long the services will be required;
 - D) the type of contract to be used;
 - E) a date by which proposals for the performance of the services shall be submitted;
 - F) a statement of the minimum information that the proposal shall contain, which may, by way of example, include:
 - i) the name of the offeror, the location of the offeror's principal place of business and, if different, the place of performance of the proposed contract;
 - ii) if deemed relevant, the age of the offeror's business and average number of employees over a previous period of time, as specified in the RFP;
 - iii) the abilities, qualifications and experience of all persons who would be assigned to provide the required services;
 - iv) a listing of other contracts under which services similar in

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scope, size or discipline to the required services were performed or undertaken within a previous period of time, as specified in the RFP;

- v) a plan giving as much detail as is practical explaining how the services will be performed;
 - G) price (to be submitted in a separate envelope in the proposal package and not mentioned elsewhere in the proposal package);
 - H) the factors to be used in the evaluation and selection process and their relative importance; and
 - I) a plan for post-performance review to be conducted by the university after completion of services and before final payment and made part of the procurement file.
- 2) Evaluation. Proposals shall be evaluated on the basis of evaluation factors stated in the RFP. ~~Price will not be evaluated until ranking of all proposals and identification of the most qualified vendor.~~ The relative importance of the evaluation factors will vary according to the type of services being procured. The minimum evaluation factors are:
- A) the plan for performing the required services;
 - B) ability to perform the services as reflected by technical training and education, general experience, specific experience in providing the required services and the qualifications and abilities of personnel proposed to be assigned to perform the services;
 - C) the personnel, equipment and facilities to perform the services currently available or demonstrated to be made available at the time of contracting; and
 - D) a record of past performance of similar work.
- g) Receipt and Handling of Proposals
Proposals shall be submitted to and opened by the university unless otherwise

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directed by the CPO-HE or SPO.

- 1) Proposals and modifications shall be opened publicly at the time, date and place designated in the RFP in the presence of a State witness, or through a secure electronic procurement system approved by the CPO-HE.
 - 2) The person opening the proposals shall not serve as a State witness. The name of the person opening the proposals, the name of the person serving as the State witness, the name of each offeror, the number of modifications received (if any), a description sufficient to identify the supply or service offered, a notation that the package contains a price proposal, and any such information determined by the CPO-HE or SPO shall be recorded on a form prescribed by the CPO-HE, read aloud, and otherwise made available through an electronic procurement system approved by the CPO-HE. Opening shall be witnessed by a State witness or by any other person present, but the person opening proposals shall not serve as witness. A record shall be prepared that shall include the name of each offeror and a description sufficient to identify the service item offered. The record of proposals shall be open to public inspection after award of the contract.
 - 3) Proposals and modifications shall be opened in a manner to avoid disclosing contents to competitors. Until an award recommendation is made, no university personnel or contractual agents other than the evaluation committee and those assigned to the procurement may review the proposals, except with justification from the purchasing director and approved by the SPO. The university conducting the procurement shall not disclose any information contained in any proposal with any other offeror other than information that was recorded, read and made publicly available at the opening of the bids. After completion of the evaluation and award recommendation, the university may conduct discussions with management and board of trustees if necessary to obtain approval for award prior to publishing the award in the Bulletin. If discussions within the university are necessary to evaluate the proposals, the SPO shall require that confidentiality and conflict of interest statements be executed.
- h) Discussions
- 1) Discussions Permissible. The CPO-HE or SPO may conduct discussions

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with any offeror to:

- A) determine in greater detail the offeror's qualifications; and
 - B) explore with the offeror the scope and nature of the required services, the offeror's proposed method of performance and the relative utility of alternative methods of approach. The CPO-HE or SPO may request revisions after discussions for the purpose of obtaining best and final offers.
- 2) Discussions shall not disclose any information derived from proposals submitted by other offerors, and the university conducting the procurement shall not disclose any information contained in any proposals with any other offeror.
- i) **Selection of the Best Qualified Offerors**
After conclusion of validation of qualifications, evaluation and discussion, the SPO shall rank the acceptable offerors in the order of their respective qualifications.
- j) **Evaluation of Pricing Data**
Ranking by price is required for all professional and artistic proposals with an annualized value that is more than \$100,000. Pricing submitted for all acceptable proposals shall be ranked. When annualized value cannot be determined, ranking by price is required.
- 1) If the low price is submitted by the most qualified vendor, the SPO may award to that vendor.
 - 2) If the price of the most qualified vendor is not low and if it is not more than \$100,000 annually~~does not exceed \$25,000~~, the SPO but not a designee may award to that vendor.
 - 3) If the price of the best qualified vendor is not low and if it is more than \$100,000 annually~~exceeds \$25,000~~, the SPO, but not a designee, may award to that vendor but must state why a vendor other than the low-priced vendor was selected and that determination shall be published in the Bulletin.

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- k) Negotiation and Award of Contract
- 1) General. The university, in consultation with the SPO, ~~or designee~~ shall attempt to negotiate a contract with the best qualified offeror for the required services at fair and reasonable compensation. The university, in consultation with the SPO, may, in the interest of efficiency, negotiate with the next highest ranked vendor, while negotiating with the best qualified vendor.
 - 2) Elements of Negotiation. At a minimum, contract negotiations shall be directed toward:
 - A) making certain that the offeror has a clear understanding of the scope of the work, specifically, the essential requirements involved in providing the required services;
 - B) determining that the offeror will make available the necessary personnel and facilities to perform the services within the required time; and
 - C) agreeing upon compensation that is fair and reasonable, taking into account the estimated value of the required services and the scope, complexity and nature of those services.
 - 3) Successful Negotiation of Contract with Best Qualified Offeror
 - A) If compensation, contract requirements and contract documents can be agreed upon with the best qualified offeror, the contract shall be awarded to that offeror, unless the procurement is canceled.
 - B) Compensation must be determined in writing to be fair and reasonable. Fair and reasonable compensation shall be determined by the university, in consultation with the SPO, based on the circumstances of the particular procurement, including, but not limited to, the nature of the services needed, qualifications of the offerors, consideration of range of prices received in the course of

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the procurement, other available pricing information and the university's~~agency's~~ identified budget.

- C) Contracts entered into under this Section shall provide:
- i) the duration of the contract, with a schedule for delivery when applicable;
 - ii) the method for charging and measuring cost (hourly, daily, etc.);
 - iii) the rate of remuneration; ~~and~~
 - iv) the maximum price; and
 - v) whether the services of subcontractors will be used.
- 4) Failure to Successfully Negotiate Contract with Best Qualified Offeror
- A) If compensation, contract requirements or contract documents cannot be agreed upon with the best qualified offeror, a written record stating the reasons shall be placed in the file. The university, in consultation with the SPO, shall advise the offeror of the termination of negotiations.
 - B) Upon failure to successfully negotiate a contract with the best qualified offeror, the university, in consultation with the SPO, may enter into negotiations with the next most qualified offeror.
- l) Multiple Awards
The SPO may authorize a solicitation for professional and artistic services that includes an intent to make multiple awards based upon a need demonstrated by the university to have multiple vendors under contract. Any multiple awards shall be conducted in accordance with Section 4.2036(b).-
- m) Notice of Award
- 1) Notice of award shall be in accordance with Section 4.1525(~~db~~) and (~~ee~~).

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- 2) Notice of award of professional and artistic service contracts that are nonrenewable, are one year or less in duration, and have a value of \$100,000 or less~~under \$20,000~~ must be published in the Bulletin in accordance with Section 35-35(b) of the Code. The notice shall include the name of the SPO and a brief explanation of the procurement.
- n) **Prequalification**
Prequalification of professional and artistic vendors shall not be used to bar or prevent an otherwise qualified person from responding to a request for proposal for professional and artistic services.
- ⊖) ~~**Priced Qualifications**~~
~~As an alternative to awarding based on qualifications only, the solicitation may contain a provision evaluating both qualifications and price to determine the vendor with the most advantageous proposal. All other provisions applicable to a procurement of professional and artistic services shall remain in effect.~~

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.2036 Other Methods of Source Selection

Notice of the results of any of the following methods must be published in the Bulletin in the form and format specified by the CPO-HE.

- a) **Split Award**
An award of a definite quantity requirement may be split between bidders or offerors if necessary to obtain the total quantity needed. Each portion shall be for a definite quantity and the sum of the portions shall be the total definite quantity required.
- b) **Multiple Award**
An award may be made to two or more~~multiple~~ vendors for similar supplies or services when there is a need that cannot reasonably be met by a single award as determined by the university and SPO.
- 1) Supplies and services may be solicited with the intent to make multiple awards. The solicitation must state this intent and describe the type of

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multiple award in detail and the methodology for determining which vendor from among the multiple awardees will receive an as-needed individual order.

2) Types of Multiple Awards

A) Progressive (Primary with Alternates)

A multiple award may be made to a primary and one or more alternate vendors when there is a need for multiple vendors to ensure immediate performance. The primary vendor shall have first refusal for all orders with others contacted in progressive order. Ranking of the alternates shall be by price or value depending on the methodology (IFB or RFP) used in the solicitation. Selection to meet the particular need shall be by low price or best value as appropriate to the underlying solicitation. If appropriate and within legal requirements, an alternate progressive award for the same items may be made to promote statutory preferences, goals, policies and programs (e.g., small business set-aside).

B) Pre-qualified Pool of Vendors

i) When it may be more efficient or more appropriate based on the nature of the item to establish a pool of qualified vendors and then select from among that pool as needs arise, the university may use an RFP to identify vendors who meet the criteria for the pre-qualified pool. The university may select the pool from among the vendors ranked most qualified, but the number in the pool shall be the minimum necessary to meet the need, and generally not exceed 10. Once selected, these vendors shall be considered of equal rank. If appropriate and within legal requirements, an alternate pool for the same item may be established to promote statutory preferences, goals, policies and programs (e.g., [Business Enterprise for Minorities, Women, and Persons with Disabilities \(BEP\) Act](#), [Veterans Business Program \(VBP\)](#), and small business set-aside).

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- ii) When there is a specific need, each pool vendor will be contacted directly in writing and asked to submit a price, timeline for completion and any other information necessary to address the need by a specified date. The vendor submitting the response that meets stated needs and is the lowest price or that provides the best value will have the award. The method of selection shall be identified in the request for quotation.
 - iii) If it is not practicable for the university to discuss the particular need with each pool vendor, the university may, with SPO approval, select the two most qualified, based on the initial selection of the pool, to discuss the particular need. The university must detail the reasons for the selection and obtain SPO approval. Documentation to the procurement file must contain the reason why pre-selection discussions with all pool vendors were not practicable.
 - 3) Exception for Conflict or Capacity
If there is a known conflict of interest or the vendor otherwise eligible for the order is not available to perform, the next low or next best value vendor shall be offered the order.
 - 4) Type of Contract
Multiple award contracts shall be considered master ordering agreements. Supplies or services ordered under these contracts shall be documented on the order that refers to that agreement. A multiple award contract is not a requirements contract and does not guarantee any level of ordering activity by the university.
 - 5) If a particular quantity requirement arises that exceeds the university's normal requirement or a quantity or amount specified in the contract, a separate solicitation may be issued.
 - 6) Despite the existence of a multiple award, the need may be met by a separate single award solicitation.
- c) Term and Condition Contracts

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- 1) A term and condition contract contains agreed contractual terms and conditions established for the convenience of the parties to be used in conjunction with a subsequent procurement and processed in accordance with the requirements of the Code and this Part. A term and condition contract is not a procurement. It creates no obligation on the part of the university to procure from the vendor, nor does it create an authorization for a university to order based on that term and condition contract, except as provided by subsection (c)(2).
 - 2) Orders may be placed against term and condition contracts without use of any method of source selection specified in the Code for convenience of processing sole source, emergency or small procurements.
- d) Auction
Purchases may be made at auction in accordance with the procedural requirements applicable to the particular auction. Prior notice and competition is not required and the amount payable shall be the amount bid and accepted plus any required buyer's premium.
- e) ~~Non-governmental Joint Purchase~~
- 1) ~~An SPO may authorize a university to purchase or lease supplies and services (other than professional and artistic services) that have been procured through a competitive process by a non-governmental group purchasing organization of which the university is a member or affiliate, including any non-governmental purchasing entity.~~
 - 2) ~~The SPO may authorize purchases and contracts established by other means if that method is the most advantageous and the affected university can show the procurement is in the best interests of the university under the particular circumstance.~~
 - 3) ~~In relation to a non-governmental group purchasing organization, a university may act as the lead procuring entity or may be a participant entity. When a university is the lead procuring entity, the procurement shall be conducted in accordance with the Illinois Procurement Code, including all Bulletin notice requirements. When a university is a~~

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~~participant, the joint procurement shall be conducted in accordance with the laws or processes governing the lead procuring entity.~~

- ~~4) If a university uses a non-governmental award or contract as a participant, notice of that use shall be published in the Bulletin at least 14 days prior to use of the award or contract.~~
- ~~5) When a university is a participant in a non-governmental procurement, the contract shall include provisions required by Illinois law, including applicable certifications, disclosures and registrations, and standard contract terms and conditions, to the extent practicable and feasible.~~
- ~~6) The university must document and justify any use of a non-governmental award or contract and must submit the justification to the SPO for approval on a form prescribed by the CPO-HE. All nongovernmental joint purchase contracts or orders must be submitted to the SPO for review and approval before execution.~~
- ~~7) The CPO-HE shall submit to the General Assembly an annual report of procurements made under this subsection (e).~~

ef) Federal Requirements

The SPO for any university receiving federal aid funds, grants or loans or otherwise subject to federal entity requirements may conduct procurements in accordance with federal requirements that are necessary to receive or maintain those federal aid funds, grants or loans or to remain in compliance with federal requirements, except as provided in Section 1-13 of the Code.

fg) Foreign Country Procurement

Procurements to meet the needs of university offices located in, or university programs operated in, foreign countries shall comply with the provisions of the Code to the extent practical. [30 ILCS 500/20-90] Procurements conducted solely in a foreign country to meet the needs of a university office or program located in that country are delegated to the university. The university shall provide a summary of the procurement or a copy of the procurement file to the SPOCPO-HE upon request.

gh) Donations

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- 1) When a procurement will have the majority of funding from a donation, the terms of which require use of a named vendor or the procurement of a particular good or service, the SPO shall comply with those requirements, but shall otherwise follow the Code and this Part.
- 2) Donations may be acknowledged by the donee university in a manner appropriate to the type of donation and the program activity associated with the donation. Acknowledgment may include, but need not be limited to, public announcement at the event or in donee university publications, and inviting the donor to attend the program activity associated with the donation.

hi) Broker Method for Obtaining Certain Insurance Coverages

- 1) Notwithstanding anything to the contrary in this Part, the CPO-HE, but not a designee, may, on a case-by-case basis, authorize the use of this broker method to obtain insurance coverages when use of the methods of source selection set forth in Article 20 of the Code is not practicable or advantageous because, for example:
 - A) Due to the structure of the insurance industry, the types of insurance coverages needed cannot reasonably be obtained from "direct writers" who would provide quotes directly to university in a bid or RFP process; or
 - B) The process of obtaining quotes for needed insurance coverages cannot be accomplished within the normal procurement timeframes.
- 2) If the CPO-HE determines that this broker method is preferable for designated coverages, a two-part procurement process will be used to obtain the coverages.
 - A) A broker will be selected in accordance with the RFP process authorized by Section 20-15 of the Code, and the resulting contract will be subject to all requirements of the Code. The broker contract will be issued for a term of years, and during the term of

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the contract the broker will assist the university in obtaining coverages as set forth in subsection (i)(2)(B) of this Section as well as providing customary services such as issuing certificates of insurance and servicing policies.

- B) The broker will assist the university by serving as broker of record in obtaining insurance coverages through the industry process of going to market to obtain quotes. The university will use an evaluation team to test the market for competitiveness, review the quotes, and select the insurers and products best fitting its needs. The solicitation, evaluation and selection process will be documented in writing and become a part of the public procurement file. The insurance coverages obtained, the term of coverage, and the premiums charged will be posted on the Bulletin as attachments to the broker award notice.

ij) Job Order Contracting

- 1) Definition – A Job Order Contract is a competitively bid, indefinite quantity contract intended for new construction, renovation and repairs with pre-established unit prices in which a university provides a definition of the work scope and a vendor selected from a list of qualified vendors furnishes all management, documentation, design and incidental drawings, labor, materials, supplies, parts, transportation, equipment and supervision needed to perform the work as required. Ordering is accomplished by means of issuance of a Work Order against the Job Order Contract.
- 2) Conditions of Use – The Chief Procurement Officer may authorize the use of a Job Order Contract upon a determination in writing that such use is necessary for adequate delivery, service or product compatibility, and that the methods of source selection set forth in Article 20 of the Code is either not practicable or advantageous because, for example, the program needs of a university cannot reasonably be met within the normal procurement timeframes, or that the type and variety of needs are such that a single award will not assure the needed availability or diversity of vendors.
- 3) Procedure – A Job Order Contract shall be initiated by the issuance of an Invitation for Bids in the form required by Section 4.2010 (Competitive

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Sealed Bidding), except as otherwise provided in this subsection (j)(3). In addition to the requirements set forth in Article 30 of the Code and Section 4.2010, the Job Order Contract Invitation for Bid shall include:

- A) A detailed description of the scope of the Job Order Contract, including performance, technical requirements and specifications, and minimum and maximum work order amounts;
 - B) the reasons for using a Job Order Contract;
 - C) a description of the process that will be used to evaluate qualifications and proposals, including a method for determining each Vendor's Price Adjustment Factors utilizing the published Construction Task Catalog[®] and Technical Specifications documents; and
 - D) that the SPO may conduct oral or written discussions of the offers.
- 4) Award – Those vendors meeting minimum qualifications shall be offered non-exclusive indefinite quantity contracts against which a university may later place one or more work orders on an as needed basis in accordance with the allocation of work procedure set forth in subsection (j)(5).
- 5) Allocation of Work – Work Orders shall be allocated among qualifying vendors on an as needed basis. Once a need is identified, the university shall allocate work for that project using Job Order Contracting from the list of qualified vendors. The university shall select the vendor that best addresses its needs for the project based on the work order allocation method specified in the IFB, which shall include such factors as price, capacity, past performance, geographic location, experience and knowledge. If the low price vendor is not selected, the university shall justify the alternative selection and submit the order to the SPO for approval. The SPO or PCM will periodically review any allocation of Work Orders and report to the [CPO-HECPO](#) with a recommendation for future action.
- 6) It shall be the affirmative obligation of each vendor with a Job Order Contract to update information provided to the contracting university

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regarding its continued ability to provide the contracted service. Job Order Contracts may provide that vendors who cannot perform the required services when contacted and who have not provided the updated information may be taken out of consideration for Work Orders for a period of time, including until the next prequalification.

k) ~~Grant funded Research~~

~~When there is a need to purchase supplies or services necessary to conduct grant-funded research, the university may conduct the procurement by means of direct negotiation when the conditions of the grant make using one of the statutory methods of source selection impractical for reasons such as grant timelines, the need to collaborate with other entities or the need for protection of confidential information. When two or more vendors are identified who are reasonably capable of meeting the university's need, at least two of the vendors identified as most qualified must be offered an opportunity to negotiate. A written determination of the basis for the procurement must be made by the university and approved by the SPO. The resulting award must be published in the Bulletin within 14 days after contract execution.~~

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.2037 Tie Bids and Proposals

- a) Tie bids or proposals are those from responsive and responsible vendors that are, in the case of bids, identical in price and, in the case of proposals, identical in rank after evaluation.
- b) Tie bids or proposals will be treated as follows:
 - 1) If the tied vendors include only one Illinois resident vendor, the Illinois resident vendor shall be given the award. "Illinois resident vendor" has the meaning ascribed in Section 4.4510 (Resident Bidder and Offeror Preference).
 - 2) If the award cannot be determined after applying the Illinois resident vendor preference, the bidder or offeror who is a BEP or VBP certified vendor shall be given the award.

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- 32) In all other situations, the award shall be made by lot unless the SPO determines that:
- A) awarding to one of the vendors is in the State's best interest because, for example, that vendor is likely to be more reliable or responsive to the State's needs, based on past performance; provides a better quality of the supply or service; provides quicker delivery; or, in the case of proposals, because of a desire to take advantage of the lower price; or
 - B) splitting the award is in the State's best interest because of a need to ensure delivery of the supply or service, or is necessary or desirable to promote future competition, and provided the affected vendors agree to the split award.
- c) Records
Records shall be made of all procurements on which tie bids or proposals are received, showing at least the following information:
- 1) the identification number of the solicitation;
 - 2) a description of what was procured; and
 - 3) a listing of all the bidders or offerors and the prices submitted.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

Section 4.2043 Suppliers

A university may contract with any qualified source of supply, but shall use or consider, as applicable, the following special sources, from which procurements may be made without competition:

- a) Correctional Industries in accordance with Subpart N.
- b) State and Federal Surplus Warehouses under the jurisdiction of the Department of

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Central Management Services. (The State Property Control Act [30 ILCS 605/7a] requires that surplus furniture be considered before any purchase of new furniture valued at \$500 or more per piece.)

- c) Qualified workshops for persons with [significantsevere](#) disabilities in accordance with Subpart N.
- d) State agencies and other governmental units described in Section 1-10(b)(1) of the Code.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.2045 Vendor Prequalification

- a) The SPO may prequalify prospective vendors when determination of vendor qualifications or preliminary evaluation of supplies or services prior to solicitation would promote the effective conduct of procurement.
- b) The SPO shall identify by publication in the Bulletin the qualifications or categories of supplies and services (including professional and artistic services) for which vendors of those supplies and services may prequalify [for a particular solicitation](#).
- c) Any opportunity to prequalify shall be announced in the Bulletin. The notice shall alert vendors that fail to participate in the prequalification process of the consequences.
- d) When prequalifying a vendor, the SPO may limit prequalification to particular matters (e.g., determining whether a vendor has been and is likely to be "responsible" or whether the vendor manufactures domestically).
- e) The fact that a prospective vendor has been prequalified generally does not necessarily represent a definitive finding of responsibility for a particular procurement.
- f) When prequalifying a vendor, the SPO may consider factors tailored to a specific procurement or type of procurement, which shall be announced in the prequalification notice in the Bulletin.

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- g) Except in the case of professional and artistic services, distribution of and responses to a solicitation may be limited to prequalified vendors and award of a contract may be denied because a vendor was not prequalified. If eligibility for the procurement will be limited to prequalified vendors, the solicitation shall state that fact.
- h) The prequalification may provide that any vendor who completes prequalification may refer to that prequalification when submitting responses to solicitation or in other procurement situations, instead of submitting that same information with a response. This does not alleviate a vendor from providing updated certifications and other information as part of the prequalification process.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.2046 Responsibility

- a) **Application**
Before making an award or approving a contract, the SPO must be satisfied the prospective bidder or offeror is responsible. If there is doubt about responsibility, and if a bond or other security would adequately protect the university's interests, then that bidder or offeror may receive an award or contract upon receipt of the bond or other security.
- b) **Standards of Responsibility**
Factors to be considered in determining whether the standard of responsibility has been met include, but are not limited to, financial responsibility, insurability, effective equal opportunity compliance, payment of prevailing wages, if required by law, [compliance with laws including goals and other preferences under the Code and the Business Enterprise for Minorities, Women, and Persons with Disabilities Act](#), capacity to produce or sources of supply, performance record in the business or industry, ability to provide required maintenance service and other matters relating to the bidder's or offeror's probable ability to deliver in the quality and quantity and within the time and price required under the contract, if it is awarded to the bidder or offeror. ~~A bidder~~ Bidder or offeror must be a legal entity ~~authorized to transact business or conduct affairs in Illinois~~ prior to submitting the bid, offer or proposal ~~and authorized to transact business or conduct affairs in Illinois prior to execution of a contract~~ and qualified legally to contract with the

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State.

- c) **Information Pertaining to Responsibility**
The university, in consultation with the SPO, may request information or conduct discussions with a bidder or offeror to determine in greater detail the bidder's or offeror's capability to perform and to determine prior compliance on State contracts with the standards of responsibility identified in subsection (b). This discussion is not for the purpose of determining whether one bidder's or offeror's product or service capability is superior to another. The prospective vendor shall supply information requested concerning the responsibility of such vendor. The university may supplement this information from other sources and may require additional documentation at any time in determining whether a vendors is responsible. If the vendor fails to supply the requested information or if in the performance of prior State contracts the vendor breached the standards of responsibility and failed to timely cure the deficiency, the SPO may disqualify the vendor or may base the determination of responsibility upon any available information.
- d) **Written Determination of Non-Responsibility Required**
If a vendor who otherwise would have been awarded a contract is found non-responsible, a written determination of non-responsibility setting forth the basis of the finding shall be prepared by the university and approved by the SPO. The final determination shall be made part of the procurement file.
- e) **Affiliated Companies**
Vendors that are newly formed business concerns having substantially the same owners, officers, directors or beneficiaries as a previously existing vendor that has been determined not responsible or has been suspended or debarred will also be determined to be not responsible.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

SUBPART H: SPECIFICATIONS AND SAMPLES

Section 4.2050 Specifications and Samples

- a) **Responsibilities Regarding Specifications**
The university shall write the necessary specifications, including the statement of

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work, subject to the SPO's review and approval. Any dispute with the SPO regarding the statement of work or scope of specifications can be escalated to the CPO-HE.

- b) Procedures for the Development of Specifications
- 1) Specifications shall accurately reflect the university's needs. Specifications shall clearly and precisely describe the salient technical or performance requirements without being unduly restrictive or having the effect of requiring a proprietary supply or service, or procurement from a sole source, unless no other manner of description will suffice.
 - 2) Any specifications or standards adopted by business, industry, not-for-profit organization, or governmental unit may be incorporated by reference.
 - 3) A specification may provide alternate descriptions when two or more design, functional, performance or other criteria will satisfactorily meet the university's requirements.
 - 4) Article 45 of the Code shall be considered and applied when required or appropriate, [including language on reducing barriers to participation by small and diverse vendors](#).
 - 5) *A solicitation or specification for a contract, or a contract, may not require, stipulate, suggest or encourage a monetary or other financial contribution or donation, cash bonus or incentive, economic investment, or other prohibited conduct as an explicit or implied term or condition for awarding or completing the contract. [30 ILCS 500/20-50]*
 - 6) *As used in this Section, "prohibited conduct" includes requested payments or other consideration by a third party to the university or State agency that is not part of the solicitation or that is unrelated to the subject matter or purpose of the solicitation. "Prohibited conduct" does not include a payment from the vendor that is supported by additional consideration (such as exclusive rights to sell items or rights to advertise), other than the consideration of the State's awarding a contract to purchase goods and services. [30 ILCS 500/20-50]*

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7) The solicitation shall identify what specifications are essential and what optional specifications may be included in the project. All options must be identified in the invitation for bid or request for proposal as optional work.

c) Brand Name or Equal Specification

- 1) Brand name or equal specifications may be used in a competitive solicitation when:
 - A) no specification for a common or general use specification or qualified products list is available;
 - B) time does not permit the preparation of another form of specification;
 - C) the nature of the product or the nature of the university's requirement makes use of a brand name or equal specification suitable for the procurement; or
 - D) when the university determines that circumstances show this to be the most reasonable type of specification.
- 2) Brand name or equal specifications shall seek to designate more than one brand as "or equal", and shall further state that substantially equivalent products to those designated will be considered for award.
- 3) Unless the university determines in writing that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, functional or performance characteristics that are required.
- 4) Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance and characteristics desired and is not intended to limit or restrict

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competition. "Or equal" submissions will not be rejected because of minor differences in design, construction or features that do not affect the suitability of the product for its intended use. Burden of proof that the product is equal is on the vendor.

- d) Brand Name Only Specification
- 1) A brand name only specification may be used in a competitive solicitation provided the university makes a written request justifying that only the identified brand name item will satisfy the university's needs and the SPO approves in writing the use of the brand name only specification.
 - 2) Brand name alone may be specified in order to fill medical prescription needs, to stock university retail-type operations, to ensure compatibility in existing systems, to preserve warranty, to ensure maintenance, or as authorized in writing by the SPO. A university may, pursuant to an authorized competitive procedure, select a particular vendor to provide supplies or services for a specified period of time, and for that period the supplier of additional, related and updated supplies and services may be limited to the selected vendor or the brand initially selected.
 - 3) The university shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit those sources to achieve whatever degree of competition is practicable. If only one source can supply the requirement, the procurement shall be made under Section 4.2025 (Sole Economically Feasible Source Procurement).
 - 4) The SPO shall provide a quarterly report to the CPO-HE of solicitations conducted using brand name only.
- e) Qualified Products List
- 1) A qualified products list may be developed by the university, with approval of the SPO, when testing or examination of the supplies prior to issuance of the solicitation is desirable or necessary in order to best satisfy university requirements.
 - 2) When developing a qualified products list, notice shall be posted to the

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Bulletin soliciting potential suppliers to submit products for testing and examination to determine acceptability for inclusion in a qualified products list.

- 3) Inclusion on a qualified products list shall be based on results of tests or examinations conducted in accordance with established requirements.
- f) **Proven Products**
The supply or service may be rejected if it has not been offered to other governmental or commercial accounts for at least one year prior to the notice date of a solicitation. Specifications may require that the supply or services must have been used in government or commercial venues for a specified period of time to be considered.
- g) **University Required Samples**
- 1) Samples or descriptive literature may be requested when it is necessary to evaluate required characteristics of the items bid. Any required samples must be submitted as instructed in the solicitation, with transportation prepaid by the vendor. Each sample must be labeled with the vendor's name, address and a means of matching the sample with the applicable bid or proposal.
 - 2) Any sample submitted must be representative of the item that would be delivered if a contract were awarded for that item. Samples submitted by a successful vendor will be retained to check continuing quality and compliance with specifications. Submission of samples will not limit the university's right to require adherence to specifications.
 - 3) No payment will be made for samples. Samples not destroyed or consumed by examination or testing will be returned upon request and at vendor's expense. The request must be made at time of submission with return collect or prepayment provisions and instructions for return accompanying the samples.
 - 4) Unsolicited samples or descriptive literature are submitted at the vendor's risk, may or may not be examined or tested, will not be deemed to vary any of the provisions of the solicitation, and may not be utilized by the

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vendor to contest a decision or understanding with the university.

- h) **Product Demonstration**
Subject to the requirements of Section 50-39 of the Code, a vendor may request to demonstrate a product or service. Agreement to allow a demonstration will be solely at the university's discretion and will not entitle the vendor to a contract nor shall payment for the demonstration be allowed unless a written contract had been executed prior to the demonstration. No payment will be made for the demonstration period except as agreed to in advance. If the price exceeds the small purchase amount, the product must be acquired under Section 4.2025 of this Part. The product demonstrated will be returned upon request and at the vendor's expense. The request must be made prior to the time of product demonstration with return collect or prepayment provisions and instructions for return accompanying the product demonstration.
- i) **Specifications Prepared by Other Than University Personnel**
As provided in Section 4.2005(~~v~~), specifications may be prepared by other than university personnel, including, but not limited to, consultants, architects, engineers, designers and other drafters of specifications for public contracts provided there is no conflict of interest or an exception has been approved in accordance with Section 4.2005(v)(4)(B). Contracts for the preparation of specifications by other than university personnel shall require the specification writer to adhere to university requirements and the terms of the Code, particularly Section 50-10.5, and this Part. The university must inform the SPO of specifications prepared by anyone other than university personnel. The SPO retains the authority for final approval of the specifications. Any dispute with the SPO regarding the statement of work or scope of specifications can be escalated to the CPO-HE.
- j) **Pre-Solicitation Request for Information**
When the university does not have sufficient information about available supplies or services to issue a solicitation, the university, in consultation with the SPO, may issue a pre-solicitation request for information inviting vendors to submit information about the availability of specified types of supplies and services. Public notice of the pre-solicitation request for information shall be published in the Bulletin at least 14 days before the date set for the receipt of information. The submission of information by a vendor in response to a pre-solicitation request for information is not a prerequisite for that vendor to respond to a subsequent

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solicitation for the types of supplies and services for which information was solicited, and the issuance of a pre-solicitation request for information does not commit the university to make any procurement of supplies or services of any kind. Confidential information will not be accepted from a vendor in response to a pre-solicitation request for information. All information received through a pre-solicitation request for information will be part of the ~~publicly~~^{publically} available procurement file. An RFI is to be used for information gathering only and is not a vehicle for procuring supplies or services.

- k) *When procuring freight, small package delivery, and other forms of cargo shipping and transportation services, appropriate weight shall be given to the requirements of the Transportation Sustainability Procurement Program Act [30 ILCS 530]. [30 ILCS 500/20-165]*

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

SUBPART I: CONTRACTS

Section 4.2055 Types of Contracts

- a) **Scope**
This Section contains descriptions of types of contracts and limitations as to when they may be utilized by the university in its procurements. Types of contracts not mentioned in this Section may be utilized with approval of the SPO.
- b) **Prohibition of Cost-Plus-a-Percentage-of-Cost Contracting**
The cost-plus-a-percentage-of-cost contract is prohibited by Section 20-55 of the Code. This type of contracting may not be used alone or in conjunction with an authorized type of contract. A cost-plus-percentage-of-cost contract is one in which the vendor selects the supply or service on which the vendor's percentage is applied.
- 1) A percentage mark-up from an agreed price list is not a cost-plus-a-percentage-of-cost contract.
 - 2) A percentage mark-up from the cost of a supply or service selected by the university or another vendor under contract to the university is not a cost-plus-a-percentage-of-cost contract.

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- 3) A percentage mark-up from cost for parts needed in relation to a contract for services does not convert the services contract to a prohibited cost-plus-a-percentage-of-cost contract provided the parts supplied under the cost-plus-percentage-of-cost method do not exceed 20% of the value of the contract.
- c) Types of Fixed-Price Contracts
- 1) Firm Fixed-Price Contract. A firm fixed-priced contract provides a price that is not subject to adjustment because of variations in the vendor's cost of performing the work specified in the contract.
 - 2) Fixed-Price Contract with Price Adjustment
 - A) A fixed-price contract with price adjustment provides for variation in the contract price under special conditions defined in the contract, other than customary provisions authorizing price adjustments due to modifications to the work. The formula or other basis by which the adjustment in the vendor's price can be made shall be specified in the solicitation and the resulting contract. Adjustment allowed may be upward or downward only, or both upward and downward. Examples of conditions under which adjustments may be provided in fixed-price contracts are:
 - i) changes in the vendor's labor agreement rates as applied to an industry or area (such as are frequently found in contracts for the purchase of coal);
 - ii) changes due to rapid and substantial price fluctuations that can be related to an accepted index (such as contracts for gasoline, heating oils and dental gold alloy); and
 - iii) in requirement contracts, in which a vendor is selected to provide all of the university's needs for the items specified in the contract, when a general price change applicable to all customers occurs, or when a general price change alters the base price (such as a change in a manufacturer's

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published price list or posted price to which a fixed discount is applied pursuant to the contract to determine the contract price).

- B) If the contract permits unilateral action by the vendor to bring about the condition under which a price increase may occur, the university shall have the right to reject the price increase and terminate without cost the future performance of the contract.
- d) Cost-Reimbursement Contracts
- 1) Determination Prior to Use
 - A) The university must submit to the SPO a justification for using any type of cost-reimbursement contract. This justification must be sufficient to show that such a contract is likely to be less costly to the university than any other type or that it is impracticable to obtain the items through any other type of contract. The SPO will consider the justification and any other relevant factors before making a written determination to authorize use of the cost-reimbursement contract.
 - B) Any reimbursement of travel expenses authorized in the solicitation and the terms of the contract must be in accordance with applicable travel control board regulations.
 - 2) Cost Reimbursement Contract. A cost reimbursement contract provides that the vendor will be reimbursed for allowable costs incurred in performing the contract, but will not receive a fee. These contracts establish an estimate of total cost and must establish a ceiling that a vendor may not exceed. The SPO must provide a written determination that this type of contract is likely to be less costly than any other type of contract or that it is impracticable to obtain the item required except under this type of contract.
 - 3) Cost-Plus-Fixed-Fee Contract. This cost-reimbursement type contract provides for payment to the vendor of an agreed fixed fee in addition to reimbursement of allowable incurred costs. The fee is established at the

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time of contract award and does not vary if the actual cost of contract performance is greater or less than the initial estimated cost established for the work. Thus, the fee is fixed but not the contract amount because the final contract amount will depend on the allowable costs reimbursed. The fee may be adjusted to provide for an increase or decrease in the scope of work. The adjustment must be made via a change order with approval of the SPO.

- 4) Cost Incentive Contracts
 - A) General. A cost-incentive type of contract provides for the reimbursement to the vendor of allowable costs incurred up to the ceiling amount and establishes a formula whereby the vendor is rewarded for performing at less than target cost (that is, the parties' agreed best estimate of the cost of performing the contract will vary inversely with the actual, allowable costs of performance and consequently is dependent on how effectively the vendor controls cost in the performance of the contract).
 - B) Fixed-Price Cost-Incentive Contract. In a fixed-price cost-incentive contract, the parties establish at the outset a target cost, a target profit (that is, the profit that will be paid if the actual cost of performance equals the target cost), a formula that provides a percentage increase or decrease of the target profit depending on whether the actual cost of performance is less than or exceeds the target cost and a ceiling price. After performance of the contract, the actual cost of performance is arrived at based on the total incurred allowable costs as provided in the contract. The final contract price is then established in accordance with the formula using the actual cost of performance. The final contract price may not exceed the ceiling price. The vendor is obligated to complete performance of the contract and, if actual costs exceed the ceiling price, the vendor suffers a loss.
 - C) Cost-Reimbursement Contract with Cost-Incentive Fee. In a cost-reimbursement contract with cost-incentive fee, the parties establish at the outset a target cost; a target fee; a formula for increase or decrease of fee depending on whether actual cost of

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performance is less than or exceeds the target cost, with maximum and minimum fee limitations; and a cost ceiling that represents the maximum amount that the university is obligated to reimburse the vendor. The vendor continues performance until the work is complete or costs reach the ceiling specified in the contract, including any modification thereof, whichever first occurs. After performance is complete or costs reach the ceiling, the total incurred allowable costs reimbursed as provided in the contract are applied to the formula to establish the incentive fee payable to the vendor.

- e) **Performance Incentive Contracts**
In a performance incentive contract, the parties establish at the outset a pricing basis for the contract, performance goals and a formula that varies the profit or the fee if the specified performance goals are exceeded or not met. For example, early completion may entitle the vendor to a bonus, while late completion may entitle the university to a price decrease.
- f) **Time and Materials Contracts; Labor Hour Contracts**
Time and materials contracts provide for an agreed basis for labor performed and payment for materials supplied. Labor hour contracts provide only for the payment of labor performed. The contracts shall contain a stated ceiling or an estimate that shall not be exceeded without prior approval. An estimated time and materials contract shall be treated as an indefinite quantity contract.
- g) **Definite Quantity and Indefinite Quantity Contracts**
 - 1) **Definite Quantity.** A definite quantity contract is a fixed-price contract that provides for delivery of a specified quantity of supplies or services at specified times or when ordered, with deliveries or performance scheduled at designated locations upon order.
 - 2) **Indefinite Quantity.** An indefinite quantity contract is a contract for an indefinite amount of supplies or services furnished at specified times, or as ordered, that establishes unit prices of a fixed-price type. Generally, an indefinite quantity contract is based on historical usage or the best information available as to quantity as stated in the solicitation and is not a guarantee of a quantity to be ordered. The contract may provide a

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minimum quantity the university is obligated to order and may also provide for a maximum quantity provision that limits the university's ability to order. If an estimated quantity is identified, the university may order up to 20% more than the estimate without written SPO approval. The SPO may authorize ordering beyond the stated 20%. Any such authorization shall be documented in writing and published in the Bulletin. An increase of an indefinite quantity contract is not a change order.

- 3) Requirements Contracts. A requirements contract is an indefinite quantity contract for supplies or services that specifically obligates the university to order all its actual requirements during a specified period of time with deliveries or performance scheduled at designated locations upon order. If identified in the solicitation as a requirements contract, all needed quantity, regardless of any stated estimate, must be ordered from that contract. A requirements contract shall state a realistic estimated total quantity in the solicitation and resulting contract, but this is not a representation that the estimated quantity will be required or ordered, or that conditions affecting requirements will be stable or normal.

h) Leases

A lease is a contract for the use of supplies or real property under which title will not pass to the university at any time, except pursuant to an option to purchase. [Leases of real property are governed in accordance with Article 40 of the Code and this Subpart M.](#)

i) Recovery Contracts

Contracts may provide for payment to the vendor of a percentage of the amount the vendor recovers or collects on behalf of the university. The percentage may be fixed or may vary depending on amount of recovery or other factors, and the percentage may be paired with a fixed price or cost reimbursement method.

j) ~~Option Provisions~~

~~A solicitation or contract may contain options for renewal, extension or purchase and shall also include the requirements for exercising this option, the term and the price, or shall include the formula for establishing the price. Contracts based on a solicitation may include only those options included in the solicitation. Exercise of options shall be performed in accordance with the contract, the Code and other provisions of this Part. After contract execution, any options proposed to be~~

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~~included in the contract after award are subject to SPO review and approval and may require subsequent procurement activity such as change order or sole source to include that option.~~

- ~~j~~k) State Produced Supplies and Services
Notwithstanding any provision in any contract, supplies or services available in-house or from State programs, such as Illinois Correctional Industries, may be ordered without violating any contract.
- ~~k~~l) Extraordinary Quantities
Notwithstanding any provision in any contract, the university reserves the right to take bids separately if a particular quantity requirement arises that exceeds the university's normal needs or ordering requirements.
- ~~l~~m) Energy Conservation and Energy Savings Contracts
Notwithstanding Section 20-60(a) of the Code, universityUniversity procurements of energy conservation measures, including guaranteed energy savings contract, are defined in the Code and Public University Energy Conservation Act [110 ILCS 62] (PUECA) and shall be made in accordance with the Code, ~~and~~ this Part, ~~and except~~ as otherwise authorized by PUECA. Notwithstanding any other law, energy savings contracts or leases may include an alternative financing or lease to purchase option as part of the contract's terms.
- ~~m~~n) Printing Cost Offsets
In accordance with university policies, the university may provide advertising rights in printed products to a vendor or receive free copies of printed products from a vendor in order to reduce the overall cost of a printing contract. Procurement by competitive sealed bid or competitive sealed proposal is required when the printing cost exceeds the small purchase limit of Section 4.2020 of this Part.
- ~~n~~o) Contracting for Installment Purchase Payments, Including Interest-
Contracts may provide for installment purchase payments, including interest charges, over a period of time. The interest rate may not exceed that established by law, including the Bond Authorization Act [30 ILCS 305].
- o) Food Donation

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A university may not enter into a contract to purchase food with a bidder or offeror if the bidder's or offeror's contract terms prohibit the university from donating food to food banks, including, but not limited to, homeless shelters, food pantries, and soup kitchens. Universities shall adopt policies that permit the donation of leftover food procured with State funds, in accordance with Section 55-20 of the Code.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.2060 Duration of Contracts – General

- a) General
The term of a contract, including potential renewals, may not exceed 10 years.
- 1) A software license designated as a perpetual license is not considered a multi-term contract; it is instead a one-time purchase.
 - 2) The length of a lease for real property or capital improvements shall be in accordance with Section 40-25 of the Code.
 - 3) The length of an energy conservation program contract or energy savings contract or leases shall be in accordance with Section 25-45 of the Code and the Public University Energy Conservation Act [110 ILCS 62].
 - 4) The length of a lease for State-owned dark fiber networks shall be in accordance with Section 20-60 of the Code.
- b) Subject to Appropriation
Each contract is contingent upon and subject to the availability of funds. The State, at its sole option, may terminate or suspend a contract, in whole or in part and without penalty or further payment being required if the Illinois General Assembly or the federal funding source fails to make an appropriation sufficient to pay that obligation or if funds needed are insufficient for any reason. Each contract payable in whole or in part by any funds appropriated by the Illinois General Assembly shall recite that the contract is subject to termination and cancellation for lack or insufficiency of funding. A vendor will be notified in writing by the university of a failure or reduction or decrease of appropriation affecting a contract. This provision applies to only those contracts that are funded

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in whole or in part by funds appropriated by the Illinois General Assembly or other governmental entity.

c) Conditions for Use of Multi-Year Contracts

A multi-year contract may be used when:

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

d) Multi-Term Contract Procedure

The solicitation shall state:

- 1) the proposed term;
- 2) the amount of supplies or services required for the proposed contract period;

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- 3) the type of pricing requested (e.g., firm for term); and
 - 4) how award will be determined.
- e) Renewals
- 1) The initial term of a contract plus available renewals may not exceed 10 years. When the original contract specifically calls for an initial term plus renewals, the renewals may be exercised without further procurement activity, except for the publication of the renewal in the Bulletin as required by [30 ILCS 575/8i](#), Section 15-25 of the Code and Section 4.1525 of this Part, and ~~subject to~~ review by the PPB under Section 5-30 of the Code. The renewal terms and conditions shall not change except as provided in the contract (such as price escalations tied to an index) and as provided by in 30 ILCS 575/8i. Renewal options may be exercised by the university or by mutual agreement of the vendor, but may not be exercised solely at the option of the vendor. Except as provided by 30 ILCS 575/8i, any renewal that requires modification to a material term or condition of the contract shall be treated as a new contract and shall be subject to appropriate ~~procurement~~competitive procedures established by the Code and this Part.
 - 2) A renewal may only be entered into if authorized by the original contract.
 - 3) At least 6 months prior to exercising a renewal, a university shall review the vendor's performance to determine if good faith efforts toward meeting contract goals identified in the vendor's utilization plan are being met by the vendor. Except for construction and construction-related services, no renewal shall be authorized if the university determines good faith efforts were not exercised in meeting the contract goals agreed to in the utilization plan.
 - ~~43~~) All renewals must be in conformance with the underlying contract. The procurement/contract file must contain any renewal justification form prescribed by the CPO-HE.
 - ~~54~~) When a renewal will result in the total term, counting the initial term and any previous renewals, exceeding 10 years, the university's need must be

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procured using one of the methods of source selection authorized by the Code and this Part.

- ~~65~~) Renewals must be fully executed on or before expiration of the current contract term. If the renewal is not exercised prior to expiration of the current contract term, the supplies or services must be procured anew using one of the methods of source selection authorized by the Code and this Part.
- f) Filing of Proposed Renewals and Extensions Exceeding \$249,999
- 1) Prior to executing a renewal or extension with a cost estimated to exceed \$249,999, the proposed renewal or extension must be submitted to the PPB. The PPB shall have up to 30 days to review and comment on the proposal. The SPO assigned to the university may request a waiver of the review for reasons set forth in Section 20-60(c) of the Code.
- 2) This subsection does not apply to any:
- A) emergency procurement;
- B) procurement conducted under Article 40 of the Code; or
- C) procurement exempted by Sections 1-10(b), 1-12 and 1-13 of the Code.
- 3) A contract is exempt from this subsection if it is paid for in whole or in part with federal-aid funds, grants or loans and where the provisions of this subsection would result in loss of those federal funds. A university shall file notice of this exemption with the PPB prior to entering the proposed renewal or extension.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.2065 Cancellation of Contracts

- a) In any of the following cases, the university shall have the right to terminate or rescind any contract entered into under this Part without penalty:

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- 1) The successful vendor fails to furnish a satisfactory performance bond within the time specified.
 - 2) The vendor fails to make delivery at the place or within the time specified in the contract or as ordered by the purchasing university.
 - 3) Any supplies or services provided under the contract are rejected (for not meeting specification, not conforming to sample, or not being in good condition when delivered) and are not promptly replaced by the vendor. If there are repeated rejections of the vendor's supplies or services, this shall be grounds for termination or rescission, even though the vendor offers to replace the supplies or services promptly.
 - 4) The vendor is guilty of misrepresentation (e.g., misbranding of food or drugs) in connection with another contract for the sale of supplies or services to the State such that the vendor cannot reasonably be depended upon to fulfill obligations as a responsible vendor under other contracts with the State.
 - 5) The vendor should be adjudged bankrupt; enter into receivership or make a general assignment for the benefit of creditors due to insolvency; disregard laws, rules, or instructions of the university; or act in violation of any provision of the contract; or if the contract conflicts with any statutory or constitutional provision of the State of Illinois or of the United States.
 - 6) Any other breach of contract or other unlawful act by the vendor, including failure to achieve contract goals agreed to in the vendor's utilization plan.
 - 7) The contract was obtained by fraud, collusion, conspiracy or other unlawful means.
 - 8) The contract conflicts with any statutory provision of the State of Illinois or of the United States.
- b) Damages

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The damages for which the State may be compensated as provided in this Section or by a suit on the vendor's performance bond or by other legal remedy shall include, but are not limited to, the following:

- 1) the additional cost of supplies or services bought elsewhere;
 - 2) cost of repeating the procurement procedure;
 - 3) any expenses incurred because of delay in receipt of supplies or services;
and
 - 4) any other damages caused by the vendor's breach of contract or unlawful act.
- c) **Withholding Money to Compensate State for Damages**
If a contract is terminated or rescinded under this Section, the university may deduct from whatever is owed the vendor on that or any other contract an amount sufficient to compensate the university for any damage resulting from termination or rescission.
- d) [A university shall notify the SPO of any contract that is cancelled, terminated or rescinded under this Section. The determination to terminate or rescind the contract may be used by a university or CPO-HE in future determinations of the vendor's responsibility.](#)

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.2067 Contract Amendments and Change Orders

- a) Contract amendments memorialize actions:
 - 1) authorized by specific language in the contract (e.g., exercise of an option or showing price decrease or increase based on CPI), or changes that do not affect price or time of performance (e.g., change in names of notice contacts or number of periodic status meetings);

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- 2) not specifically authorized in a contract (e.g., material changes to terms and conditions that affect price or time of performance). This type of amendment constitutes a change order.
- b) Change Orders
- 1) A change order is defined in Section 4.15. Renewals, change of a vendor's name, and orders against master contracts are not change orders.
 - 2) *Change orders that increase or decrease the cost of a contract or an estimated contract by a total of \$10,000 or more, or the time of completion by a total of 30 days or more, must be accompanied by a written determination that includes a statement that:*
 - A) *the circumstances said to necessitate the change in performance was not reasonably foreseeable at the time the contract was signed; ~~or~~*
 - B) *the change is germane to the original contract as signed; or*
 - C) *the change order is in the best interest of the State. [720 ILCS 5/33E-9] Universities may not divide change orders into smaller parts to avoid requirements for written determinations or publication.*
 - 3) A change order shall be executed by the university and vendor evidencing the change. All changes that require a written determination as provided in subsection (b)(2) shall be approved by the SPO. Change orders that exceed the small purchase limit shall be published in the Bulletin in advance of execution of the change order.
 - 4) A change order to a contract for professional and artistic services made using the sole source method may not result in an increase in the amount paid under the contract by more than 5% of the initial award, or extend the contract term beyond the time reasonably needed for a competitive procurement, not to exceed two months. [30 ILCS 500/20-25(b)]

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- 5) The total contract term, including the initial term, renewals, extensions and change orders shall not exceed 10 years. Any change order that would extend the total term beyond 10 years is void. Any continuing need for supplies and services must be procured using one of the methods of source selection authorized by the Code and this Part.
- 6) Prior to executing a change order with a cost estimated to exceed \$249,999, the proposed change order must be submitted to PPB. PPB shall have up to ~~1430~~ days to review and comment on the change order. The university may request a waiver of the review for reasons set forth in Section 20-60(c) of the Code.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

SUBPART J: PROCUREMENT FILES

Section 4.2080 Public Procurement File

- a) *A procurement file shall be maintained for all contracts, regardless of the method of procurement. The procurement file shall contain the basis on which the award is made, all submitted bids and proposals, all evaluation materials, score sheets and all other documentation related to or prepared in conjunction with evaluation, negotiation and the award process. The procurement file shall contain a written determination, signed by the SPO, setting forth the reasoning for the contract award decision and any other determinations relative to the particular procurement. The ~~publicly~~~~publically~~ available portion of the procurement file shall not include trade secrets or other competitively sensitive, confidential, or proprietary information. The procurement file shall be open to public inspection within 7 calendar days following award of the contract. [30 ILCS 500/20-155(c)]*
- b) The procurement files shall be maintained by or under the jurisdiction of the CPO-HE.
- c) Documentation of Procurement Actions
Each university, under the direction of the SPO, shall maintain in the procurement or associated contract file all substantive documents and records of

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communications that pertain to the procurement and any resulting contract. This shall include, as applicable, but is not limited to:

- 1) The records showing approvals to proceed at all stages;
- 2) Procurement Bulletin postings;
- 3) Solicitation document (e.g., IFB, RFP, etc.) and all amendments, clarifications and best and final requests;
- 4) Vendors' responses, including clarifications and responses to best and final requests (losing responses may be stored elsewhere);
- 5) Evaluation material (e.g., scoring guidelines and forms; completed score sheets for individual evaluators, including notes; evaluation committee's combined score sheets; evaluation committee's recommendation; and management's decision);
- 6) Documentation establishing goals for solicitations and contract awards for certified vendors (Business Enterprise for Minorities, Women, and Persons with Disabilities (BEP) Act, Veterans Business Program (VBP), and small business) including all documentation or worksheets determining the scope of work included in the goal setting, the commodity or classification codes used to establish goals, whether any exemptions were granted or denied, any determinations of a vendor's good faith effort or lack of good faith effort to meet goals, and any goal waivers granted;
- 7~~6~~) Protest and resolution;
- 8~~7~~) Contract and any order, change, amendments, renewal or extension;
- 9~~8~~) Contractor Performance Reviews, ~~if conducted;~~
- 9) ~~Information from subsections (c)(1) through (c)(5) must be available on the date any award is posted to the Bulletin. The CPO will determine if any information is exempt under the Freedom of Information Act [5 ILCS 140] or other law;~~

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- 10) All information from subsections (c)(1) through (c)(~~68~~), less information exempt from disclosure under the Freedom of Information Act [5 ILCS 140] or other law (for example, the Architectural, Engineering and Land Surveying Qualifications Based Selection Act [30 ILCS 535], which exempts contractor performance reviews), shall be prepared and made available for inspection and copying within 7 days following award of the contract. Any required contractor performance reviews shall be conducted timely and shall be made part of the procurement file prior to renewal or contract close out. The performance review shall include, but is not limited to, evaluation of whether the contract goals agreed to in a vendor's utilization plan were met. Universities shall provide the CPO-HE with notification of any vendor who does not demonstrate good faith efforts toward meeting the goals agreed to in the utilization plan. The CPO-HE and universities may consider if a vendor did not meet its goal or show good faith efforts toward meeting the goal in future determination of a vendor's responsibility. The CPO-HE will determine if any information is exempt under the Freedom of Information Act or other law.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.2084 Record Retention

- a) Procurement information, including, without limitation, that pertaining to the Procurement Bulletin, and performance and payment under contracts and subcontracts shall be maintained in accordance with the State Records Act [5 ILCS 160]. Books and records that relate to performance of a contract, including subcontracts, and that support amounts charged shall be maintained:
- 1a) by a vendor, for three years from the date of final payment under the prime contract; and for such longer period of time as is necessary to complete ongoing or announced audits or to comply with federal requirements.
- 2b) by a subcontractor for three years from the date of final payment under the subcontract or completion of the subcontract, and for such longer period of time as is necessary to complete ongoing or announced audits.

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- b) All contracts and subcontracts shall provide for all books and records required to be maintained by subsection (a) be available for review and audit by the Auditor General, CPO-HE, internal auditor and purchasing university.
- c) Every contract and subcontract shall require the contractor and subcontractor to cooperate fully with any audit or request for information from the Auditor General, CPO-HE, internal auditor and purchasing university.
- d) Failure to maintain books and records required by this Section establishes a presumption in favor of the university for the recovery of any funds paid by the university for which books and records are not available.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.2086 Contract Filing with the Comptroller

- a) *Filing with Comptroller*
 - 1) *Whenever a grant, defined pursuant to accounting standards established by the State Comptroller, or a contract liability, except for contracts paid for from personal services, or contracts between the State and its employees to defer compensation in accordance with Article 24 of the Illinois Pension Code [40 ILCS 5], exceeding \$20,000 is incurred by any university, a copy of the contract, purchase order, grant or lease shall be filed with the Comptroller within 30 calendar days thereafter. [30 ILCS 500/20-80(b)]*
 - 2) *For each State contract for ~~goods~~, supplies or services awarded on or after July 1, 2010, the contracting university shall provide the applicable rate and unit of measurement of the ~~goods~~, supplies, or services on the contract obligation document as required by the Comptroller. [30 ILCS 500/20-80(b)]*
 - 3) *Any cancellation or modification to any such contract liability shall be filed with the Comptroller within 30 calendar days after its execution. [30 ILCS 500/20-80(b)]*
 - 4) A contract filed with the Comptroller shall identify the method of source

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selection.

- b) *Late Filing Affidavits*
When a contract, purchase order, grant or lease required to be filed with the Comptroller by this Section has not been filed within 30 calendar days after execution, the Comptroller shall refuse to issue a warrant for payment thereunder until the university files~~must file~~ with the Comptroller the contract, purchase order, grant or lease and an affidavit, signed by the chief executive officer of the agency or his or her~~a~~ designee, setting forth an explanation of why the contract liability was not filed within 30 calendar days after execution. A copy of this affidavit shall be filed with the Auditor General and the CPO-HE. [30 ILCS 500/20-80(c)]
- c) *Timely Execution of Contracts*
- 1) *Except as otherwise provided by law, no~~No~~ voucher shall be submitted to the Comptroller for a warrant to be drawn for the payment of money from the State treasury~~Treasury~~ or from other funds held by the State Treasurer on account of any contract unless the contract is reduced to writing before the services are performed and filed with the Comptroller. Contractors~~Vendors~~ shall not be paid for any supplies~~goods~~ that were received or services that were rendered before the contract was reduced to writing and signed by all the necessary parties. [30 ILCS 500/20-80~~(de)~~]*
- 2) *Upon written request of the university and with justification required by the CPO-HE, the CPO-HE may request an exception to Section 20-80(d)~~this subsection~~ of the Code by submitting a written statement to the Comptroller and Treasurer setting forth the circumstances and reasons why the contract could not be reduced to writing before the supplies were received or services were performed. A waiver of Section 20-80~~this subsection~~ (de) of the Code must be approved by the Comptroller and Treasurer. Section 20-80 of the Code does not apply to emergency purchases if notice of the emergency purchase is filed with the PPB and published in the Bulletin as required by the Code. [30 ILCS 500/20-80(d)]*

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- 3) Regardless of the source of funds, contracts or change orders shall be reduced to writing before supplies are received or services are rendered. If supplies are received or services are performed prior to execution of a contract or change order, a written statement setting forth the circumstances and reasons why the contract or change order could not be reduced to writing before the supplies were received or the services were performed shall be maintained in the procurement file.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

SUBPART K: WORKING CONDITIONS

Section 4.2560 Prevailing Wage

- a) Responsible Vendors
- 1) In order to be considered responsible under Section 4.2046, vendors of the following classifications of services must certify that wages to be paid to their employees are no less, and fringe benefits and working conditions of employees are not less favorable, than those prevailing in the locality where the proposed contract is to be performed:
- A) Printing;
- B) Janitorial cleaning services, window cleaning services, building and grounds services, site technician services, natural resources services, food services and security services having a total value of \$2000 or more or \$200 or more per month.
- 2) This Section does not apply to services furnished under contracts for professional or artistic services or to vocational programs of training for person with physical or mental disabilities or to qualified not-for-profit agencies for persons with significantsevere disabilities.
- b) Vendors awarded contracts or subcontracts on university public works projects shall comply with the requirements of the Prevailing Wage Act [820 ILCS 130].
- c) Prevailing wages, benefits and conditions will be determined by the Illinois

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Department of Labor.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.2565 Contracts Performed Outside the United States

- a) All competitive solicitations and all contracts for services, as defined in Section 1-15.90 of the Code, shall identify where services shall be performed under that contract, including any subcontracts, and shall identify whether any services are anticipated to be performed outside the United States.
- b) The CPO-HE may consider the economic impact to the State of Illinois in awarding a contract in which services may or will be performed outside of the United States.
- c) If, during the term of the contract, the contractor or subcontractor shifts work outside the United States, the contractor or subcontractor shall be in breach of contract unless the CPO-HE determines in writing that termination of the contract is not in the best interest of the university.

(Source: Added at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.2570 Equal Employment Opportunity; Affirmative Action

In accordance with ~~Pursuant to~~ Section ~~2-101(J)7-105A~~ of the Illinois Human Rights Act (IHRA) [775 ILCS ~~5/7-105A~~], the Department of Human Rights (DHR) ~~requires~~ ~~has~~ ~~promulgated rules (44 Ill. Adm. Code 750), that require~~ certain bidders or offerors to register with DHR in order to be eligible for the award of certain public contracts. *"Eligible bidder" means a person who, prior to contract award or prior to bid opening for State contracts for construction or construction-related services, has filed with DHR a properly completed, sworn and currently valid employer report form, pursuant to the DHR's regulations.* [775 ILCS 5/2-101(J)]

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.2580 Successor Contractor

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- a) To be considered a responsible bidder or offeror, in all solicitations for services as defined in Section 1-15.90 of the Code, all bidders or offerors must certify that they will:
- 1) assume the collective bargaining obligations of the prior employer; and
 - 2) offer employment to all current employees employed in any existing bargaining unit performing substantially similar work that will be performed by the successor contractor.
- b) This Section does not apply to heating and air conditioning service contracts, plumbing service contracts, or electrical service contracts.

(Source: Added at 43 Ill. Reg. 1781, effective February 15, 2019)

SUBPART L: CONSTRUCTION AND
CONSTRUCTION RELATED PROFESSIONAL SERVICES

Section 4.3005 Construction and Construction Related Professional Services

- a) General Procedures
- 1) *Each contract for the construction, reconstruction, alteration, repair, improvement or maintenance of public works made by a public university shall contain a provision that steel products used or supplied in the performance of the contract or any subcontract thereto shall be manufactured or produced in the United States in accordance with the Steel Products Procurement Act [30 ILCS 565]. ~~[30 ILCS 565/4]~~ For example, a finished supply item that contains a steel component, such as an HVAC system, is not considered a steel product and would not be subject to the Act, but a steel I-beam would be subject to the Act. This Section does not apply:*
 - A) When the contract involves an expenditure of less than \$500.
 - B) When the university president certifies in writing that:
 - i) the specified products are not manufactured or produced in

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the United States in sufficient quantities to meet the university's requirements;

ii) *cannot be manufactured or produced in the United States within the necessary time in sufficient quantities to meet the university's requirements; or*

iii) *obtaining the specified products manufactured or produced in the United States would increase the cost of the contract by more than 10%.*

C) *When its application is not in the public interest. [30 ILCS 565/4]*

- 2) In the case of contracts for construction of buildings or for other construction work in or about buildings or grounds where the entire estimated cost of the work exceeds the amount stipulated by Section 20-20 of the Code, prospective contractors, as well as architects and engineers employed in connection with those projects may be prequalified to determine their responsibility (for architects, engineers and land surveyors, see the Architectural, Engineering and Land Surveying Qualifications Based Selection Act [30 ILCS 535]).
- 3) Estimated Cost of Work
- A) If the total estimated cost of the work exceeds the amount stipulated by Section 30-30 of the Code, separate specifications shall be prepared for all equipment, labor and materials in connection with, at a minimum, the following five subdivisions of work:
- i) Plumbing.
- ii) Heating, piping, refrigeration and automatic temperature control systems, including the testing and balancing of those systems.
- iii) Ventilating and distribution systems for conditioned air, including the testing and balancing of those systems.

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- iv) Electrical wiring.
 - v) General contract work.
- B) However, if the estimated value of the construction work exceeds \$250,000 and the estimate for an individual division is less than the current small purchase limit for construction, that division's work may be combined with another division, or procured separately under the Small Purchase procedure of Section 4.2020.
- 4) The specifications shall be drawn so as to permit separate and independent competitive bidding upon each of the above five subdivisions of work. All contracts awarded for any part of the work shall award the five subdivisions separately to responsible and reliable contractors engaged in these classes of work. The contracts, at the discretion of the university, may be assigned to the successful bidder on the general contract work or to the successful bidder on the subdivision of work designated by the university prior to bidding as the prime subdivision of work, with the provision that all payments will be made directly to the contractors for the five subdivisions upon compliance with the conditions of the contract. Any contract may be ~~awarded~~ for one or more buildings in any project to the same contractor. Specifications shall require, however, that, unless the buildings are identical, a separate price shall be submitted for each building. The contract may be awarded to the lowest responsible bidder for all of the buildings included in the specifications.
- b) Request for Payment Form Specified by the University
To bill the university for construction work done, the vendor must submit a payment request in the form specified by the university.
 - c) Periodic Payments
When provided in the contract, periodic payments can be made during the course of the work, provided a licensed architect or engineer issues a certificate indicating the proportionate amount of the total work has been completed satisfactorily.
 - d) Retained Percentage

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When periodic payments are made and if specified in the contract, the university shall retain a fixed percentage of the contract price to insure faithful completion of the contract.

e) Additional Work

- 1) No amount of funds, in addition to those provided for in a construction contract, may be obligated or expended unless the additional work to be performed or materials to be furnished are germane to the original contract.
- 2) Even if germane to the original contract, no additional expenditures or obligations may, in their total combined amount, be in excess of the percentage of the original contract amount as provided in Section 30-35(b) of the Code unless they have received the prior written approval of the university construction agency.
- 3) In the event that the total of the combined additional expenditures or obligations exceeds the percentages of the original contract amount set forth in Section 30-35(b) of the Code, the university construction agency shall investigate all the additional expenditures or obligations in excess of the original contract amount and shall in writing approve or disapprove subsequent expenditures or obligations and state in detail the reasons for the approval or disapproval.
- 4) Change orders that increase or decrease the cost of a contract by a total of \$10,000 or more or the time for completion by a total of 30 days or more shall be in writing and contain the appropriate authorization from the university and SPO. Vendors shall not perform any changed work prior to authorization from the university.
- 5) Notices of additional expenditures or obligations in excess of the small purchase limit of Section 20-20 of the Code shall be published in the Bulletin.

f) Improvements to Leased Real Estate

The procedures set forth in this Part shall apply, as appropriate, to contracts for improvements to real estate leased to the university.

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- g) Construction Manager Services
- 1) Procurement of Construction Manager Services, under the jurisdiction of the Capital Development Board, will be performed by the Capital Development Board (CDB) or through delegation from CDB.
 - 2) Construction Manager Services for projects not under the jurisdiction of CDB shall be procured by the university in accordance with Article 3320 of the Code or applicable law.
- h) Architect, Engineer and Land Surveying Contracts. Solicitations for the procurement of architecture, engineering and land surveying service professionals shall be in accordance with the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act [30 ILCS 500/535], the Illinois Procurement Code and this Part.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

SUBPART M: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

Section 4.4025 Lease Requirements

- a) Length of Leases
- 1) Maximum Term. Except when a longer term is authorized by law, leases, inclusive of renewals, shall be for a term not to exceed 10 years and shall include a termination option in favor of the State after 5 years. A lease for real property owned by the University of Illinois for use by the University of Illinois at Chicago for an ambulatory surgical center, which may include clinical and retail services, may be for a term not to exceed 30 years when:
 - A) The lease requires the lessor to make capital improvements of \$100,000 or more; and

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- B) The Board of Trustees of the University of Illinois determines a term of more than 10 years is necessary and in the best interests of the University.
- 2) *Renewal Option. Leases may include a renewal option. An option to renew may be exercised only when the CPO-HE determines in writing that renewal is in the best interest of the State. The CPO-HE shall publish a notice of the intent to exercise the option in the Bulletin at least 60 days prior to the exercise of the option. [30 ILCS 500/40-25(b)] For purposes of this Section, "exercise" means the date of notification to the lessor to renew or extend the lease.*
- 3) *All leases shall include a provision that they are subject to termination and cancellation in any year the General Assembly fails to make an appropriation to make payments under the terms of the lease. [30 ILCS 500/40-25(c)]*
- 4) *Holdover. No lease may continue on a month-to-month or other holdover basis for a total of more than 6 months after expiration of the underlying lease. [30 ILCS 500/40-25(d)]*
- b) **Lessor's Failure to Make Improvements**
Each lease ~~that includes a provision for the lessor to make improvements~~ must provide for actual or liquidated damages upon the lessor's failure to make improvements agreed upon in the lease. The actual or liquidated damages shall consist of a reduction in lease payments equal to the corresponding percentage of the improvement value to the lease value. The actual or liquidated damages shall continue until the lessor complies with the lease and the improvements are certified by the CPO-HE and the leasing university. [30 ILCS 500/40-55] The penalty amount shall be retained by the university. This does not preclude the university seeking any other available relief, including termination for breach.
- c) **All leases shall be accompanied by a full written disclosure of the identity of every owner and beneficiary having any interest in the premises being leased.**
- 1) **The disclosure shall be subscribed and sworn or otherwise affirmed on oath by an owner, authorized trustee, corporate official, partner, managing agent or other authorized person.**

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- 2) The disclosure shall set forth all ownership interests. By way of example, the disclosure should identify the names of the beneficiaries of a land trust in addition to the trustee, the names of all partners whether general or limited in nature, the names of all members or managers of a limited liability company and the names of all shareholders in a corporation who are entitled to receive more than 7½% of the total distributable income of the entity. If the entity is publicly traded and no readily known individual owns more than a 7½% interest, then the requirements of this subsection (c) may be met by an officer or managing agent of the entity making an affirmative statement to this effect under oath.
 - 3) The disclosure shall set forth the identity of any State officer, employee or elected official, or the wife, husband, or minor child of that person having an ownership or beneficial interest under the lease. In the event a person is so set forth, the disclosure shall include a specific designation of the percentage of the total distributable income to that person, together with that of the wife, husband or minor child of the person, is entitled to receive from any firm, partnership, association or corporation that is the lessor.
 - 4) It shall be the responsibility of the lessor to notify the CPO-HE, SPO or designee of any changes in ownership or beneficial interest and to submit updated disclosure statements reflecting the changes within 30 days after the change.
- d) Space that is not in compliance with accessibility regulations, or is not capable of being brought in compliance with the installation of minimum essential features of accessibility by the time of occupancy, shall not be considered for use.
- 1) Each RFI will contain specifications for accessibility. Exceptions to the specifications will be allowed only upon request of the university if legitimate reasons are given and the request is otherwise in compliance with all federal and State laws regarding accessibility. The CPO-HE, SPO or designee may waive certain specifications at his or her discretion in accordance with subsection (d)(2).
 - 2) Exceptions may be based upon one or more of the following criteria:

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- A) No other suitable location exists within the geographic boundaries required by the operation/program at the site.
- B) No funds are appropriated to cover expenses for:
 - i) Relocation to an accessible site;
 - ii) Remodeling existing site to achieve accessibility; or
 - iii) Construction of a new facility.
- 3) The operations at the site are part of an on-going program that cannot be interrupted or terminated pending relocation, remodeling or new construction.
- 4) The operations at the site are part of a new program that must be implemented without delay to avoid:
 - A) Delay or interruption of vital services; and/or
 - B) Loss of funds associated with the program
- 5) The operations/programs at the site:
 - A) Generate a low frequency of public use; and/or
 - B) Provide a low number of job opportunities.
- 6) For sites carrying out programs funded in whole or part by federal funds, exceptions will be granted only upon written certification from the university that alternative methods have been established to deliver services to disabled clients and the university will provide necessary structural modification for qualified disabled employees, unless the modification would cause the university to incur undue hardship. This requirement is based on federal law (~~section~~[Section](#) 504 of the Rehabilitation Act of 1973 (29 USC 706)) and any federal regulations promulgated ~~in accordance with pursuant to~~ that Act, including those promulgated by the U.S. Department of Health and Human Services.

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(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.4030 Purchase Option

Leases~~Initial leases~~ of all space in entire, free-standing buildings shall include an option to purchase exercisable by the university, unless the CPO-HE or SPO determines in writing that inclusion of that purchase option is not in the State's best interest. The determination, including the reasons for making that determination, shall be published in the Bulletin. Leases with governmental units and not-for-profit entities are exempt from the requirements of this Section.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

SUBPART N: PREFERENCES

Section 4.4505 Procurement Preferences

The procurement preferences identified in Article 45 of the Code must be considered in developing procurement documents, conducting evaluations and drafting contracts. The Bulletin and solicitation document shall state whether a preference applies or may apply and the amount or type of preference. In the event multiple preferences are applicable, the order preferences shall be applied will be determined by lot.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.4510 Resident Bidder and Offeror Preference

- a) "Illinois resident vendor", as used in this Section, means a person authorized to transact business in this State and having a bona fide establishment for transacting business within this State at which it was actually transacting business on the date when any competitive solicitation for a public contract was first advertised or announced, including a foreign corporation duly authorized to transact business in this State that has a bona fide establishment for transacting business within this State at which it was actually transacting business on the date when any competitive solicitation for a public contract was first advertised or announced.
- b) In breaking a tie bid or proposal as described in Section 4.2037, an Illinois resident vendor shall be given the award.

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- c) An Illinois resident vendor shall be allowed a preference as against a non-resident vendor equal to any in-state vendor preference given or required by the state of the non-resident vendor.
- d) If only non-resident bidders or offerors are responding, the university has the right to specify that Illinois labor and manufacturing locations be used as part of the manufacturing process. This specification may be negotiated as part of the solicitation process.
- ~~e~~) This Section does not apply to any contract for any project for which federal funds are available for expenditure when its provisions may be in conflict with federal law or federal regulation.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.4515 Soybean Oil-Based Ink and Vegetable Oil-Based Ink

- a) *Contracts requiring the procurement of offset printing services shall specify the use of soybean oil-based ink or vegetable oil-based ink unless a State Purchasing Officer determines that another type of ink is required to assure high quality and reasonable pricing of the printed product. [30 ILCS 500/45-15] The SPO will make this determination based on justification submitted by the university.*
- b) This preference does not apply when a university requires digital printing services, a printing method that includes, but is not limited to, the electrostatic process of transferring ink or toner to a substrate and that may use photo imaging plates, photoreceptor drums, or belts that hold an electrostatic charge. Digital printing also includes the process of transferring ink through a print head directly to a substrate, such as ink-jet printers.
- c) Offset printing includes lithography, flexography, gravure or letterpress and involves the process of transferring ink through static or fixed image plates using an impact method of pressing ink into a substrate.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.4520 Recycled Supplies Materials

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When a public contract is to be awarded to the lowest responsible bidder or offeror, an otherwise qualified bidder or offeror who will fulfill the contract through the use of products made of recycled supplies shall be given preference over other bidders or offerors unable to do so, provided that the cost included in the bid of supplies is equal or less than other bids or offers, unless the use of the product constitutes an undue practical hardship. Nothing in this Section shall be construed to apply to a construction agency for the purposes of procuring construction and construction-related services. [30 ILCS 500/45-20] The SPO will make this determination based on justification submitted by the university.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.4525 Recyclable Supplies (Paper)

All ~~paper~~ ~~paper~~ supplies purchased for use by universities must be recyclable paper unless a recyclable substitute cannot be used to meet the requirements of the universities or would constitute an undue economic or practical hardship. [30 ILCS 500/45-25] Universities shall make this determination and shall include this determination in the procurement file.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.4530 Correctional Industries

The CPO-HE shall distribute to each SPO and university the list of items in accordance with ~~pursuant to~~ Section 45-30 of the Code that must be purchased from Illinois Correctional Industries (ICI) as determined by the CPO-HE ~~pursuant to Section 45-30 of the Code~~. Procurements from ICI may be made without prior notice or competition. Notice of contracts that exceed the small purchase threshold will be published in the Bulletin prior to execution of the contract.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.4535 Qualified Not-for-Profit Agencies for Persons with Significant ~~Severe~~ Disabilities

- a) Contracts issued under this Section with qualified not-for-profit agencies for persons with significant disabilities ~~(sheltered workshops)~~ should promote employment and training opportunities for persons with significant ~~severe~~

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disabilities while meeting the needs of the university. "Qualified Not-for-Profit Agencies" are certified work centers or accredited vocational programs as defined in Section 45-35(a) of the Code.

- 1) Subject to the requirements of this Section, a university may procure supplies and services from a qualified not-for-profit agencysheltered workshop and may do so without having to provide prior notice on the Bulletin or having to seek competition. The qualified not-for-profit agencysheltered workshop must meet the specifications and needs of the using university and must agree to a fair and reasonablemarket price ~~subject to a maximum that the price cannot be substantially more than had it been competitively bid.~~
 - 2) Except for small purchases, a proposed contract with a qualified not-for-profit agencysheltered workshop must be approved by the SPO.
- b) The university and the State Useuse program (see Section 45-35(c) of the Code) staff will consult as necessary to ensure the contract effectively addresses the purpose of the program. This review may include consideration of the total dollar value of the contract, the number of jobs performed by persons with significantsevere disabilities, the amounts paid to those individuals and the amount of subcontracting, particularly with commercial entities, needed to fulfill contract requirements.
 - c) The CPO-HE shall distribute to each SPO and university a list of supplies and services available from qualified not-for-profit agenciessheltered workshops on the qualified-list maintained by the Department of Central Management Services.
 - d) The CPO-HE shall identify to each SPO and university the supplies and services for which preference must be given to a qualified not-for-profit agencysheltered workshops. The preference shall require the university to give first refusal to a qualified not-for-profit agenciessheltered workshop and the university shall purchase from the not-for-profit agenciesworkshop unless the SPO approves a request for a waiver from the university. A waiver may be requested if the university demonstrates to the SPO that factors including, but not limited to, geographic proximity, lack of availability of vendors, quality of product and price preclude purchase from a qualified not-for-profit agenciessheltered workshop. Any waiver request shall be on a form or in a format prescribed by the CPO-HE.

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~~The State Use Committee must approve any proposed contract that would otherwise be subject to a competitive selection requirement.~~

- e) When a qualified not-for-profit agency sheltered workshop and a university enter ~~into~~ a contract, each must comply with applicable provisions of the Code.
- f) State Use Committee
- 1) Prior to contracting with a qualified not-for-profit agency sheltered workshop, the State Use Committee must determine in an open meeting that the price is fair and reasonable~~not substantially more than had the university obtained a competitively solicited price~~. If any vendor protests the determination as a part of the open meeting, the Committee must resolve the protest before approving the proposed contract. The State Use Committee shall inform the SPO and the university in writing of its determination.
- 2) Prior to a qualified not-for-profit agency entering a subcontract or executing a change order, the State Use Committee must approve in an open meeting all subcontracts and must approve all change orders that exceed the competitive threshold.
- A) For purposes of this Section only, subcontract means any acquisition from another source of supplies, not including raw materials, or services required by a qualified not-for-profit agency to provide the supplies or services that are the subject of the contract between the State and the qualified not-for-profit agency. [30 ILCS 500/45-35(e)]
- B) The State Use Committee shall inform the SPO and the university in writing of its approval.
- 3g) After receipt of the Committee's determination or approval, the SPO shall post notice to the Bulletin of any~~the~~ proposed contract or change order that exceeds the competitive threshold. The~~to the Bulletin, and the~~ university may execute the contract or change order upon publication.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

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Section 4.4540 Gas Mileage, Flex-Fuel, Biodiesel and Hybrid Requirements

Sections 25-75 and 45-40 of the Illinois Procurement Code impose requirements applicable to the purchase and, in some situations, the lease of passenger vehicles. These requirements are:

- a) Section 25-75 (Flex Fuel, Hybrid or Biodiesel)
 - 1) Gasoline Power. All gasoline powered automobiles and light trucks purchased with State funds must be flexible fuel or fuel efficient hybrid vehicles. Station wagons, ~~(including SUVs and crossovers)~~, vans (including mini-vans), four-wheel drive (including AWD) vehicles, emergency vehicles, and police and fire vehicles are not exempt.
 - A) Flexible fuel vehicles are automobiles or light trucks that operate on either gasoline or E-85 (85% ethanol, 15% gasoline) fuel.
 - B) Fuel efficient hybrid vehicles are automobiles or light trucks that use a gasoline or diesel engine and an electric motor to power and gain a minimum of 20% increase in combined USEPA city/highway fuel economy over an equivalent or most-similar conventionally-powered model.
 - 2) Diesel Power. All diesel powered automobiles and light trucks purchased with State funds shall be certified by the manufacturer to run on 5% biodiesel (B5) fuel. Station wagons (including SUVs and crossovers), vans (including mini-vans), four-wheel drive (including AWD) vehicles, emergency vehicles, and police and fire vehicles are not exempt.
 - 3) "State funds" means, for the purpose of this Section, any funds appropriated by the General Assembly. If State funds are used in whole or in part to purchase these vehicles, this Section applies.
- b) Section 45-40 (Mileage)
 - 1) Any new passenger automobiles, whether purchased or leased, must meet minimum fuel mileage standards. This does not apply to station wagons, ~~(including SUVs and crossovers)~~, vans (including mini-vans), four-wheel

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drive (including AWD) vehicles, emergency vehicles, and police and fire vehicles.

- 2) This fuel mileage requirement applies regardless of the source of funds used to purchase or lease the vehicle.
- c) Coordination of Sections 25-75 and 45-40. When procuring a vehicle, a university shall make reasonable attempts to identify one that meets the requirements of both subsections (a) and (b). If no vehicle meets both of these requirements, the university shall purchase a vehicle or vehicles that satisfy the requirements of subsection (b); otherwise, the university may request a waiver as outlined in subsection (d).
- d) Waiver. If a vehicle that meets the need of the institution cannot meet either or both requirements of subsections (a) and/or (b), then the institution may request a waiver of the appropriate requirement. The CPO-HE may require use of a uniform form or format for requesting the waiver. Vehicles requested under a waiver should come as close to satisfying the waived requirement as practical.
- e) Beginning January 1, 2016, 15% of all passenger vehicles purchased with State funds shall be vehicles fueled by electricity, electricity and gasohol (hybrids or plug-in hybrids), compressed natural gas, liquid petroleum gas, or liquid natural gas, including dedicated or non-dedicated fuel type vehicles. For purposes of this Section, "State funds" means any funds appropriated by the General Assembly. If State funds are used in whole or in part to purchase these vehicles, this Section applies.
- f) *In awarding contracts requiring the procurement of vehicles, preference may be given to an otherwise qualified bidder or offeror who will fulfill the contract through the use of vehicles powered by ethanol produced from Illinois corn or biodiesel fuels produced from Illinois soybeans. [30 ILCS 500/45-60]*

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.4545 Small BusinessesBusiness

- a) Authority to Establish Small Business Set-Aside
The CPO-HE, in consultation with the universities, may determine categories of

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construction, supplies or service procurements that will be set aside for small businesses in Illinois. A set-aside designation shall be for a stated period of time. An SPO, in consultation with a university, may determine to set aside for small business individual contracts not in a set-aside category. A set-aside may be established for competitive solicitations or for small purchases.

- b) **Certified Small Business List**
The CPO-HE, in consultation with the universities, may develop its own list, or may use a list maintained by another CPO, of vendors that meet the criteria of small business.
- c) **Contract Set-Aside**
 - 1) Any procurement proposed for set-aside to small businesses shall be so identified in the Bulletin notice and the solicitation documents. Bids or proposals received from large businesses will be rejected as nonresponsive. Vendors desiring to submit bids or proposals or to otherwise contract for items set aside for small businesses must be certified as a small business by one or more CPOs or shall submit information as specified verifying that the vendor qualifies as a small business under this Part. A business that fits the definition of small on the day of award or proposal opening will be considered small for the duration of the contract.
 - 2) When conducting a small purchase in a set-aside category, the university shall consult the list of certified small businesses and shall solicit at least three vendors under the commodity codes or classifications representing the supplies or services being solicited. Vendors outside a reasonable geographic area need not be contacted.
 - 3) The SPO may waive the requirement for set-aside on individual transactions based upon a request from the university that a set-aside is not conducive to meeting its need.
 - ~~4d~~) **Withdrawal of Set-Aside**
If the SPO determines that acceptance of the best bid or proposal will result in the payment of an unreasonable price, the SPO may reject all bids or proposals and withdraw the designation of small business set-aside for

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the procurement in question. When a small business set-aside is withdrawn, notification shall be published in the Bulletin with an explanation. After withdrawal of the small business set-aside, the procurement shall be conducted in accordance with this Part but without the small business designation.

de) Criteria for Small Business

- 1) Unless the CPO-HE provides a definition for a particular procurement that reflects industrial characteristics, a small business is a business that is independently owned and operated and is not dominant in its field of operation.
 - A) A wholesale business is a small business if its annual sales for its most recently completed fiscal year do not exceed \$13,000,000.
 - B) A retail business or business selling services is a small business if its annual sales and receipts for its most recently completed fiscal year do not exceed \$8,000,000.
 - C) A manufacturing business is a small business if it employs no more than 250 persons. A manufacturing business shall calculate how many people it employs by determining its average full-time equivalent employment, based on the number of persons employed on a full-time, part-time, temporary or other basis, for its most recently ended fiscal year. If a manufacturing business has been in existence for less than a full fiscal year, its average employment shall be calculated for the period through one month prior to the bid or proposal due date.
 - D) A construction business is a small business if its annual sales and receipts for its most recently completed fiscal year do not exceed \$14,000,000.
 - E) If a business is any combination of retailer, wholesaler or construction business, then the annual sales for each component may not exceed the higher of \$13,000,000 for a wholesaler, \$8,000,000 for a retailer, \$14,000,000 for a construction business

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or the amounts shown in Section 45-45 of the Code. For example, a business that is both a retailer and a wholesaler may not have total sales exceeding \$21,000,000 and the retail component may not exceed \$8,000,000 and the wholesale component may not exceed \$13,000,000. If the business is also a manufacturer, in addition to meeting the annual sales requirement, the number of manufacturing employees may not exceed 250.

- 2) A small business in Illinois is defined as a company that meets the criteria in subsection (e)(1) and is a sole proprietor whose primary residence is in Illinois or is a business incorporated or organized as a domestic corporation under the Business Corporation Act of 1983 [805 ILCS 5/1.80], is a business organized as a domestic limited liability company under the Limited Liability Company Act [805 ILCS 180], is a business organized as a domestic partnership under the Uniform Partnership Act of 1997 [805 ILCS 206], or a business organized as a domestic limited partnership under the Uniform Limited Partnership Act of 2001 [805 ILCS 215].
- 3) A small business that is not dominant in its field of operations means the business does not exercise a controlling or major influence in the kind of business activity in which it is engaged. In determining dominance, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.
- 4) Businesses artificially divided to qualify as small business will be disallowed. When computing the size status of a vendor and whether the vendor qualifies as a small business, the number of employees and annual sales and receipts, as applicable, of the vendor and all affiliates, concerns and related entities shall be included. Concerns and related entities are affiliates of each other when one directly or indirectly controls or has the power to control the other, or when a third party or parties controls or has the power to control both. It does not matter whether control is exercised, so long as the power to control exists. In determining whether concerns and related entities are independently owned and operated and whether affiliation exists, consideration shall be given to all appropriate factors,

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including use of common facilities, common ownership and management, identity of interest (substantially identical business or economic interests such as family members, individuals or firms with common investments, or firms that are economically dependent through contractual or other relationships) and contractual arrangements. In determining whether affiliation exists, the CPO-HE will consider the totality of the circumstances, and may find affiliation even though no single factor is sufficient to constitute affiliation. A franchise relationship shall not affect small business status if the franchise has the right to profit commensurate with ownership and bears the risk of loss or failure.

ef) Small Business Specialist

- 1) The CPO-HE shall designate a small business specialist, who shall have the duties set forth in Section 45-45(e) and (f) of the Code, and who shall also act as coordinator of small business. The designated small business specialist shall compile statistics provided by the university needed to make the small business annual report to the General Assembly required under Section 45-45(f) of the Code.
- 2) The small business specialist shall provide written instruction to any business registered as a small business in accordance with Section 45-45 of the Code on how to register for the Public Higher Education Bulletin. Notice shall be provided within 30 days after the small business certification.

f) Small Business Contracts

- 1) Goal
 - A) It is the goal of the State of Illinois to award not less than 10% of the total dollar amount of State contracts to small businesses.
 - B) Small businesses are defined as those businesses meeting the criteria established in Section 45-45 of the Code and subsection (d) of this Section.
- 2) Goal Measurement

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- A) The goal shall be measured on a full fiscal year basis.
 - B) Each university's expenditures, whether against contracts established by the university or against contracts established on behalf of a university, shall be included in the university's goal attainment statistics.
 - C) A university may satisfy its goal, in whole or in part, by counting expenditures made by State vendors to subcontractors that are small businesses.
- 3) University Compliance Plans
- A) Each university shall submit an annual compliance plan of how it intends to reach its goal and a timetable for reaching its goal. The CPO-HE shall establish the format and timetable for submission of the compliance plan. The CPO-HE shall approve the plan if it meets the requirements of the Code and this Part.
 - B) Each university shall submit an annual utilization report of small business contracts during the preceding fiscal year, including lapse period spending and a mid-fiscal year utilization report. The CPO-HE shall establish the format and timetable for submission of the utilization report.
 - C) The CPO-HE or small business specialist appointed under Section 45-45 of the Code may recommend ways in which a university may reach its goal. Upon a finding by the CPO-HE that a university's compliance plan is insufficient to reach the university's goal, the CPO-HE shall recommend ways in which a university can reach its goal. Those recommendations may include, but are not be limited to:
 - i) using stronger and better focused solicitation efforts to obtain more small businesses as potential sources of supply;

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- ii) division of job or project requirements, when economically feasible, into smaller, more manageable, tasks or quantities;
 - iii) elimination of extended experience or capitalization requirements when programmatically feasible; and
 - iv) identification of specific proposed contracts as particularly attractive or appropriate for participation by small businesses.
- D) If the compliance plans or utilization reports indicate a university's goal will not be reached, the CPO-HE may request that the university explain the university's noncompliance. If the CPO-HE determines a university is not making a serious effort to reach the goal, the CPO-HE will prepare a report for submission to the Governor and General Assembly with recommendations for remedial action.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.4570 Contracting with Businesses Owned and Controlled by Minorities, Women, Females and Persons with Disabilities

Procurements made under the Code are subject to the requirements of the Business Enterprise for Minorities, Women, Females and Persons with Disabilities Act [30 ILCS 575]. Each university is responsible for establishing goals and, as applicable, or taking other action in accordance with the Act, such as ensuring specifications are written to minimize barriers to participation and that diverse vendors are included in solicitation outreach and training. Each solicitation conducted by a university, regardless of the source selection method, shall take into account the goals and policies set forth in the Act and any other laws of the State.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.4595 HUBZone Business Contracts

- a) This Section applies unless an exception is provided by statute or, in the case of a small, emergency or sole economically feasible source procurement.

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- b) Specifications shall include a reference to the preference established in this Section.
- c) The preference shall be as follows:
- 1) The low bid or most advantageous proposal shall be identified without regard to whether the vendor is a qualified HUBZone small business concern.
 - 2) If the low bid or most advantageous proposal does not contain a certification that the vendor is a qualified HUBZone small business concern, then any responsive and responsible vendor that has made that certification and is within 2% of the low bid or most advantageous proposal's price shall be evaluated as though its price was 2% lower, subject to a maximum dollar value of \$50,000.
 - 3) The winning vendor will be determined after application of the preference.
 - 4) Notwithstanding the preference outlined in this subsection (c), if the appropriate SPO determines that the price differential calculated using the preference is not acceptable given the particular procurement and the economic circumstances, the award may be conditioned on receipt of an acceptable price reduction. If the price cannot be reduced to an acceptable level, the original low priced or most advantageous proposal may be selected for award.
- d) Prior to making any award to a qualified HUBZone small business concern that includes a price preference, the CPO-HE or SPO shall verify the HUBZone business is qualified with the U.S. Small Business Administration at the time the bid is due and at the time of award of the contract in accordance with 13 CFR 126.
- e) This Section does not apply to construction, construction-related services, or the selection of construction-related professional services procurements.

(Source: Added at 43 Ill. Reg. 1781, effective February 15, 2019)

SUBPART O: ETHICS

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Section 4.5002 Continuing Disclosures; False Certification

- a) All contractors and subcontractors have a continuing obligation to supplement the disclosures and certifications required by this Section for the duration of the contract and shall immediately report any changes to their disclosures or certifications to the university and CPO-HE. Multi-year contracts and subcontracts are subject to the annual re-certification requirements of Section 50-2 of the Code. Every person that has entered into a multi-year contract and every subcontractor with a multi-year subcontract subject to the Code shall certify, by July 1 of each fiscal year covered by the contract after the initial fiscal year, to the CPO-HE whether it continues to satisfy the requirements of Article 50 of the Code pertaining to eligibility for a contract award. If a contractor or subcontractor is not able to truthfully certify that it continues to meet all requirements, it shall provide with its certification a detailed explanation of the circumstances leading to the change in certification status. A contractor or subcontractor that makes a false statement material to any given certification required under Article 50 of the Code is, in addition to any other penalties or consequences prescribed by law, subject to liability under the Illinois False Claims Act [740 ILCS 175] for submission of a false claim. [30 ILCS 500/50-2]
- b) The CPO-HE may prescribe a standard format for certification~~annual recertification~~ and may include ~~annual~~ certifications as part of a prequalification process.
- c) Should a vendor be unable to certify that it continues to meet requirements of Article~~Section~~ 50 of the Code, the relevant information shall be submitted to the SPO for review and disposition.
- d) Annual certification through the vendor portal in accordance with ~~pursuant to~~ Section 4.1535 satisfies the requirements of this Section.
- e) No continuing certification is required if a contractor or subcontractor continues to meet all of the requirements of Article 50 of the Code or if the work under the contract or subcontract is substantially completed.
- f) In addition to any other penalties or consequences described by law, a contractor or subcontractor that makes a false statement material to any given certification is

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[subject to liability under the Illinois False Claims Act \[740 ILCS 175\] for submission of a false claim.](#)

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.5005 Bribery

a) *Prohibition*

No person or business shall be awarded a contract or subcontract who:

- 1) *Has been convicted under the laws of Illinois or any other state of bribery or attempting to bribe an officer or employee of the State of Illinois or any other state in that officer's or employee's official capacity; or*
- 2) *Has made an admission of guilt of that conduct that is a matter of record but has not been prosecuted for that conduct.* [\[30 ILCS 500/50-5\(a\)\]](#)

b) *Businesses*

No business shall be barred from contracting with any unit of State or local government, or subcontracting under such a contract, as a result of a conviction under this Section of any employee or agent of the business if the employee or agent is no longer employed by the business and:

- 1) *The business has been finally adjudicated not guilty; or*
- 2) *The business demonstrates to the governmental entity with which it seeks to contract, or ~~that which~~ is a signatory to the contract to which the subcontract relates, and that entity finds that the commission of the offense was not authorized, requested, commanded or performed by a director, officer or high managerial agent on behalf of the business, as provided in Section 5-4(a)(2) of the Criminal Code of 2012 [720 ILCS 5].* [\[30 ILCS 500/50-5\(b\)\]](#)

c) *Conduct on Behalf of Business*

For purposes of this Section, when an official, agent or employee of a business committed the bribery or attempted bribery on behalf of the business and in accordance with the direction or authorization of a responsible official of the

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business, the business shall be chargeable with the conduct. [30 ILCS 500/50-5(c)]

- d) *Certification*
Every bid or offer submitted to ~~every~~and contract executed by the State, ~~and~~ every subcontract subject to Section 20-120 of the Code, and every vendor's submission to a vendor portal shall contain a certification by the bidder, offeror, potential contractor, contractor, or ~~the~~ subcontractor, respectively, that the bidder, offeror, potential contractor, contractor or subcontractor is not barred from being awarded a contract or subcontract under ~~this~~Section 50-5 of the Code, and acknowledges that the CPO-HE may declare the related contract void if any certifications required by ~~that~~this Section are false. If the false certification is made by a subcontractor, then the contractor's submitted bid and the executed contract may not be declared void, unless the contractor refuses to terminate the subcontract upon the State's request after a finding that the subcontractor's certification was false. A contractor or subcontractor who makes a false statement, material to the certification, commits a Class 3 felony. [30 ILCS 500/50-5(d)]

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.5009 Felons

- a) *Unless otherwise provided, no person or business convicted of a felony shall do business with the State of Illinois or any university, or enter into a subcontract, from the date of conviction until 5 years after the date of completion of the sentence for that felony, unless no person held responsible by a prosecutorial office for the facts upon which the conviction was based continues to have any involvement with the business. [30 ILCS 500/50-10]*
- b) *Every bid or offer submitted to the State, ~~every~~and contract executed by the State, ~~and~~ every subcontract subject to Section 20-120 of the Code, and every vendor's submission to a vendor portal shall contain a certification by the bidder, offeror, potential contractor, ~~or~~ contractor or subcontractor, respectively, that the bidder, offeror, potential contractor, contractor or subcontractor is not barred from being awarded a contract or subcontract under Section 50-10.5 of the Code~~this Section~~ and acknowledges the CPO-HE may declare the related contract void if any of the certifications required by ~~that~~this Section are false. If the false*

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certification is made by a subcontractor, then the contractor's submitted bid and the executed contract may not be declared void, unless the contractor refuses to terminate the subcontract upon the State's request after a finding that the subcontractor's certification was false. [30 ILCS 500/50-10.5(b)]

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.5010 Prohibited Bidders and Contractors

- a) *Unless otherwise provided, no business shall bid, ~~offer,~~ ~~or~~ enter into a contract or subcontract under the Code, or make a submission to a vendor portal if the business or any officer, director, partner or other managerial agent of the business has been convicted of a felony under the Sarbanes-Oxley Act of 2002 (PL 107-204) or a Class 3 or Class 2 felony under the Illinois Securities Law of 1953 [815 ILCS 5] for a period of 5 years from the date of conviction. [30 ILCS 500/50-10.5(a)]*
- b) *Every bid and offer submitted to the State, every ~~and~~ contract executed by the State, every vendor's submission to a vendor portal, and every subcontract subject to Section 20-120 of the Code shall contain a certification by the bidder, offeror, potential contractor, contractor, or subcontractor, respectively, that the bidder, offeror, potential contractor, contractor, or subcontractor is not barred from being awarded a contract or subcontract under ~~this~~ Section 50-10.5 of the Code and acknowledges that the CPO-HE shall declare the related contract void if any of the certifications completed pursuant to Section 50-10.5 ~~this subsection~~ (b) of the Code are false. If the false certification is made by a subcontractor, then the contractor's submitted bid and the executed contract may not be declared void, unless the contractor refuses to terminate the subcontract upon the State's request after a finding that the subcontract's certification was false. [30 ILCS 500/50-10.5(b)]*
- c) *If a business is not a natural person, the prohibition in subsection (a) applies only if:*
- 1) *the business itself is convicted of a felony referenced in subsection (a); or*
 - 2) *the business is ordered to pay punitive damages based on the conduct of any officer, director, partner, or other managerial agent who has been*

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convicted of a felony referenced in subsection (a). [\[30 ILCS 500/50-10.5\(c\)\]](#)

- d) *A natural person who is convicted of a felony referenced in subsection (a) remains subject to Section 50-10 of the Code.* [\[30 ILCS 500/50-10.5\(d\)\]](#)~~4-5]~~

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.5011 Debt Delinquency

- a) *No person shall submit a bid or offer for or enter into a contract or subcontract under this Code, or make a submission to a vendor portal if that person knows or should know that he or she or any affiliate is delinquent in the payment of any debt to the State, unless the person or affiliate has entered into a deferred payment plan to pay off the debt.* [\[30 ILCS 500/50-11\(a\)\]](#) For purposes of this Section, terms shall have the meanings ascribed in Section 50-11 of the Code.
- b) *Every bid and offer submitted to the State, every vendor's submission to a vendor portal, every~~and~~ contract executed by the State, and every subcontract subject to Section 20-120 of the Code shall contain a certification by the contractor or subcontractor, respectively, that the bidder, offeror, respondent, potential contractor, ~~the~~ contractor or ~~the~~ subcontractor and its affiliate is not barred from being awarded a contract or subcontract under this Section and acknowledges that the CPO-HE may declare the related contract void if any of the certifications required by this Section are false. If the false certification is made by a subcontractor, then the contractor's submitted bid and the executed contract may not be declared void, unless the contractor refuses to terminate the subcontract upon the State's request after a finding that the subcontractor's certification was false.* [\[30 ILCS 50-11\(b\)\]](#)

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.5012 Collection and Remittance of Illinois Use Tax

- a) *No person shall enter into a contract with a university or enter into a subcontract unless the person and all affiliates of the person collect and remit Illinois Use Tax on all sales of tangible personal property into the State of Illinois in accordance with the provisions of the Illinois Use Tax Act [\[35 ILCS 105\]](#), regardless of*

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whether the person or affiliate is a "retailer maintaining a place of business within this State" as defined in Section 2 of the Use Tax Act. [30 ILCS 500/50-12]
For purposes of this Section, terms shall have the meanings ascribed in Section 50-12 of the Code.

- b) *Every bid and offer submitted to the State, every submission to a vendor portal, every ~~and~~ contract executed by the State, and every subcontract subject to Section 20-120 of the Code shall contain a certification by the bidder, respondent, offeror, potential contractor, contractor or subcontractor, respectively, that the bidder, offeror, respondent, potential contractor, contractor or subcontractor is not barred from bidding for or entering into a contract under Section 50-12 ~~subsection (a) of the Code~~ and acknowledges that the CPO-HE may declare the related contract void if any of the certifications required by this Section are false. If the false certification is made by a subcontractor, then the contractor's submitted bid and the executed contract may not be declared void, unless the contractor refuses to terminate the subcontract upon the State's request after a finding that the subcontractor's certification was false. [30 ILCS 500/50-12]*

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.5013 Conflicts of Interest Prohibited by the Code

- a) Any bid, proposal, offer of acceptance, or proposed contract must be reviewed for conflicts of interest pursuant to Section 50-13 of the Code. If a potential conflict exists, no contract will be executed unless the ~~CPO-HE~~CPO requests and is granted an exemption by the Executive Ethics Commission under Section 50-20 of the Code.
- 1) Office or Employment
It is unlawful for any person holding an elective office in this State, holding a seat in the General Assembly, or appointed to or employed in any of the offices or agencies of State government and who receives compensation for such employment in excess of 60% of the salary of the Governor of the State of Illinois, or who is an officer or employee of the Capital Development Board or the Illinois Toll Highway Authority, or who is the spouse or minor child of any such person, to have or acquire any contract, or any direct pecuniary interest in any contract therein, whether for stationery, printing, paper, or any services, materials, or

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supplies, that will be wholly or partially satisfied by the payment of funds appropriated by the General Assembly of the State of Illinois or in any contract of the Capital Development Board or the Illinois Toll Highway Authority. [30 ILCS 500/50-13(a)]

2) Financial Interests

It is unlawful for any firm, partnership, association, or corporation, in which any person as described in subsection (a) is entitled to receive more than 7½% of the total distributable income or an amount in excess of the salary of the Governor, to have or acquire any such contract or direct pecuniary interest therein. [30 ILCS 500/13(b)]

3) Combined Financial Interests

It is unlawful for any firm, partnership, association, or corporation, in which any person listed in subsection (a)(1) together with his or her spouse or minor children is entitled to receive more than 15%, in the aggregate, of the total distributable income or an amount in excess of 2 times the salary of the Governor, to have or acquire any such contract or direct pecuniary interest therein. [30 ILCS 500/13(c)]

- b) For the purposes of this Part, an individual has a direct pecuniary interest in a contract when the individual is owed a payment or otherwise receives a direct financial benefit in conjunction with performance of a contract, including finder's fees and commission payments.
- c) For the purposes of this Part, "distributable income" means the income of a company after payment of all expenses, including employee salary and bonus, and retained earnings, which is distributed to those entitled to receive a share of the income. In the case of a for-profit corporation, distributable income means "dividends". When calculating entitlement to distributable income the entitlement shall be determined at the end of the company's most recent fiscal year.
- d) This Section applies to those elected to an office of Illinois State government. This Section does not apply to those elected to local government offices, including school district offices, nor does it apply to those elected to federal offices in this State. This Section does not apply to contracts with licensed professionals, provided those contracts are competitively bid. ~~For purposes of this Section, "bid" means procured pursuant to the competitive procedures~~

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~~identified in Subpart E.~~

- e) Additional exceptions to the application of this Part are listed in Section 50-13(f) of the Code.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.5014 Environmental Protection Act Violations

- a) *Unless otherwise provided, no person or business found by a court or the Pollution Control Board to have committed a willful or knowing violation of the Environmental Protection Act [415 ILCS 5] shall do business with the State of Illinois or any university or enter into a subcontract from the date of the order containing the finding of violation until 5 years after that date, unless the person or business can show that no person involved with the violation continues to have any involvement with the business. [30 ILCS 500/50-14(a)]*
- b) *A person or business otherwise barred by Section 50-14(a) of the Code from doing business with the State of Illinois and any university or any subcontractors under the Code ~~by subsection (a)~~ may be allowed to do business with the State of Illinois or any university if it is shown that there is no practicable alternative to the State to contracting with that person or business. [30 ILCS 500/50-14(b)]*
- c) *Every bid or offer submitted to the State, every~~and~~ contract executed by the State, every submission to a vendor portal, and every subcontract subject to Section 20-120 of the Code shall contain a certification by the bidder, offeror, potential contractor, contractor or subcontractor, respectively, that the bidder, offeror, potential contractor, contractor or subcontractor is not barred from being awarded a contract or subcontract under ~~this~~ Section 50-14 of the Code and acknowledges that the contracting university may declare the related contract void if any of the certifications required by ~~that~~this Section are false. If the false certification is made by a subcontractor, then the contractor's submitted bid and the executed contract may not be declared void, unless the contractor refuses to terminate the subcontract upon the State's request after a finding that the subcontractor's certification was false. [30 ILCS 500/50-14(c)]*

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

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Section 4.5017 Expatriated Entities

- a) Except as provided in subsection (c), a university may not enter a contract with an expatriated entity or with any subsidiary of such an entity.
- b) Except as provided in subsection (c), no business or member of a unitary business group, as defined in the Illinois Income Tax Act [35 ILCS 5], shall submit a bid or offer or enter a contract with a university if that business or any member of the unitary business group is an expatriated entity.
- c) An expatriated entity or a member of a unitary business group with an expatriated entity as a member may enter a contract with a university if the CPO-HE determines:
- 1) the contract is awarded as a sole source procurement under Section 20-25 of the Code, and the CPO-HE:
 - A) includes in the notice of intent to enter a sole source contract a prominent statement that the intended sole source contractor is an expatriated entity; and
 - B) holds a public hearing at which the CPO-HE and university present written justification for the use of a sole source contract with an expatriated entity and at which any member of the public may present testimony; or
 - 2) the purchase is of pharmaceutical products, drugs, biologics, vaccines, medical supplies, or devices used to provide medical and health care or treat disease or used in medical or research diagnostic tests, and medical nutritionals regulated by the Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act (21 USC 301 et seq.). [30 ILCS 500/50-17]

(Source: Added at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.5035 Disclosure of Financial Interests and Potential Conflicts of Interest

- a) Disclosures of financial interests and potential conflicts of interest shall be

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obtained for all submissions to a vendor portal and from all bidders, ~~or~~ offerors, vendors, or contractors ~~when the annual value of a bid or offer exceeds \$50,000.~~

- 1) For the purposes of Section 50-35(a) of the Code, ~~an~~ "bids and offers offer from responsive bidders, ~~or~~ offerors, vendors, or contractors" means bids, offers and quotes received pursuant to any source selection method, except for sole source and emergency procurements, and that has an annual value of more than \$50,000. ~~only those offers that are received under Section 20-10, 20-15 or 20-35, or Article 35 of the Code.~~
 - 2) Disclosures are not required in sole source and emergency contracts, but shall be obtained in whole or in part when practical and when the annual value exceeds \$50,000.
 - 3) Disclosures shall be obtained for small purchases annually exceeding \$50,000, except as otherwise provided in this Section. If a small purchase could qualify as an emergency or sole source, disclosures are not required but shall be obtained when practical.
 - 4) In certain circumstances (e.g., emergency and sole source procurements) in which the vendor refuses or is unable to provide disclosures, the SPO may authorize the university to move forward with the transaction. The university must provide documentation of efforts to obtain compliance in a form prescribed by the PPB and CPO-HE.
- b) For purposes of:
- 1) Section 50-35(b) of the Code, "parent entity" means an entity that owns 100% of the bidding entity.
 - 2) Section 50-35(b)(1) of the Code, "contractual employment of services" means any contract to provide services to the State, whether as independent contractor or employee, that is by and between the State and the named individual.
- c) "Distributive Income" means income of a company after payment of all expenses, including employee salaries and bonuses and retained earnings, which is distributed to those entitled to receive a share of that income. In the case of a for-

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profit corporation, distributive income means "dividends". When calculating entitlement to distributive income, the entitlement shall be determined at the end of the company's most recent fiscal year.

- d) "Personal Services" shall be any contract for services subject to the Code, including, by way of example, professional and artistic services, repair services, cleaning and guard services, but excludes contracts with employees who are exempt from the Code under Section 1-10(b)(4).
- e) "Subject to Federal 10K Reporting" means subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934.
- f) "10K Disclosure" means a report required under section 13 or 15(d) of the Securities Exchange Act of 1934.
- g) New disclosures are required on contract renewals. New [disclosures](#) ~~disclosure~~ are not required for contract amendments.
- h) 10K Disclosures
 - 1) Any vendor subject to federal 10K reporting requirements may submit its 10K to the university in satisfaction of the disclosure requirement of Section 50-35(b) of the Code. The vendor may be required to identify the specific sections or parts in the 10K disclosure containing information, if any, pertaining to those who have an ownership interest or an interest in the distributive income of the vendor or its parent, or other information that the vendor knows or reasonably should know identifies a potential conflict of interest with the State. If the financial interest or conflict of interest information requested by the university is not in the 10K, or in a document that may be submitted to the SEC in conjunction with or in lieu of the 10K, then that additional documentation shall be provided as well.
 - 2) 10K disclosures are available for public review. Any potential conflict of interest identified by the public and brought to the attention of the CPO-HE or SPO shall be investigated.
 - 3) In circumstances in which a vendor may submit a 10K disclosure in lieu of the specific disclosure requirements of the Code, the SPO or designee may

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consider information identified by the vendor in the 10K disclosure and any information disclosed pursuant to public review of the 10K disclosure in determining whether a potential conflict of interest exists.

- i) **Form of Disclosure**
The form of disclosures shall be prescribed by the CPO-HE and shall include at least the names, addresses and dollar or proportionate share of ownership of each person identified in this Section, their instrument of ownership or beneficial relationship, and notice of any potential conflict of interest.
- j) **Intent of Disclosure**
The disclosure required in subsection (i) is not intended to prohibit or prevent any contract. The disclosure is meant to fully and publicly disclose any potential conflict to the CPO-HE, SPOs, their designees, and executive officers so they may adequately discharge their duty to protect the State. [30 ILCS 500/50-35(c)]
 - 1) **Determination by Procurement Officer**
A potential for a conflict of interest exists if a reasonable person would naturally and probably expect a conflict to come into existence even though one does not now exist. Improbable or strained connections will not constitute a potential for a conflict. The mere disclosure of one or more of the 10 relationships described in Section 50-35(b) of the Code is not sufficient, without a determination by the CPO-HE or SPO, to conclude a potential for a conflict exists. When a potential conflict of interest is identified, discovered or reasonably suspected, it shall be reviewed by the CPO-HE or SPO, who will send the contract to PPB. PPB shall recommend in writing to the CPO-HE whether to allow or void the contract, bid or offer or subcontract weighing the best interest of the State of Illinois.
 - 2) If the CPO-HE disagrees with the PPB's recommendation to void a contract, bid or offer, the Executive Ethics Commission will hold a hearing. No contract with a potential conflict of interest shall be awarded before a hearing if the PPB recommends a contract, bid or offer be voided. The written determination shall become a publicly available part of the contract, bid or proposal file.
 - 3) **Requirements for Reasonable Care and Diligence**

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These thresholds for disclosure do not relieve the CPO-HE, SPO or their designees from reasonable care and diligence for any contract, bid, offer or submission to a vendor portal proposal. The CPO-HE, SPOs or their designees shall be responsible for using any reasonably known and publicly available information to discover any undisclosed potential conflict of interest and act to protect the best interest of the State of Illinois. [30 ILCS 500/50-35(e)]

- 4) **Inadvertent or Accidental Failure to Fully Disclose**
Inadvertent or accidental failure to fully disclose shall render the contract, ~~subcontract~~, bid, offer, proposal, subcontract, or relationship voidable by the CPO-HE if he or she deems it in the best interest of the State of Illinois and, at his or her discretion, may be cause for barring from future contracts, ~~subcontracts~~, bids, offers, proposals, subcontracts, or relationships with the State for a period of up to 2 years. [30 ILCS 500/50-35(f)]
- 5) **Intentional, Willful or Material Failure to Disclose**
Intentional, willful or material failure to disclose shall render the contract, ~~subcontract~~, bid, offer, proposal, subcontract, or relationship voidable by the CPO-HE if he or she deems it in the best interest of the State of Illinois and shall result in debarment from future contracts, ~~subcontracts~~, bids, offers, proposals, subcontracts, or relationships with the State for a period of not less than 2 years and not more than 10 years. Reinstatement after 2 years and before 10 years must be reviewed and commented upon by the Governor, or by an executive ethics board he or she may designate. The comment shall be returned to the CPO-HE, who must rule in writing whether and when to reinstate. [30 ILCS 500/50-35(g)]
- 6) **Other Procurements**
In addition, all disclosures shall note any other current or pending contracts, bids, offers, proposals, subcontracts, leases or other ongoing procurement relationships the bidder, offeror, potential contractor, contractor, or subcontractor ~~bidding, proposing, offering or subcontracting entity~~ has with any other unit of State government and shall clearly identify the unit and the contract, offer, proposal, lease or other relationship. [30 ILCS 500/50-35(h)]

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7) Continuing Obligation

The ~~bidder, offeror, potential contractor, or contractor~~ ~~or bidder~~ has a continuing obligation to supplement the disclosure required by this Section throughout the bidding process, during the term of any contract, and during the vendor portal registration process. [30 ILCS 500/50-35(i)]

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.5036 Disclosure of Business in Iran

- a) *Each bid ~~or~~ offer ~~or proposal~~ submitted for a State contract, other than a small purchase, shall include a disclosure of whether the bidder, offeror or ~~proposing entity, or~~ any of its corporate parents or subsidiaries, within the 24 months before submission of the bid ~~or~~ offer, ~~or proposal~~ had business operations that involved contracts with, or provision of supplies or services to, the Government of Iran, companies in which the Government of Iran has any direct or indirect equity share, consortiums or projects commissioned by the Government of Iran, or companies involved in consortiums or projects commissioned by the ~~Government~~ ~~government~~ of Iran and:*
- 1) *More than 10% of the company's revenue produced in or assets allocated in Iran involve oil-related activities or mineral extraction activities; less than 75% of the company's revenues produced or assets located in Iran involve contracts with or provision of oil-related or mineral-extraction products or services to the Government of Iran or a project or consortium created exclusively by that government; and the company has failed to take substantial action; or*
 - 2) *The company has, on or after August 5, 1996, made an investment of \$20 million or more, or any combination of investments of at least \$10 million each that in the aggregate equals or exceeds \$20 million in any 12-month period, that directly or significantly contributes to the enhancement of Iran's ability to develop petroleum resources of Iran. [30 ILCS 500/50-36(b)]*
- b) *A bid ~~or~~ offer ~~or proposal~~ that does not include the disclosure required by subsection (a) may be given a period after the bid or offer is submitted to cure*

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non-disclosure. ~~The CPO-HEA~~ ~~SPC~~ may consider the disclosure when evaluating the bid or offer or awarding the contract. [30 ILCS 500/50-36(c)]

- c) *The CPO-HE shall provide the State Comptroller with the names of each entity disclosed under subsection (a) as doing business or having done business in Iran. The State Comptroller shall post that information on his or her official website. [30 ILCS 500/50-36(d)]*

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.5037 Vendor Registration, Certification and Prohibition on Political Contributions

- a) Introduction
Illinois statute [10 ILCS 5/9-35 and 30 ILCS 500/20-160 and 50-37] restricts political contributions by vendors and affiliated entities, requires registration with the State Board of Elections (SBEL), and requires solicitation and contract certifications relative to the requirements of the statutes. This Section supplements requirements found in the statutes and does not excuse compliance with any of those requirements.
- b) General Registration Requirements
- 1) These requirements apply to contracts, bids and offers that are subject to the Code:
- A) Bids/offers referenced in this Section are those submitted in response to a competitive solicitation that is posted to the Bulletin ~~on or after January 1, 2009~~, regardless of the value assigned to the procurement.
- B) Bids and offers include pending bids and offers.
- C) These requirements generally apply to a vendor whose existing State contracts have an aggregate value in excess of \$50,000, or whose aggregate value of bids/offers for State contracts exceeds \$50,000, or whose aggregate value of State contracts and bids/offers exceeds \$50,000.

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- D) This value is calculated on a calendar-year basis.
- 2) On a calendar-year basis, each vendor or potential vendor must keep track of the value of contracts and bids/offers. Vendors must register with SBEL when the vendor determines that the value of the contracts and bids/offers meets the threshold for registration.
- 3) An "executive employee" means:
- A) the President, Chairman of the Board, Chief Executive Officer and/or other individuals who fulfill equivalent duties as the President, Chairman of the Board or Chief Executive Officer; and/or
- B) any employee whose compensation is determined directly, in whole or in part, by the award or payment of contracts by a State agency to the entity employing the employee, irrespective of the employee's title or status in the business entity. For the purposes of this subsection (b)(3)(B), compensation determined directly by award or payment of contracts means a payment over and above regular salary that would not be made if it were not for the award of the contract.
- 4) Businesses required to register have a continuing duty to ensure that the registration is accurate in accordance with Sections 20-160 and 50-37 of the Code.
- c) Bids and Proposals
- 1) In order to be considered for award, a vendor who meets the requirements for registration must be registered with SBEL as of the date the bid or offer is due and shall be able to produce a copy of the Registration Certificate on that date.
- 2) If a vendor who meets the requirements for registration is not registered by the date the bid or offer is due, the CPO-HE shall review the bid or offer to determine whether the bidder or offeror made a good faith effort to

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comply with the registration requirements prior to the bid or offer being due~~the university shall reject the bid or offer as non-responsive.~~

A) Good faith effort may consist of, but is not limited to, an attempt to register either as a parent or subsidiary, registration under a prior name, acts of God that made registration impossible, or other demonstrated effort to register in advance of the bid or offer being due.

B) If the CPO-HE finds good faith efforts were made to register, the CPO-HE shall notify the bidder or offeror it has 5 business days to achieve compliance with the registration requirements.

3) Prior to award or execution of a contract, the SPO, or a designee of the SPO, shall verify that the vendor who meets the requirements for registration has registered with SBEL and shall document vendor compliance.

4) Annual certification through the vendor portal in accordance with ~~pursuant to~~ Section 4.1535 satisfies the requirements of this Section.

5) A bid or offer that fails to meet the requirements for registration with SBEL shall be rejected as non-responsive.

d) Contracts

Documentation of vendor compliance must be in the procurement file in relation to any contract for which a vendor is required to register as set forth in this subsection (d), unless the vendor certifies it is not required to register.

1) For contract renewals and extensions, if the value of the renewal or extension by itself, or in combination with the contract being renewed/extended and other contracts and bids/proposals exceeds \$50,000, the vendor must provide documentation of vendor compliance upon request and make the appropriate contract certification, if it has not already done so. The Registration Certificate or other evidence of vendor compliance may be provided by reference to and incorporation of the vendor's prequalification by the CPO-HE.

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- 2) A university shall identify in the solicitation whether the contract is estimated to exceed \$50,000 annually. Vendors submitting bids or offers for master contracts estimated to exceed \$50,000 annually regardless of consumption are required to register with SBEL.
- 3) For indefinite quantity/estimated value contracts that are not estimated to exceed \$50,000 annually, a vendor who is otherwise not required to register shall register with SBEL when the value of orders placed pursuant to an indefinite/estimated value contract plus all other contracts and bids/proposals exceeds \$50,000.
- 4) For change orders, if the value of the change order, by itself or in combination with the contract being renewed plus other contracts and bids/proposals exceeds \$50,000 annually, the vendor must provide the Registration Certificate or other evidence of vendor compliance upon request and make the appropriate contract certification, if it has not already done so.
- 5) Any contracts mistakenly executed in violation of this Section must be amended to include the contract certifications, and the vendor must supply the Registration Certificate or other evidence of vendor compliance upon request. If any violation by the vendor is not cured within 5 business days after receipt of notification of the violation, the contract is voidable by the State without penalty.
- 6) Contract certification required by Section 20-160 of the Code shall be included in or added to each contract that must be filed with the State Comptroller in accordance with ~~pursuant to~~ Section 20-80 of the Code and those written two-party contracts that need not be filed with the Comptroller. Universities may require written confirmation of the rule-imposed certification at any time.
- e) Each solicitation issued and contract executed by the State ~~on or after January 2, 2009~~ shall be deemed to contain a statement that the contract is voidable under Section 50-60 of the Code if the bidder, offeror or contractor fails to comply with Section 20-160 of the Code.
- f) Prohibited Political Contributions

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- 1) Upon discovery of a political contribution that is potentially prohibited by Section 50-37 of the Code, the CPO-HECPO, within 5 business days, shall send a letter requesting response from the business entity that made the potential prohibited contribution acknowledging or denying that the contribution was prohibited.
 - 2) If the CPO-HECPO determines that a political contribution was prohibited, all contracts held by the contributing business entity are voidable, and the CPO-HECPO shall determine if the circumstances surrounding the prohibited political contribution warrant the voiding of these contracts.
 - 3) If a business entity violates Section 50-37(b) of the Code three or more times within a 36 month period, the CPO-HECPO shall void all contracts with the business entity and the business entity shall be prohibited from responding to any solicitation issued by any State agency or entering into a contract with any university for three years from the date of the last violation.
 - 4) If the CPO-HECPO determines that a prohibited political contribution is grounds to suspend a business entity pursuant to Section 4.5560(b), the business entity shall have the right to a hearing in accordance with ~~pursuant to~~ Section 4.5560(hg), to be conducted in accordance with Subpart V.
- g) Notice
- 1) Notice of each violation of Section 50-37 and any penalty imposed for each violation shall be published in the Illinois Register and the Bulletin.
 - 2) The CPO-HECPO shall directly notify a political committee in receipt of a prohibited political contribution that payment equal to the amount of the contribution is due the State of Illinois within 30 days after publication of the violation in the Illinois Register.
 - 3) If an amount owed by a political committee as a result of a prohibited political contribution is not paid and is deemed uncollectible for any

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reason, notice of the political committee's nonpayment shall be published in the Illinois Register and the Bulletin.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.5039 Procurement Communication Reporting Requirement

a) Reporting Requirement

Any written or oral communication received by a State employee who, by the nature of his or her duties, has the authority to participate personally and substantially in the decision to award a contract and that imparts or requests material information or makes a material argument regarding potential action concerning an active procurement matter, including, but not limited to, an application, a contract or a project, shall be reported to the Procurement Policy Board in accordance with rules of the Executive Ethics Commission (2 Ill. Adm. Code 1620). [30 ILCS 500/50-39(a)]-

b) Excepted Communications

1) Reportable communications *do not include the following:*

- A) *statements made by a person publicly in a public forum. However, communications made in a public forum, if privately, must be reported;*
- B) *statements regarding matters of procedure and practice, such as format, the number of copies required, the manner of filing, and the status of a matter;*
- C) *statements made by a State employee to:*
 - i) *the State employee's agency head;*
 - ii) *other employees of that agency;*
 - iii) *employees of the Executive Ethics Commission, including the CPO-HE, SPOs, PCMs and other CPO-HE staff; or*

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- iv) *an employee of another State agency who, through the communication, is either:*
- *exercising his or her experience or expertise in the subject matter of the particular procurement in the normal course of business, for official purposes, and at the initiation of the purchasing agency or the appropriate SPO; or*
 - *exercising oversight, supervisory, or management authority over the procurement in the normal course of business and as part of official responsibilities;*
- D) *Unsolicited communications providing general information about products, services, or industry best practices before those products or services become involved in a procurement matter;*
- E) *Communications received in response to procurement solicitations, including, but not limited to, vendor responses to:*
- i) *an IFB, RFI, RFP, Request for Qualifications, small purchase, sole source or emergency procurement; or*
 - ii) *questions or answers posted to the Bulletin to supplement the procurement action, provided that the communications are made in accordance with instructions contained in the procurement solicitation, procedures, or guidelines;*
- F) *Communications that are privileged, protected or confidential under law; and*
- G) *Communications that are part of a formal procurement process as set out by statute, rule, or solicitation, guidelines, or procedures, including but not limited to:*
- i) *the posting of procurement opportunities;*

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- ii) *the process for approving a procurement business case or its equivalent;*
 - iii) *fiscal approval;*
 - iv) *submission of bids or offers;*
 - v) *the finalization of contract terms and conditions with an awardee or apparent awardee; and*
 - vi) *any other similar formal procurement process.*
- 2) *The provisions of this Section shall not apply to communications regarding the administration and implementation of an existing contract, except communications regarding change orders or the renewal or extension of a contract. [30 ILCS 500/50-39(a)]*
- 3) The reporting requirement does not apply to communications asking for clarification on a published solicitation provided:
- A) the response did not provide a competitive advantage to the person or business who asked for clarification; and
 - B) the question and answer were published to the Bulletin as an addendum to the solicitation.
- ~~43~~) *No trade secret or other proprietary or confidential information shall be included in any communication reported to the Procurement Policy Board. [30 ILCS 500/50-39(b)]*
- c) *When an oral communication made by a person required to register under the Lobbyist Registration Act [25 ILCS 170] is received by a State employee that is covered under this Section, all individuals who initiate or participate in the oral communication shall submit a written report to that State employee that memorializes the communication and includes, but is not limited to, the items listed in Section 50-39 of the Code. [30 ILCS 500/50-39(c)]*

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

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Section 4.5040 Reporting and Anticompetitive Practices

- a) Every vendor, bidder, offeror, potential contractor, contractor, CPO-HE, SPO, designee, elected official, or State or university employee is required to report in writing any suspected collusion or other anticompetitive practice to the Office of the Executive Inspector General, the Office of the Illinois Attorney General, and the CPO-HE.
- b) The notice shall include all known or relevant facts that support the suspected collusion or anticompetitive practice.

(Source: Added at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.5080 Sexual Harassment Policy

Every bidder, offeror, potential contractor, contractor or subcontractor shall have a sexual harassment policy in accordance with Section 2-105(A)(4) of the Illinois Human Rights Act. A copy of the policy shall be available to the CPO-HE or the university upon request.

(Source: Added at 43 Ill. Reg. 1781, effective February 15, 2019)

SUBPART Q: JOINT AND COOPERATIVE PURCHASING

Section 4.5400 General

- a) This Part describes and implements approved methods and requirements of source selection using:
- 1) Governmental Joint Purchasing;
 - 2) Nongovernmental Joint Purchasing;
 - 3) Group Purchasing Organizations;
 - 4) Piggyback Contracts.

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- b) Joint and cooperative purchasing activities must be approved by the CPO-HE or by a designee.
- c) Joint and cooperative purchasing activities and the resulting contracts must be based on full and open competition. Full and open competition requires:
 - 1) public notice of the availability of the solicitation for bids or proposals; and
 - 2) the terms and conditions are appropriate to meeting the stated need and are not overly restricted so as to impose unnecessary limits on which vendors may respond.
- d) The CPO-HE or a designee may approve use of a cooperative purchasing activity or resulting contract procured through a noncompetitive method if appropriate to meet a university's need and use of the resulting contract is in the best interest of the university. Approval may be given in advance pursuant to a specific request by a university purchasing director to the CPO-HE or a designee. The CPO-HE or a designee may prescribe a form for these requests.
- e) This Part does not apply to construction-related professional services contracts awarded in accordance with the provisions of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.
- f) Violation of Joint/Cooperative Purchasing Requirements
 - 1) If any contract or amendment to a contract is entered into, or purchase or expenditure of funds is made, in violation of the Procurement Code, the Governmental Joint Purchasing Act, or this Part, the CPO-HE may declare the contract or amendment void.
 - 2) If any contract or amendment to a contract is entered into, or purchase or expenditure of funds is made, in violation of the Procurement Code, the Governmental Joint Purchasing Act, or this Part, the CPO-HE may ratify and affirm the contract or amendment if the CPO-HE determines that ratification is in the best interests of the university.
- g) Report of Joint and Cooperative Purchasing Activities

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The CPO-HE shall submit to the General Assembly no later than November 1 of each year a report of procurements made under this Part for the prior fiscal year.

- h) Universities may conduct or participate in Governmental Joint Purchasing, Nongovernmental Joint Purchasing, Group Purchasing Organizations, or Piggyback Contract activities with various entities, including, without limitation:
- 1) federal agencies;
 - 2) a consortium of governmental, educational, medical research or similar entities; and
 - 3) group purchasing organizations of which the CPO-HE or university is a member or affiliate, including any purchasing entity operating under the federal General Services Administration, the Higher Education Cooperation Act [110 ILCS 220], and the Midwestern Higher Education Compact Act [45 ILCS 155]. ~~All cooperative/joint procurement activities and contracts must be approved by the CPO-HE.~~

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.5420 Governmental Joint Purchasing ~~Act Contracts~~

- a) The CPO-HE or designee may authorize any university to purchase personal property, supplies or services jointly with one of more governmental units. This applies when the university and another governmental entity or consortium of governmental entities agree to jointly pursue a procurement opportunity. Procurements and contracts conducted by the Illinois Public Higher Education Cooperative on behalf of two or more universities are authorized by the provisions of this Section.
- b) A university may be a lead procuring entity in a governmental joint purchasing activity and lead other public universities or agencies of other states (including Washington DC and U.S. territories) or by a consortium of these entities.
- 1) When a university is the lead procuring entity, all joint purchases shall be competitively conducted in accordance with the Code and this Part.

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- 2) The CPO-HE or designee may authorize a multiple award.
- c) A university may be a participant procuring entity in a governmental joint purchasing activity led by a public university or agency of another state (including Washington DC and U.S. territories) or by a consortium of these entities.
- 1) When a university is a participant procuring entity, all joint procurements shall be competitively conducted in accordance with the procurement laws of the lead procuring entity.
 - 2) To be considered a participant procuring entity, a university must actively contribute to the procurement, by such means as assisting in the development of specifications, being a member of the evaluation committee or a required approver of the proposed award, or engaging in other similar activity that assists with the procurement.
 - 3) When a university is a participant procuring entity, all contracts resulting from a joint purchase shall contain all provisions required by Illinois law and this Part, including certifications and disclosures required under Article 50 of the Code.
- d) All procurements conducted as a governmental joint purchase shall be conducted as a competitive procurement except:
- 1) for small purchases that follow the small purchase process outlined in Section 20-20 of the Code; or
 - 2) when the CPO-HE or designee determines competition is impractical. When impractical, the CPO-HE or designee may authorize purchases following the sole source process outlined in Section 20-25 of the Code or the emergency purchase process outlined in Section 20-30 of the Code.
- e) The CPO-HE or designee shall publish a notice of award to the Bulletin for a minimum of 14 days prior to execution of the contract. The notice shall contain all information required in Section 4.1525(d).
- f) All proposed governmental joint purchase contracts must be submitted to the CPO-HE or designee for review and approval prior to execution.

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- g) The CPO-HE may designate contracts made through a governmental joint purchase as available to other governmental units in Illinois. State and other governmental units (including not for profit entities authorized by law to participate in joint purchasing) may agree to use each others' procurement contracts. This authority is governed by this Subpart and the Governmental Joint Purchasing Act [30 ILCS 525].

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.5422 Nongovernmental Joint Purchasing

- a) The CPO-HE or designee may authorize any university to purchase personal property, supplies or services jointly with one of more nongovernmental units. This applies when the university and a not-for-profit entity or for-profit entity, or consortium of for-profit or not-for-profit entities, agree to jointly pursue a procurement opportunity.
- b) A university may be a lead procuring entity in a nongovernmental joint purchasing activity and lead other nongovernmental entities or a consortium of these entities. When a university is a lead procuring entity, all procurements shall be conducted in accordance with the Code and this Part.
- c) A university may be a participant procuring entity in a nongovernmental joint purchasing activity led by a nongovernmental entity or by a consortium of these entities.
- 1) When a university is a participant procuring entity, all joint procurements shall be conducted in accordance with the agreed specifications, terms and conditions.
- 2) To be considered a participant procuring entity, a university must actively contribute to the procurement, by such means as assisting in the development of specifications, being a member of the evaluation committee or a required approver of the proposed award, or engaging in other similar activity that assists with the procurement.

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- 3) Contracts resulting from a nongovernmental joint purchase shall contain all provisions required by Illinois law and this Part, including certifications and disclosures required under Article 50 of the Code, although the time requirements may be modified.
- d) The CPO-HE or designee shall publish a notice of award to the Bulletin for a minimum of 14 days prior to execution of the contract. The notice shall contain all information required in Section 4.1525(d).
- e) All proposed nongovernmental joint purchase contracts must be submitted to the CPO-HE or designee for review and approval prior to execution.

(Source: Added at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.5424 Group Purchasing Organizations

- a) The CPO-HE or designee may authorize a university or consortium of universities to purchase personal property, supplies and services that have been procured through a competitive process by a:
 - 1) federal agency;
 - 2) consortium of governmental, educational, medical research or similar entities; or
 - 3) group purchasing organizations of which the CPO-HE or university is a member or affiliate, including, without limitation, any purchasing entity operating under the federal General Services Administration, the Higher Education Cooperation Act, and the Midwestern Higher Education Compact Act.
- b) A Group Purchasing Organization contract is one entered into by the entity for itself, on behalf of entities under its jurisdiction or on behalf of the membership of the entity, and in compliance with the purchasing and contracting requirements applicable to the Group Purchasing Organization. A university is not required to participate in the procurement activity prior to an award.

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- c) Purchases made in this manner are referred to as Group Purchasing Organization purchases.
- d) Contracts by a university pursuant to a contract resulting from a Group Purchasing Organization activity shall contain all provisions required by Illinois law and this Part, including certifications and disclosures required under Article 50 of the Code.
- e) All procurements conducted by a Group Purchasing Organization shall be conducted as a competitive procurement except:
 - 1) for small purchases that follow the small purchase process required by Section 20-20 of the Code;
 - 2) for purchases that follow the sole source process required by Section 20-25 of the Code; or
 - 3) for purchases that follow the emergency purchase process required by Section 20-30 of the Code.
- f) The CPO-HE or designee shall publish notice of intent to use any Group Purchasing Organization contract to the Bulletin for a minimum of 14 days prior to utilization. This notice shall contain all information required in Section 4.1525(d) of this Part.
- g) All proposed Group Purchasing Organization contracts must be submitted to the CPO-HE or designee for review and approval prior to utilization.

(Source: Added at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.5426 Piggyback Contracts

- a) The CPO-HE or designee may authorize a university to purchase personal property, supplies and services that have been procured through a competitive process by another state, another State agency or public university of this State or any other state, or the federal government.

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- b) Purchases made in this manner are referred to as piggyback contracts. A piggyback contract is a form of cooperative purchasing through which a university is extended the pricing and terms of a contract entered into by another state, or another State agency or public university of this State or any other state, or by the federal government.
- 1) The scope of work may not be expanded from what was procured in the underlying contract.
 - 2) A piggyback contract is not permissible when the action would call for an increase in quantities, or for products or services that were not originally solicited and not originally evaluated as part of the underlying contract award.
- c) Contracting Requirements
- 1) To piggyback a contract from another state, another State agency or public university of this State or any other state, or the federal government, the underlying contract must include language allowing other governmental entities to utilize the contract.
 - 2) The original contracting entity shall be contacted and advised of the intended piggyback contract and, if necessary, discussions shall be held concerning any potential for diminution of supply or lack of vendor capacity to provide the supplies or services.
 - 3) A university shall obtain from the originating state, State agency, public university, or federal government, and include as part of its procurement file, the:
 - A) solicitation;
 - B) bid tabulation or evaluation, with the reason for award;
 - C) copy of the winning bid or proposal; and
 - D) copy of the contract.

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- d) The CPO-HE or designee shall publish notice of intent to enter a piggyback contract to the Bulletin for a minimum of 14 days prior to contract execution. This notice shall contain all information required in Section 4.1525(d).
- e) A proposed piggyback contract must be submitted to the CPO-HE or designee for review and approval prior to contract signature.

(Source: Added at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.5440 Other Joint Purchasing (Repealed)

~~Non-governmental joint purchasing is authorized in accordance with Section 4.2036.~~

(Source: Repealed at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.5460 No Agency Relationship (Repealed)

~~In any cooperative/joint purchasing situation, each participant must issue its own purchase order, accept its own deliveries and make its own payments. No participant shall have any obligation to the vendor for payment for supplies or services provided to other participants.~~

(Source: Repealed at 43 Ill. Reg. 1781, effective February 15, 2019)

SUBPART R: DISPUTES AND PROTESTS

Section 4.5500 General

This Part establishes the standards and governing procedures to be followed for resolving procurement-related disputes, protested solicitations and awards, and contract controversies.

(Source: Added at 43 Ill. Reg. 1781, effective February 15, 2019)

Section 4.5550 Protests

- a) Procurement-Related Protests Allowed
- 1) Any person may submit a protest related to the notice of the procurement, the solicitation document, any pre-bid/proposal meeting and any decision

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to reject a late bid or proposal.

- 2) Any person who has submitted a bid or proposal may protest a decision to reject the person's bid or proposal or to award to another person.
- b) **Protest Review Officer**
The CPO-HE may appoint one or more Protest Review Officers (PRO) to consider the procurement-related protests and make a recommendation to the CPO-HE for resolution of the protest. The CPO-HE may adopt the recommendation or take other action.
- c) **Submission of Protest**
- 1) A protesting party must submit a protest in writing to the PRO identified in the solicitation document. Fax and e-mail qualify as writing, but the PRO does not guarantee receipt using those means.
 - 2) The protest must be physically received by the PRO at the location specified. A postmark or other carrier mark prior to the due date and time is not sufficient to show physical receipt.
 - A) In regard to the solicitation notice or solicitation document including specifications, a protest must be received within 14 days after the date the solicitation was posted to the Bulletin and must be received by the PRO at the designated address before the date for opening bids or proposals.
 - B) In regard to rejection of individual bids or proposals or awards, the protest must be received by close of business no later than 14 days after the protesting party knows or should have known of the facts giving rise to the protest to ensure consideration, and, in any event, must be received before execution of the applicable contract.
 - C) The PRO, for good cause shown, or when it determines that a protest raises issues significant to the procurement system, may consider an untimely protest. Good cause may include, but is not limited to, instances in which the procurement file is not available in a timely manner to interested parties or when a Freedom of

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Information Act request has not been responded to by a university in full or in part.

- 3) Any notice posted to the Bulletin establishes the "known or should have known" date for the subject matter of the notice.
- 4) Protests must be clearly marked on the delivery container, the fax cover sheet or the e-mail subject line.
- 5) No formal briefs or other technical forms of pleading or motion are required. Protest submissions should be concise and logically arranged and should clearly state sufficient grounds of protest. The written protest shall include as a minimum the following:
 - A) the name and address of the protesting party;
 - B) identification of the procurement and, if a contract has been awarded, its number or other identifier;
 - C) a statement of reasons for the protest specifically identifying any alleged violation of a procurement statute, a procurement rule or the solicitation itself, including the evaluation and award (conclusions with supporting facts and arguments may not be sufficient);
 - D) supporting exhibits, evidence, or documents to substantiate any claims unless not available within the filing time, in which case the expected availability date shall be indicated. If submitting the protest by fax, supporting documentation over 20 pages in length may not be included without authorization. If the protest is by fax or e-mail, the protesting party may be required to submit documentation by mail or carrier within 2 days after the request; and
 - E) specific relief sought.
- 6) The protesting party shall clearly identify any information in the protest that is confidential, proprietary or a trade secret.

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- d) Requested Information
- 1) The university must supply a response and any additional information requested by the PRO within the time periods set in the request. If a university fails to comply with this request, the PRO may consider the protest on the basis of available information or may recommend to the CPO-HE that the relief requested in the protest be granted.
 - 2) The protesting party must supply any additional information requested by the PRO within the time periods set in the request. If the protesting party fails to comply with this request, the PRO shall consider the protest on the basis of available information or may recommend to the CPO-HE that the relief requested in the protest be denied.
 - 3) The PRO may request an interested party supply additional information within the time period set in the request. For purposes of a protest, an "interested party" means an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of a contract or by the failure to award a contract.
- e) Stay of Procurements During Protest
Unless the CPO-HE determines the needs of the State require an immediate execution of a contract, the following apply:
- 1) When a protest has been timely filed and before an award has been made, no award of the contract shall be made until the protest has been resolved.
 - 2) If timely received but after award, the award shall be stayed without penalty to the State.
- f) Resolution
After considering the evidence presented, the PRO shall submit a proposed written resolution of the protest to the CPO-HE. The CPO-HE will resolve the protest by means of a written determination, as expeditiously as possible after receiving all relevant information. In determining the appropriate recommendation, the PRO shall consider the seriousness of the procurement deficiency, the degree of prejudice to other parties or to the integrity of the

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competitive procurement system, the good faith of the parties, the urgency of the procurement, and the impact of the recommendation on the university's mission. The recommendation may include, but is not limited to:

- 1) affirming the university's initial decision, in whole or in part;
 - 2) directing the university to issue a new solicitation;
 - 3) directing the university to award a contract consistent with statute and rule; or
 - 4) directing such other action as is necessary to promote compliance with statute or rule.
- g) Effect of Judicial Proceedings
If an action concerning the protest has commenced in a court or administrative body, the CPO-HE may defer resolution of the protest pending the judicial or administrative determination.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

SUBPART S: SUSPENSION AND DEBARMENT

Section 4.5560 Suspension and Debarment

- a) This Part applies to all debarments or suspensions of vendors from consideration for award of contracts under the Code. For purposes of this Part, all references to "vendors" includes subcontractors.
- b) The CPO-HE may suspend a vendor from doing business with the university or with respect to specific types of supplies or services. ~~A suspension may be issued upon a showing the vendor violated the Code or this Part, or failed to conform to specifications or terms of delivery.~~
- c) When the CPO-HE finds cause exists for suspension or debarment, a notice of suspension or debarment, including a copy of that determination, shall be sent to the suspended vendor. Notice shall be furnished in writing by personal service or by certified or registered mail, shall include the cause for the proposed suspension

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or debarment, and shall contain the legal authority and statement of the matters asserted or acts complained of upon which the allegations in the notice are based. Bids or proposals will not be solicited from the vendor and, if received, will not be considered during the period of suspension or debarment.

- d) Acts or omissions that may be cause for suspension include, but are not limited to:
- 1) fraud, embezzlement, theft, collusion, conspiracy, anti-competitive activity or other misconduct and offenses prohibited by law, whether or not the misconduct or offense is in connection with a university contract or subcontract or any contract or subcontract requiring CPO-HE approval;
 - 2) making a material false statement in an application for prequalification or in any forms or affidavits required as part of a prequalification or contracting process;
 - 3) materially violating any rule or procurement procedure or making a material false statement in connection with any rules or procurement procedures of the CPO-HE;
 - 4) making a material false statement, representation, claim or report respecting the character, quality or cost of any work performed or materials furnished in connection with a contract or subcontract;
 - 5) doing business with a suspended contractor or subcontractor in connection with a contract or subcontract subject to the approval of the CPO-HE; or
 - 6) being suspended or disbarred by another governmental entity.
- e) Suspension may be imposed only for cause and in accordance with the procedures found in this Subpart.
- 1) The CPO-HE may suspend a vendor for a period of time commensurate with the seriousness of the offense, but for no more than 10 years.
 - 2) The suspension will be effective seven calendar days after receipt of notice unless an objection is filed. If an objection is filed, suspension shall not become effective until the evaluation of the objection is completed.

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- 3) The CPO-HE may immediately suspend a vendor or subcontractor prior to and during the pendency of a hearing under this Subpart if the CPO-HE finds that the facts and circumstances upon which the suspension cause is predicated are of such a nature as to require immediate action to safeguard the public interest in the solicitation, execution, administration or performance of contracts or subcontracts.
- A) An interim suspension may be imposed pending the completion of an investigation of the causes for suspension.
- B) Indictment upon charges evidencing a cause for suspension is a basis for an interim suspension. In cases involving interim suspension based upon indictment, the interim suspension may be imposed for a period of up to one year or until conclusion of the legal proceeding.
- C) An interim suspension is effective immediately and will continue for a period established by the CPO-HE of up to 120 days unless terminated sooner by the CPO-HE. The CPO-HE may extend the duration of an interim suspension beyond 120 days to allow for completion of a hearing that was scheduled for commencement during the original 120-day interim suspension period.
- fe) The CPO-HE may debar a vendor. Debarment is the permanent suspension of a vendor from doing business with the State. A debarment may only take place in those instances involving bribery or attempted bribery of a State of Illinois officer or employee, or as otherwise allowed or required by law. Bids or proposals received from the debarred vendor or proposing the use of a debarred subcontractor will not be considered. The debarment will be effective seven calendar days after receipt of notice unless an objection is filed. If an objection is filed, debarment shall not become effective until the evaluation of the objection is completed.
- gf) The CPO-HE shall post the public record of suspensions and debarments on his or her webpage and on the Bulletin.
- hg) A vendor objecting to the suspension or debarment shall do so in writing,

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detailing why the action is not valid and providing any documents to support that position. The vendor may request a hearing. Any such hearing shall be conducted in accordance with Subpart U.

- i) The CPO-HE shall maintain a master list of all suspensions and debarments. The master list shall retain information concerning suspensions and debarments as public records. The public information may be considered in determining responsibility.
- j) A vendor or subcontractor may accept a status of nonparticipation or limited participation in university contracts or subcontracts pursuant to the terms of an administrative settlement.
- k) In addition to all covered entities and affiliates, the suspension or disbarment also applies to any entity or affiliate that is formed or organized subsequent to the date a suspension or debarment action was entered. If the vendor or subcontractor named in the notice of suspension or debarment is a person, the suspension or debarment also applies to any other vendor or subcontractor:
 - 1) in which the suspended or debarred person is an officer, director, manager or serves in any other substantial management or supervisory position, until the person is severed from that contractor or subcontractor; or
 - 2) in which the suspended or debarred person has controlling legal or beneficial financial interest, until the suspended or debarred person's interests are divested.
- l) Any suspended or debarred vendor or subcontractor, for the term of the suspension or debarment, is ineligible to participate as a vendor, subcontractor, material supplier or lessor of equipment on or in connection with contracts or subcontracts awarded or approved by a university.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

SUBPART V: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

Section 4.7015 Inspections

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- a) Inspection of Plant or Site
The CPO-HE or a designee may enter a vendor's or subcontractor's plant or place of business and, pursuant to contract provisions, if any:
- 1) inspect supplies or services for acceptance by the university;
 - 2) audit the books and records of any vendor or subcontractor;
 - 3) investigate an action to debar or suspend a person from consideration for award of contracts in accordance with ~~pursuant to~~ the Code;
 - 4) determine whether the standards of responsibility have been met or are capable of being met;
 - 5) determine if the contract is being performed in accordance with its terms; and
 - 6) accomplish any other purpose permitted by law.
- b) The presence or absence of an inspector shall not relieve the vendor or subcontractor from any requirements of the contract.
- c) When an inspection is made in the plant or place of business of a vendor or subcontractor, the vendor or subcontractor shall provide without charge all reasonable facilities and assistance for the safety and convenience of the person performing the inspection or testing.
- d) Inspection or testing of supplies and services performed at the plant or place of business of any vendor or subcontractor shall be performed so as not to unreasonably delay the work of the vendor or subcontractor.
- e) On-site inspection of construction shall be performed in accordance with the terms of the contract, provided that ~~the CPO-HE's, SPO's or PCM's a procurement compliance monitor's~~ activities shall not be unduly restricted by any such contract provision.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Real Estate License Act of 2000
- 2) Code Citation: 68 Ill. Adm. Code 1450
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
1450.100	Amendment
1450.110	Amendment
1450.115	Amendment
1450.120	Amendment
1450.130	Amendment
1450.140	Amendment
1450.150	Amendment
1450.200	Amendment
1450.205	Amendment
1450.240	Amendment
1450.250	Amendment
1450.410	Amendment
1450.420	Amendment
1450.450	Amendment
1450.500	Amendment
1450.510	Amendment
1450.540	Amendment
1450.560	New Section
1450.600	Amendment
1450.610	Amendment
1450.700	Amendment
1450.705	Amendment
1450.715	Amendment
1450.725	Amendment
1450.730	Amendment
1450.750	Amendment
1450.775	Amendment
1450.900	Amendment
1450.905	Amendment
1450.915	Amendment
1450.920	Amendment
1450.930	Amendment
1450.940	Amendment
1450.955	Amendment
1450.1000	Amendment

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1450.1100	Amendment
1450.1105	Amendment
1450.1110	Amendment
1450.1115	Amendment
1450.1125	Amendment
1450.1130	Repealed
1450.1135	Amendment
1450.1137	New Section
1450.1140	Repealed
1450.1145	Amendment
1450.1150	Amendment
1450.1155	Amendment
1450.1160	Amendment
1450.1165	Amendment
1450.1170	Repealed
1450.1175	New Section
1450.1180	New Section
1450.1205	New Section
1450.1210	New Section
1450.1215	New Section
1450.1220	New Section
1450.1300	Amendment

- 4) Statutory Authority: Implementing the Real Estate License Act of 2000 [225 ILCS 454] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].
- 5) Effective Date of Rules: January 25, 2019
- 6) Does this rule 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 Division of Real Estate and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg.16804; September 21, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No

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11) Differences between Proposal and Final Version:

Section 1450.110(a)(5), change "in a manner established by the Department" to "electronically".

Section 1450.110(b)(3), change "in a manner established by the Department" to "electronically".

Section 150.110(b)(4), change "in a manner established by the Department" to "electronically".

Section 1450.115(a)(2), change "in a manner established by the Department" to "electronically".

Section 1450.120(e), change "in a manner established by the Department" to "electronically".

Section 1450.150(b), delete "Department, in a manner established by the Department," reinstate "Division" and after "Division" add "electronically".

Section 1450.150(d)(3) – Delete "Meet the obligations for complying with" and add "When the licensee operates under" in lieu thereof.

Section 1450.1100(c)(5) - strike "be maintained" and add "conduct business" in lieu thereof.

Section 1450.1115(a)(2)(A) and (C), strike "or".

Section 1450.1175(b)(2), delete "such" and after "records" add ", as required by this subsection (b),".

Section 1450.1175(c), change "as may be required by it" to "at its request".

Section 1450.1205(a), on the first line change "license expires" to "licenses expired" and after "2018" add "and were extended by variance,". Also, on the second line change "is" to "are" and change "upon the enactment of this Subpart" to "as of February 1, 2019".

Section 1450.1210(a), change "July 31" to "August 1".

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Section 1450.1210(b), change "April 30" to "May 1".

Section 1450.1210(c), change "April 30" to "May 1".

Section 1450.1215(a), on the first line change "Any" to "For any", change "license expires" to "licenses expire" and after "2019" add a comma. Also, on the second line change "is" to "who are" and change "upon the enactment of this Subpart" to "as of February 1, 2019, the licensee".

- 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 Rulemaking: The Division of Real Estate is now adopting significant amendatory changes to implement PA 100-188, which amended the Real Estate License Act of 2000. These amendments consolidate the Continuing Education School and Pre-license School licenses into a single Education Provider license; update the requirements to apply for and obtain the license; update pre-license and continuing education requirements; update the permitted delivery methods for taking pre-license and continuing education; establish a process for reviewing applications from applicants with prior criminal convictions prior to obtaining pre-license education. In addition, the Department will be implementing a transition period from old statutory criteria to the new criteria to minimally burden licensees, together with other changes that will facilitate IDFP's move toward a paperless regulatory licensing environment.
- 16) Information and questions regarding these adopted rules shall be directed to:

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

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

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

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TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VIII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1450

REAL ESTATE LICENSE ACT OF 2000

SUBPART A: GENERAL

Section

- 1450.100 Definitions
- 1450.110 Sponsor Cards
- 1450.115 Termination of License
- 1450.120 Assumed Name
- 1450.130 Fees
- 1450.140 Renewals
- 1450.145 Restoration
- 1450.150 Licensee Change of Information; [Applicant or Licensee Address of Record; Email Address of Record; and/or Name Change](#)
- 1450.160 Dual Licensure
- 1450.170 Exemption Under Section 5-20(1) of the Act (Repealed)

SUBPART B: LEASING AGENT LICENSING AND EDUCATION

Section

- 1450.200 Leasing Agent General Provisions
- 1450.205 Leasing Agent Pre-License Education Requirements
- 1450.210 Leasing Agent Examination
- 1450.220 Application for Leasing Agent License by Examination
- 1450.230 Leasing Agent Termination of Employment (Repealed)
- 1450.240 Leasing Agent ~~120-Day~~ Student Permit
- 1450.250 Leasing Agent Continuing Education
- 1450.260 Approved Courses, Schools and Instructors for Leasing Agents (Repealed)

SUBPART C: LICENSING AND EDUCATION FOR SALESPERSON

Section

- 1450.300 Salesperson Educational Requirements to Obtain a License (Repealed)
- 1450.310 Salesperson Examination (Repealed)
- 1450.320 Applications for Salesperson License by Examination (Repealed)

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- 1450.330 Application for Salesperson License by Reciprocity (Repealed)
1450.340 Salesperson Continuing Education (Repealed)

SUBPART D: BROKER LICENSING AND EDUCATION

Section

- 1450.400 Broker Pre-license Education Requirements
1450.410 Broker Post-License Education Requirements; [New Broker Training](#)
1450.420 Broker Examination
1450.430 Application for Broker License by Examination
1450.440 Application for Broker License by Reciprocity
1450.450 Broker Continuing Education

SUBPART E: MANAGING BROKER LICENSING AND EDUCATION

Section

- 1450.500 Managing Broker ~~Pre-License~~[Pre-licensed](#) Education Requirements
1450.510 Managing Broker Examination
1450.520 Application for Managing Broker License by Examination
1450.530 Application for Managing Broker License by Reciprocity
1450.540 Managing Broker Continuing Education
1450.550 Managing Broker License Transfer to Broker License
[1450.560 Managing Broker Self-Sponsorship](#)

SUBPART F: CORPORATIONS, LIMITED LIABILITY COMPANIES,
PARTNERSHIPS, LIMITED PARTNERSHIPS AND LIMITED LIABILITY PARTNERSHIPS

Section

- 1450.600 Application for Corporations, Limited Liability Companies, Partnerships, Limited Partnerships and Limited Liability Partnerships Licenses
1450.610 Offices and Branch Offices

SUBPART G: COMPENSATION AND BUSINESS PRACTICES

Section

- 1450.700 Sponsoring Broker Responsibilities
1450.705 ~~Designated~~[Named](#) Managing Broker Responsibilities and Supervision
1450.710 Discrimination
1450.715 Advertising
1450.720 Internet Advertising

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1450.725	Office and Branch Office Identification Signs
1450.730	Availability Display of Licenses
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1450.740	Unlicensed Assistants
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1450.750	Special Accounts
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SUBPART H: AGENCY RELATIONSHIPS

Section

1450.800	Confidentiality
1450.810	Failure to Disclose Information Not Affecting Physical Condition of Real Estate
1450.820	Dual Agency Prohibition
1450.830	Disclosure of Contemporaneous Offers

SUBPART I: DISCIPLINE RULES AND PROCEDURES

Section

1450.900	Unprofessional Conduct
1450.905	Temporary Suspension
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1450.915	Suspension or Revocation of a Sponsoring Broker or Designated Named Managing Broker License
1450.920	Inspections and Audits
1450.925	Audits of Special Funds by Outside Auditors
1450.930	Case File Review Committee
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1450.940	Rules of Practice in Administrative Hearings
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1450.950	Automatic Revocation Upon Order for Payment from the Real Estate Recovery Fund
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SUBPART J: GRANTING VARIANCES

Section
1450.1000 Granting Variances

SUBPART K: EDUCATION PROVIDERS, INSTRUCTORS, AND COURSE APPROVAL

Section
1450.1100 Application for ~~Education Provider~~~~Pre-License School~~ License and ~~Pre-License School Branch License and~~ Other Requirements
1450.1105 Application for Pre-License ~~and Post-License~~ Courses ~~and Curriculum~~
1450.1110 Application for ~~Education Provider~~~~Pre-License School, Pre-License School Branch~~ and Course License Renewal
1450.1115 Application for Pre-License Instructor License
1450.1120 Administration of Proficiency Examinations and Eligibility to Take the Proficiency Exam and Transition Courses (Repealed)
1450.1125 Pre-License Instructor License Renewal and Restoration
1450.1130 Application for Continuing Education School License and Other Requirements (Repealed)
1450.1135 Application for Continuing Education Courses and Curriculum
1450.1137 Authorization for Third Party Designees to Review Courses
1450.1140 Application for Continuing Education School and Course License Renewal (Repealed)
1450.1145 Application for Continuing Education Instructor License
1450.1150 Continuing Education Instructor License Renewal and Restoration
1450.1155 ~~Correspondence or Home Study~~~~Distance Education~~ Courses
1450.1160 Recruitment
1450.1165 Discipline of ~~Education Providers~~~~Schools~~, Instructors ~~and~~ Courses
1450.1170 Real Estate Education Advisory Council (Repealed)
1450.1175 Final Examination Requirements for Certain Education Delivery Methods
1450.1180 Proctor Standards

SUBPART L: CONTINUING EDUCATION TRANSITIONAL PROVISIONS

Section
1450.1200 Continuing Education Requirements for Transitioned Licensees (Repealed)
1450.1205 Continuing Education Schools and Courses
1450.1210 Credit for Continuing Education Courses
1450.1215 Pre-license Schools and Courses

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1450.1220 Education Provider, Course and Instructor Transition

SUBPART M: REAL ESTATE AUCTION CERTIFICATION

Section

1450.1300	Real Estate Auction Pre-Certification Education
1450.1310	Application for Real Estate Auction Certification
1450.1320	Real Estate Auction Certification Activities

AUTHORITY: Implementing the Real Estate License Act of 2000 [225 ILCS 454] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Rules and Regulations for the Administration of the Real Estate Brokers and Salesmen License Act (General Rules), effective December 4, 1974; Rules and Regulations for the Administration of the Real Estate Brokers and Salesmen License Act (School Rules), effective July 29, 1974; amended at 3 Ill. Reg. 885, effective February 2, 1979; amended at 4 Ill. Reg. 195, effective August 12, 1980; amended at 5 Ill. Reg. 5343, effective May 6, 1981; amended at 5 Ill. Reg. 8541, effective August 10, 1981; codified at 5 Ill. Reg. 11064; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; emergency amendment at 6 Ill. Reg. 2406, effective February 3, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8221, effective July 1, 1982; amended at 9 Ill. Reg. 341, effective January 3, 1985; transferred from Chapter I, 68 Ill. Adm. Code 450 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1450 (Department of Professional Regulation) pursuant to PA 85-225, effective January 1, 1988, at 12 Ill. Reg. 2977; amended at 12 Ill. Reg. 8036, effective April 26, 1988; amended at 15 Ill. Reg. 10416, effective July 1, 1991; amended at 16 Ill. Reg. 3204, effective February 14, 1992; emergency amendment at 19 Ill. Reg. 12003, effective August 8, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16623, effective December 1, 1995; amended at 20 Ill. Reg. 6492, effective April 30, 1996; recodified from Chapter VII, Department of Professional Regulation, to Chapter VIII, Office of Banks and Real Estate, pursuant to PA 89-23 and PA 89-508 at 20 Ill. Reg. 11984; amended at 21 Ill. Reg. 3602, effective March 7, 1997; amended at 21 Ill. Reg. 8350, effective June 30, 1997; old Part repealed and new Part adopted by emergency rulemaking at 24 Ill. Reg. 704, effective January 1, 2000, for a maximum of 150 days; old Part repealed and new Part adopted at 24 Ill. Reg. 8263, effective May 30, 2000; amended at 27 Ill. Reg. 12018, effective July 9, 2003; amended at 28 Ill. Reg. 2141, effective January 22, 2004; amended at 30 Ill. Reg. 11075, effective June 8, 2006; amended at 32 Ill. Reg. 6503, effective April 2, 2008; former Part repealed at 35 Ill. Reg. 5414 and new Part adopted at 35 Ill. Reg. 5418, effective March 21, 2011; amended at 40 Ill. Reg. 12588, effective September 2, 2016; amended at 41 Ill. Reg. 12561, effective October 6, 2017;

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amended at 42 Ill. Reg. 4582, effective March 9, 2018; Subpart K recodified at 42 Ill. Reg. 16946; amended at 43 Ill. Reg. 1975, effective January 25, 2019.

SUBPART A: GENERAL

Section 1450.100 Definitions

Unless otherwise clarified by this Part, definitions set forth in the Act also apply for purposes of this Part.

"Act" means the Real Estate License Act of 2000 [225 ILCS 454].

~~"Advisory Council" means the Real Estate Education Advisory Council as set forth in Section 30-10 of the Act.~~

"Affidavit of Non-participation" means a sworn statement made by an unlicensed person associated with, or an unlicensed owner of, a licensed real estate corporation, limited liability company, partnership, limited partnership or limited liability partnership attesting that the unlicensed person is not actively directing or engaging in licensed activities as part of that association or ownership.

"Board" means the Real Estate Administration and Disciplinary Board as set forth in Section 25-10 of the Act.

"CE" is an abbreviation for continuing education.

"Compliance agreement" means an agreement entered into between a licensee and the Division in conjunction with an administrative warning letter.

"Correspondence course" means noninteractive courses in which students review and learn material through self-study, and without any mandatory interaction or communication with an Illinois licensed instructor, without any required means for ongoing assessment of the student's participation or comprehension.

"Credit hour" means a minimum of 50 minutes of instruction approved by the Division: in a classroom, ~~or by~~ interactive webinar, online ~~other interactive delivery method; or through a~~ distance education, correspondence or a home study course.

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

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"Designated managing broker" means a managing broker who:

the sponsoring broker legally designated to manage its real estate brokerage, pursuant to Section 1450.700; and

has the responsibilities, and supervises the activities, described in Section 1450.705.

"Director" means the Director of the Division of Real Estate with the authority delegated by the Secretary.

"Discipline" means a refusal to issue or renew a license, reprimand, probation, suspension or revocation of a license, fine or any other action the Department may deem proper.

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

"Education provider" means a school licensed by the Department offering courses in pre-license, post-license, or continuing education. [225 ILCS 454/1-10].

"Electronic signature" means a signature in electronic form attached to or logically associated with an electronic record. [5 ILCS 175/5-105] For purposes of the Act and this Part, any application, affidavit or other document required to be signed may be signed by means of an electronic signature.

"Home study" means an education course that is administered independently by the student in a self-study format, outside of a classroom, or physical or virtual meeting space, which may include interaction or communication with an Illinois licensed instructor, but for which there is no requirement for the ongoing verification of the student's participation and comprehension, except for the administration of the proctored final examination. Home study programs include, but are not limited to, courses comprised of print media (i.e., audio tape recording, written materials, video tape recording, CD or DVD, or noninteractive online medium).

"Interactive delivery method" means delivery of a course, approved by the ~~Department Advisory Council, by a licensed instructor~~ through a medium allowing

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for interaction with the live 2-way communication between the licensed instructor and student in which either can initiate or respond to questions, including live instruction and real-time discussion via satellite, video or webcam.

"Interactive webinar" means delivery of a course by a licensed instructor through a medium allowing for live 2-way communication between the licensed instructor and student in which either can initiate or respond to questions, including live instruction and real-time discussion via satellite, video or webcam that allows for student participation and comprehension.

"Learning Management System" or "LMS" means a software application used for the administration, documentation, tracking, reporting, and delivery of educational courses or training programs.

"Named managing broker" means a managing broker who:

the sponsoring broker names and identifies for the Division, pursuant to Section 1450.700; and

has the responsibilities, and supervises activities, pursuant to Section 1450.705.

"New Broker Training" means the 30 hour post-license education course required of new broker licensees pursuant to 5-50(b) of the Act.

"Office" means a sponsoring broker's place of business where the general public is invited to transact business, from which sponsored licensees work, where records may be maintained, and where licenses may be readily available, as set forth in Section 1450.730, whether or not it is the sponsoring broker's principal place of business. Offices and branch offices must meet the requirements set forth in Section 1450.610.

"Online distance education" means education courses that are interactive, but not in real time, in which students independently learn and review material online, and, for verification of the student's participation and comprehension, interact with an Illinois licensed instructor or Learning Management System.

"Proctor" means any person, including a licensed instructor, who has a written agreement with a licensed education provider~~pre-license school or a licensed continuing education (CE) school~~ to administer, in person or electronically,

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examinations fairly and impartially with a licensed education provider~~pre-license school or a licensed (CE) school. The proctor shall authenticate the identity of the student taking the examination; monitor the student and examination taking process to ensure that the examination is completed with only the aid of additional persons or resources, if any, approved by the Advisory Council; and protect the confidentiality of school materials. Proctors must be impartial third parties (i.e., not a licensee's sponsoring broker, managing broker or any relative, etc.).~~

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

"School branch" means a location where a pre-license school provides instruction other than the pre-license school's principal location.

"Self-sponsor" means a licensed managing broker who operates his or her own real estate brokerage as a sole proprietorship.

"Sole owner" means a person who has a 100% ownership interest ~~alone~~ in real estate, except as defined in Section 10-30(c)(2) of the Act.

"Sponsoring broker" means a person with a license who operates as a corporation, limited liability company, partnership, limited partnership, or limited liability partnership, or an individual with a managing broker license who operates as a sole proprietor.

"Sponsor card" means the temporary permit issued by the sponsoring broker certifying that the licensee named on the card is employed by or associated with the sponsoring broker, as set forth in Section 5-40 of the Act.

"Transaction", for purposes of this Part, exists once an agreement has been reached and an accepted real estate contract is signed, or a lease is agreed to, by the parties.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.110 Sponsor Cards

- a) Leasing Agent

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- 1) Except for ~~ana~~ individual working under a ~~120-day~~ leasing agent student permit as set forth in Section 1450.240, no leasing agent license applicant may engage in leasing residential real estate as set forth in Section 1450.200 until a valid sponsor card has been issued to the applicant.
- 2) A sponsoring broker shall prepare and deliver to each leasing agent employed by or associated with the sponsoring broker a sponsor card, on forms provided by the Division, certifying that the applicant whose name appears on the sponsor card is employed by or associated with that sponsoring broker and that the applicant has not practiced under a ~~120-day~~ leasing agent student permit for more than 120 days.
- 3) A properly issued sponsor card shall serve as a temporary permit allowing the sponsored leasing ~~agent~~agency to engage in leasing residential real property for a maximum of 45 days, only for the sponsoring broker named on the sponsor card.
- 4) A sponsoring broker may issue a sponsor card to a leasing agent or applicant only upon presentation of the following:
 - A) a leasing agent examination pass score report stating that the sponsoring broker may issue a sponsor card;
 - B) an original leasing agent license that is endorsed by the sponsoring broker who previously employed or was associated with the leasing agent; or
 - C) a leasing agent license expired for less than 2 years.
- 5) The sponsoring broker shall, within 24 hours after issuance of the sponsor card, submit the following to the Division ~~electronically by regular mail or a signature restricted delivery service~~:
 - A) Leasing Agent Applicants:
 - i) a copy of the sponsor card and transcript, if applicable;
 - ii) a leasing agent examination pass score report stating that the sponsoring broker may issue a sponsor card;

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- iii) a signed and completed leasing agent license application;
and
 - iv) the required leasing agent license application fee as set forth in Section 1450.130.
- B) Leasing Agent Licensee:
- i) a copy of the sponsor card;
 - ii) the required sponsor card fee set forth in Section 1450.130;
and
 - iii) one of the following:
 - the properly endorsed leasing agent license and pocket card of the sponsored licensee;
 - the expired license of the sponsored licensee, the required fee set forth in Section 1450.130 and proof of CE, if applicable;
 - the pocket card of the licensee and the licensee's sworn statement explaining why the license is not submitted;
or
 - if the license and pocket card are not available, the license status as verified by the Department.
- 6) A sponsoring broker issuing a sponsor card shall retain a copy of the sponsor card until the leasing agent license is received and properly displayed as set forth in Section 1450.730.
- b) Broker and Managing Broker
- 1) A properly issued sponsor card shall serve as a temporary permit allowing the sponsored broker or managing broker to engage in licensed activities for a maximum of 45 days, only for the sponsoring broker named on the sponsor card.

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- 2) A sponsoring broker may issue a sponsor card to a broker, managing broker, or applicant only upon presentation of the following:
 - A) a real estate examination pass score report stating that the sponsoring broker may issue a sponsor card;
 - B) an original broker or managing broker license endorsed by the sponsoring broker who previously employed or was associated with the broker or managing broker licensee; or
 - C) a broker or managing broker license expired for less than 2 years.
- 3) The sponsoring broker shall, within 24 hours after issuance of the sponsor card, submit the following to the Division ~~electronically by regular mail or a signature restricted delivery service~~:
 - A) Broker and Managing Broker Applicants
 - i) a copy of the sponsor card and transcript, if applicable;
 - ii) a real estate examination pass score report stating that the sponsoring broker may issue a sponsor card; and
 - iii) other documentation set forth in Sections 1450.430 and 1450.520.
 - B) Broker and Managing Broker Licensees
 - i) a copy of the sponsor card and transcript, if applicable;
 - ii) the required sponsor card fee set forth in Section 1450.130; and
 - iii) one of the following:
 - the properly endorsed license and pocket card of the sponsored licensee;

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- the expired license of the sponsored licensee, the required fee set forth in Section 1450.130 and proof of CE, if applicable;
 - the pocket card of the licensee and the licensee's sworn statement explaining why the license is not submitted; or
 - if the license and pocket card are not available, the license status as verified by the Department.
- 4) A managing broker may practice as a sole proprietor, and a broker or managing broker may practice as a corporation, limited liability company, partnership, limited partnership or limited liability partnership provided that, prior to engaging in licensed activities, the managing broker or broker complies with the licensing requirements set forth in Section 1450.600 and submits the following to the Division ~~regular mail or a signature restricted delivery service~~ electronically:
- A) a copy of the managing broker's sponsor card;
 - B) the required sponsor card fee set forth in Section 1450.130;
 - C) a completed consent to examine and audit special accounts form, if applicable; and
 - D) one of the following:
 - i) the properly endorsed managing broker license and pocket card of the sponsored licensee;
 - ii) the expired managing broker license, the required fee set forth in Section 1450.130 and proof of CE, if applicable;
 - iii) the pocket card of the licensee and the licensee's sworn statement explaining why the managing broker license is not submitted; or
 - iv) if the license and the pocket card are not available, the license status as verified by the Department.

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- c) If an applicant or licensee fails to complete the requirements of this Section:
- 1) the sponsor card shall be void;
 - 2) the applicant or licensee shall be considered to have never been authorized to practice; and
 - 3) the applicant or licensee shall be subject to discipline.
- d) Within 30 days after receipt and approval of the sponsor card, required fees and appropriate documentation, the Division shall issue to the applicant or licensee a license or may notify the applicant or licensee, [managing broker, and sponsoring broker](#) of the basis for denial.
- e) Sponsor Card Expiration. A sponsor card shall be valid for ~~a~~45 days from [the](#) issue date, unless extended for an additional 45 days by the Division for good cause.
- 1) Good cause shall be limited to instances in which the Division has unnecessarily delayed the processing of a license.
 - 2) A request for extension shall be considered granted only upon written notice from the Division.
- f) The sponsoring broker shall retain a sponsor card copy until the license is received.
- g) Licensees shall carry a properly issued sponsor card or a valid pocket card and shall display them upon demand when engaging in any licensed activities.
- h) Whenever any provision of Section 5-40 of the Act or any provision of this Part requires that any license be surrendered, sent, obtained, delivered or issued by or to a licensee (including a sponsoring broker) or the Department, the manner of doing so may include electronic transmission, including the use of any electronic portal maintained by the Department.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.115 Termination of License

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- a) Upon termination of a license, a sponsoring broker shall immediately:
- 1) Endorse the licensee's original license as provided for on that document;
 - 2) Submit a copy of the endorsed license to the Division within 2 business days after termination, or electronically ~~by regular mail or a signature restricted delivery service~~;
 - 3) Retain a copy of the endorsed license until the license's expiration date; and
 - 4) Give the original endorsed license to the licensee.
- b) Once the original license has been endorsed, the licensee is prohibited from engaging in licensed activities, and a licensed leasing agent is prohibited from engaging in leasing residential real property, until the licensee is issued a properly completed sponsor card.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.120 Assumed Name

- a) If a sponsoring broker, acting as a sole proprietor, operates under any name other than that appearing on the sponsoring broker's license, the sponsoring broker shall submit to the Division a certified copy of the sponsoring broker's registration under the Assumed Business Name Act [805 ILCS 405]. The assumed business name registration shall be obtained in each county in which the assumed business name is used.
- b) If a sponsoring broker, acting as a partnership, operates under any name other than that appearing on the sponsoring broker's license, the sponsoring broker shall submit to the Division a copy of the filing or certificate authorizing it to do business under an assumed name under the Assumed Business Name Act [805 ILCS 405]. The assumed business name registration shall be obtained in each county in which the assumed business name is used.
- cb) Any corporation, limited liability company, ~~partnership~~, limited partnership or limited liability partnership operating under any name other than that appearing on its application for a license shall submit to the Division a copy of the filing or

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certificate authorizing it to do business under an assumed name from the Illinois Secretary of State's Office.

- de) Sponsored licensees, including groups of sponsored licensees commonly referred to as "teams", may not operate under an assumed business name other than anthe assumed business name of their sponsoring broker.
- ed) The sponsoring broker~~applicant or licensee~~ shall submit the information to the Division within 30 days after registration~~use~~ of the assumed name electronically.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.130 Fees

- a) Leasing Agent License and ~~120-Day~~ Leasing Agent Student Permit
- 1) The application fee for an initial leasing agent license is \$75.
 - 2) The renewal fee for an unexpired leasing agent license is \$50 per year.
 - 3) The late fee for a leasing agent license expired for no more than 2 years is \$50.
 - 4) The application fee for a ~~120-day~~ leasing agent student permit is \$25.
 - 5) The restoration fee for a leasing agent license expired for more than 2 years but less than 5 years is the sum of all lapsed renewal and late fees.
- b) Broker License
- 1) The application fee for an initial broker license is \$125.
 - 2) The renewal fee for an unexpired broker license is \$75 per year.
 - 3) The late fee for a broker license expired for no more than 2 years is \$50.
 - 4) The restoration fee for a broker license expired for more than 2 years but less than 5 years is the sum of all lapsed renewal and late fees.

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- 5) The fee to transfer from a managing broker license to a broker license is \$125.
- c) Managing Broker License
- 1) The application fee for an initial managing broker license is \$150.
 - 2) The renewal fee for an unexpired managing broker license is \$100 per year.
 - 3) The late fee for a managing broker license expired for no more than 2 years is \$50.
 - 4) The restoration fee for a managing broker license expired for more than 2 years but less than 5 years is the sum of all lapsed renewal and late fees.
- d) Real Estate Auction Certification
- 1) The application fee for an initial real estate auction certification is \$125.
 - 2) The renewal fee for an unexpired real estate auction certification is \$150 per year.
 - 3) The late fee for a real estate auction certification expired for no more than 2 years is \$50.
- e) Corporation, Limited Liability Company, Partnership, Limited Partnership or Limited Liability Partnership License
- 1) The application fee for an initial corporation, limited liability company, partnership, limited partnership or limited liability partnership license is \$125.
 - 2) The renewal fee for an unexpired corporation, limited liability company, partnership, limited partnership or limited liability partnership license is \$75 per year.
 - 3) The late fee for a corporation, limited liability company, partnership, limited partnership or limited liability partnership license expired for no more than 2 years is \$50.

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- f) Branch Office License
- 1) The application fee for an initial branch office license is \$125.
 - 2) The renewal fee for an unexpired branch office license is \$75 per year.
 - 3) The late fee for a branch office license expired for no more than 2 years is \$50.
- g) Education Provider~~Pre-License School~~, Instructor and Course License Fees
- 1) The application fee for an initial education provider~~pre-license school~~ license is \$1,025.
 - 2) The renewal fee for an unexpired education provider~~pre-license school~~ license is \$525 per year.
 - 3) The late fee for an education provider~~a pre-license school~~ license expired for no more than 2 years is \$50.
 - 4) ~~The application fee for an initial pre-license school branch license is \$175 per branch.~~
 - 5) ~~The renewal fee for an unexpired pre-license school branch license is \$125 per branch per year.~~
 - 6) ~~The late fee for a pre-license school branch license expired for no more than 2 years is \$50 per branch.~~
 - 7) ~~The fee to transfer the location of a licensed pre-license school branch license is \$25 per branch per transfer.~~
 - 48) The application fee for an initial pre-license instructor license is \$125.
 - 59) The renewal fee for an unexpired pre-license instructor license is \$125 per year.
 - 610) The late fee for a pre-license instructor license expired for no more than 2 years is \$50.

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- ~~741~~) The application fee for an initial pre-license course license is \$125.
- ~~812~~) The renewal fee for an unexpired pre-license course license is \$50 per year.
- ~~913~~) The late fee for a pre-license course license expired for no more than 2 years is \$50.
- h) Continuing Education ~~School~~, Instructor and Course License Fees
- ~~1~~) ~~The application fee for an initial CE school license is \$1,025.~~
- ~~2~~) ~~The renewal fee for an unexpired CE school license is \$525 per year.~~
- ~~3~~) ~~The late fee for a CE school license expired for no more than 2 years is \$50.~~
- ~~14~~) The application fee for an initial CE instructor license is \$75.
- ~~25~~) The renewal fee for an unexpired CE instructor license is \$75 per year.
- ~~36~~) The late fee for a CE instructor license expired for no more than 2 years is \$50.
- ~~47~~) The application fee for an initial CE course license is \$125.
- ~~58~~) The renewal fee for an unexpired CE course license is \$50 per year.
- ~~69~~) The late fee for a CE course license expired for no more than 2 years is \$50.
- i) General
- 1) All fees paid pursuant to the Act and this Section shall be made payable to the Department of Financial and Professional Regulation and are non-refundable.
- 2) The fee for a certification of a licensee's record for any purpose is \$25.

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- 3) The fee for a roster of licensees or a list of licensees sponsored by a sponsoring broker is the cost of producing the roster.
- 4) Applicants for an examination as a leasing agent, broker, managing broker, instructor or real estate auction certification holder shall be required to pay a fee covering the cost of providing the examination. If a designated testing service is utilized for the examination, the fee shall be paid directly to the designated testing service. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged, shall result in the forfeiture of the examination fee.
- 5) The fee for requesting a waiver of CE requirements pursuant to Section 5-70(b) of the Act ~~is \$25.~~
- 6) The fee for requesting credit for CE obtained while out-of-state pursuant to Section 5-75 of the Act, is \$25.
- 7~~6~~) The fee for processing a sponsor card other than at the time of original licensure is \$25.
- 8~~7~~) The fee for a copy of a transcript of the proceedings under Section 20-62 of the Act is the cost of a copy of the transcript. A copy of the balance of the record will be provided at the Division's cost of producing the record.
- 9~~8~~) The fee for certifying the record referred to in Section 20-73 of the Act is \$1 per page.
- 10~~9~~) The Division may charge an administrative fee, not to exceed \$500, as a part of a compliance agreement issued with an administrative warning letter pursuant to Section 20-20 of the Act.
- 11~~10~~) Each university, college, community college or school supported by public funds in the State of Illinois shall be exempt from the education provider, course and instructor~~school~~ licensure fees provided each university, college, community college or school meets the following criteria and certifies to the Division that:
 - A) the facility is domiciled and supported by public funds in the State of Illinois;

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- B) the instructors are approved and licensed by the Department~~considered full-time faculty and are supported by public funds or if the administrator of the real estate school/program/curricula is considered full-time with exclusive responsibility for the administration of the real estate school/program/curricula and is supported by public funds;~~
- C) the courses are approved and licensed by the Department~~program, pre-license and/or CE revenues are deposited into the general fund of the university, college, community college or school, as are other appropriated public funds;~~ and
- D) the program, pre-license and/or CE is not a for-profit division of the university, college, community college or school.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.140 Renewals

- a) Every leasing agent license expires on July 31 of each even-numbered year.
- ~~b) Every salesperson license expires on April 30, 2012.~~
- be) Every broker license expires on April 30 of each even-numbered year.
- cd) Every managing broker license expires on April 30 of each odd-numbered year.
- d) Sponsoring brokers shall also submit a properly completed consent to examine and audit special accounts form required by the Department~~at this time~~.
- e) The first renewal for a real estate auction certification is on December 31, 2018. Thereafter, each real estate auction certification expires on December 31 of each even-numbered year. A real estate auction certificate holder whose license has been expired for more than 2 years shall be required to meet the requirements for a new certificate.
- f) Every corporation, limited liability company, partnership, limited partnership, limited liability partnership and branch office license expires on October 31 of each even-numbered year. Each renewal, the licensee shall submit the following:

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- 1) A properly completed consent to examine and an audit special accounts form; and
 - 2) Notice of any change of business information as provided for in Section 1450.150, if applicable.
- g) Renewal applications shall be submitted on forms provided by the Division. All renewals shall include the name and license number of the sponsoring broker. Failure to receive a renewal form, or failure to pay the renewal fee, shall not constitute a valid reason for failure to renew a license.
- h) Practicing or offering to practice on an expired or inoperative license shall constitute unlicensed practice and shall be grounds for discipline pursuant to Section 20-20 of the Act.
- i) Any leasing agent, broker or managing broker whose license under the Act has expired is eligible to renew without paying any lapsed renewal or restoration fee, and any person with a real estate auction certification that has expired is eligible to renew without paying any lapsed renewal fees, provided that the license or certification expired while the licensee, or the real estate auction certification holder, was:
- 1) on active duty with the United States Army, United States Navy, United States Marine Corps, United States Air Force, United States Coast Guard, or State Militia called into the service or training for the United States;
 - 2) engaged in training or education under the supervision of the United States prior to induction into military service; or
 - 3) serving as an employee of the Department. A licensee renewing a license in accordance with this subsection (i) may renew the license within a period of 2 years following the termination of service and is not required to take any CE or examination to renew. An individual renewing a license pursuant to this subsection (i) shall be issued a license equivalent to the license held when employed by the Department.
- j) As set forth in Section 5-50 of the Act, any licensee whose license has expired for more than 2 years shall not be eligible for renewal of that license. Any licensee whose license has been expired for less than 2 years may renew the license at any

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time by complying with the requirements of this Part, by paying the fees required by Section 1450.130 and providing satisfactory evidence of completion of the CE required by this Part.

- k) As set forth in Section 5-50(g) of the Act, upon request, the Division shall prepare and deliver by mail or electronically to the sponsoring broker a listing of licensees who, according to the Division, are sponsored by that sponsoring broker. The sponsoring broker shall notify the Division concerning any inaccuracies in the listing within 30 days after its receipt.
- l) A notice of renewal shall be sent to all sponsoring brokers, by mail or electronically, for each of the sponsored licensees of a sponsoring broker.
- m) Licensees engaging in licensed activities in the form of a corporation, limited liability company, partnership, limited partnership or limited liability partnership must:
 - 1) maintain active status/good standing with the appropriate office within the jurisdiction where it is registered or authorized to transact business (i.e., Secretary of State, etc.); and
 - 2) notify the Division in writing within 48 hours of any change to its status/registration resulting in the inability to transact business (i.e., dissolved, etc.) in the jurisdiction in which it is registered/was authorized to transact business.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.150 Licensee Change of Information; Applicant or Licensee Address of Record; Email Address of Record; and/or Name Change

- a) Address of Record and Email Address of Record. Pursuant to Section 2105-7 of the Civil Administrative Code of Illinois [20 ILCS 2105], all applicants and licensees shall:
 - 1) provide a valid address and email address to the Department, which shall serve as the address of record and email address of record, respectively, at the time of application for licensure or renewal of a license; and

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- 2) [inform the Division, in a manner established by the Department, within 14 days after the change.](#)
- b) [Aliases, Diminutives, and Nicknames.](#) Each licensee shall immediately notify the Division [electronically](#) of any [name change within 14 days after the change of name, address or office location.](#)
 - 1) [If the licensee regularly practices under a diminutive or nickname of the licensee's first name \(e.g., instead of the licensee's legal name\) the licensee shall notify the Department of the alias.](#)
 - 2) [If ~~For example, if~~ the licensee changed names by court order or due to marital status change, the licensee shall notify the ~~Department~~Division of the name change with a copy of the marriage certificate or portions of the court order relating to the name change and indicate the name for licensure. ~~If the licensee regularly practices under a diminutive of the licensee's first name \(e.g., Meg for Margaret or Mark for Mariusz or Sam for Shamim\), last name or a middle name instead of the licensee's full legal name, the licensee shall notify the Division of the alternate name.~~](#)
 - 3) The licensee shall ensure that all CE certificates are issued under the name of licensure.
- c) [Office Location.](#) Each licensee shall immediately notify the Department in a [manner established by the Department of a change in office location within 14 days after such change in location.](#)
- d) Each sponsoring broker shall immediately notify the [Department](#)~~Division~~ of any change of business information.
 - 1) When a licensee acquires or transfers any interest in a licensed corporation, limited liability company, partnership, limited partnership or limited liability partnership licensed under the Act, the sponsoring broker shall submit a notice as prescribed by the Department.
 - 2) When a licensee becomes an officer, manager, member or partner of a corporation, limited liability company, partnership, limited partnership or limited liability partnership, the sponsoring broker shall submit notice as prescribed by the Department. Any changes in [designated](#)~~named~~ managing

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brokers, office or branch shall be reported in writing to the ~~Department~~Division within 15 days.

- 3) When the licensee operates under an assumed name as delineated in Section 1450.120, as applicable.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

SUBPART B: LEASING AGENT LICENSING AND EDUCATION

Section 1450.200 Leasing Agent General Provisions

- a) A licensed leasing agent shall not engage in any licensed activities other than licensed activities related to leasing of residential real property. A licensed leasing agent may not ~~offer or negotiate the purchase, sale, auction or exchange of real estate or~~ engage in any other licensed activities described in Section 1-10 of the Act that do not relate to leasing residential real property, or would otherwise require a broker license.
- b) No person other than a licensed managing broker, broker or leasing agent or a duly authorized person working under a ~~120 day~~ leasing agent student permit shall engage in leasing residential real property for compensation.
- c) No leasing agent licensee may accept compensation for the performance of leasing residential real property except from the sponsoring broker by whom the licensee is sponsored.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.205 Leasing Agent Pre-License Education Requirements

An applicant for a leasing agent license must complete 15 credit hours of instruction recommended by the Board and approved by the Department, as set forth in Section 5-10(a)(5) of the Act. All pre-license education providers, courses, schools and instructors relating to leasing agent licensure must be approved by the Department Advisory Council and licensed pursuant to Subpart K.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.240 Leasing Agent ~~120 Day~~ Student Permit

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- a) Pursuant to Section 5-5(d) of the Act, a person engaging in leasing residential real estate may first obtain a ~~120 day~~-leasing agent student permit, which shall be valid for a period of 120 days. A permit holder shall comply with all provisions of the Act and this Subpart as if the permit holder were a leasing agent licensee, and shall be subject to standards of practice and disciplinary provisions as if the permit holder were a leasing agent licensee. A sponsoring broker for a permit holder shall be responsible for the activities and actions of a permit holder as if the permit holder were a leasing agent licensee. A permit holder may only be sponsored by one sponsoring broker during the 120 day period.
- b) Within 24 hours after employing, or associating with, a permit holder, a sponsoring broker shall submit the following information to the Division on forms provided by the Division:
- 1) the name, address and other information requested by the Division to identify the permit holder and sponsoring broker; and
 - 2) certification by the permit holder and the sponsoring broker or ~~designated~~named managing broker that the permit holder:
 - A) has not been a leasing agent licensee within the past 2 years;
 - B) has not been a permit holder within the past 2 years;
 - C) is at least 18 years of age;
 - D) has successfully completed a 4 year course of study in a high school or secondary school or an equivalent course of study approved by the Illinois State Board of Education (e.g., GED); and
 - E) is at the time of application, or will be within a period of ~~60~~90 days, enrolled in a leasing agent course of instruction approved by the Division.
- c) Upon expiration of the ~~120 day~~-leasing agent student permit period, the permit holder shall immediately cease engaging in leasing residential real estate unless the person has been issued a sponsor card or a leasing agent license.
- d) A person shall not practice under a ~~120 day~~-leasing agent student permit more

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than once in any 24 month period. A person who has been a leasing agent licensee within the past 24 month period shall not practice as a ~~120-day~~ leasing agent student permit holder.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.250 Leasing Agent Continuing Education

- a) Each leasing agent licensee shall complete, during the renewal period, a minimum of 6 CE hours from a single core curriculum recommended by the Board and approved by the Department Advisory Council. Approved courses shall, at a minimum, cover recent changes in the Act and other laws affecting the leasing of residential real estate, including fair housing.
- b) A licensee is not required to complete CE requirements for the first renewal following the issuance of the initial leasing agent license.
- c) Education providers~~CE schools~~, instructors and courses must be approved by the Division as set forth in Sections 1450.~~1100+130~~, 1450.1105, 1450.1145 and 1450.1155.
- d) Certification of Compliance with CE Requirements
 - 1) Each licensee shall certify, on the renewal application, full compliance with the CE requirements of this Section.
 - 2) The Division may, in the context of compliance audits, require additional evidence demonstrating compliance with the CE requirements (e.g., certificate of completion, transcripts, etc.). Each licensee shall retain proof of CE completed.
 - 3) In the context of a compliance audit, the Division shall accept verification (e.g., original transcript, certificate of attendance) submitted directly from a licensed education provider~~CE school~~ on behalf of a licensee as proof of CE compliance.
 - 4) Proof of non-compliance with CE requirements shall subject a licensee to discipline as set forth in the Act and this Part.
- e) The Division shall conduct audits to verify compliance with this Section. If,

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during an audit or compliance review, the Division determines that a licensee may be deficient in complying with CE requirements, the Division will notify the licensee, managing broker, and ~~the~~ sponsoring broker of the licensee, by certified or registered mail, return receipt requested, or other signature restricted delivery service, of the possible deficiency. The licensee shall have 60 days from the date the deficiency notification is sentmailed to submit to the Division evidence of compliance with CE requirements.

- 1) If satisfactory evidence of compliance with CE requirements, as set forth in Section 1450.450(c)(2), is submitted, the Division shall notify the licensee, by first class mail or electronically to the address on file with the Department, that the licensee is in compliance.
- 2) If the licensee certified compliance with CE requirements on the licensee's most recent renewal application as set forth in Section 1450.450(c)(1), but cannot submit evidence of having been in compliance on the certification date, the licensee may, during the 60 day notice period, submit evidence of having attained compliance with CE requirements after the date the certification was made. The evidence of post-certification course completion must be accompanied by a fee of \$25 per credit hour completed after the date the licensee originally certified compliance. The evidence will not be considered if the required fee is not submitted. If the evidence is satisfactory, the Division shall notify the licensee, managing broker and ~~the licensee's~~ sponsoring broker of compliance. Credit hours submitted for post-certification course completion and found satisfactory may not be used as credit for the next renewal requirements.
- 3) If the licensee fails to submit, within the 60 day notice period, satisfactory evidence of compliance with CE requirements, the failure shall be evidence of a violation of Section 20-20 of the Act regarding fraud and/or misrepresentation in applying for renewal of, or to procure, a license as set forth in Article 5 of the Act. The Division shall send notice, as set forth in Section 20-60 of the Act, indicating the commencement of disciplinary proceedings. A copy of the notice shall be sent to the managing broker and sponsoring broker ~~of the licensee~~.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

SUBPART D: BROKER LICENSING AND EDUCATION

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Section 1450.410 Broker Post-License Education Requirements; New Broker Training

- a) Brokers shall be required to complete a 30-hour post-license course, which may also be referred to as "New Broker Training", and when required by the Act, and pass an education provider~~a pre-license school~~ administered examination for the course prior to their first renewal of that license. This course must address the practical application of pre-license topics to the practice of real estate as set forth in Section 1450.1105(c).
- b) Brokers taking the New Broker Training~~30 hour post-license~~ course during their first renewal period shall not be required to complete any other CE during that renewal period. The 30 hour post-license course must be completed within the 2 years immediately prior to the broker's first renewal.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.420 Broker Examination

- a) Each applicant for a broker license shall submit an application for examination as determined by the Department, including:
 - 1) Certification that the applicant is 21 years of age, or 18 if the applicant has attained the education required by Section 5-27 of the Act. 48 semester hours or 72 quarter hours shall meet the requirements of Section 5-27(a)(1) of the Act;
 - 2) Certification of graduation from high school or its equivalent (e.g., GED);
 - 3) The required fee set forth in Section 1450.130; and
 - 4) Proof of one of the following:
 - A) Currently admitted to practice law by the Supreme Court of Illinois; or
 - B) Completion of 90 hours of instruction in real estate courses recommended by the Board and approved by the Department~~Advisory Council~~ as set forth in Section 1450.1105.
- b) If a person fails the examination 4 times, the person must repeat the pre-license

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education requirement set forth in Section 5-27(a)(5) of the Act prior to taking the examination again, in addition to the other requirements enumerated generally in Section 5-27.

- c) As set forth in Section 5-35(c) of the Act, the 4 year time period after the completion of pre-license education during which that education will be accepted applies to approved pre-license education, and does not apply to high school or its equivalent (e.g., GED) education.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.450 Broker Continuing Education

a) Continuing Education Hour Requirements

- 1) As set forth in Section 5-70 of the Act, each broker, except as otherwise provided in Section 5-70(b), is required to complete 6 CE hours for each year of the renewal period. The total of 12 CE hours of ~~the~~ courses approved by the Department may be taken at any time during the pre-renewal period ~~Advisory Council~~. Licensees who complete CE after the expiration of a license are eligible for approval of CE only upon payment of required fees set forth in Section 1450.130 and completion of the necessary forms.
- 2) If the broker renewal period ends within the 90 days after the initial broker license is issued, a licensee is not required to complete CE for that broker renewal period. A licensee shall complete CE requirements before the next broker renewal date.
- 3) Brokers licensed in Illinois but residing and practicing in other states shall comply with the CE requirements set forth in this Section, unless they are exempt as set forth in Section 5-70(b) of the Act.
- 4) The Division shall conduct random audits to verify compliance with this Section.

b) Approved Continuing Education

- 1) CE credit may be earned for verified attendance at, ~~or~~ participation in, or completion of a licensed course offered by a licensed education provider ~~CE school~~ as set forth in Sections ~~Section~~ 1450. 1100 and

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1450.1105+130.

- 2) CE credit may also be earned by passing a proctored exam of a correspondence or home study~~for completion of a distance education~~ course offered and verified by a licensed Education Provider~~CE school~~ as set forth in Section 1450.1155.
- 3) As set forth in Section 5-70 of the Act, ~~the~~ CE credit shall be obtained through completion of a core curriculum and an elective~~courses in a curriculum recommended by the Board and~~ approved by the Department~~Advisory Council and the~~ CE requirements shall be deemed satisfied upon the successful completion of the following:
 - A) Core Curriculum: A minimum of 4 CE credit hours per two year renewal in a core curriculum course or courses and approved by the Department, which, pursuant to Section 5-70, may cover subjects including but not limited to advertising, agency, disclosures, escrow, fair housing, and license law.~~Core Category. A minimum of 6 CE hours in a core curriculum approved by the Advisory Council. Standardized curriculum for these core courses will be provided by the Division. The core curriculum must include 3 hours of Core A and a minimum of 3 hours of Core B; and~~
 - B) Elective Curriculum: No less than 8 CE credit hours per two year renewal in elective curriculum courses approved by the Department.~~Elective Category. A maximum of 6 CE hours in elective courses approved by the Advisory Council.~~
- 4) As set forth in Section 5-70(g) of the Act, CE credit may be earned by a licensed CE instructor for teaching a licensed CE course. Credit for teaching a licensed CE course may only be earned once per course during a renewal period. One hour of teaching is equal to one CE hour.
- 5) As set forth in Section 5-75 of the Act, if licensees earn CE credit hours in another state or territory for which they will claim credit toward compliance in Illinois, each licensee shall submit an application and a \$25 fee, within 90 days after completion of the CE course and prior to expiration of the license. The Department~~Advisory Council~~ shall review and approve or disapprove~~therecommend approval or disapproval of the~~

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~~CE~~ course provided the education provider, CE school and CE course, and delivery method of assessing participation and comprehension are substantially equivalent to those licensed in Illinois ~~and provided that the CE course included the successful completion of a proctored examination.~~ In determining whether the education provider and CE school and CE course are substantially equivalent, the ~~Department Advisory Council~~ shall use the criteria in Sections 5-70 through 5-~~80~~85 of the Act and this Section.

- 6) CE credit shall not be given for CE courses taken in Illinois from schools not licensed by the ~~Department~~Division.
 - 7) Pursuant to Section 5-70(j) of the Act, no more than 6 hours of CE credit may be taken ~~or earned~~ in one calendar day. In those instances when a proctored final~~The exam is required~~ for a CE course or courses, it may be given at the end of each individual course or group of courses. For example, a licensee who intends to take 12 hours of CE may complete the proctored final exams and earn CE credit for the courses at the end of each individual course, or group of courses, provided the licensee does not exceed the 6 hour limit of instruction per calendar day referenced in Section 5-70(j) of the Act ~~and Section 1450.1155(f) and (g) of this Part.~~
 - 8) CE credit shall not be given for pre-license and post-license~~licensing~~ education courses except as set forth in Section 5-70(1) of the Act.
- c) Certification of Compliance with CE Requirements
- 1) Each licensee shall certify, on the renewal application, full compliance with the CE requirements set forth in subsections (a) and (b).
 - 2) The Division may, in the context of compliance audits, require additional evidence demonstrating compliance with the CE requirements (e.g., certificate of completion, transcript, etc.). Each licensee shall retain proof of CE completed.
 - 3) In the context of a compliance audit, the Division shall accept verification (e.g., original transcript, certificate of attendance) submitted directly from a licensed education provider~~CE school~~ on behalf of a licensee as proof of CE compliance.

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- 4) Proof of non-compliance with CE requirements shall subject a licensee to discipline as set forth in the Act and this Part.
- 5) The Division shall conduct audits to verify compliance with this Section. If, during an audit or compliance review, the Division determines that a licensee may be deficient in complying with CE requirements, the Division will notify the licensee, managing broker, and ~~the~~ sponsoring broker of the ~~licensee, by certified or registered mail, return receipt requested, or other signature restricted delivery service, of~~ the possible deficiency. The licensee shall have 60 days from the date the deficiency notification is ~~sentmailed~~ to submit to the Division evidence of compliance with CE requirements.
 - A) If satisfactory evidence of compliance with CE requirements set forth in subsection (c)(2) is submitted, the Division shall notify the licensee, managing broker, and sponsoring broker by first class mail or electronically to the address on file with the Department, that the licensee is in compliance.
 - B) If the licensee certified compliance with CE requirements on the licensee's most recent renewal application, as required by subsection (c)(1), but cannot submit evidence of having been in compliance on the certification date, the licensee may, during the 60 day notice period, submit evidence of having attained compliance with CE requirements after the date the certification was made. The evidence of post-certification course completion must be accompanied by a fee of \$25 per credit hour completed after the date the licensee originally certified compliance. The evidence will not be considered if the required fee is not submitted. If the evidence is satisfactory, the Division shall notify the licensee, managing broker, and ~~the licensee's~~ sponsoring broker of compliance. Credit hours submitted for post-certification course completion and found satisfactory may not be used as credit for the next renewal requirements.
 - C) If the licensee fails to submit, within the 60 day notice period, satisfactory evidence of compliance with CE requirements, the failure shall be evidence of a violation of Section 20-20 of the Act regarding fraud and/or misrepresentation in applying for renewal of, or to procure, a license as set forth in Article 5 of the Act. The

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Division shall send notice to the licensee, managing broker, and ~~the licensee's~~ sponsoring broker, as set forth in Section 20-60 of the Act, indicating the commencement of disciplinary proceedings.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

SUBPART E: MANAGING BROKER LICENSING AND EDUCATION

Section 1450.500 Managing Broker ~~Pre-License~~Pre-Licensed Education Requirements

~~a) An applicant for a managing broker license must have completed a total of 165 credit hours of instruction as set forth in Section 1450.1105. b) An applicant for a managing broker license who obtained an Illinois broker license after April 30, 2011, by transitioning from a salesperson pursuant to Section 5-46 of the Act, is presumed to have completed the 120 credit hour pre-license education requirement for a broker license and needs only to complete the 45 credit hour managing broker pre-license education requirement set forth in Section 1450.1105(d).~~

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.510 Managing Broker Examination

- a) Each applicant for a managing broker license shall submit an application for examination as determined by the Department, including:
 - 1) Certification that the applicant is 21 years of age;
 - 2) Certification of graduation from high school or its equivalent (e.g., GED);
 - 3) The fee required by Section 1450.130; and
 - 4) Proof of one of the following:
 - A) Currently admitted to practice law by the Supreme Court of Illinois; or
 - B) Completion of a total of 165 credit hours of instruction in real estate courses approved by the Department Advisory Council.
- b) If a person fails the examination 4 times, the person must repeat the pre-license

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education requirement set forth in Section 5-28 of the Act prior to taking the examination again.

- c) As set forth in Section 5-35(c) of the Act, the 4 year time period after the completion of pre-license education during which that education will be accepted applies to approved pre-license education, and does not apply to high school or its equivalent (e.g., GED) education.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.540 Managing Broker Continuing Education

- a) Continuing Education Hour Requirements
- 1) As set forth in Section 5-70 of the Act, each managing broker, except as otherwise provided in Section 5-70(b), is required to complete 6 CE hours for each year of the renewal period in courses approved by the ~~Department Advisory Council~~. Licensees who complete CE after the expiration of a license are eligible for approval of CE only upon payment of required fees as set forth in Section 1450.130 and completion of the necessary forms.
 - 2) In addition to the CE required in subsection (a)(1), all renewing managing brokers must complete a 12 hour broker management CE course, the content of which shall be recommended by the Board and approved by the Department. This 12 hour broker management CE course must be completed in the classroom or by interactive webinar~~other interactive delivery method~~. In order to promote uniformity and consistency, the Division, with the advice of the Board, ~~may Advisory Council~~, will provide a standardized curriculum to be utilized by all licensed education providers~~CE schools~~.
 - 3) If the managing broker renewal period ends within the 90 days after the initial managing broker license is issued, a licensee is not required to complete CE for that managing broker renewal period. A licensee shall complete CE requirements before the next managing broker renewal date.
 - 4) Managing brokers licensed in Illinois but residing and practicing in other states shall comply with the CE requirements set forth in this Section, unless they are exempt under Section 5-70(b) of the Act.

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- 5) The Division shall conduct random audits to verify compliance with this Section.
- b) Approved Continuing Education
- 1) CE credit may be earned for verified attendance at ~~or~~ participation in, or completion of a licensed course offered and verified by a licensed education provider that is approved pursuant to Sections 1450.1100 and 1450.1105 ~~CE school, as set forth in Section 1450.1130.~~
 - 2) CE credit, except broker management excluded pursuant to Section 5-70(b) of the Act, may also be earned for completion by passing a proctored exam of a correspondence or home study ~~distance education~~ course offered and verified by a licensed Education Provider, ~~CE school,~~ as set forth in Section 1450.1155.
 - 3) As set forth in Section 5-70 of the Act, CE credit shall be obtained through completion of a single core and elective ~~courses in a~~ curriculum recommended by the Board and approved by the Department Advisory Council ~~and~~ CE requirements shall be deemed satisfied upon successful completion of the following:
 - A) Core Curriculum: A minimum of 4 CE credit hours per two year renewal in a core curriculum course or courses recommended by the Board and approved by the Department, which, pursuant to Section 5-70, may cover subjects including but not limited to advertising, agency, disclosures, escrow, fair housing, leasing agent management, and license law. ~~Core Category. A minimum of 6 CE hours in a core curriculum approved by the Advisory Council. Standardized curriculum for these core courses will be provided by the Division. The core curriculum must include 3 hours of Core A and a minimum of 3 hours of Core B; and~~
 - B) Elective Curriculum: No less than 8 CE credit hours per two year renewal in elective curriculum courses approved by the Department. ~~Elective Category. A maximum of 6 CE hours in elective courses approved by the Advisory Council.~~
 - 4) As set forth in Section 5-70(g) of the Act, CE credit may be earned by a

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licensed CE instructor for teaching a licensed CE course. Credit for teaching a licensed CE course may only be earned once per course during a renewal period. One hour of teaching is equal to one CE hour.

- 5) As set forth in Section 5-75 of the Act, if licensees earn CE credit hours in another state or territory for which they will claim credit toward compliance in Illinois, each licensee shall submit an application, and a \$25 fee, within 90 days after completion of the CE course and prior to expiration of the license. The Department Advisory Council shall review and approve or disapprove~~recommend approval or disapproval of~~ the CE course provided the education provider, CE school and CE course, and delivery method of assessing participation and comprehension are substantially equivalent to those licensed in Illinois ~~and provided that the CE course included the successful completion of a proctored examination~~. In determining whether the education provider CE school and CE course are substantially equivalent, the Department Advisory Council shall use the criteria in Sections 5-70 through 5-~~80~~85 of the Act and this Section.
 - 6) CE credit shall not be given for CE courses taken in Illinois from education providers schools not licensed by the Department Division.
 - 7) Pursuant to Section 5-70(j) of the Act, no more than 6 hours of CE credit may be taken ~~or earned~~ in one calendar day. In those instances when a proctored final~~The~~ exam is required for a CE course or courses, it may be given at the end of each individual course or group of courses. For example, a licensee, who intends to take 12 hours of CE may complete the exams and earn CE credit for the courses at the end of each individual course, or group of courses, provided the licensee does not exceed the 6 hour limit of instruction per calendar day referenced in Section 5-70(j) of the Act ~~and Section 1450.1155(f) and (g) of this Part~~.
 - 8) CE credit shall not be given for pre-license and post-license~~licensing~~ education courses except as set forth in Section 5-70(1) of the Act.
- c) Certification of Compliance with CE Requirements
- 1) Each licensee shall certify on the renewal application full compliance with the CE requirements set forth in subsections (a) and (b).
 - 2) The Division may, in the context of compliance audits, require additional

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evidence demonstrating compliance with the CE requirements (e.g., certificate of completion, transcript, etc.). Each licensee shall retain proof of CE completed.

- 3) In the context of a compliance audit, the Division shall accept verification (e.g., original transcript, certificate of attendance) submitted directly from a licensed education provider~~CE school~~ on behalf of a licensee as proof of CE compliance.
- 4) Proof of non-compliance with CE requirements shall subject a licensee to discipline as set forth in the Act and Subpart I.
- 5) The Division shall conduct audits to verify compliance with this Section. If, during an audit or compliance review, the Division determines that a licensee may be deficient in complying with CE requirements, the Division will notify the licensee, managing broker, and ~~the~~ sponsoring broker ~~of the licensee, by certified or registered mail, return receipt requested, or other signature restricted delivery service,~~ of the possible deficiency. The licensee shall have 60 days from the date the deficiency notification is ~~sentmailed~~ to submit to the Division evidence of compliance with CE requirements.
 - A) If satisfactory evidence of compliance with CE requirements set forth in subsection (c)(2) is submitted, the Division shall notify the licensee, managing broker, and sponsoring broker by first class mail or electronically, that the licensee is in compliance.
 - B) If the licensee certified compliance with CE requirements on the licensee's most recent renewal application required by subsection (c)(1), but cannot submit evidence of having been in compliance on the certification date, the licensee may, during the 60 days notice period, submit evidence of having attained compliance with CE requirements after the date the certification was made. The evidence of post-certification course completion must be accompanied by a fee of \$25 per credit hour completed after the date the licensee originally certified compliance. The evidence will not be considered if the required fee is not submitted. If the evidence is satisfactory, the Division shall notify the licensee, managing broker, and ~~the licensee's~~ sponsoring broker of compliance. Credit hours submitted for post-certification course

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completion and found satisfactory may not be used as credit for the next renewal requirements.

- C) If the licensee fails to submit satisfactory evidence of compliance with CE requirements within the 60 day notice period, the failure shall be evidence of a violation of Section 20-20 of the Act regarding fraud and/or misrepresentation in applying for renewal of, or to procure, a license as set forth in Section 5-25 of the Act. The Division shall send notice to the licensee, managing broker, and ~~the licensee's~~ sponsoring broker, as required by Section 20-60 of the Act, indicating the commencement of disciplinary proceedings.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.560 Managing Broker Self-Sponsorship

A self-sponsored managing broker may sponsor licensees if the self-sponsored managing broker meets all the requirements for a sponsor.

(Source: Added at 43 Ill. Reg. 1975, effective January 25, 2019)

SUBPART F: CORPORATIONS, LIMITED LIABILITY COMPANIES, PARTNERSHIPS, LIMITED PARTNERSHIPS AND LIMITED LIABILITY PARTNERSHIPS**Section 1450.600 Application for Corporations, Limited Liability Companies, Partnerships, Limited Partnerships and Limited Liability Partnerships Licenses**

- a) Each applicant for a corporation, limited liability company, partnership, limited partnership or limited liability partnership license shall submit:
- 1) A signed and completed application on forms provided by the Division;
 - 2) The required fee set forth in Section 1450.130;
 - 3) A Federal Employer Identification Number (FEIN);
 - 4) A completed consent to examine and audit special accounts form;
 - 5) A completed real estate information form; and

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- 6) If an assumed name will be used, a copy of the filing or certificate authorizing it to do business, as set forth in the Assumed Business Name Act [805 ILCS 405].
- b) All requirements for a ~~licensee~~license to engage in licensed ~~activities~~activites as a corporation, limited liability company, partnership, limited partnership or limited liability partnership shall be met within one year after the date of original application or the application shall be denied and the fee forfeited. Thereafter, to be considered for licensure, the applicant shall submit a new application with the required fee.
- c) Corporations, in addition to the items listed in subsection (a), shall submit the following:
 - 1) A signed and completed application containing the name of the corporation and its registered address, a list of all officers' names and the license number for each officer who is licensed as a broker or managing broker;
 - 2) A copy of the Articles of Incorporation bearing the seal of the office, in the jurisdiction in which the corporation is organized, whose duty it is to register corporations under the laws of that jurisdiction. If it is a foreign corporation, a copy of the certificate of authority to transact business in this State, filed with the Illinois Secretary of State, is also required;
 - 3) All unlicensed officers shall submit affidavits of non-participation with the application. Licensed leasing agents shall not be officers of the corporation even if they submit an affidavit of non-participation; and
 - 4) A list of all shareholders, the number of shares of the corporation owned by each shareholder and the license number for each shareholder who is a licensee.
- d) Limited liability companies, in addition to the items listed in subsection (a), shall submit the following:
 - 1) A signed and completed application containing the name of the limited liability company and its registered address; and

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- A) if member-managed, a list of all members' names and the license number for each member who is licensed as a broker or managing broker;
 - B) if manager-managed, a list of all managers' names and the license number for each manager who is licensed as a broker or managing broker;
- 2) If a member or manager is an entity, the applicant shall provide a list of all members' or managers' names and the license number for each owner, officer, manager, member or partner of the entity who is licensed as a broker or managing broker;
 - 3) A copy of the Articles of Organization filed with the Illinois Secretary of State or, if it is a foreign limited liability company, a copy of the application for admission endorsed by the Illinois Secretary of State; and
 - 4) All unlicensed members, including a member entity's owner, officer, member or partner, shall submit affidavits of non-participation. Licensed leasing agents shall not be managers of the limited liability company even if they submit an affidavit of non-participation.
- e) Partnerships, in addition to the items listed in subsection (a), shall submit the following:
- 1) A signed and completed application containing the name of the partnership, its business address and a list of all general partners' names and the license number for each general partner who is licensed as a broker or managing broker. Licensed leasing agents shall not be general partners; and
 - 2) An affidavit stating that the partnership has been legally formed.
 - 3) If a sponsoring broker, acting as a partnership, operates under any name other than that appearing on the sponsoring broker's license, the sponsoring broker shall submit to the Division a copy of the filing or certificate authorizing it to do business under an assumed name from the Illinois Secretary of State's Office (Form UPA-303) and certified copy of the sponsoring broker's registration under the Assumed Business Name

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Act [805 ILCS 405]. The assumed business name registration shall be obtained in each county in which the assumed business name is used.

- f) Limited partnerships or limited liability partnerships, in addition to the items listed in subsection (a), shall submit the following:
- 1) A signed and completed application containing the name of the limited partnership or limited liability partnership, its business address, and a list of all partners' names and the license number for each partner who is licensed as a broker or managing broker. If a partner is an entity, the applicant shall provide a list of all partners' names and the license number for each owner, officer, manager, member or partner of the entity who is licensed as a broker or managing broker;
 - 2) A letter of authority from the Illinois Secretary of State or, if it is a foreign limited partnership or foreign limited liability partnership, a copy of the application for admission endorsed by the Illinois Secretary of State; and
 - 3) Affidavits of non-participation from all unlicensed partners.
- g) For a leasing agent, or group of leasing agents, owning, or directly or indirectly controlling, more than 49% of a corporation, limited liability company, partnership, limited partnership or limited liability partnership, as set forth in Section 5-15(e) of the Act, the following may be considered by the Division:
- 1) Corporations: leasing agents in any limited liability company, partnership, limited partnership or limited liability partnership who have an interest in the corporation.
 - 2) Limited Liability Companies: leasing agents in any corporation, partnership, limited partnership or limited liability partnership who are members of the limited liability company.
 - 3) Partnerships, Limited Partnerships or Limited Liability Partnerships: leasing agents in any corporation or limited liability company who are partners in the partnership, limited partnership or limited liability partnership.
 - 4) Division as necessary to determine compliance with this Section.

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- h) After receipt and approval of the application, required fee and appropriate documentation, the Division shall issue a license to the corporation, limited liability company, partnership, limited partnership or limited liability partnership, or shall notify the applicant of the basis for denial.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.610 Offices and Branch Offices

- a) A licensee's office shall be an office or branch office of the licensee's sponsoring broker.
- b) Offices
- 1) An office is any business location or structure that is owned, controlled, operated or maintained by a licensee who, at that business location or structure, is:
- A) engaging in licensed activities;
 - B) offering real estate services to consumers;
 - C) holding out to the public that the licensee is engaging in licensed activities;
 - D) maintaining original real estate documents and records related to active or pending transactions;
 - E) maintaining current escrow records; or
 - F) meeting consumers for the purpose of engaging in licensed activities.
- 2) The following places do not constitute an office. These places are provided as examples and are not intended to be inclusive or exclusive of other places:
- A) a motor vehicle primarily used for transportation;

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- B) a place that is solely devoted to advertising real estate matters of a general nature or to making a sponsoring broker's business name generally known;
 - C) a place that a licensee uses solely for storage or archiving of records;
 - D) a licensee's residence unless held out to the public as a location where the person is engaging in licensed activities; or
 - E) A post office box, mail drop location or other similar facility.
- c) Branch Offices
- 1) To operate a branch office, a sponsoring broker shall submit:
 - A) A signed and completed application, on forms provided by the Division;
 - B) The required fee set forth in Section 1450.130;
 - C) A completed consent to examine and audit special accounts form; and
 - D) The name and license number of the ~~designated~~named managing broker of the branch office.
 - 2) After receipt and approval of the application, required fees and appropriate documentation, the Division shall issue a branch office license or notify the applicant of the basis for denial.
 - 3) The name of the branch office shall be the same name as the principal office or shall clearly delineate the branch office's relationship with the principal office (e.g., affiliated with, associated with, subsidiary of).
 - 4) The sponsoring broker shall not open a branch office, and the sponsoring broker shall not have licensees working from a branch office, until the branch office license number is issued.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

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SUBPART G: COMPENSATION AND BUSINESS PRACTICES

Section 1450.700 Sponsoring Broker Responsibilities

- a) The sponsoring broker shall establish a written company policy and remain ultimately responsible for compliance with Section 1450.705. The sponsoring broker shall legally name a designated managing broker for every office or branch office. The designated managing broker shall have the legal authority to act on behalf of the sponsoring broker in matters including but not limited to those enumerated in Section 1450.705.
- b) A sponsoring broker may delegate to unlicensed personnel, including but not limited to accountants, office managers, or unlicensed assistants (~~see~~ Section 1450.740), activities or duties not prohibited by the Act or this Part. Any licensee who supervises unlicensed personnel shall be responsible for the unlicensed personnel's actions, as established in Sections 1450.705(d) and 1450.740(d).
- c) The sponsoring broker shall inform the Division in writing of the name and license number of all ~~designated~~ managing brokers employed by the sponsoring broker and the office or branch offices each ~~designated~~ managing broker is responsible for managing.
- d) The sponsoring broker is ultimately responsible for issuing sponsor cards.
- e) Within 15 days after the loss of a ~~designated~~ managing broker who will not be replaced, the Division may issue written authorization to allow the continued operation of an office or branch office, provided that the sponsoring broker assumes responsibility, in writing, for the operation of the office or branch office and agrees to personally supervise the office or branch office. No such written authorization shall be valid for more than 60 days unless extended by the Division for good cause and upon written request by the sponsoring broker. Good cause includes, but is not limited to, such circumstances as sales under contract pending closing, loss of livelihood for a sponsored licensee and undue hardship caused to clients. The Division will honor the order of a court of competent jurisdiction appointing a legal representative for the sole purpose of closing out the affairs of a ~~designated~~ managing broker who is deceased or adjudicated disabled, but not to actively engage in licensed activities.

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- f) Within a reasonable time prior to a sponsoring ~~broker~~broker's ceasing operations~~voluntary retirement or voluntary dissolution~~, the sponsoring broker shall provide written notice to all sponsored licensees to allow the sponsored licensees to secure new sponsoring brokers and shall provide written notice to all active clients to allow the clients to secure brokerage agreements with new ~~sponsoring licensed brokers or managing~~ brokers.
- g) Any violation of the Act by any licensees employed by or associated with a sponsoring broker, or by any unlicensed assistant or other unlicensed employee of a sponsoring broker, shall not be cause for suspension or revocation of a sponsoring broker's license, unless a sponsoring broker had knowledge of the Act violation. A sponsoring broker's failure to provide an appropriate written company policy or failure to properly supervise shall be cause for discipline, including suspension or revocation, of the sponsoring broker's license.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.705 Designated~~Named~~ Managing Broker Responsibilities and Supervision

- a) When a ~~designated~~named managing broker receives from the Division a renewal application for a licensee ~~from the Division~~:
- 1) supervised by the ~~designated~~named managing broker or employed by or associated with the sponsoring broker, the ~~designated~~named managing broker shall notify the licensee of the receipt of the renewal application within 7 days; or
 - 2) not supervised by the ~~designated~~named managing broker or not employed by or associated with the sponsoring broker, the renewal application shall be returned to the Division within 7 days.
- b) All ~~designated~~named managing brokers shall notify the Division, within 24 hours, on forms provided by the Division, of any change of business address of the licensed offices or branch offices they manage. An office or branch office license returned to the Division due to change of address shall remain active until the new office or branch office license is in the possession of the ~~designated~~named managing broker or sponsoring broker.
- c) A ~~designated~~named managing broker shall supervise the activities of licensees and unlicensed assistants working in offices or branch offices managed by the

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designatednamed managing broker. Supervision of activities includes, but is not limited to:

- 1) the implementation of and communication to sponsored licensees of company policies and procedures established by the sponsoring broker;
 - 2) training of licensees and unlicensed assistants;
 - 3) supervising and assisting licensees in real estate transactions;
 - 4) supervising special (escrow) accounts over which the sponsoring broker has delegated responsibility to the designatednamed managing broker in order to ensure compliance with the special (escrow) account provisions of the Act and this Part;
 - 5) supervising all advertising, in any media, of any service for which a license is required;
 - 6) familiarizing sponsored licensees with the requirements of federal and State laws and local ordinances relating to licensed activities; and
 - 7) compliance with this Part for licensees and unlicensed assistants supervised by the designatednamed managing broker and licensed office or branch offices under his or her management.
- d) Any violation of the provisions of the Act by any licensees employed by or associated with the sponsoring broker, or any unlicensed assistant or other unlicensed employee of a sponsoring broker, shall not be cause for suspension or revocation of a designatednamed managing broker's license, unless a designatednamed managing broker had knowledge of the Act violation. The designatednamed managing broker's failure to provide an appropriate written company policy or failure to properly supervise shall be cause for discipline, including suspension or revocation, of the designatednamed managing broker's license.
- e) Sole Proprietors
- 1) A sole proprietor must be licensed as a real estate~~have a~~ managing broker license.

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- 2) Within 15 days after the death or adjudicated disability of a sole proprietor, the Division may issue written authorization to allow the continued operation of an office or branch office, provided that an authorized representative of the sole proprietor assumes responsibility, in writing, for operation of the office or branch office and agrees to personally supervise the office or branch office. No such written authorization shall be valid for more than 60 days unless extended by the Division for good cause shown and upon written request by the authorized representative. Good cause includes, but is not limited to, such circumstances as sales under contract pending closing, loss of livelihood for a sponsored licensee and undue hardship caused to clients. The Division will honor the order of a court of competent jurisdiction appointing a legal representative for the sole purpose of closing out the affairs of a sole proprietor who is deceased or adjudicated disabled, but not to actively engage in licensed activities.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.715 Advertising

- a) Deceptive and misleading advertising includes, but is not limited to, the following:
 - 1) advertising property subject to an exclusive listing agreement with a sponsoring broker other than the licensee's sponsoring broker without the permission and identification of the sponsoring broker with the exclusive listing;
 - 2) failing to remove advertising of a listed property within a reasonable time, considering the nature of the advertising, the licensee's control over the removal of the advertising, the ease of removing the advertising, knowledge that the advertising was continuing and any other pertinent criteria after the earlier of the closing of a sale on the listed property or the expiration or termination of the listing agreement;
 - 3) advertising property at auction as an absolute auction or auction without reserve, when a minimum bid or opening bid is required;
 - 4) advertising property in a manner that creates a reasonable likelihood of confusion regarding the permitted use of the property. Examples include

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advertising a property zoned single family as appropriate for multi-dwelling use by using words such as "apartment", "two units", or "separate living arrangement", unless that use is permitted by a zoning ordinance, a variance from the zoning ordinance, a conditional permitted use or an existing legal non-conforming use; ~~and~~

- 5) use of URL, domain name, metatag, keyword or other device or method intended to deceptively direct, drive or divert internet traffic or mislead consumers; ~~and~~
 - 6) advertising that does not display the sponsoring broker's legal name or assumed name in a reasonably apparent manner.
- b) For the purposes of this Section and Section 1450.720, listing information available on a sponsoring broker or other licensee's website, extranet or similar website, but behind a firewall or similar device requiring a password, registration or other type of security clearance to access that information shall not be considered advertising.
 - c) For the purposes of this Section and Section 1450.720, unsolicited marketing of licensed activities and prospecting for clients by licensees shall be considered advertising.
 - d) Nothing in Section 10-30 of the Act shall require a sponsoring broker to include the name of one of its sponsored licensees on the sponsoring broker's signs or other general advertising.
 - e) Licensees named as designated managing brokers with the Division shall indicate that status in any marketing or advertising that includes their name, except on "For Sale" or similar signs, as set forth in Section 10-30(g) of the Act. Licensees holding a managing broker license and not named as the designated managing broker with the Division shall represent or hold themselves out as a broker, not as a managing broker.
 - f) Advertising for a real estate auction must contain the name and address of, when applicable:
 - 1) the licensed broker or managing broker;
 - 2) the licensed auctioneer, as defined in Section 5-20(13) of the Act;

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- 3) the licensed auctioneer, as defined in Section 5-20(13) of the Act and any other auction licensee holding a real estate auction certification; or
- 4) the licensed broker or managing broker and an auction licensee holding a real estate auction certification, who is not otherwise exempt under Section 5-20(13) of the Act.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.725 Office and Branch Office Identification Signs

- a) An identification sign on the outside of ~~any~~ office ~~or branch office~~ shall be of a size and nature that is reasonably readable by the public and semi-permanent or affixed to the office and shall contain the legal name or assumed name of the sponsoring broker or branch office. Building directory listings that contain this information fulfill the requirements of this Section.
- b) The identification sign must be plainly visible from an area accessible to the public.
- c) Office ~~and branch~~ identification signs must be professional in appearance and meet all applicable zoning restrictions and restrictive covenants.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.730 Availability ~~Display~~ of Licenses

- a) A copy of a licensee's license must be readily available to the public in the principal office of the licensee's sponsoring broker and a copy must be readily available to the public at the licensee's principal office.
- b) "Readily available" may include, but is not limited to:
 - 1) being visible on a wall of a public waiting or reception area; or
 - 2) being available for viewing upon request.
- c) Designated ~~Named~~ managing brokers assigned to manage multiple offices shall have copies of their license readily available in all offices they manage, which

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includes offices that may not be the ~~designated~~ managing broker's principal office.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.750 Special Accounts

- a) Escrow Moneys Defined
 - 1) "Escrow moneys" means all moneys, promissory notes or any other type or manner of legal tender or financial consideration deposited with any person for the benefit of the parties to the transaction. A transaction exists once an agreement has been reached and an accepted real estate contract is signed, or a lease is agreed to by the parties. Escrow moneys include without limitation earnest moneys and security deposits, except those security deposits in which the person holding the security deposit is also the sole owner of the property being leased or sold and for which the security deposit is being held.
 - 2) As set forth in the terms of a written agreement between a licensee and a client, such as a property management agreement, rent moneys paid to a licensee for transmittal to the licensee's client (e.g., the owner) shall not be considered to be "escrow moneys". In addition, other moneys held in a custodial account by a licensee for transmittal to a licensee's client, as set forth in the terms of a written agreement, such as a contract for deed, shall not be subject to this Section.
 - 3) Earnest money constitutes escrow moneys whether in the form of personal checks, cashier's checks, money orders, cash or any other forms of legal tender.
- b) Escrow Accounts. As set forth in Section 20-20(a)(17) of the Act, sponsoring brokers who accept escrow moneys shall maintain and deposit in a special account (hereinafter referred to as an escrow account), separate and apart from personal or other business accounts, all escrow moneys entrusted to the sponsoring broker while acting as a licensee, escrow agents or temporary custodians of the funds of others.
 - 1) The escrow accounts shall be non-interest bearing, unless the character of the deposit is such that payment of interest on the escrow account is

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otherwise required by law or unless the principals to the transaction specifically require, in writing, that the deposit be placed in an interest bearing account.

- 2) If an interest bearing account is required, the recipient of the interest shall be specifically indicated, in writing, by the principals of the transaction.
 - 3) A sponsoring broker may maintain more than one escrow account.
 - 4) Every escrow account, whether interest bearing or non-interest bearing, shall be maintained at a federally insured depository.
 - 5) **Commingling Prohibited.** Each sponsoring broker shall deposit only escrow moneys received in connection with any real estate transaction in an escrow account. The sponsoring broker shall not deposit personal funds in an escrow account, except the sponsoring broker may deposit from the sponsoring broker's own personal funds, and keep in any escrow account, an amount sufficient to avoid incurring service charges relating to the escrow account. The sum shall be specifically documented as being for service charges and the sponsoring broker shall have proof available that the amount of the sponsoring broker's own funds in the escrow account does not exceed the minimum amount required by the depository to maintain the account without incurring service charges. Transfer of funds as set forth in subsection (i)(4) shall not constitute commingling.
- c) The sponsoring broker shall provide a receipt to the payor of any cash constituting escrow funds and shall retain a copy of the receipt.
 - d) **Time of Deposit of Escrow Moneys**
 - 1) All escrow moneys accepted by a sponsoring broker shall be placed in the sponsoring broker's escrow account no later than the next business day:
 - A) following the transaction, as defined in Section 1450.100; or
 - B) After receipt of the escrow money, per the terms of the contract.
 - 2) If the funds are received on a day prior to a bank holiday, or any other day on which the bank is closed, the funds shall then be deposited on the next business day the depository is open.

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- e) A sponsoring broker serving as escrow agent shall notify all principals in writing if:
- 1) a principal fails to tender escrow moneys;
 - 2) a principal's payment of escrow moneys is dishonored by the financial institution on which it was drawn; or
 - 3) it appears from the signed contract that the amount of escrow moneys deposited is deficient.
- f) Maintenance of Escrow Moneys on Deposit in Escrow Account. The sponsoring broker shall keep all escrow moneys on deposit in an escrow account until a transaction is consummated or terminated, except to the extent that such escrow moneys, or any part of the escrow moneys, shall be disbursed according to the provisions set forth in subsection (g).
- g) Disbursement of Escrow Moneys. Once the payor's depository has honored the deposit of escrow funds, the sponsoring broker shall disburse escrow moneys according to the following requirements, as set forth in Section 20-20(a)(17) of the Act:
- 1) The sponsoring broker must disburse escrow moneys upon consummation or termination of the transaction. The actual terms of the contract regarding the release of the escrow moneys shall be adhered to by the sponsoring broker holding these escrow moneys. The disbursement must be according to the terms of the contract and must be:
 - A) made not later than the next business day following the sponsoring broker's receipt of notice of the consummation or termination of the transaction or
 - B) otherwise disbursed in accordance with the written direction of all principals to the transaction or their duly authorized agents.
 - 2) Commissions and/or fees earned by a sponsoring broker in any transaction shall be disbursed by that sponsoring broker from the funds deposited in an escrow account no earlier than the day the transaction is consummated or terminated and not later than the next business day after the transaction

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is consummated or terminated or otherwise in accordance with the written direction of all principals to the transaction or their duly authorized agents.

- 3) Authorized disbursements are those that are made on behalf of, and at the written direction of, all principals to the transaction or their duly authorized agents.
- 4) A sponsoring broker shall not withhold, for any period of time, an authorized disbursement of escrow moneys due to any claim for a commission or compensation to any licensee.
- 5) Transfer of escrow moneys to the closing agent for the transaction may be made up to 2 business days prior to the scheduled closing.
- 6) As set forth in Section 20-20(a)(17)(A)(i) of the Act, if, prior to the consummation or termination of the transaction, the sponsoring broker receives written direction from all of the principals to the transaction or their duly authorized agents agreeing to a disbursement of the escrow moneys, that sponsoring broker must disburse the escrow moneys according to the written directions. The disbursement must be made not later than the next business day following the sponsoring broker's receipt of the last required written direction.
- 7) The sponsoring broker may release escrow moneys as set forth in Section 20-20(a)(17)(A)(ii) of the Act that allows a sponsoring broker to disburse escrow moneys prior to the consummation or termination of the transaction in accordance with directions providing for the release, payment or distribution of escrow moneys contained in any written contract signed by the principals to the transaction or their duly authorized agents. The actual terms of the contract regarding the release of the escrow moneys shall be adhered to by the sponsoring broker holding these escrow moneys. For example, parties to a transaction sign a contract to purchase that includes language allowing the earnest money to be disbursed by the sponsoring broker if the transaction does not close as provided for in the contract if the sponsoring broker:
 - A) provides written notice to the parties as required by the contract at least 14 days prior to the intended disbursement of the earnest moneys;

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- B) indicates how the sponsoring broker intends to disburse the earnest money; and
 - C) indicates the date that the sponsoring broker must receive the parties' written objections to the proposed disbursement.
- 8) As set forth in Section 20-20(a)(17)(A)(iii) of the Act and notwithstanding any other requirements or responsibilities in this Part, if the sponsoring broker receives an order from a court of competent jurisdiction providing for the disbursement of the escrow moneys, that sponsoring broker must disburse the escrow moneys according to the terms of the court order.
- 9) For the purposes of this Section, "duly authorized agent" shall mean an attorney-in-fact, attorney-at-law who represents one of the principals to the transaction, or any other person the licensee can prove was authorized to act on behalf of a principal to the transaction.
- h) Disputes Regarding Escrow Moneys
- 1) In the event of a dispute in writing over the return or forfeiture of any escrow moneys held by the sponsoring broker or if a sponsoring broker has actual knowledge that any party to a transaction contests or disagrees with an anticipated disbursement of escrow moneys held by that sponsoring broker, the sponsoring broker shall continue to hold the deposit in the sponsoring broker's escrow account until:
 - A) the sponsoring broker has a written release from all parties or their duly authorized agents consenting to the disposition, in which case the escrow moneys must be disbursed according to the terms of the written direction no later than the next business day after the sponsoring broker's receipt of the last required written release;
 - B) a civil action is filed, by either the sponsoring broker or one of the parties to the transaction, to determine its disposition, at which time the escrow money may be deposited with the court;
 - C) the funds are turned over to the State Treasurer or such other appropriate State agency or officer designated under the Act or the Uniform Disposition of Unclaimed Property Act [765 ILCS 1025],

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because of inactivity of the account, inability to locate the parties, or inability of the parties to reach a resolution.

- 2) If the sponsoring broker files an interpleader action and the real estate contract authorizes the sponsoring broker to withdraw from the escrow account amounts necessary to reimburse the sponsoring broker for costs and reasonable attorney's fees associated with the interpleader action, costs and attorney's fees associated with that sponsoring broker's attempt to collect a commission or fee are excluded.
- i) Escrow Records. Each sponsoring broker who accepts escrow money shall maintain, in the sponsoring broker's office or place of business, a bookkeeping system in accordance with sound accounting principles, that shall consist of at least the following escrow records:
 - 1) Journal. A journal shall be maintained for each escrow account. The journal shall show the chronological sequence in which funds are received and disbursed by the sponsoring broker.
 - A) For funds received, the journal shall include the date the funds were received, the name of the person on whose behalf the funds are delivered to that sponsoring broker and the amount of the funds delivered.
 - B) For funds disbursed, the journal shall include the date of disbursement, the payee, the check number and the amount disbursed.
 - C) A running balance shall be shown after each entry for funds received or disbursed.
 - 2) Ledger. A ledger shall be maintained for each transaction. The ledger shall show the receipt and the disbursement of funds affecting a single transaction such as between buyer and seller, or landlord and tenant, or the respective parties to any other relationship. The ledger shall include the names of all parties to a transaction, the amount of funds received by the sponsoring broker and the date of receipt. The ledger shall show the date of any disbursement, the payee, the check number and the amount disbursed. The ledger shall segregate one transaction from another transaction. There shall be a separate ledger or separate section of each

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ledger, as the sponsoring broker shall elect, for each type of real estate transactions (e.g., lease). If the ledger and journal are computer generated from the same data entry, the sponsoring broker must maintain copies of the bank deposit slips, bank disbursement slips or other bank receipts to account for the data on the ledger.

- 3) **Monthly Reconciliation Statement.** Each sponsoring broker shall reconcile, within 10 days after receipt of the monthly bank statement, each escrow account maintained by the sponsoring broker, except when there has been no transactional activity during the previous month. Reconciliation shall include a written work sheet comparing the balances as shown on the bank statement, the journal and the ledger, respectively, in order to insure agreement between the escrow account, the journal and the ledger entries for the escrow account. Each reconciliation shall be kept for at least 5 years from the last day of the month covered by the reconciliation.
- 4) If escrow moneys are transferred from an escrow account to another account for disbursement, the sponsoring broker must maintain a copy of all records reflecting a disbursement from the other account.
- 5) **Master Escrow Account Log.** Each sponsoring broker shall maintain a Master Escrow Account Log identifying all escrow bank account numbers and the name and address of the bank where the escrow accounts are located. The Master Escrow Account Log must specifically include all bank account numbers opened for individual transactions, even if account numbers fall under another umbrella account number.
- 6) A sponsoring broker may employ a more sophisticated bookkeeping system based on sound accounting principles, including a system of electronic data processing equipment. Any such system must contain or produce printed records containing the information required by this Section, although it need not be in the same format as provided for in this Section.
- 7) The Division may provide approved journal, ledger, monthly reconciliation statement and Master Escrow Account Log samples.
- 8) As set forth in Section 20-20(a)(18) of the Act, the sponsoring broker shall make available to the Division within 24 hours after a request [for all](#)

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escrow records and related documents maintained in connection with the practice of real estate and located in the office as set forth in Section 1450.755.

- 9) Copies of all Escrow Money Instruments. Except as otherwise provided by law, the sponsoring broker shall retain copies of all escrow money instruments received from a principal as part of a transaction, including copies of all personal checks, cashier's checks, certified checks, money orders, promissory notes or other financial instruments. The sponsoring broker shall also retain copies and/or documentation of all funds disbursed from or transferred in or out of an escrow account.
- 10) If escrow records are lost, stolen or destroyed due to fire, flood or any other circumstances, the sponsoring broker must:
 - A) report the loss to the Division's enforcement division within 30 days by signature restricted delivery; and
 - B) immediately obtain copies of monthly bank statements, deposit and disbursement receipts, and any other available records to reconstruct the loss of escrow records.
- 11) A sponsoring broker may delegate the bookkeeping duties under this Part to another qualified person, including a ~~designated~~ named managing broker, a bookkeeper, certified public accountant, unlicensed assistant, licensed assistant or sponsored licensee. Compliance with bookkeeping duties remains the responsibility of the sponsoring broker. The sponsoring broker is ultimately responsible for the proper administration of the escrow account pursuant to this Part.
 - j) Sponsored Licensees. Sponsoring brokers shall institute a company policy to ensure that the sponsored licensees tender escrow moneys received in compliance with this Part. Sponsored licensees, whether managing brokers, brokers or leasing agents, may not maintain their own escrow accounts.
 - k) Branch Offices. Branch offices may maintain escrow accounts in compliance with this Part or may transmit all escrow moneys received to the principal office, but not to another branch office.

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- 1) If the branch office does maintain escrow accounts, all of the requirements of this Part apply, including maintaining all required escrow records, and submitting to the Division all required escrow forms.
 - 2) If the branch office does not maintain escrow accounts but instead transmits all escrow moneys received to the principal office, all escrow moneys must be transmitted by the branch office to the principal office no later than the next business day following the transaction. A transaction exists once an agreement has been reached and an accepted real estate contract is signed, or a lease is agreed to, by the parties. The branch office must maintain records showing the date the escrow moneys were transmitted to the principal office. Funds received by the principal office from a branch office shall be placed in the sponsoring broker's escrow account not later than the next business day following receipt of the funds from the branch office.
- l) Escrow Requirements for Property Management Activities. Security deposits shall be maintained in an escrow account for the duration of the lease, unless the tenant waives this requirement in writing and except if prohibited by State laws and local ordinances. The waiver, if included in the lease, shall appear in bold print.
- m) Notice to the Division of the Identity of All Escrow Accounts and the Consent to Examine and Audit All Accounts
- 1) Each sponsoring broker shall, at the time of the original application for licensure ~~and at the time of renewal of licensure~~, on forms provided by the Division, provide the name of the banks or other recognized depositories in which each escrow account is maintained, the name of each account, and the names of the persons authorized to withdraw funds from those accounts, and shall, as a condition of licensure, consent to the examination and audit by the Division of all escrow accounts, whether or not the account is identified on the form.
 - 2) A new form shall be executed by the sponsoring broker and submitted to the Division:
 - A) within 10 days after a change of depository, method of doing business or persons authorized to make withdrawal; and

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- B) each time a new escrow account is opened. A new form shall not be required each time a new escrow account is opened for an individual transaction and when the account falls under an umbrella account that has already been identified in a prior form. The identity of each of these individual escrow accounts must be included in the Master Escrow Account Log required by subsection (i)(5).
- n) Violations. Any licensee who violates this Part may be deemed to have endangered the public interest under Section 20(a)(21) of the Act and may be subject to a temporary suspension as set forth under Section 20-65 of the Act.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.775 Written Agreements

- a) No licensee shall solicit, accept or execute any contract or other document relating to a real estate transaction that contains any blanks with the intention of filling them in after signing or initialing the contract or other document.
- b) No licensee shall make any addition to, deletion from or alteration of any signed contract or other document relating to a real estate transaction without the written, ~~telefax or telegraphic~~ consent or direction from all signatories. No licensee shall process any contract or other document that has been altered after being signed, unless each addition, deletion or alteration is signed or initialed by all signatories at the time of the addition, deletion or alteration.
- c) A true copy of the original or corrected contract or other document relating to a real estate transaction shall be delivered or mailed within 24 hours after the time of signing or initialing the original or correction to the person signing or initialing the contract or other document.
- d) All forms used by licensees intended to become binding real estate contracts shall clearly state that fact in the heading in large bold type. No licensee shall use a form designated Offer to Purchase when it is intended that the form shall be a binding real estate contract.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

SUBPART I: DISCIPLINE RULES AND PROCEDURES

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Section 1450.900 Unprofessional Conduct

Conduct that constitutes dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public includes, but is not limited to:

- a) Failure to act in the best interests of a client.
- b) Deliberately misleading a client as to the market value of property.
- c) Failing to advertise the property as obligated by the listing agreement.
- d) Deliberately misrepresenting to prospective purchasers or their agents the condition of property or the availability of access to show the property.
- e) Purchasing or transferring of property through an intermediary in order to conceal the purchase by the licensee.
- f) Inducing a seller to list property through false representations.
- g) Inducing a seller through false representations or false promises to transfer property to the licensee.
- h) Taking unfair advantage of a client's or customer's age, disability or lack of understanding of the English language.
- i) Engaging in licensed activities with the public or other real estate licensees in a manner that is abusive, harassing or lewd.
- j) Representing oneself as a sponsoring broker or ~~designated~~ named managing broker without providing actual supervision and management of the real estate entity or licensees.
- k) Failing to reasonably safeguard confidential information or improperly using confidential information.
- l) Obstructing an inspection, audit, investigation, examination or disciplinary proceeding.
- m) Violation of Section 1450.750 (Special Accounts).

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- n) Assisting or inducing a licensee to violate the Act or this Part.
- o) Any conduct constituting a breach of duty to the client causing harm to the client in the future. In establishing harm, the Department need not prove actual economic damage to the client.
- p) Use of a managing broker license to permit or enable a broker, leasing agent or other individual to operate or manage a licensed real estate entity without actual participation in and control of that entity by the ~~designated~~named managing broker.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.905 Temporary Suspension

The Secretary may temporarily suspend a license without a hearing, simultaneously with the institution of proceedings for a hearing provided for in Section 20-60 of the Act, if the Secretary finds evidence indicating public interest, safety or welfare imperatively requires emergency action. Emergency action is imperatively required when a licensee's conduct poses a threat that the public's or another licensee's money will be stolen or defalcated or that continued licensure of a licensee will be a threat to the safety of the public or another licensee.

- a) The Division may consider any one or more of the acts committed by a licensee including, but not limited to:
 - 1) Failure to account for or to remit any moneys or documents that belong to others as set forth in Section 20-20(a)(16) of the Act;
 - 2) Failure to maintain and deposit in a special or escrow account, separate and apart from personal and other business accounts, all escrow moneys belonging to others entrusted to a ~~designated~~named managing broker or sponsoring broker while acting as a licensee, escrow agent or temporary custodian of the funds of others, as set forth in Section 20-20(a)(17) of the Act;
 - 3) Failure to make escrow records and related documents for the immediately preceding 2 years and located in the sponsoring broker's office available, within 24 hours after request, to the Division during normal business hours, as set forth in Section 20-20(a)(18) of the Act and Section 1450.755. This

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action alone shall not be sufficient grounds for a temporary suspension;

- 4) Failure to make escrow records and related documents more than 2 years old that may not be located in the sponsoring brokers' office available, within 30 days after request, to the Division during normal business hours, in hard copy or electronically, as set forth in Section 20-20(a)(27) of the Act and Section 1450.755; and
 - 5) Commingling money or property of others with the licensee's own money or property, as set forth in Section 20-20(a)(22) of the Act.
- b) A petition for temporary suspension shall:
- 1) State the statutory basis for the action petitioned;
 - 2) Allege facts, supported by sufficient evidence; and
 - 3) Be presented to the Director either in person or by telephone and in the presence of a court reporter.
- c) An order for temporary suspension shall:
- 1) Contain sufficient notice regarding the basis for the action;
 - 2) Recite the statutory basis for the action;
 - 3) Demand immediate surrender of the license; and
 - 4) Be signed by the Director.
- d) A notice of temporary suspension shall accompany the order and shall:
- 1) Set a hearing date within 30 days after the date on which the order takes effect;
 - 2) Identify the location where the hearing will take place; and
 - 3) Provide information as to where the licensee may obtain the Division's Rules of Practice in Administrative Hearings (68 Ill. Adm. Code 1110).

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(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.915 Suspension or Revocation of a Sponsoring Broker or Designated Named Managing Broker License

- a) Suspension or Revocation of Sponsoring Broker
Upon the effective date of a suspension or revocation of the license of a sponsoring broker or sole proprietorship, unless an interim sponsoring broker or receiver is appointed by the sponsoring broker, sole proprietor or its representative, and subject to approval by the Division:
- 1) The licenses of all respective sponsored licensees are automatically inoperative. Each licensee may resume licensed activities only upon securing a properly completed 45 day sponsor card, signed either as a self-sponsored managing broker or by another sponsoring broker. Each leasing agent may resume leasing residential real estate only upon securing a properly completed 45 day sponsor card signed by a sponsoring broker.
 - 2) All brokerage agreements with the sponsoring broker, including listing agreements, are deemed expired under Section 10-25 of the Act, if a new sponsoring broker is not named within 7 business days. If a new sponsoring broker is named within 7 days, the suspended or revoked sponsoring broker shall notify, in writing, all clients who have an active brokerage agreement with the sponsoring broker, advising those clients that:
 - A) the brokerage agreement expired 7 business days after the suspension or revocation; and
 - B) the clients are legally authorized to enter into another brokerage agreement with another sponsoring broker.
 - 3) Suspensions or revocations of a sponsoring broker shall not have an effect on the enforceability of any pending, executed real estate contracts.
 - A) The suspended or revoked sponsoring broker shall send a written notice to all clients with a pending, executed real estate contract explaining the suspensions or revocations, and that the suspensions or revocations shall not have an effect on the enforceability of the

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pending, executed real estate contracts. The notice shall also identify the name, address, [email](#) and telephone number of the person in control of the escrow money. To the extent clients require additional real estate services, the notice shall provide that the clients may seek real estate services from another sponsoring broker.

- B) A suspension or revocation shall not preclude the receipt of any commission or other compensation earned by the suspended or revoked sponsoring broker or other formerly sponsored licensee prior to the effective date of the suspension or revocation of the sponsoring broker.
- 4) A broker shall not be entitled to compensation if the suspension or revocation directly relates to the transaction for which the compensation was earned. If the broker already received compensation related to the transaction leading to the suspension or revocation of the license, the Department or Board may consider that fact in issuing discipline.
- b) **Suspension or Revocation of a ~~Designated~~Named Managing Broker**
In the event of a suspension or revocation of a ~~designated~~named managing broker, offices and branch offices may operate for 15 days without a replacement ~~designated~~named managing broker. Within 15 days after a suspension or revocation of the ~~designated~~named managing broker, the sponsoring broker may submit to the Department a written request for authorization to continue operation, provided a ~~designated~~named managing broker assumes responsibility, in writing, for the operation of the office and agrees to personally supervise the operation of the office. Within 15 days after a suspension or revocation of a ~~designated~~ managing broker, if a replacement ~~designated~~named managing broker has not been secured or a written request for authorization to continue operation has not been submitted to the Department, the offices or branch offices must cease licensed activities.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.920 Inspections and Audits

- a) Inspections
 - 1) The Division is authorized to inspect those areas of a sponsoring broker's

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office open and generally available to the public at any time during normal business hours, with or without the sponsoring broker's consent. With the sponsoring broker or ~~designated~~named managing broker's consent or, without consent, with at least 24 hours notice, the Division may conduct a visual and physical inspection of the non-public areas of a sponsoring broker's office and interview any person, including any licensee or non-licensee, who may have knowledge or information about the licensee's real estate practice. The licensee may have an attorney present. The Division's action will not be postponed due to a licensee's attorney's unreasonable delay.

- 2) Except as otherwise allowed by subsection (b), upon any written or oral request by the Division for written documentation, a licensee shall produce the requested documentation within 30 days after the request.

b) Escrow Audits

The Division is authorized to audit special accounts, escrow records and documents related to any escrow accounts maintained by the licensee. Escrow audits may be conducted at any time with the sponsoring broker's consent or without consent with at least 24 hours notice. The licensee may have an attorney present. The Division's action will not be postponed due to a licensee's attorney's unreasonable delay. Escrow audits may include:

- 1) A review and examination of all required, original escrow records as set forth in this Part.
- 2) A review and examination of any document, including originals, related to a licensee's escrow accounts.
- 3) Interviews of any person, including any licensee or non-licensee, who may have knowledge or information about the licensee's practices for maintaining and administering escrow accounts.

- c) As set forth in Section 20-20(a)(18) and (27) of the Act, the Division is authorized to obtain a licensee's original records, including hard copy or electronic records, for the purposes of inspection, audit and reproduction. The Division shall promptly return all original documents or records to the licensee.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

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Section 1450.930 Case File Review Committee

- a) The Department and the Board may appoint a Case File Review Committee that shall be composed of at least 2 voting members of the Board, the Real Estate Coordinator, the Real Estate Chief of Investigations and the Real Estate Chief of Prosecutions or their designees. The Case File Review Committee members may take action set forth in this Section in person or through other means of communication.
- b) The Case File Review Committee may exercise the following duties and responsibilities:
 - 1) Recommend whether a case file be closed or refer the case file to Investigations or Prosecutions for further review and action.
 - 2) Recommend that cases of similar types of allegations be offered a standard disposition within a range recommended by the Board. A recommendation of an offer of standard disposition shall not restrict the Board from hearing an individual case at a hearing and issuing a recommendation based upon the individual facts and evidence in rebuttal, mitigation or aggravation in the individual matter nor shall a prior recommendation of standard disposition restrict the Case File Review Committee from recommending a different disposition in individual cases;
 - 3) Review reports and files submitted to the Case File Review Committee;
 - 4) Request and review any investigation or prosecution files that the Department may have closed; and
 - 5) Meet, concurrently or independently on an as needed basis and at the discretion of the Department, with members of the regulatory staff or Board members of related professions, including but not limited to auctioneers, ~~land sales, timeshare~~, appraisal, community association managers, home inspectors, mortgage loan originators or mortgage brokers, to discuss interrelated professional matters as needed.
- c) The Division shall prepare a monthly report to be presented to the Case File Review Committee indicating the following information:
 - 1) Number of investigation case files closed;

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- 2) Number of prosecution case files closed;
 - 3) Number of pending case files in the Division's Investigation Unit;
 - 4) Number of pending case files in the Division's Prosecution Unit;
 - 5) Number of reports and copies of any reports received from any peer review advisors used by the Division during the preceding month.
- d) The Case File Review Committee shall report a summary of its actions and findings at each Board meeting.
- e) The Case File Review Committee in determining what action to recommend or take or whether to recommend that the Division proceed with a formal complaint, investigation and/or prosecution of a case file, shall consider factors including, but not limited to:
- 1) the effect on the public's health, safety and welfare;
 - 2) any indication of fraud;
 - 3) any indication of commingling or embezzlement;
 - 4) evidence of escrow account shortages or discrepancies;
 - 5) refusal to provide escrow account records or related documents within the required time period; or
 - 6) prosecutorial merit.
- f) Disqualification of a Case File Review Committee member:
- 1) A Case File Review Committee member shall be recused from consideration of a case file when a conflict of interest, [or the appearance of a conflict of interest](#), or prejudice would prevent that Case File Review Committee member from being fair and impartial.
 - 2) Participation in the initial stages of the handling of a case file, including participation on the Case File Review Committee and in informal

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conferences, shall not bar a Case File Review Committee member from later participating in decision making relating to that case file as a formal complaint.

- g) Any meetings of the Case File Review Committee are an exception to the Open Meetings Act and shall be closed to the public, in accordance with 5 ILCS 120/2(c)(15).
- h) Nothing in this Section shall require the Department to utilize the services of the Case File Review Committee to close any case file; however, the Department shall be required, as set forth in this Section, to advise the Case File Review Committee of such actions that are taken by the Department.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.940 Rules of Practice in Administrative Hearings

The Department of [Financial and Professional Regulation](#) Rules of Practice in Administrative Hearings (68 Ill. Adm. Code 1110) shall apply to all Division administrative hearings.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.955 [Nonbinding Advisory Opinions](#)~~Letters~~

- a) The Division may issue [nonbinding](#) advisory [opinions](#)~~letters~~ on matters dealing with the interpretation and application of the Act, pursuant to Section 25-14 of the Act and this Part.
- b) Requests for [nonbinding](#) advisory [opinions](#)~~letters~~ shall be submitted in writing to the Division. The request shall include at a minimum the following:
 - 1) the name of the licensee [or applicant](#) on whose behalf the [nonbinding](#) advisory [opinion](#)~~letter~~ is sought;
 - 2) the factual situation or hypothetical factual situation on which the [nonbinding](#) advisory [opinion](#)~~letter~~ is sought;
 - 3) citations to any provisions of the Act, rules or cases that the licensee or the licensee's advisor believes is relevant to the issue, as well as a discussion

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of the relevance of the cited material to the issue on which advice is sought; and

- 4) a statement of the issue or issues on which the nonbinding advisory opinion~~advice~~ is sought.
- c) Pursuant to the Civil Administrative Code [20 ILCS 2105/2105] and Section 25-14 of the Act, the Department may establish a process to allow an applicant to request an evaluation of any prior criminal convictions to determine whether the applicant would be suitable for licensure pursuant to Section 5-25 of the Act.
- 1) The interested party shall submit relevant information related to a prior criminal conviction and an application for licensure as required by this Part, along with any required application fee, which shall be nonrefundable.
 - 2) Notwithstanding any other provision to the contrary, for purposes of obtaining a nonbinding advisory opinion related to a criminal conviction, the applicant need not previously complete the prerequisite education necessary for licensure in order to submit a request for a nonbinding advisory opinion.
 - 3) The Department shall evaluate the conviction and conduct hearings according to the terms enumerated in the Act and this Part, and issue a written opinion describing the Department's determination.
 - 4) Any application fees submitted by an applicant requesting a nonbinding advisory opinion for a criminal conviction shall have the fee credited toward a completed application for licensure, if submitted within two years after the date the nonbinding advisory opinion is issued.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

SUBPART J: GRANTING VARIANCES

Section 1450.1000 Granting Variances

a) The Director may grant variances from this Part in ~~individual~~ cases in which he or she finds that:

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- ~~a1)~~ the provision from which the variance is granted is not statutorily mandated;
- ~~b2)~~ no party will be injured by the granting of the variance; and
- ~~c3)~~ the rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.
- ~~db)~~ The Director shall notify the Board when of his or her intention to grant a variance has been granted by posting the variance on the Department's website, and the reasons for granting the variance, at a meeting of the Board, prior to granting the variance.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

SUBPART K: EDUCATION PROVIDERS, INSTRUCTORS, AND COURSE APPROVAL

Section 1450.1100 Application for Education Provider~~Pre-License School~~ License and ~~Pre-License School Branch License and~~ Other Requirements

~~The Division may consider the recommendation of the Advisory Council regarding a pre-license school application and submitted documentation.~~

- a) A person seeking to provide pre-license education, ~~including~~ the 30 hour post-license broker course, and CE shall submit:
 - 1) a signed and completed education provider's~~pre-license school~~ application on forms provided by the Division;
 - 2) the required fee set forth in Section 1450.130;
 - 3) a course description, learning objectives, comprehensive timed outline, and, when applicable, the final examination, ~~and~~ answer key for each course, and final~~an~~ exam proctor policy; and any other information required by the Department; and
 - 4) applications and fees for each ~~pre-license~~ course, as set forth in Section 1450.1105(a).
- b) The education program for an education provider~~a pre-license school~~ shall:

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- 1) Be approved by the education provider's~~school's~~ governing and/or supervising body;
 - 2) Only use instructors with a valid ~~pre-license~~ instructor license, as set forth in the Act and ~~Sections~~Section 1450.1115 and 1450.1145;
 - 3) Have a curriculum that meets the requirements of Section 1450.1105; and
 - 4) Administer a proctored final ~~course~~ examination, when necessary, as outlined in Section 1450.1105.
- c) Facilities
- 1) Education providers~~Pre-license schools~~ must provide an office in Illinois for the maintenance of all records, office equipment and office space necessary for customer service.
 - 2) Education providers~~Pre-license Schools~~ must provide email or phone call assistance for customer service.
 - 3) The premises, equipment and facilities of the education provider~~pre-license school~~ shall comply with all applicable community fire codes, building codes and health and safety standards.
 - 4) Education providers~~Pre-license Schools~~ are subject to inspection prior to licensure or at any time thereafter by the Division. The inspection shall be during regular business hours, with at least 24 hours advance notice of the inspection.
 - 5) No education provider~~pre-license school~~ shall conduct business~~be maintained~~ in a private residence.
 - 6) Whenever an education provider~~a pre-license school~~ intends to operate at a branch location other than the location of record, the education provider, ~~an application~~ shall ensure compliance with Section 1450.1100(c)(3) and notify~~be submitted to~~ the Division, on forms approved for that notice, for each branch location other than the location of record. Each application shall be accompanied by the fee as required by Section 1450.130. All school branches are subject to the requirements of this Part.

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- d) Administration
- 1) No education provider~~pre-license school~~ shall advertise that it is endorsed, recommended or accredited by the Division. The education provider~~pre-license school~~ may indicate that the school is licensed by the Division.
 - 2) Every education provider~~pre-license school~~ shall submit to the Division, upon the Division's request, a schedule including location, date, time and name of each licensed pre-license or CE instructor for each licensed pre-license or CE course offered. The education provider~~pre-license school~~ shall notify the Division of any changes to that schedule.
 - 3) Education provider~~Pre-license schools~~ shall specify, in any advertising promoting pre-license or CE courses, the number of pre-license or CE credit hours that may be earned toward Illinois pre-license or CE requirements.
 - 4) Prior to enrollment, the education provider~~pre-license school~~ shall provide a prospective student with information that specifies:
 - A) the course of study to be offered;
 - B) the tuition to be charged;
 - C) the education provider's~~pre-license school's~~ policy regarding refund of unearned tuition when a student is dismissed or withdraws voluntarily or through hardship;
 - D) any additional fee to be charged for supplies, materials or books that become the property of the student upon payment; and
 - E) other matters that are material to the relationship between the education provider~~pre-license school~~ and the student.
 - 5) Each education provider~~pre-license school~~ shall maintain for each student a record including the course of instruction undertaken, dates of attendance and areas of study satisfactorily completed. Each student's record shall be maintained by the education provider~~pre-license school~~ for a period of 5 years and shall be available for inspection by the student or by the Division, or its designee, during regular business hours.

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- 6) The education provider~~A pre-license school~~ shall certify on the initial application that financial resources are available to equip and maintain the school, as ~~documented by, for example, a current balance sheet, an income statement or any similar evidence as~~ required by the Division.
- 7) The education provider~~pre-license school~~ shall ~~verify~~assure ~~verified~~ attendance at each pre-license course ~~and examination~~. No licensee shall receive pre-license credit for time not actually spent attending the pre-license course or, after July 1, 2019, if applicable, a passing score of 75% on the examination is not achieved.
- 8) The education provider shall verify attendance at each CE course. No licensee shall receive CE credit for time not actually spent attending the CE course or, after July 1, 2019, if applicable, if a passing score of 75% on the examination is not achieved.
- 9) The Division shall be reimbursed by any out-of-state education provider~~pre-license school~~ for all reasonable expenses incurred by the inspector to inspect its facilities.
- e) The Division shall notify the applicant in writing of its decision. In the event the application is denied, the basis for denial will be provided and the applicant advised that the applicant may request a hearing on the merits as set forth in Section ~~20-6030-5~~ of the Act, and Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100].
- f) The Division shall be immediately notified of all ~~proposed~~ changes in ownership of an education provider~~a pre-license school~~, on forms provided by the Division, ~~30 days prior to the change in ownership.~~
- g) An education provider~~A pre-license school~~ shall issue a transcript or certificate of completion, on forms provided by the Division, upon a student's successful completion of any a pre-license course. Each transcript or certificate of completion shall be authenticated by the education provider in a manner that cannot be replicated, to avoid fraud~~affixed with the school's seal.~~
- h) Monthly Reports. Every licensed education provider shall submit to the Division, on or before the 15th of each month, a report of applicants or licensees passing education courses offered by the education provider during the preceding calendar

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month.

- 1) The monthly reports shall, at a minimum, include the following information for each applicant or licensee:
 - A) the applicant's or licensee's name, address and, if applicable, license number;
 - B) the education provider's name and license number;
 - C) the education course name, course license number, and course category.
 - 2) The monthly reports shall be submitted in a format prescribed by the Department, or in a computer readable format, provided by the Division.
 - 3) A monthly report received by the Division after the 15th of the month shall be accompanied by an administrative fee of \$50.
 - 4) If an education provider fails to submit monthly reports and/or to pay the required late fees for three successive months, the education provider and courses offered by that education provider may be subject to discipline as set forth in Section 1450.1165 until all delinquent reports and fees are received by the Department.
- i) Education providers~~Pre license schools~~ offering a 30 hour real estate auction certification course must comply with Section 1450.1300.
 - j) Each university, college, community college, or school supported by public funds in the State of Illinois shall be deemed to qualify as an education provider, as long as each university, college, community college, or school meets the following criteria and certifies to the Department that:
 - 1) The facility is domiciled and supported by public funds in the State of Illinois;
 - 2) The instructors are approved and licensed by the Department;
 - 3) The courses offered are approved and licensed by the Department;

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- 4) The program that offers pre-license or continuing education is a not-for-profit division of the university, college, community college, or school; and
- 5) The courses and curriculum meets the requirements of Section 1450.1105(a) and (b).

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.1105 Application for Pre-License and Post-License Courses ~~and Curriculum~~

~~The Division may consider the recommendation of the Advisory Council regarding a pre-license course application and submitted documentation.~~

- a) A licensed education provider~~pre-license school~~ seeking to provide pre-license courses shall submit for each course:
 - 1) a signed and completed pre-license course application on forms provided by the Division;
 - 2) the required fee as set forth in Section 1450.130; and
 - 3) a course description, a comprehensive timed outline, and, when applicable, final examination, and answer key for each course, and final exam proctor~~proctor~~ policy, and, if applicable, any other information required by the Department. Each outline shall make reference to the textbook used and other material related to the course or subject matter, and shall conform to the standardized curriculum provided by the Division. The applicant shall make any education material referenced in the outline available to the Department, upon request.
- b) An education provider offering pre-license courses~~Pre-license schools~~ must provide the following pre-license broker courses:
 - 1) A 75 credit hour course including, but not limited to, the following topics: Introduction to License Law, Real Property, State and Federal Law, Real Estate Transactions, and Real Estate Career Paths.
 - 2) A 15 credit hour Applied Real Estate Principles course, as recommended by the Board and approved by the Department, presented in the classroom,

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~~by interactive webinar, or by online distance education, or by other interactive delivery method consisting of any of the following: Situational and Case Studies and Role Playing and Demonstration of Real Estate Activities primarily dealing with the application of the topics set forth in subsection (b)(1) to the practice of licensed activities.~~

- c) An education provider offering pre-license courses~~Pre-license schools~~ must provide the following post-license broker courses:
- 1) A 15 credit hour course covering License Law, State and Federal Laws and Agency and Real Estate Transactions.
 - 2) A 15 credit hour Applied Real Estate Practices course, as recommended by the Board and approved by the Department, presented in the classroom, by interactive webinar, or by online distance education.~~or by other interactive delivery method consisting of any of the following: Situational and Case Studies and Role Playing and Demonstration of Real Estate Activities primarily dealing with the application of the topics set forth in subsection (c)(1) to the practice of licensed activities.~~
- d) An education provider offering pre-license courses~~Pre-license schools~~ must provide the following pre-license managing broker courses:
- 1) A 30 credit hour Licensing, Operations, Escrow and Management course.
 - 2) A 15 credit hour Applied Management and Supervision course, as recommended by the Board and approved by the Department, presented in the classroom, by interactive webinar, or by online distance education.~~or by other interactive delivery method consisting of any of the following: Dispute Resolution Simulations, Supervision Situations, Escrow Procedures and Discipline Case Studies primarily dealing with the application of the topics set forth in subsection (d)(1) to the practice of licensed activities.~~
- e) Only those education providers that provide courses enumerated in subsections (b), (c) and (d) may provide CE core classes.
- f) A licensed real estate education provider may provide a 15 credit hour course as set forth in Section 5-10(a)(5) of the Act for pre-license leasing agents.

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- g) A licensed real estate education provider may provide a 30 credit hour real estate auction certification course as set forth in Section 5-32(b) of the Act for real estate auctioneers.
- he) Examinations. Each correspondence or home study course shall end in a mandatory proctored final examination, as set forth in Section 20-15(i)(6), prepared and provided by the licensed education provider and shall consist~~pre-license school consisting~~ of at least 25 questions for every 15 credit hours for which the minimum passing score shall be no less than 75%. The proctored final examination shall be provided by the education provider~~pre-license school~~ at the completion of every 15 credit hours or the conclusion of the course. The education provider's~~pre-license school's~~ registration material shall indicate to the student in writing if the proctored final examination will be electronic, in paper format, or both. Credit hours exclude any time devoted to taking the proctored final examination.
- if) Verified attendance by the licensed education provider for~~Attendance at all pre-~~license courses presented in a classroom, by interactive webinar, or by online distance education~~or by other interactive delivery method~~ is mandatory.
- ig) Each education provider~~school~~ shall provide time and facilities for conducting make-up classes for students absent from the regularly scheduled class. No more than 10% of the total credit hours may include make-up credit hours. Missing any make-up credit hours shall result in failure of the course.
- kh) The Department~~Advisory Council~~ may approve courses that incorporate additional real estate topics.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.1110 Application for Education Provider~~Pre-License School, Pre-License School Branch~~ and Course License Renewal

- a) Education provider~~Pre-license school, school branch~~ and course licenses, shall expire on June 30 of each odd-numbered year.
- b) Licensed education providers~~pre-license schools~~ shall be responsible for submitting:
- 1) a renewal application on forms provided by the Division;

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- 2) the required fee set forth in Section 1450.130; and
 - 3) a list of updated courses, course descriptions, comprehensive timed outlines, proctored final examinations and answer keys, excluding any clerical changes, and any other information required by the Department.
- c) Failure to receive a renewal form or failure to pay the renewal fee shall not constitute a valid reason for failure to renew a license.
 - d) Operation on an expired education provider~~pre-license school~~ license shall constitute unlicensed practice and may be grounds for discipline.
 - e) An education provider~~A pre-license school or branch~~ license expired for more than 2 years shall not be eligible for renewal. An education provider~~A pre-license school or branch~~ license expired for less than 2 years may be renewed after the education provider~~pre-license school~~ provides evidence that all qualifications of Section 1450.1100 have been met and the required fees set forth in Section 1450.130 have been paid.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.1115 Application for Pre-License Instructor License

~~The Division may consider the recommendation of the Advisory Council regarding a pre-license instructor application.~~

- a) A person seeking a pre-license instructor license shall meet the following requirements:
 - 1) Pass an examination provided and approved by the Division with a minimum score of 75%;
 - 2) Demonstrate expertise by:
 - A) holding an active broker or managing broker license for a minimum period of two years; ~~or~~
 - B) being admitted to the practice of law by the Supreme Court of Illinois; ~~or~~

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- C) prior teaching experience for a minimum period of 2 years; or
 - D) professional background and experience; and
- 3) Complete a 12 hour instructor training program administered over 2 or more days, approved by the Department Advisory Council, and comprised of:
- A) 6 hours devoted to instructor training and development; and
 - B) 6 hours devoted to teaching the content of the pre-license courses set forth in Section 1450.1105 ~~(b)(1), (c)(1) and (d)(1)~~.
- b) ~~No licensed pre-license instructor shall sit for any licensure examination except for the purpose of securing a license. Nothing in this subsection shall prevent the Division from using pre-license instructors to monitor and evaluate the examination.~~ e) The Division shall notify the applicant in writing of its decision. The Division, upon the advice of the Advisory Council, may restrict a pre-license instructor's license to teaching only certain pre-license courses or certain types of pre-license courses. In the event the application is denied, the basis for denial will be provided and the applicant advised that the applicant may request a hearing on the merits as set forth in Section 20-6030-5 of the Act, and Article 10 of the Illinois Administrative Procedure Act.
- c) A licensed pre-license instructor may teach any core curriculum or broker management CE course without obtaining a CE instructor license, but may not teach elective CE without obtaining a CE instructor license.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.1125 Pre-License Instructor License Renewal and Restoration

- a) Pre-license instructor licenses shall expire on June 30 of each odd-numbered year.
- b) Licensed pre-license instructors shall be responsible for submitting:
 - 1) a renewal application on forms provided by the Division;
 - 2) the required fee set forth in Section 1450.130; and

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- 3) certification of:
 - A) maintaining a valid pre-license instructor's license;
 - B) no lapse in licensure greater than 2 years; and
 - C) one of the following:
 - i) teaching at least one [pre-license or core continuing education](#) course during the period of licensure; or
 - ii) successful completion of the 12 hour instructor training program set forth in Section 1450.1115(a)(3). The 12 hour instructor training program shall not count towards the required leasing agent, broker or managing broker CE requirements.
- c) Failure to receive a renewal form or failure to pay the renewal fee shall not constitute a valid reason for failure to renew a license.
- d) Teaching pre-license courses on an expired pre-license instructor license shall constitute unlicensed practice and may be grounds for discipline.
- e) Restoration
 - 1) A pre-license instructor with an expired license may renew the license without paying any lapsed renewal fees provided that the license expired while the pre-license instructor was:
 - A) on active duty with the United States Army, United States Navy, United States Marine Corps, United States Air Force, United States Coast Guard or State Militia called into the service or training for the United States;
 - B) engaged in training or education under the supervision of the United States prior to induction into military service; or
 - C) serving as an employee of the Department.

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- 2) A pre-license instructor renewing a license as set forth in this subsection (e) may renew the license within a period of 2 years following the termination of service and is not required to reapply or complete any examination or instructor training to renew.
- f) Except as set forth in this Section, any pre-license instructor whose license has expired for more than 2 years shall meet the new applicant requirements as set forth in Section 1450.1115.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.1130 Application for Continuing Education School License and Other Requirements (Repealed)

~~The Division may consider the recommendation of the Advisory Council regarding a CE school application and submitted documentation.~~

- a) ~~A person seeking a CE school license shall submit:~~
 - 1) ~~a signed and completed CE school application on forms provided by the Division;~~
 - 2) ~~the required fee set forth in Section 1450.130; and~~
 - 3) ~~a course description, comprehensive timed outline, examination and answer key for each course, an exam proctor policy, and any other information required by the Department.~~
- b) ~~The education program for a CE school shall:~~
 - 1) ~~Be approved by the school's governing and/or supervising body;~~
 - 2) ~~Only use instructors with a valid CE instructor license as set forth in the Act and Section 1450.1145;~~
 - 3) ~~Have a curriculum that meets the requirements set forth in Section 1450.1135; and~~
 - 4) ~~Administer a final course examination as set forth in Section 1450.1135.~~

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- e) ~~Licensed pre-license schools seeking to offer CE courses shall apply for a CE school license as set forth in this Section.~~
- d) ~~The Division shall notify the applicant in writing of its decision. In the event the application is denied, the basis for denial will be provided and the applicant advised that the applicant may request a hearing as set forth in Section 30-5 of the Act.~~
- e) ~~Facilities:~~
 - 1) ~~CE schools must provide an office in Illinois for the maintenance of all records, office equipment and office space necessary for customer service.~~
 - 2) ~~CE schools must provide phone call assistance for customer service.~~
 - 3) ~~The premises, equipment and facilities of the CE school shall comply with all applicable community fire codes, building codes and health and safety standards.~~
 - 4) ~~CE schools are subject to inspection prior to licensure or at any time thereafter by the Division. The inspection shall be during regular business hours, with at least 24 hours advance notice of the inspection.~~
 - 5) ~~No CE school shall be maintained in a private residence.~~
- f) ~~Administration~~
 - 1) ~~No CE school shall advertise that it is endorsed, recommended or accredited by the Division. The CE school may indicate that the school and CE courses have been licensed by the Division.~~
 - 2) ~~Every CE school shall submit to the Division, upon the Division's request, a schedule including location, date, time and name of each licensed CE instructor for each licensed CE course offered. CE schools shall notify the Division of any changes to that schedule.~~
 - 3) ~~CE schools shall specify in any advertising promoting CE courses the number of CE credit hours that may be earned toward Illinois CE requirements, including the number of core or elective CE course hours that may be earned.~~

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- 4) ~~Each CE school shall maintain for each student a record including the course of instruction undertaken, dates of attendance and areas of study satisfactorily completed. Each student's record shall be maintained by the CE school for a period of 5 years and shall be available for inspection by the student or by the Division, or its designee, during regular business hours.~~
- 5) ~~A CE school shall certify on the initial application that financial resources are available to equip and maintain the school, as documented by, for example, a current balance sheet, an income statement or any similar evidence required by the Division.~~
- 6) ~~A CE school shall assure verified attendance at each CE course and examination. No licensee shall receive CE credit for time not actually spent attending the CE course or if a passing score of 70% on the examination is not achieved.~~
- 7) ~~The Division shall be reimbursed by any out-of-state CE school for all reasonable expenses incurred by the inspector to inspect its facilities.~~
- g) ~~Monthly Reports. Each licensed CE school shall submit to the Division, on or before the 15th of each month, a report of licensees passing CE courses offered by the CE school during the preceding calendar month.~~
 - 1) ~~The monthly reports shall, at a minimum, include the following information for each licensee:
 - A) ~~the licensee's name, address and license number;~~
 - B) ~~the CE school's name and license number;~~
 - C) ~~the CE course name, course license number, course category (Core A, Core B or elective) and credit hours; and~~
 - D) ~~other information required by the Division.~~~~
 - 2) ~~If no courses were given by a CE school during the preceding calendar month that CE school shall report in writing that no courses were given.~~

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- 3) ~~The monthly reports shall be submitted on forms, or in a computer readable format, provided by the Division.~~
- 4) ~~There is no processing fee for a monthly report submitted in the computer readable format specified by the Division. Each monthly report, submitted on paper or in a format specified by the Division, shall be accompanied by a processing fee of \$.50 per licensee, per course listed on the report, payable by check to the Department of Financial and Professional Regulation.~~
- 5) ~~A monthly report received by the Division with a postmark after the 15th of the month shall be accompanied by an administrative fee of \$200 and the fees set forth in subsection (g)(4).~~
- 6) ~~If a CE school fails to submit monthly reports and/or to pay the required fees for three successive months, then the courses offered by that school may be subject to discipline as set forth in Section 1450.1165 until all delinquent reports and fees are received by the Division. The Division shall send notice to the school of an informal conference, with a representative of the Advisory Council and the Division as set forth in Section 30-15(d) of the Act by certified or registered mail, return receipt requested, or by other signature restricted delivery service.~~
- h) ~~A CE school shall issue a certificate of completion, on forms approved by the Division, upon a student's successful completion of a CE course. Each certificate of completion shall be signed or otherwise authenticated by the CE school.~~
- i) ~~The Division shall be notified of all proposed changes in ownership of a CE school, on forms provided by the Division, 30 days prior to the change in ownership.~~

(Source: Repealed at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.1135 Application for Continuing Education Courses and Curriculum

~~The Division may consider the recommendation of the Advisory Council regarding a CE course application and submitted documentation.~~

- a) A licensed Education Provider~~CE school~~ seeking to provide CE courses, ~~including electives and distance education courses,~~ shall submit:

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- 1) a signed and completed CE course application on forms provided by the Division;
 - 2) the required fee set forth in Section 1450.130; and
 - 3) a course description, learning objectives, comprehensive timed outline, course objectives and, when required, the final examination and answer key for each course, exam proctor policy, and written proctor agreement, Materials, materials to be provided to the students, and any other information may be required by the Department. Each outline shall make reference to the textbook used, if applicable, and other material related to the course or subject matter and shall conform to a standardized curriculum approved by the Division.
- b) CE courses shall comply with a standardized curriculum provided by the Division with the advice of the Board~~Advisory Council~~.
- c) A licensee may earn credit for a specific CE course only once during the renewal period.
- d) Each CE course shall include one or more subjects from either the core category, as set forth in Sections 1450.450(b)(3)(A) and 1450.540(b)(3)(A), or elective category, as set forth in Sections 1450.450 (b)(3)(B) and 1450.540 (b)(3)(B), regardless of whether students are in a classroom or are being taught by an interactive webinar or online distance education~~attending via other interactive delivery method or participating in a distance education course~~. All CE courses shall be a minimum of 23 credit hours and shall be offered, at a minimum, in 23 hour increments. ~~Each 3-hour increment shall be a course approved by the Advisory Council~~. The education provider~~CE school~~ shall clearly indicate on the certificate of completion the number of credit hours earned from each CE course and identify whether the course was from the Core A, Core B or elective category.
- e) All CE courses shall:
- 1) Contribute to the advancement, integrity, extension and enhancement of professional skills and knowledge in the practice of licensed activities; and
 - 2) Provide experiences that contain subject matter and course materials relevant to that set forth in Section 5-70 of the Act.

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- f) Each CE course, except those offered in a classroom, by interactive webinar, or by online distance education, shall end in a mandatory proctored final exam prepared and provided by the licensed education provider~~CE school~~ consisting of at least 25 questions for every 23 credit hours for which the minimum passing score shall be no less than 75%, after July 1, 2019.~~70%~~ The education provider's~~CE school's~~ registration material shall indicate to the student in writing if the examination will be electronic, in paper format or both. Credit hours exclude any time devoted to taking the examination.
- 1) Pursuant to Section 5-70(j) of the Act, no more than 6 hours of CE credit may be taken ~~or earned~~ in one calendar day. The proctored final exam for a CE course or courses may be given at the end of each individual course or group of courses. For example, a licensee, who intends to take 12 hours of CE may complete the proctored final exams and earn CE credit for the courses at the end of each individual course, or group of courses, provided the licensee does not exceed the 6 hour limit of instruction per calendar day referenced in Section 5-70(j) of the Act ~~and Section 1450.1155(f) and (g) of this Part.~~
 - 2) All examinations shall be proctored pursuant to an exam proctor policy. Proctors must be impartial third parties (i.e., not a licensee's sponsoring broker, managing broker, ~~any~~-relative, or colleague~~ete.~~) as defined in Section 1450.100.
 - 3) If a student failed a CE examination twice, the student must successfully retake the CE course and pass the examination in order to receive credit.
 - 4) The education provider~~CE school~~ will provide a closed book examination, unless waived by the Department~~Advisory Council~~ due to the complexity of the course material, and a proctored final examination.
- g) Verified attendance by the licensed education provider is mandatory at all courses presented in a classroom, by interactive webinar, or by online distance education.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.1137 Authorization for Third Party Designees to Review Courses

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- a) Pursuant to Section 30-15(j) of the Act, the Department may act as the Board's designee or retain a third party to review course materials submitted for approval.
- b) The Department may give due consideration to the recommendation of the Board on the engagement of the third party.

(Source: Added at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.1140 Application for Continuing Education School and Course License Renewal (Repealed)

- a) ~~CE school and course licenses shall expire on June 30 of each even numbered year.~~
- b) ~~Licensed CE schools shall be responsible for submitting:~~
 - 1) ~~a renewal application on forms provided by the Division;~~
 - 2) ~~the required fee set forth in Section 1450.130; and~~
 - 3) ~~a list of updated courses, course descriptions, comprehensive timed outlines, examinations, and answer keys and exam proctor policies, excluding any clerical changes, and any other information required by the Department.~~
- e) ~~Failure to receive a renewal form shall not constitute a valid reason for failure to submit the proper application for renewal.~~
- d) ~~Operation on an expired CE school license shall constitute unlicensed or unauthorized practice and shall be grounds for discipline or non-disciplinary action.~~
- e) ~~A CE school license expired for more than 2 years shall not be eligible for renewal. A CE school whose license expired for less than 2 years may be renewed after the CE school provides evidence that all qualifications of Section 1450.1130 have been met and the required renewal fees set forth in Section 1450.130 have been paid.~~

(Source: Repealed at 43 Ill. Reg. 1975, effective January 25, 2019)

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Section 1450.1145 Application for Continuing Education Instructor License

~~The Division may consider the recommendation of the Advisory Council regarding a CE instructor applicant.~~

- a) A person seeking a CE instructor license shall submit:
- 1) a signed and completed application on forms provided by the Division;
 - 2) the required fee set forth in Section 1450.130; and
 - 3) a certification that the applicant has attended and successfully completed a 6 hour instructor development course. This course may be the same as the 6 hour instructor training and development course set forth in Section 1450.1115(a)(3)(A). ~~For actively~~~~If you are currently a~~ licensed pre-license ~~instructors~~~~instructor~~, attendance at the 12 hour pre-license instructor training program set forth in Section 1450.1115(a)(3) will satisfy this requirement for CE instructor licensees. The 6 hour instructor training and development course shall not count towards leasing agent, broker, managing broker CE or pre-license instructor renewal requirements.
- b) ~~Applicants for a CE instructor license~~~~Certification of an individual applying to become a licensed CE instructor~~ shall meet at least one of the following criteria:
- 1) be licensed and active as a broker or managing broker for the immediately preceding 3 years;
 - 2) be currently admitted to practice law and for the immediately preceding 3 years, been engaged in real estate related work as part of the active practice of law, or taught real estate pre-~~license~~~~licensed~~ courses;
 - 3) be a credentialed real estate course instructor engaged in teaching for the immediately preceding 3 years;
 - 4) hold a professional designation, ~~including~~~~includings~~, but not limited to, a designated real estate instructor (DREI);
 - 5) be approved ~~to teach~~ by a ~~college or university to teach a~~~~college's or university's~~ real estate degree program;

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- 6) be licensed or certified to engage in the business of certified real estate appraiser, certified mortgage loan originator, home inspector, auctioneer, or certified public accountant, or other related profession as established by the Department~~appraisal, finance or related real estate occupations (not including leasing agents or real estate auction certification holders)~~ for the immediately preceding 3 years; or
- 7) be qualified by experience or education as set forth in Section 30-~~2515(b)(9)~~ of the Act. In determining whether a person is qualified to teach CE under that Section, the Division may consider:
- A) teaching experience;
 - B) real estate experience; and
 - C) any real estate, business or legal education.
- c) Notwithstanding any other provision to the contrary, licensed~~Licensed~~ pre-license instructors are qualified as CE instructors if they submit a CE instructor application to the Division and pay the required fee set forth in Section 1450.130.
- d) The Division shall notify the applicant in writing of its decision ~~within 15 days~~. The Division, ~~upon the advice of the Advisory Council~~, may restrict a CE instructor's license to teaching only certain CE courses or certain types of CE courses. In the event the application is denied, the reasons will be provided and the applicant advised that the applicant may request a hearing on the merits as provided for in Section ~~20-6030-5~~ of the Act and Article 10 of the Illinois Administrative Procedure Act.
- e) A CE instructor who wishes to teach any core curriculum or broker management CE course shall also hold a valid pre-license instructor license in addition to holding a valid CE instructor license.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.1150 Continuing Education Instructor License Renewal and Restoration

- a) CE instructor licenses shall expire on June 30 of each ~~oddeven~~-numbered year.

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- b) Licensed CE instructors shall be responsible for submitting:
 - 1) a renewal application on forms provided by the Division;
 - 2) the required fee set forth in Section 1450.130; and
 - 3) one of the following:
 - A) certification of teaching at least 2 CE courses during the last 6 years; or
 - B) successful completion of the 6 hour instructor training and development course set forth in Section 1450.1145(a).
- c) Failure to receive a renewal form or failure to pay the renewal fee shall not constitute a valid reason for failure to renew a license.
- d) Teaching CE courses on an expired license shall constitute unlicensed practice and shall be grounds for discipline or non-disciplinary action.
- e) Restoration
 - 1) A CE instructor with an expired license may renew the license without paying any lapsed renewal fees provided that the CE license expired while the instructor was:
 - A) on active duty with the United States Army, United States Navy, United States Marine Corps, United States Air Force, United States Coast Guard or State Militia called into the service or training for the United States;
 - B) engaged in training or education under the supervision of the United States prior to induction into military service; or
 - C) serving as the Director or as an employee of the Department.
 - 2) A CE instructor renewing a license as set forth in this subsection (e) may renew the license within a period of 2 years following the termination of service and is not required to reapply or complete any examination or instructor training to renew.

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- f) A CE instructor whose license is expired for more than 2 years shall meet the new application requirements set forth in Section 1450.1145.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.1155 Correspondence or Home Study~~Distance Education~~ Courses

The Division may consider the recommendation of the ~~Board Advisory Council~~ regarding correspondence or home study course curriculum~~distance education~~. Correspondence or home study~~Distance education~~ courses are non-interactive courses in which students review and learn material through self-study, without any mandatory interaction with a licensed instructor and whose participation and attendance cannot be verified. ~~Distance education programs include, but are not limited to, courses presented through the internet and print media (i.e., audio-tape recording, written materials, video-tape recording, CD or DVD)~~

- a) The following are not eligible as correspondence or home study courses~~for distance education~~:
- 1) Pursuant to Section 30-15(i)(2), core continuing education;
 - 2) the 15 hour Broker Pre-license Applied Real Estate Principles course set forth in Section 5-27(a)(5) of the Act and Section 1450.1105(b)(2);~~the 12 hour broker management CE course set forth in Section 5-70(b) of the Act;~~
 - 32) 15 hours of the 30 hour broker post-license Applied Real Estate Practices course set forth in Section 5-50(b) of the Act;
 - 43) the 12 hour broker management CE course set forth in Section 5-70(b) of the Act;~~the 15 hour Applied Real Estate Principle course set forth in Section 5-27(a)(5) of the Act and Section 1450.1105(b)(2);~~ and
 - 54) the 15 hour Managing Broker Pre-license Applied Management and Supervision course set forth in Section 5-28(a)(5) of the Act and Sections 1450.1105(d)(2).
- b) Correspondence or home study~~Distance education~~ courses shall be provided by a licensed education provider to a licensed pre-license or CE school and meet the requirements set forth in Sections 1450.1100 and, 1450.1105, ~~1450.1110, 1450.1130, 1450.1135 and 1450.1140~~ as applicable, and any additional

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requirements established by the Act and this Part, except:

- 1) The licensed education provider shall be responsible for ensuring that the proctor verifies~~Verified~~attendance is only required for taking at the proctored final examination~~examinations~~. The identity of each student must be verified by valid and unexpired photo identification (i.e., driver's license, state identification card, passport, etc.) prior to the start of the examination.
 - 2) Classroom instruction or other interactive delivery method is not permitted for correspondence or home study~~distance education~~ as the intent is for the student~~licensees~~ to review and learn the material on their own.
 - 3) The examination site for correspondence or home study~~distance education~~ shall be determined by the education provider~~school~~ and shall be proctored by a representative of the education provider~~school~~ or by means of electronic proctoring. A licensed instructor is not required to proctor an examination. Proctors must be impartial third parties (i.e., not a licensee's sponsoring broker, managing broker, ~~any~~ relative, or colleague~~ete~~).
- c) Students must be provided with complete information on the nature and the specifics of the correspondence or home study~~distance education~~ course. A student enrolled in a correspondence or home study~~distance education~~ course shall receive the following prior to beginning the course, as applicable:
- 1) Faculty contact information (telephone, email, voicemail, address, etc.);
 - 2) Homework assignments;
 - 3) Testing information (sites, proctors, etc.);
 - 4) Schedules and deadlines;
 - 5) List of student material required (software, specialized internet services, etc.);
 - 6) Grading and course credit information;
 - 7) Procedures for missed technology sessions;

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- 8) Resource information;
 - 9) Toll free numbers;
 - 10) Registration and withdrawal periods;
 - 11) Fees;
 - 12) Americans with Disabilities Act information, including special needs;
 - 13) Mailing procedures;
 - 14) Technology support services available to students; and
 - 15) Issuance of certificates of completion to students upon completion of the correspondence or home study~~distance education~~ courses.
- d) No continuing education credit shall be awarded or earned for a correspondence or home study course that fails to meet the proctored final examination requirements as set forth in Section 30-15(i)(6).
- e) Licensed education providers~~pre-license or CE schools~~ providing correspondence or home study~~distance education~~ courses shall establish written procedures for proctoring and grading examinations. There shall also be written course objectives for each course and written procedures for the prompt return of materials, if required. Copies of these procedures shall be provided to the Division upon application~~request~~. Proctors must be impartial third parties (i.e., not a licensee's sponsoring broker, managing broker, ~~any~~ relative, or colleague~~etc.~~) as defined in Section 1450.100.
- f) Licensed education providers~~pre-license or CE schools~~ providing correspondence or home study~~distance education~~ courses shall provide for a licensed instructor and technical support to be available during normal business hours to answer student questions.
- g) Correspondence or home study~~Distance education~~ courses shall require the same amount of time to complete as a classroom course. An~~For each distance education course initial application licensed, education provider~~~~pre-license or CE schools~~ shall include a comprehensive timed outline that is consistent with course hour requirements for each correspondence or home study course initial

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application.

- hg) Licensed education providers~~pre-license or CE schools~~ shall not administer a correspondence or home study~~distance education~~ course proctored final examination to a student until the student has had adequate time to complete the course.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.1160 Recruitment

- a) Licensees shall not recruit test takers to become associated with a licensee at test facilities where the Illinois Real Estate Licensing Examinations are conducted ~~before, during or after~~ the examination.
- b) No licensed education providers~~pre-license or CE school~~ shall allow the education provider's~~school~~ premises or classrooms to be used during class time by anyone to directly or indirectly recruit students to become associated with a licensee. Education providers~~Schools~~ and instructors shall promptly report any efforts to recruit students during class time to the Division.
- c) The education provider and testing vendor are prohibited from disclosing information about the student to anyone other than the Division, except as may be necessary for purposes of completing application or testing related and ministerial matters for the benefit of the student.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.1165 Discipline of Education Providers~~Schools~~, Instructors ~~and~~ Courses

- a) The ~~Board~~Advisory Council, after notice, can conduct an informal conference to review an education provider's~~a school, instructor's, instructor~~ or course's compliance with the Act and this Part. The ~~Board~~Advisory Council may make a recommendation to the ~~Department~~Board based upon its findings and conclusions resulting from that conference.
- b) Upon written recommendation of the Board to the Director, the Division may refuse to issue or renew a license, reprimand, fine, place on probation, suspend or revoke any license or otherwise discipline any license of any education provider~~pre-license school, pre-license school branch~~, pre-license instructor, pre-

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license course, ~~CE school~~, CE instructor, CE course, post-license course, or an applicant for any license when:

- 1) The quality of the course, instruction or program fails to meet the established criteria as set forth in the Act and this Part;
- 2) There is fraud or misrepresentation in applying for a license;
- 3) Any other professional license, accreditation or certification of the instructor, school or course is suspended, revoked or otherwise disciplined;
- 4) There is dismissal of students, without good cause, from a course that results in required hours not being met;
- 5) There is failure to adhere to approved course materials;
- 6) The licensee or applicant conducts a course while the license is nonrenewed, expired, suspended, revoked or surrendered;
- 7) There is plagiarism of course material;
- 8) A course is not conducted in the manner represented to the Division at the time licensure was requested or a course no longer complies with the criteria for licensure;
- 9) The licensee or applicant does not enforce policies relating to courses, instructor qualifications, student attendance or course scheduling;
- 10) The licensee misrepresents any material fact relating to a course;
- 11) The licensee fails to maintain, for a period of at least 5 years, accurate records of students' course completion or to fill, within 14 days, student or Department requests for course completion certificates;
- 12) The licensee or applicant subverted or attempted to subvert the integrity of an examination or course, including improper reproduction of an examination~~examinaiton~~, providing, orally or in writing, any questions or answers to an examination, cheating, bribery or otherwise aiding and abetting an applicant or licensee to subvert the integrity of an examination

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or course;

- 13) The ~~licensee~~ or applicant made any substantial misrepresentation, misleading or untruthful advertising, including without limitation guaranteeing success or a "pass score" on any examination, exam or in any course or using any trade name or insignia of membership in any educational or any real estate organization of which the applicant or licensee is not a member;
- 14) The ~~licensee~~ or applicant taught real estate courses without being qualified, including, but not limited to, being unapproved by the Division, being unlicensed, having a nonrenewed license or being uncertified or aids and abets an unqualified individual to teach a real estate course;
- 15) The licensee or applicant failed to provide information to the Division as required under any provision of the Act or this Part;
- 16) The licensee or applicant disregarded or violated any provision of the Act or this Part; or
- ~~17) A licensed pre-license school fails to maintain an average passing rate of at least 50% for all students who take a licensure examination for the first time over a 6 month period, either January through June or July through December; or~~
- 1748) A licensed pre-license or CE instructor fails to advise an education provider ~~a licensed pre-license or CE school~~ as to a license restriction set forth in Sections 1450.1115(d) and 1450.1145(d).
- c) Disciplinary proceedings shall be conducted as set forth in the Act and this Part.
- d) The Division may temporarily suspend a pre-license or CE course license without hearing for failure to comply with the Act or this Part upon recommendation of the ~~Board Advisory Council~~. No pre-license or CE credit shall be granted to any licensee for completing a pre-license or CE course for which the course license has been temporarily suspended.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.1170 Real Estate Education Advisory Council (Repealed)

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~~The Coordinator shall not count as a member of the Advisory Council for the purpose of determining whether a quorum is present.~~

(Source: Repealed at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.1175 Final Examination Requirements for Certain Education Delivery Methods

- a) The exemption of the final examination requirement pursuant to Section 30-15(i)(5) of the Act shall apply to CE and pre-license courses beginning on January 1, 2018.
- b) To qualify for the exemption of the final examination requirement, an education provider shall provide evidence to the Department, as may be required by it, that all students in a course offered in a classroom shall demonstrate their participation by:
 - 1) recording each student's attendance at the beginning of the class and at the end of each class; and
 - 2) retaining each student's participation either electronically or in hard copy for a minimum of 5 years; records, as required by this subsection (b), shall be subject to audit by the Department after 24 hours notice.
- c) To qualify for the exemption of the final examination requirement, an education provider shall provide evidence to the Department, at its request, that all students in an interactive webinar course demonstrate their participation by recording each student's attendance once at the beginning of the class and again in 30 minute intervals, but in any case not less than twice per class; students shall demonstrate their attendance by answering or responding to a polling question initiated by the instructor.
- d) To qualify for the exemption of the final examination requirement, an education provider shall provide evidence to the Department, as may be required by it, and verify that all students in an online distance education course demonstrate their participation and comprehension by:

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- 1) requiring each student respond or answer with a minimum of 75% correct responses or answers to demonstrate their comprehension. No more than 250 questions shall be required in any one course;
 - 2) recording each student's responses and answers, and verification of meeting the 75% minimum comprehension. No more than 250 questions shall be required in any one course;
 - 3) retaining the responses and the answers, either electronically or in hard copy, for a minimum of 5 years; the records are subject to audit by the Department after 24 hours notice;
 - 4) providing a mechanism that, should a student fail to meet the 75% score requirement, the student shall be able to be retested within the same course, provided that the questions, response choices, and answers are randomized and not in the same order as first presented to the student; and
 - 5) providing a mechanism to verify a student's identity at the beginning and conclusion of the course and maintain that verification with date and time stamp either electronically or in hard copy for a period of 5 years; the records are subject to audit by the Department after 24 hours notice.
- e) Education providers, upon request of the Department, shall provide records of student attendance and/or performance.

(Source: Added at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.1180 Proctor Standards

The proctor shall authenticate the identity of the student taking the examination; monitor the student and examination-taking process to ensure that the examination is completed without the aid of additional persons or resources, unless approved by the Department; and protect the confidentiality of educational materials. Proctors must be impartial third parties and may not be an applicant's or licensee's sponsoring broker, managing broker, relative, or colleague.

(Source: Added at 43 Ill. Reg. 1975, effective January 25, 2019)

SUBPART L: CONTINUING EDUCATION TRANSITIONAL PROVISIONS

Section 1450.1205 Continuing Education Schools and Courses

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- a) For any CE schools and courses whose licenses expired on June 30, 2018 and were extended by variance, and that are in good standing and continued operation as of February 1, 2019, the license shall be extended to June 30, 2019.
- b) All CE school licenses extended pursuant to subsection (a) shall expire on June 30, 2019 and shall not be renewed.
- c) All Core A and Core B course licenses extended pursuant to subsection (a) shall expire on June 30, 2019 and shall not be renewed.
- d) Any elective course extended pursuant to subsection (a) may be renewed after June 30, 2019 by an education provider that previously held a CE school license, so long as the former CE school has successfully made application for and received a license as an education provider.
- e) The requirement that brokers and managing brokers complete a 4 hour core curriculum course, as provided for in Section 5-70(e) of the Act, shall be effective as of, and be applicable to those brokers and managing brokers on, July 1, 2019.

(Source: Added at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.1210 Credit for Continuing Education Courses

- a) A leasing agent licensee who has successfully completed any licensed CE course between July 31, 2016 and July 31, 2018 shall receive credit towards the licensee's CE requirement for the prerenewal period for his or her July 31, 2018 renewal. A leasing agent licensee who has successfully completed any licensed CE course between August 1, 2018 and June 30, 2019 shall receive credit towards the licensee's CE requirement for the prerenewal period for his or her July 31, 2020 renewal.
- b) A broker licensee who has successfully completed any active and licensed CE course between April 30, 2016 and April 30, 2018 may use that CE towards the licensee's CE requirement for the prerenewal period for his or her April 30, 2018 renewal. A broker licensee who has successfully completed any active and licensed CE course between May 1, 2018 and June 30, 2019 may use that CE towards the licensee's CE requirement for the prerenewal period for his or her April 30, 2020 renewal.

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- c) A managing broker licensee who has successfully completed any active and licensed CE course between May 1, 2017 and April 30, 2019 shall receive credit towards the licensee's CE requirement for the prerenewal period for his or her April 30, 2019 renewal.

(Source: Added at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.1215 Pre-license Schools and Courses

- a) For any pre-license schools and courses whose licenses expire on June 30, 2019, and who are in good standing and continued operation as of February 1, 2019, the license shall be extended to June 30, 2019.
- b) All pre-license school licenses shall expire on June 30, 2019 and shall not be renewed.
- c) All pre-license course licenses shall expire on June 30, 2019 and shall not be renewed unless they comply with the new curriculum established in Section 1450.1105.
- d) The requirement that brokers and managing brokers complete a 4 hour core curriculum course, as provided for in Section 5-70(e) of the Act, shall be effective as of, and be applicable to those brokers and managing brokers on, July 1, 2019.

(Source: Added at 43 Ill. Reg. 1975, effective January 25, 2019)

Section 1450.1220 Education Provider, Course and Instructor Transition

- a) Beginning January 1, 2019, the Department shall initiate a 6 month pre-application period for the initiation of the education provider license, which shall implement the curriculum changes promulgated in Article 30 of the Act.
- b) The education provider license shall be issued starting July 1, 2019.
- c) Education providers, courses and instructors must meet the new criteria established in Article 30 of the Act for issuance of a license or a renewal.

(Source: Added at 43 Ill. Reg. 1975, effective January 25, 2019)

SUBPART M: REAL ESTATE AUCTION CERTIFICATION

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Section 1450.1300 Real Estate Auction Pre-Certification Education

- a) The 30 hour real estate certification course set forth in Section 5-32 of the Act shall include the following:
- 1) 18 hours relating to real estate including the following topics:
 - A) Illinois and federal statutes and rules governing real estate;
 - B) agency;
 - C) real estate advertising; and
 - D) any other subject matter recommended by the Department.
 - 2) 12 hours relating to auctions including the following topics:
 - A) Illinois and federal statutes and rules governing auctions;
 - B) auction advertising; and
 - C) any other subject matter recommended by the Department.
- b) The 30 hour real estate auction certification course may be completed in a classroom, ~~or~~ by [interactive webinar, or by an online distance education course](#)~~other interactive delivery~~.
- c) The Department may consider the recommendation of the [Board Advisory Council](#) regarding [the 30 hour real estate auction certification course curriculum](#)~~courses~~.

(Source: Amended at 43 Ill. Reg. 1975, effective January 25, 2019)

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- 1) Heading of the Part: Temporary Assistance for Needy Families
- 2) Code Citation: 89 Ill. Adm. Code 112
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
112.251	Amendment
112.252	Amendment
112.253	Repealed
112.254	Repealed
- 4) Statutory Authority: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13] and PA 100-587.
- 5) Effective Date of Rules: January 24, 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. 18285; October 12, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: No substantive changes were made to the text of the proposed rulemaking.
- 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? Yes
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Pursuant to PA 100-587, this rulemaking implements changes in Temporary Assistance for Needy Families (TANF) grant payment

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levels. The maximum benefit levels provided to TANF recipients shall increase as follows: beginning October 1, 2018, IDHS will increase TANF grant amounts in effect on September 30, 2018 to at least 30% of the most recent United States Department of Health and Human Services Federal Poverty Guideline's for each family size. TANF grants for child-only assistance units shall be at least 75% of TANF grants for assistance units of the same size that consist of a caretaker relative with children. Additionally, grant amounts under the TANF program may not vary based on TANF recipient's county of residence.

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

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield IL 62762

217/785-9772

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

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TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMSPART 112
TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

SUBPART A: GENERAL PROVISIONS

Section

112.1	Description of the Assistance Program and Time Limit
112.2	Time Limit on Receipt of Benefits for Clients Enrolled in Post-Secondary Education
112.3	Receipt of Cash Benefits Beyond the 60 Month Lifetime Limit
112.5	Incorporation by Reference
112.6	The Family Violence Option

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section

112.8	Caretaker Relative
112.9	Client Cooperation
112.10	Citizenship
112.20	Residence
112.30	Age
112.40	Relationship
112.50	Living Arrangement
112.52	Social Security Numbers
112.54	Assignment of Medical Support Rights
112.55	Electronic Benefits Transfer (EBT) Restrictions
112.60	Basis of Eligibility
112.61	Death of a Parent (Repealed)
112.62	Incapacity of a Parent (Repealed)
112.63	Continued Absence of a Parent (Repealed)
112.64	Unemployment of the Parent (Repealed)
112.65	Responsibility and Services Plan
112.66	Alcohol and Substance Abuse Treatment
112.67	Restriction in Payment to Households Headed by a Minor Parent
112.68	School Attendance Initiative

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112.69 Felons and Violators of Parole or Probation

SUBPART C: TANF EMPLOYMENT AND WORK ACTIVITY REQUIREMENTS

Section

112.70 Employment and Work Activity Requirements
112.71 Individuals Exempt from TANF Employment and Work Activity Requirements
112.72 Participation/Cooperation Requirements
112.73 Adolescent Parent Program (Repealed)
112.74 Responsibility and Services Plan
112.75 Teen Parent Personal Responsibility Plan (Repealed)
112.76 TANF Orientation
112.77 Reconciliation and Fair Hearings
112.78 TANF Employment and Work Activities
112.79 Sanctions
112.80 Good Cause for Failure to Comply with TANF Participation Requirements
112.81 Responsible Relative Eligibility for JOBS (Repealed)
112.82 Supportive Services
112.83 Teen Parent Services
112.84 Employment Retention and Advancement Project
112.85 Four Year College/Vocational Training Demonstration Project (Repealed)

SUBPART E: PROJECT ADVANCE

Section

112.86 Project Advance (Repealed)
112.87 Project Advance Experimental and Control Groups (Repealed)
112.88 Project Advance Participation Requirements of Experimental Group Members and Adjudicated Fathers (Repealed)
112.89 Project Advance Cooperation Requirements of Experimental Group Members and Adjudicated Fathers (Repealed)
112.90 Project Advance Sanctions (Repealed)
112.91 Good Cause for Failure to Comply with Project Advance (Repealed)
112.93 Individuals Exempt From Project Advance (Repealed)
112.95 Project Advance Supportive Services (Repealed)

SUBPART F: EXCHANGE PROGRAM

Section

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112.98 Exchange Program (Repealed)

SUBPART G: FINANCIAL FACTORS OF ELIGIBILITY

Section

112.100	Unearned Income
112.101	Unearned Income of Parent
112.105	Budgeting Unearned Income
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112.107	Initial Receipt of Unearned Income
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112.150	Assets
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- 112.152 Asset Disregards (Repealed)
- 112.153 Deferral of Consideration of Assets (Repealed)
- 112.154 Property Transfers (Repealed)
- 112.155 Income Limit
- 112.156 Assets for Independence Program

SUBPART H: PAYMENT AMOUNTS

Section

- 112.250 Grant Levels
- 112.251 Payment Levels
- 112.252 Payment Levels – ~~All in Group I~~ Counties
- 112.253 Payment Levels in Group II Counties ([Repealed](#))
- 112.254 Payment Levels in Group III Counties ([Repealed](#))
- 112.255 Limitation on Amount of TANF Assistance to Recipients from Other States (Repealed)

SUBPART I: OTHER PROVISIONS

Section

- 112.300 Persons Who May Be Included in the Assistance Unit
- 112.301 Presumptive Eligibility
- 112.302 Reporting Requirements for Clients with Earnings
- 112.303 Budgeting
- 112.304 Budgeting Schedule
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- 112.306 Foster Care Program
- 112.307 Responsibility of Sponsors of Non-Citizens Entering the Country Prior to 8/22/96
- 112.308 Responsibility of Sponsors of Non-Citizens Entering the Country On or After 8/22/96
- 112.309 Institutional Status
- 112.310 Child Care for Representative Payees
- 112.315 Young Parents Program (Renumbered)
- 112.320 Redetermination of Eligibility
- 112.330 Extension of Medical Assistance Due to Increased Income from Employment
- 112.331 Four Month Extension of Medical Assistance Due to Child Support Collections
- 112.332 Extension of Medical Assistance Due to Loss of Earned Income Disregard (Repealed)
- 112.340 New Start Payments to Individuals Released from Department of Corrections

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Facilities (Repealed)

SUBPART J: CHILD CARE

Section

- 112.350 Child Care (Repealed)
- 112.352 Child Care Eligibility (Repealed)
- 112.354 Qualified Provider (Repealed)
- 112.356 Notification of Available Services (Repealed)
- 112.358 Participant Rights and Responsibilities (Repealed)
- 112.362 Additional Service to Secure or Maintain Child Care Arrangements (Repealed)
- 112.364 Rates of Payment for Child Care (Repealed)
- 112.366 Method of Providing Child Care (Repealed)
- 112.370 Non-JOBS Education and Training Program (Repealed)

SUBPART K: TRANSITIONAL CHILD CARE

Section

- 112.400 Transitional Child Care Eligibility (Repealed)
- 112.404 Duration of Eligibility for Transitional Child Care (Repealed)
- 112.406 Loss of Eligibility for Transitional Child Care (Repealed)
- 112.408 Qualified Child Care Providers (Repealed)
- 112.410 Notification of Available Services (Repealed)
- 112.412 Participant Rights and Responsibilities (Repealed)
- 112.414 Child Care Overpayments and Recoveries (Repealed)
- 112.416 Fees for Service for Transitional Child Care (Repealed)
- 112.418 Rates of Payment for Transitional Child Care (Repealed)

AUTHORITY: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18,

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1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; preemptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; preemptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; preemptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; preemptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; preemptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; preemptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; preemptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; preemptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; preemptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 11, 1983; rules repealed and new rules adopted and codified at 7 Ill. Reg. 2720, effective February 28, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 11284, effective August 26, 1983; amended at 7 Ill. Reg. 13920, effective October 7, 1983; amended at 7 Ill. Reg. 15690, effective November 9, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 16105; amended at 7 Ill. Reg. 17344, effective

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December 21, 1983; amended at 8 Ill. Reg. 213, effective December 27, 1983; emergency amendment at 8 Ill. Reg. 569, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 4176, effective March 19, 1984; amended at 8 Ill. Reg. 5207, effective April 9, 1984; amended at 8 Ill. Reg. 7226, effective May 16, 1984; amended at 8 Ill. Reg. 11391, effective June 27, 1984; amended at 8 Ill. Reg. 12333, effective June 29, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17894; peremptory amendment at 8 Ill. Reg. 18127, effective October 1, 1984; peremptory amendment at 8 Ill. Reg. 19889, effective October 1, 1984; amended at 8 Ill. Reg. 19983, effective October 3, 1984; emergency amendment at 8 Ill. Reg. 21666, effective October 19, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21621, effective October 23, 1984; amended at 8 Ill. Reg. 25023, effective December 19, 1984; amended at 9 Ill. Reg. 282, effective January 1, 1985; amended at 9 Ill. Reg. 4062, effective March 15, 1985; amended at 9 Ill. Reg. 8155, effective May 17, 1985; emergency amendment at 9 Ill. Reg. 10094, effective June 19, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11317, effective July 5, 1985; amended at 9 Ill. Reg. 12795, effective August 9, 1985; amended at 9 Ill. Reg. 15887, effective October 4, 1985; amended at 9 Ill. Reg. 16277, effective October 11, 1985; amended at 9 Ill. Reg. 17827, effective November 18, 1985; emergency amendment at 10 Ill. Reg. 354, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 1172, effective January 10, 1986; amended at 10 Ill. Reg. 3641, effective January 30, 1986; amended at 10 Ill. Reg. 4885, effective March 7, 1986; amended at 10 Ill. Reg. 8118, effective May 1, 1986; amended at 10 Ill. Reg. 10628, effective June 1, 1986; amended at 10 Ill. Reg. 11017, effective June 6, 1986; Sections 112.78 through 112.86 and 112.88 recodified to 89 Ill. Adm. Code 160 at 10 Ill. Reg. 11928; emergency amendment at 10 Ill. Reg. 12107, effective July 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 12650, effective July 14, 1986; amended at 10 Ill. Reg. 14681, effective August 29, 1986; amended at 10 Ill. Reg. 15101, effective September 5, 1986; amended at 10 Ill. Reg. 15621, effective September 19, 1986; amended at 10 Ill. Reg. 21860, effective December 12, 1986; amended at 11 Ill. Reg. 2280, effective January 16, 1987; amended at 11 Ill. Reg. 3140, effective January 30, 1987; amended at 11 Ill. Reg. 4682, effective March 6, 1987; amended at 11 Ill. Reg. 5223, effective March 11, 1987; amended at 11 Ill. Reg. 6228, effective March 20, 1987; amended at 11 Ill. Reg. 9927, effective May 15, 1987; amended at 11 Ill. Reg. 12003, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 12432, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 12908, effective July 30, 1987; emergency amendment at 11 Ill. Reg. 12935, effective August 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13625, effective August 1, 1987; amended at 11 Ill. Reg. 14755, effective August 26, 1987; amended at 11 Ill. Reg. 18679, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 18781, effective November 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20114, effective December 4, 1987; Sections 112.90 and 112.95 recodified to Sections 112.52 and 112.54 at 11 Ill. Reg. 20610; amended at 11 Ill. Reg. 20889, effective December 14, 1987; amended at 12 Ill. Reg. 844, effective January 1, 1988; emergency

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amendment at 12 Ill. Reg. 1929, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 2126, effective January 12, 1988; SUBPARTS C, D and E recodified to SUBPARTS G, H and I at 12 Ill. Reg. 2136; amended at 12 Ill. Reg. 3487, effective January 22, 1988; amended at 12 Ill. Reg. 6159, effective March 18, 1988; amended at 12 Ill. Reg. 6694, effective March 22, 1988; amended at 12 Ill. Reg. 7336, effective May 1, 1988; amended at 12 Ill. Reg. 7673, effective April 20, 1988; amended at 12 Ill. Reg. 9032, effective May 20, 1988; amended at 12 Ill. Reg. 10481, effective June 13, 1988; amended at 12 Ill. Reg. 14172, effective August 30, 1988; amended at 12 Ill. Reg. 14669, effective September 16, 1988; amended at 13 Ill. Reg. 70, effective January 1, 1989; amended at 13 Ill. Reg. 6017, effective April 14, 1989; amended at 13 Ill. Reg. 8567, effective May 22, 1989; amended at 13 Ill. Reg. 16006, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16142, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 14 Ill. Reg. 705, effective January 1, 1990; amended at 14 Ill. Reg. 3170, effective February 13, 1990; amended at 14 Ill. Reg. 3575, effective February 23, 1990; amended at 14 Ill. Reg. 6306, effective April 16, 1990; amended at 14 Ill. Reg. 10379, effective June 20, 1990; amended at 14 Ill. Reg. 13652, effective August 10, 1990; amended at 14 Ill. Reg. 14140, effective August 17, 1990; amended at 14 Ill. Reg. 16937, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 338, effective January 1, 1991, for a maximum of 150 days; emergency amendment at 15 Ill. Reg. 2862, effective February 4, 1991, for a maximum of 150 days; emergency expired July 4, 1991; amended at 15 Ill. Reg. 5275, effective April 1, 1991; amended at 15 Ill. Reg. 5684, effective April 10, 1991; amended at 15 Ill. Reg. 11127, effective July 19, 1991; amended at 15 Ill. Reg. 11447, effective July 25, 1991; amended at 15 Ill. Reg. 14227, effective September 30, 1991; amended at 15 Ill. Reg. 17308, effective November 18, 1991; amended at 16 Ill. Reg. 9972, effective June 15, 1992; amended at 16 Ill. Reg. 11550, effective July 15, 1992; emergency amendment at 16 Ill. Reg. 11652, effective July 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 13629, effective September 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 17724, effective November 9, 1992; amended at 16 Ill. Reg. 20147, effective December 14, 1992; amended at 17 Ill. Reg. 357, effective December 24, 1992; amended at 17 Ill. Reg. 813, effective January 15, 1993; amended at 17 Ill. Reg. 2253, effective February 15, 1993; amended at 17 Ill. Reg. 4312, effective March 25, 1993; emergency amendment at 17 Ill. Reg. 6325, effective April 9, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 6792, effective April 21, 1993; amended at 17 Ill. Reg. 15017, effective September 3, 1993; amended at 17 Ill. Reg. 19156, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 19696, effective November 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 5909, effective March 31, 1994; amended at 18 Ill. Reg. 6994, effective April 27, 1994; amended at 18 Ill. Reg. 8703, effective June 1, 1994; amended at 18 Ill. Reg. 10774, effective June 27, 1994; amended at 18 Ill. Reg. 12805, effective August 5, 1994; amended at 18 Ill. Reg. 15774, effective October 17, 1994; expedited correction at 19 Ill. Reg. 998, effective October 17, 1994; amended at 19 Ill. Reg. 2845, effective February 24, 1995; amended at 19 Ill. Reg. 5609,

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effective March 31, 1995; amended at 19 Ill. Reg. 7883, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 10206, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 12011, effective August 7, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 12664, effective September 1, 1995; emergency amendment at 19 Ill. Reg. 15244, effective November 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15661, effective November 3, 1995; emergency amendment at 19 Ill. Reg. 15839, effective November 15, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 16295, effective December 1, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 845, effective January 1, 1996; amended at 20 Ill. Reg. 3538, effective February 15, 1996; amended at 20 Ill. Reg. 5648, effective March 30, 1996; amended at 20 Ill. Reg. 6018, effective April 12, 1996; amended at 20 Ill. Reg. 6498, effective April 29, 1996; amended at 20 Ill. Reg. 7892, effective June 1, 1996; emergency amendment at 20 Ill. Reg. 12499, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14820, effective November 1, 1996; amendment at 20 Ill. Reg. 15983, effective December 9, 1996; emergency amendment at 21 Ill. Reg. 662, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 940, effective January 7, 1997; amended at 21 Ill. Reg. 1366, effective January 15, 1997; amended at 21 Ill. Reg. 2655, effective February 7, 1997; amended at 21 Ill. Reg. 7391, effective May 31, 1997; emergency amendment at 21 Ill. Reg. 8426, effective July 1, 1997, for a maximum of 150 days; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 21 Ill. Reg. 15597, effective November 26, 1997; emergency amendment at 22 Ill. Reg. 4466, effective February 24, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 12197, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 14420, effective July 24, 1998; amended at 22 Ill. Reg. 14744, effective August 1, 1998; amended at 22 Ill. Reg. 16256, effective September 1, 1998; emergency amendment at 22 Ill. Reg. 16365, effective September 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 18082, effective October 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19840, effective November 1, 1998; emergency amendment at 23 Ill. Reg. 598, effective January 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 942, effective January 6, 1999; emergency amendment at 23 Ill. Reg. 1133, effective January 7, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 1682, effective January 20, 1999; emergency amendment at 23 Ill. Reg. 5881, effective May 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 6958, effective May 30, 1999; amended at 23 Ill. Reg. 7091, effective June 4, 1999; amended at 23 Ill. Reg. 7896, effective July 1, 1999; emergency amendment at 23 Ill. Reg. 8672, effective July 13, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 10530, effective August 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 12648, effective September 27, 1999; amended at 23 Ill. Reg. 13898, effective November 19, 1999; amended at 24 Ill. Reg. 289, effective December 28, 1999; amended at 24 Ill. Reg. 2348, effective February 1, 2000; amended at 25 Ill. Reg. 10336, effective August 3, 2001; emergency amendment at 25 Ill. Reg. 11584, effective September 1, 2001, for a maximum of 150 days;

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amended at 25 Ill. Reg. 14865, effective November 1, 2001; amended at 26 Ill. Reg. 138, effective January 1, 2002; amended at 26 Ill. Reg. 924, effective January 15, 2002; emergency amendment at 26 Ill. Reg. 3329, effective February 19, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 9803, effective June 24, 2002; amended at 26 Ill. Reg. 10492, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 10994, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17182, effective November 15, 2002; amended at 27 Ill. Reg. 4545, effective February 28, 2003; amended at 27 Ill. Reg. 7240, effective April 7, 2003; amended at 27 Ill. Reg. 18417, effective November 20, 2003; amended at 28 Ill. Reg. 1090, effective December 31, 2003; amended at 28 Ill. Reg. 5655, effective March 22, 2004; amended at 29 Ill. Reg. 5473, effective April 1, 2005; amended at 29 Ill. Reg. 8161, effective May 18, 2005; emergency amendment at 29 Ill. Reg. 16008, effective October 4, 2005, for a maximum of 150 days; emergency expired March 2, 2006; amended at 30 Ill. Reg. 9331, effective May 8, 2006; amended at 30 Ill. Reg. 11202, effective June 12, 2006; amended at 31 Ill. Reg. 6968, effective April 30, 2007; amended at 31 Ill. Reg. 10462, effective July 6, 2007; amended at 31 Ill. Reg. 15080, effective October 24, 2007; amended at 32 Ill. Reg. 2767, effective February 7, 2008; emergency amendment at 32 Ill. Reg. 10607, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 32 Ill. Reg. 17167, effective October 20, 2008; peremptory amendment at 32 Ill. Reg. 18051, effective November 15, 2008; emergency amendment at 33 Ill. Reg. 4977, effective March 19, 2009, for a maximum of 150 days; emergency expired August 15, 2009; emergency amendment at 33 Ill. Reg. 7320, effective May 21, 2009, for a maximum of 150 days; emergency expired October 17, 2009; amended at 33 Ill. Reg. 12763, effective September 8, 2009; amended at 33 Ill. Reg. 13831, effective September 17, 2009; amended at 33 Ill. Reg. 16828, effective November 30, 2009; emergency amendment at 34 Ill. Reg. 6930, effective May 1, 2010, for a maximum of 150 days; emergency expired September 27, 2010; amended at 34 Ill. Reg. 10085, effective July 1, 2010; amended at 35 Ill. Reg. 998, effective December 28, 2010; emergency amendment at 35 Ill. Reg. 6933, effective April 6, 2011, for a maximum of 150 days; emergency expired September 2, 2011; amended at 35 Ill. Reg. 17082, effective October 5, 2011; amended at 35 Ill. Reg. 18739, effective October 28, 2011; amended at 36 Ill. Reg. 15120, effective September 28, 2012; emergency amendment at 37 Ill. Reg. 15388, effective September 9, 2013, for a maximum of 150 days; amended at 38 Ill. Reg. 4441, effective January 29, 2014; amended at 38 Ill. Reg. 17603, effective August 8, 2014; amended at 38 Ill. Reg. 18646, effective August 29, 2014; amended at 39 Ill. Reg. 15563, effective December 1, 2015; amended at 41 Ill. Reg. 395, effective January 1, 2017; amended at 42 Ill. Reg. 8295, effective May 4, 2018; emergency amendment at 42 Ill. Reg. 18495, effective October 1, 2018, for a maximum of 150 days; amended at 43 Ill. Reg. 327, effective December 20, 2018; amended at 43 Ill. Reg. 2081, effective January 24, 2019.

SUBPART H: PAYMENT AMOUNTS

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Section 112.251 Payment Levels

The Payment Levels are flat, monthly standard amounts. The amount for an assistance unit is based on ~~two~~three variables:

- a) the number in the assistance unit; and
- b) the presence or absence of an adult in the assistance unit; ~~and~~
- ~~c) the grouping of the county in which the assistance unit lives.~~

(Source: Amended at 43 Ill. Reg. 2081, effective January 24, 2019)

Section 112.252 Payment Levels – Allin-Group I Counties

- a) The following Payment Levels are established for all counties~~Group I Counties~~.
- ~~b) The counties included in Group I are:~~

Boone	Kane	Ogle
Champaign	Kankakee	Whiteside
Cook	Kendall	Winnebago
DeKalb	Lake	Woodford
Dupage	McHenry	

SIZE OF ASSISTANCE UNIT	CARETAKER RELATIVE OR RELATIVES AND CHILD(REN) CHILD OR CHILDREN	CHILD OR CHILDREN ONLY
	<u>PAYMENT LEVEL</u>	<u>PAYMENT LEVEL</u>
1	\$ <u>304243</u>	\$ <u>228117</u>
2	<u>412318</u>	<u>309230</u>
3	<u>520432</u>	<u>390284</u>
4	<u>628474</u>	<u>471365</u>
5	<u>736555</u>	<u>552434</u>
6	<u>844623</u>	<u>633465</u>
7	<u>952657</u>	<u>714501</u>
8	<u>1,060691</u>	<u>795536</u>

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9	<u>1,168,727</u>	<u>876,576</u>
10	<u>1,276,765</u>	<u>957,616</u>
11	<u>1,384,807</u>	<u>1,038,659</u>
12	<u>1,492,848</u>	<u>1,119,703</u>
13	<u>1,600,894</u>	<u>1,200,751</u>
14	<u>1,708,941</u>	<u>1,281,800</u>
15	<u>1,816,991</u>	<u>1,362,851</u>
16	<u>1,924,043</u>	<u>1,443,908</u>
17	<u>2,032,098</u>	<u>1,524,965</u>
18	<u>2,140,156</u>	<u>1,605</u>

(Source: Amended at 43 Ill. Reg. 2081, effective January 24, 2019)

Section 112.253 Payment Levels in Group II Counties (Repealed)

- a) ~~The following Payment Levels are established for Group II Counties:~~
- b) ~~The counties included in Group II are:~~

Adams	Lee	Stephenson
Bureau	Livingston	Tazewell
Carroll	Logan	Vermilion
Clinton	Macon	Wabash
Coles	Macoupin	Warren
DeWitt	Madison	Will
Douglas	McDonough	
Effingham	McLean	
Ford	Mercer	
Fulton	Monroe	
Grundy	Morgan	
Henry	Moultrie	
Iroquois	Peoria	
Jackson	Piatt	
Jo Daviess	Putnam	
Knox	Rock Island	
LaSalle	Sangamon	
	St. Clair	

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SIZE OF ASSISTANCE UNIT	CARETAKER RELATIVE OR RELATIVES AND CHILD OR CHILDREN	CHILD OR CHILDREN ONLY
1	233	111
2	307	222
3	417	277
4	461	356
5	540	422
6	605	455
7	638	488
8	673	525
9	709	562
10	746	601
11	784	642
12	825	686
13	870	725
14	915	774
15	962	824
16	1,014	877
17	1,069	933
18	1,124	

(Source: Repealed at 43 Ill. Reg. 2081, effective January 24, 2019)

Section 112.254 Payment Levels in Group III Counties (Repealed)

- a) ~~The following Payment Levels are established for Group III Counties.~~
- b) ~~The counties included in Group III are:~~

Alexander	Edgar	Jasper	Montgomery	Shelby
Bond	Edwards	Jefferson	Perry	Stark
Brown	Fayette	Jersey	Pike	Union
Calhoun	Franklin	Johnson	Pope	Washington
Cass	Gallatin	Lawrence	Pulaski	Wayne
Christian	Greene	Marion	Randolph	White
Clark	Hamilton	Marshall	Richland	Williamson
Clay	Hancock	Mason	Saline	

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Crawford	Hardin	Massac	Schuyler
Cumberland	Henderson	Menard	Scott

SIZE OF ASSISTANCE UNIT	CARETAKER RELATIVE OR RELATIVES AND CHILD OR CHILDREN	CHILD OR CHILDREN ONLY
1	198	108
2	294	215
3	399	271
4	445	346
5	519	411
6	585	443
7	616	474
8	647	509
9	683	546
10	718	584
11	758	623
12	797	665
13	839	692
14	883	739
15	930	788
16	979	840
17	1,030	895
18	1,085	

(Source: Repealed at 43 Ill. Reg. 2081, effective January 24, 2019)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Appeals and Hearings
- 2) Code Citation: 89 Ill. Adm. Code 510
- 3) Section Number: 510.40 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing the Disabled Persons Rehabilitation Act [20 ILCS 2405] and authorized by Section 16 of the Civil Administrative Code of Illinois [20 ILCS 5/16].
- 5) Effective Date of Rule: January 24, 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, 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. 18287; October 12, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: No substantive changes were made to the text of the proposed rulemaking.
- 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
- 15) Summary and Purpose of Rulemaking: This rulemaking is being adopted to implement person centered planning provisions recently published by federal CMS in 42 CFR 441.301(c)(4)(5) and 441.710(a)(1)(2). The rulemaking also implements the provisions of PA 98-935. The rulemaking seeks to refine customer rights, person centered planning

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

processes and customer self-direction related to the Home Services Program (HSP) eligibility process, customer rights, service planning and other requirements of HSP providers.

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

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield IL 62762

217/785-9772

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER a: GENERAL PROGRAM PROVISIONSPART 510
APPEALS AND HEARINGS

Section	
510.5	Scope and Purpose
510.10	General Information
510.20	What May Be Appealed
510.30	What May Not Be Appealed
510.40	Grievant Rights
510.50	DHS-ORS Rights
510.60	Service Notice
510.70	Level I Hearings (Repealed)
510.80	Request for a Hearing
510.90	Impartial Hearings Officers
510.100	Informal Resolution Conference
510.103	Mediation Process for the Vocational Rehabilitation Program
510.105	Conduct of Hearings
510.110	Associate Director's Review for Residential/Training Programs for Persons with Visual Impairments
510.115	Associate Director's Decision for Hearings Regarding a Blind Vendor
510.120	Exhaustion of Administrative Remedies

AUTHORITY: Implementing the Disabled Persons Rehabilitation Act [20 ILCS 2405], and authorized by Section 16 of the Civil Administrative Code of Illinois [20 ILCS 5/16].

SOURCE: Adopted and codified at 7 Ill. Reg. 5230, effective April 1, 1983; amended at 7 Ill. Reg. 14526, effective October 19, 1983; amended at 9 Ill. Reg. 12325, effective July 30, 1985; preemptory amendment at 11 Ill. Reg. 6563, effective March 31, 1987; Part repealed, new Part adopted at 13 Ill. Reg. 15769, effective September 26, 1989; amended at 16 Ill. Reg. 8537, effective May 20, 1992; Emergency Amendments at 17 Ill. Reg. 11608, effective July 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20296, effective November 15, 1993; amended at 20 Ill. Reg. 8505, effective June 17, 1996; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 23 Ill. Reg. 13195, effective November 15, 1999; amended at 27 Ill. Reg. 9576, effective June

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13, 2003; amended at 32 Ill. Reg. 10047, effective June 26, 2008; amended at 43 Ill. Reg. 2097, effective January 24, 2019.

Section 510.40 Grievant Rights

- a) ~~DHS-DRS~~~~DHS-ORS~~ shall make the grievant aware, in a language that is understandable to the grievant, of the right to appeal pursuant to this Part, at the following times or events:
- 1) upon application for services;
 - 2) upon denial of application;
 - 3) after the initiation, or change, of services;
 - 4) upon termination of a service;
 - 5) upon closure;
 - 6) upon enrollment in a ~~DHS-DRS~~~~DHS-ORS~~ school; and
 - 7) upon entrance into the Business Enterprise Program for the Blind.
- b) The grievant may request an interpreter or reader, either sign (if sign-language is the grievant's usual mode of communication) or language (if the grievant's normally spoken language is other than English), to attend the hearing. The request should be made 10 days before the date of the hearing. A visually impaired grievant may either request a reader to read materials provided by ~~DHS-DRS~~~~DHS-ORS~~ in preparation for the hearing or request that the materials be provided in Braille, large print or audio tape. The request must be made within 5 working days after being informed of the date of the hearing.
- c) All meetings with the grievant pursuant to this Part must occur at a time and location convenient to both parties.
- d) If the grievant is a ~~Customer~~~~customer~~ of the VR Program (89 Ill. Adm. Code: Chapter IV, Subchapter b), ~~HSP (89 Ill. Adm. Code: Chapter IV, Subchapter d)~~ or Community Residential Services for the Blind and Visually Impaired (CRSBVI) program (89 Ill. Adm. Code: Chapter IV, Subchapter e), the grievant

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may have the right to the assistance of the ~~DHS-DRS~~~~DHS-ORS~~ Client Assistance Program (CAP) in the preparation, presentation and representation of the matters to be heard. For Customers of the Home Services Program (89 Ill. Adm. Code: Chapter IV, Subchapter d), the grievant may have the right to the assistance of the Illinois Department on Aging's Home Care Ombudsman Program in the preparation, presentation and representation of the matters to be heard. ~~DHS-DRS~~~~DHS-ORS~~ must inform the ~~Customer~~~~customer~~ of this right at the time of request for services, application and referral for services; ~~and~~ at service initiation or modification; ~~;~~ and at closure, as well as when the grievant requests a hearing.

- e) After a request for a hearing is received by ~~DHS-DRS~~~~DHS-ORS~~, the grievant will be provided with written notification of the grievant's right to:
- 1) review the case file and other related documents;
 - 2) be represented by a representative during any informal resolution conference in accordance with Section 510.100(d), during any mediation process pursuant to Section 510.103(h) or at a hearing by filing an appearance with the Hearings Coordinator, pursuant to Section 510.105(c);
 - 3) an explanation of the appeal process as set forth in this Part;
 - 4) withdraw the appeal at any time during the process, in which case the grievant cannot request a reopening of the appeal;
 - 5) a timely and impartial hearing;
 - 6) confidentiality of these proceedings, as set forth in 89 Ill. Adm. Code 505.10 and pursuant to either Section 510.100(a), 510.103(a) or 510.105(a);
 - 7) a continuation of services, as set forth in Section 510.60; and
 - 8) have ~~DHS-DRS~~~~DHS-ORS~~ employees involved in the appealed action present at the hearing or any informal resolution conference, and to question them, with the exception listed in Section 510.105(g)(2).

(Source: Amended at 43 Ill. Reg. 2097, effective January 24, 2019)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Program Description
- 2) Code Citation: 89 Ill. Adm. Code 676
- 3) Section Number: 676.30 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].
- 5) Effective Date of Rule: January 24, 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, 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. 18292; October 12, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: No substantive changes were made to the text of the rulemaking.
- 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
- 15) Summary and Purpose of Rulemaking: This rulemaking is being adopted to implement person centered planning provisions recently published by federal CMS in 42 CFR 441.301(c)(4)(5) and 441.710(a)(1)(2). The rulemaking also implements the provisions of PA 98-935. The rulemaking seeks to refine customer rights, person centered planning processes and customer self-direction related to the Home Services Program (HSP)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

eligibility process, customer rights, service planning and other requirements of HSP providers. This rulemaking also reflects the Department's effort to provide HSP Traumatic Brain Injury Customers with greater access to important Day Habilitation Services.

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

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield IL 62762

217/785-9772

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAMPART 676
PROGRAM DESCRIPTION

SUBPART A: GENERAL PROGRAM PROVISIONS

Section

- 676.10 Program Purpose and Types
- 676.20 General Program Accessibility
- 676.30 Definitions
- 676.40 Service Description

SUBPART B: CASE MANAGEMENT

Section

- 676.100 Case Files (Repealed)
- 676.110 Sharing of Customer Information Between HSP and Other DHS Programs
- 676.120 Documentation of Information
- 676.130 Customer Signatures and Information Required to Receive Services Under the HSP
- 676.140 Application by DHS-ORS Employees, Individuals Holding Contracts with DHS, DHS-ORS Advisory Council Members, Family Members of DHS-ORS Employees, or Close Friends of DHS-ORS Employees
- 676.150 Geographic Case Assignment

SUBPART C: VENDOR PAYMENT

Section

- 676.200 Vendor Payment
- 676.210 Reporting and Collection of Misspent Funds

SUBPART D: REFERRAL TO DEPARTMENT ON AGING (DoA)

Section

- 676.300 Criteria for Referral to DoA
- 676.310 Disposition of Cases not Appropriate for Referral to DoA

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5095, effective March 21, 1995; amended at 20 Ill. Reg. 6315, effective April 18, 1996; amended at 21 Ill. Reg. 2678, effective February 7, 1997; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. 19563, effective October 23, 1998; amended at 23 Ill. Reg. 6445, effective May 17, 1999; amended at 23 Ill. Reg. 13874, effective November 8, 1999; amended at 24 Ill. Reg. 2681, effective February 2, 2000; amended at 28 Ill. Reg. 6445, effective April 8, 2004; amended at 31 Ill. Reg. 12602, effective August 16, 2007; emergency amendment at 35 Ill. Reg. 12105, effective July 15, 2011, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 35 Ill. Reg. 15626, effective September 15, 2011 for the remainder of the 150 days; emergency amendment at 38 Ill. Reg. 6453, effective February 28, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 16958, effective July 25, 2014; amended at 41 Ill. Reg. 8432, effective August 1, 2017; amended at 43 Ill. Reg. 2102, effective January 24, 2019.

SUBPART A: GENERAL PROGRAM PROVISIONS

Section 676.30 Definitions

For the purposes of this Subchapter, unless otherwise stated, the following terms shall have the following meanings.

- a) Activities of Daily Living or ADLs – those tasks an individual must do, or that an individual must have provided for him/her, in order to prevent institutionalization (i.e., bathing, dressing, shopping, cooking, housekeeping, etc.).
- b) Brain Injury – conditions including: traumatic brain injury, infection (encephalitis, meningitis), anoxia, stroke, aneurysm, electrical injury, malignant neoplasm, and toxic encephalopathy. Congenital disabilities such as cerebral palsy or epilepsy are not eligible diagnoses, nor are degenerative or neurological disorders due to aging, such as dementia or Parkinson's or Alzheimer's Disease.
- c) Brain Injury Habilitation Assessment – assessment that incorporates the results of neuropsychological, occupational therapy, and/or other appropriate clinical evaluations; this assessment reviews a brain injury Customer's ability to independently and safely complete activities for daily living. This does not

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replace or duplicate the current HSP eligibility assessment tool (DON).

- db) CMMS – the federal Centers for Medicare & Medicaid Services (formerly HCFA, the federal Health Care Financing Administration).
- ee) Customer
- 1) A Customer is anyone who:
 - A) has been referred to HSP for a determination of eligibility for services;
 - B) has applied for services through HSP;
 - C) is receiving services through HSP; or
 - D) has received services through HSP.
 - 2) If the Customer is unable to satisfy any of his/her obligations under the HSP, including, without limitation, the obligation to serve as the employer of the IP or PA, the Customer's parent, family member, guardian, or duly authorized representative may act on behalf of the Customer and is included within the definition of "Customer", as used throughout this Part.
 - 3) For purposes of the IP or PA services performed pursuant to the HSP, the Customer shall serve as the employer of the IP or PA. In this capacity, the Customer is responsible for aspects of the employment relationship between the Customer and the IP or PA, including, without limitation, locating and hiring the IP or PA, training the IP or PA, directing, evaluating and otherwise supervising the work performed by the IP or PA, imposing (when, in the opinion of the Customer, it is appropriate or necessary) disciplinary action against the IP or PA, and terminating the employment relationship between the Customer and the IP or PA.
- fd) Counselor – the DHS-DRS staff person or contractual Case Manager who helps to ensure that the funds available under the HSP are properly distributed in accordance with the Service Plan, any applicable waiver programs, and all applicable laws.

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- ge) Determination of Need or DON – the assessment tool used to determine an individual's non-financial eligibility for HSP services based on the individual's impairment and need for care. This form measures the level of risk of institutionalization for the individual.
- hf) DHS – Illinois Department of Human Services.
- ig) Family – any one related by blood, marriage, or adoption to the individual seeking services through HSP or anyone with whom the individual has a close inter-personal relationship and who resides with the individual.
- jh) Family Unit – for the purposes of determining financial eligibility, the number of persons derived when counting the individual seeking services through HSP and the number of persons in the household who are legally responsible for the individual seeking services and for whom the individual seeking services is legally responsible.
- ki) HFS – Illinois Department of Healthcare and Family Services.
- lj) Home Services Program or HSP – a State and federally funded program designed to allow Illinois residents, who are at risk of unnecessary or premature institutionalization, to receive necessary care and services in their homes, as opposed to being placed in an institution.
- mk) Home – a private residence where the Customer lives that is not an intermediate care or skilled nursing facility as defined at 77 Ill. Adm. Code 300, or a residential program operated by, or for which funding is provided by, the Illinois Department of Human Services, Division of Mental Health and Division of Developmental Disabilities as defined at 59 Ill. Adm. Code 120. For the purposes of this Subchapter, the term "home" shall include domestic violence shelters as defined in Section 1(c) of the Domestic Violence Shelter Act [20 ILCS 2210/1(c)] and publicly or privately administered shelters designed to provide temporary living accommodations for persons who are homeless.
- nl) Individual Provider or IP – an individual selected and supervised by the Customer to provide services that are identified on the Customer's approved HSP Service Plan. An Individual Provider may be a Personal Assistant, Registered Nurse, Licensed Practical Nurse, Certified Nursing Assistant, Occupational Therapist, Physical Therapist or Speech Therapist.

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- om) Intermediate Care Facility or ICF – a nursing facility that provides regular health related care to its residents, as well as those services necessary for safe and adequate living.
- pn) Legally Responsible Family Member – a spouse, parent of a child who is under age 18 or a legal guardian of an individual who is under age 18.
- qe) Medicaid – the Medicaid program administered by HFS under the Public Aid Code [305 ILCS 5/11].
- rp) Medicaid Waiver – the waiver allowing HSP to claim federal reimbursement for approved levels of in-home care for individuals who would otherwise be placed in institutions for that care. The Medicaid Waiver is overseen at the federal level by CMMS.
- sq) Overtime – the time worked by an Individual Provider for an HSP Customer or Customers that exceeds 40 hours in a work week.
- tf) Pay Period – a semi-monthly period that runs from either the first day of the month through the 15th day of the month or from the 16th day of the month through the last day of the month.
- us) Personal Assistant or PA or Individual Provider or IP – an individual employed by the Customer to provide varied HSP services.
- vt) Personal Assistant or Individual Provider Backup Plan – the plan developed by the Customer and designed to ensure that the Customer receives the necessary care and services under the HSP in the event that his or her regular PA or IP is unavailable or unwilling to perform his/her obligations under the HSP. The Customer is responsible for designating the backup personal assistant or backup Individual Provider.
- w) Person-centered Planning or PCP – a service planning process directed by the Customer or his/her representative that is intended to identify his/her strengths, capacities, preferences, needs, and desired outcomes. PCP includes participants freely chosen by the Customer who assist in identifying and accessing a personalized mix of services and supports in an inclusive community setting.

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- ~~xu~~) Physician – a licensed doctor of medicine (M.D.) or doctor of ~~osteopathy~~Osteopathy (D.O.) licensed pursuant to the Medical Practice Act [225 ILCS 60].
- ~~yv~~) Prescreening – an assessment to determine an individual's need for institutional care at the ICF or SNF level and to ensure Medicaid payment for such a placement is appropriate, and the assessment of whether HSP services are an appropriate alternative to institutional care for the individual.
- ~~zw~~) Service Cost Maximum or SCM – the maximum monthly amount that may be expended for HSP services for an eligible individual. This amount is determined based on the individual's DON score and the specific programmatic component of HSP through which the individual is being served.
- ~~aa*~~) Service Plan – specifically, the Home Services Program Service Plan (IL 488-1049), Home Services Program Service Plan Addendum (IL 488-1050) or the Interim Agreement (IL 488-2344) forms, on which all services to be provided to an individual through HSP are listed. The Service Plan is developed with the individual's consent and participation.
- ~~bby~~) Services – the necessary tasks provided to an individual, in one or more of the areas listed in Section 676.40 and listed on the individual's Service Plan, through HSP with the intent of preventing the unnecessary institutionalization of the individual.
- ~~ccz~~) Skilled Nursing Facility or SNF – a facility that provides regular and on-going nursing level care to its residents due to the residents' medical conditions, as well as those services necessary for safe and adequate living.
- ~~ddaa~~) Travel Time – the time an Individual Provider spends traveling between two or more different HSP Customers addresses on the same work day.
- 1) An IP will not be paid travel time for any trip to or from his or her home; if an IP lives with an HSP Customer, he or she cannot be paid for travel time to another Customer's home if the trip begins or ends at the Individual Provider's home.
 - 2) Travel time does not include the time an IP spends traveling on personal business between Customer work visits (e.g., lunch, breaks, errands, etc.).

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eebb) Work Week – a work week begins each Sunday at 12:00 a.m. (midnight) and ends each Saturday at 11:59 p.m.

(Source: Amended at 43 Ill. Reg. 2102, effective January 24, 2019)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Customer Rights and Responsibilities
- 2) Code Citation: 89 Ill. Adm. Code 677
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
677.10	Amendment
677.100	New Section
- 4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].
- 5) Effective Date of Rules: January 24, 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. 18301; October 12, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: No substantive changes were made to the text of the proposed rulemaking.
- 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
- 15) Summary and Purpose of Rulemaking: This rulemaking is being adopted to implement person centered planning provisions recently published by federal CMS in 42 CFR 441.301(c)(4)(5) and 441.710(a)(1)(2). The rulemaking also implements the provisions of PA 98-935. The rulemaking seeks to refine customer rights, person centered planning

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

processes and customer self-direction related to the Home Services Program (HSP) eligibility process, customer rights, service planning and other requirements of HSP providers.

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

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield IL 62762

217/785-9772

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAMPART 677
CUSTOMER RIGHTS AND RESPONSIBILITIES

SUBPART A: CUSTOMER RIGHTS

Section

677.10	Assurance of Customer Rights
677.20	Nondiscrimination
677.30	Confidentiality of Information
677.40	Freedom of Choice
677.50	Referral
677.60	Application
677.70	Notice of Action
677.80	Appeal of an Action Taken by DHS
677.90	Repayment of Assistance
677.100	Customer Bill of Rights

SUBPART B: CUSTOMER RESPONSIBILITIES

Section

677.200	Customer Responsibilities
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AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5056, effective March 21, 1995; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 23 Ill. Reg. 5072, effective April 12, 1999; amended at 28 Ill. Reg. 6449, effective April 8, 2004; amended at 41 Ill. Reg. 8440, effective August 1, 2017; amended at 43 Ill. Reg. 2111, effective January 24, 2019.

SUBPART A: CUSTOMER RIGHTS

Section 677.10 Assurance of Customer Rights

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The ~~Customer~~~~customer~~ shall acknowledge in writing that he/she is~~be~~ informed of his/her rights at the time of referral, application, eligibility determination, service initiation, change in services, or case closure and upon request.

(Source: Amended at 43 Ill. Reg. 2111, effective January 24, 2019)

Section 677.100 Customer Bill of Rights

Customers of the Home Services Program have the right to basic safety; information; choice, participation and self-determination; dignity and individuality; redress grievances; and fiduciary assistance in securing his/her rights.

a) Basic safety includes:

- 1) the right to protection from physical, sexual, mental and verbal abuse, neglect and exploitation, including financial exploitation;
- 2) the right to be served by providers who are properly trained and are providing services within their scope of practice and the scope of their certification or licensure by the State;
- 3) the right to have all personal, financial and medical information kept confidential; and
- 4) the right to have the provider of home care services respect the personal property of the Customer to whom it provides services and, if the Customer reports a theft or loss of personal property, the provider shall investigate and shall report back to the Customer the results of the investigation.

b) Information includes:

- 1) the right to be informed of the following by a provider within two weeks after starting to receive home care services:
 - A) his or her rights under Section 17.1 of the Disabled Persons Rehabilitation Act [20 ILCS 2405] (Act); and

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- B) *the entities the Customer may contact if his or her rights are violated, including the name and contact information for DHS and the Department of Aging and other State and local agencies responsible for enforcing the Home Care Consumer Bill of Rights (Section 17.1 of the Act).*
- 2) *the right to be informed about:*
- A) *the cost of home care services prior to receiving those services;*
- B) *whether the cost of services is covered under health insurance, long-term care insurance, or other private or public programs; and*
- C) *any charges the Customer will be expected to pay;*
- 3) *the right to access information about the availability of the home care services provided in his or her community and has the right to choose among home care services and providers of home care services available in that community.*
- c) *Choice, participation, and self-determination includes:*
- 1) *the right to participate in the planning of his/her services;*
- 2) *the right to make choices about aspects of his/her services;*
- 3) *the right to choose providers and schedules to the extent practicable and consistent with HSP rules and procedures, including, but not limited to, overtime and the number of hours a provider may work in a given day or week;*
- 4) *the right to receiving reasonable accommodation of his/her needs and preferences;*
- 5) *the right to include anyone he/she chooses to participate with him/her in the service planning process;*

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- 6) *the right to be provided with sufficient information to make informed decisions;*
- 7) *the right to be fully informed in advance about any proposed changes in care and services, and to be involved in the decision-making process regarding those changes to the extent practicable; and*
- 8) *the right to refuse services and to receive an explanation of the consequences of doing so.*
- d) *Dignity and individuality includes:*
 - 1) *the right to receive home services in a way that promotes his/her dignity and individuality; and*
 - 2) *the right to be treated with respect at all times.*
- e) *Redress grievances includes:*
 - 1) *the right to express grievances about the quality of his/her home services, the number of hours of service, and any violations of his/her rights; and*
 - 2) *the right to receive prompt responses to those concerns and to be informed about who they may contact to have the grievances addressed in an appropriate and timely manner and without retaliation.*
- f) *Fiduciary assistance in securing a Customer's rights may be provided by the Illinois Department on Aging's Home and Community Ombudsman Program. [20 ILCS 2405/17.1]*

(Source: Added at 43 Ill. Reg. 2111, effective January 24, 2019)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Determination of Need (DON) and Resulting Service Cost Maximums (SCMs)
- 2) Code Citation: 89 Ill. Adm. Code 679
- 3) Section Number: 679.30 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].
- 5) Effective Date of Rule: January 24, 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, 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. 18307; October 12, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: No substantive changes were made to the text of the proposed rulemaking.
- 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
- 15) Summary and Purpose of Rulemaking: This rulemaking is being adopted to implement person centered planning provisions recently published by federal CMS in 42 CFR 441.301(c)(4)(5) and 441.710(a)(1)(2). The rulemaking also implements the provisions of PA 98-935. The rulemaking seeks to refine customer rights, person centered planning

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

processes and customer self-direction related to the Home Services Program (HSP) eligibility process, customer rights, service planning and other requirements of HSP providers.

- 16) Information and questions regarding the adopted rule shall be directed to:

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield IL 62762

217/785-9772

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAMPART 679
DETERMINATION OF NEED (DON) AND
RESULTING SERVICE COST MAXIMUMS (SCMs)

Section

679.10	General Provisions
679.20	Composition of the DON
679.30	Scoring of the DON Except for Respite Cases
679.40	Scoring the DON for Respite Cases
679.50	Service Cost Maximums (SCMs)

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5062, effective March 21, 1995; amended at 20 Ill. Reg. 6303, effective April 18, 1996; amended at 21 Ill. Reg. 2674, effective February 7, 1997; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; emergency amendment at 22 Ill. Reg. 2328, effective January 12, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 10445, effective May 29, 1998; emergency amendment at 22 Ill. Reg. 16031, effective August 14, 1998, for a maximum of 150 days; emergency expired on January 11, 1999; amended at 23 Ill. Reg. 1615, effective January 20, 1999; amended at 23 Ill. Reg. 7492, effective June 17, 1999; emergency amendment at 23 Ill. Reg. 10526, effective August 10, 1999, for a maximum of 150 days; amended at 24 Ill. Reg. 285, effective December 23, 1999; amended at 24 Ill. Reg. 6563, effective May 1, 2000; emergency amendment at 24 Ill. Reg. 9966, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 17126, effective November 3, 2000; emergency amendment at 27 Ill. Reg. 17428, effective November 6, 2003, for a maximum of 150 days; emergency expired April 3, 2004; amended at 28 Ill. Reg. 7056, effective April 30, 2004; emergency amendment at 28 Ill. Reg. 15178, effective November 8, 2004, for a maximum of 150 days; emergency expired April 6, 2005; amended at 31 Ill. Reg. 422, effective December 29, 2006; amended at 31 Ill. Reg. 11332, effective July 18, 2007; amended at 43 Ill. Reg. 2117, effective January 24, 2019.

Section 679.30 Scoring of the DON Except for Respite Cases

- a) An individual receiving a 14 or more on the Mini-Mental Status Examination

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shall receive "zero" points towards his/her column A score. An individual receiving less than 14 points shall receive an additional "10" points added to his/her column A score for the determination of eligibility and a SCM.

- b) The remaining two sections of the DON measure the individual's ability to complete the ADLs. The ADLs are specifically: eating, bathing, grooming, dressing, transferring, incontinence care, preparing meals, being alone, telephoning, managing money, routine health care tasks (or those health care tasks not requiring specialized training), specialized health care tasks (or those requiring assistance from trained medical practitioners), necessary travel outside the home, laundry, and housework.
- 1) Part A of the DON measures the individual's need for assistance in the completion of each of the ADLs on the following rating scale.
- A) None ("0" points)"0" – the individual can perform all essential components of the ADL with or without an existing assistive device;
 - B) Minimal ("1" point)"1" – the individual can perform most of the ADL, with or without an existing assistive device, but requires some supervision and/or assistance to ensure the task is fully completed;
 - C) Moderate ("2" points)"2" – the individual requires a great deal of supervision and/or assistance, with or without existing assistive devices, in the completion of the essential components of the task; and
 - D) Severe ("3" points)"3" – the individual cannot perform any of the essential components of the task, with or without existing assistive devices and requires constant supervision and/or assistance.
- 2) Part B of the DON measures the individual's unmet need for care in the completion of the ADLs on the following scale.
- A) None ("0" points)"0" – the individual has no unmet need for care in that the individual needs no assistance in completion of the essential components of the task, or family and/or other resources

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already provide for this task;

- B) Minimal ("1" point)"1" – the individual's need for assistance in the completion of the task is met at least 50% of the time, and, without periodic assistance, there is a risk to the individual's health and safety;
 - C) Frequent ("2" points)"2" – the individual's need for assistance in the completion of the task is met less than 50% of the time and, without assistance, there is moderate risk to the individual's health and safety; and
 - D) Constant ("3" points)"3" – the individual's need for assistance in the completion of the task is seldom (less than 10% of the time) or never met and, without assistance, there is extreme risk to the individual's health and safety.
- c) In administering the DON for children, the assessor should ensure the ratings given reflect limitations due to the individual's disability and not the individual's age and/or the additional burden placed on the caregiver.
- 1) On Part A, determine if a child of the individual's age should be able to complete all or part of the task. If the inability to perform the task relates only to the individual's age, a score of "zero" should be given. Otherwise, score "1", "2", or "3" according to the individual's impairment level.
 - 2) On Part B, determine the additional burden placed on a caregiver providing the service. If, because of the individual's age, there is no increased burden, a score of "0" should be given. If there is an increased burden on the caregiver due to the individual's disability, score "1", "2", or "3" according to the increased level of burden in providing the task.

(Source: Amended at 43 Ill. Reg. 2117, effective January 24, 2019)

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- 1) Heading of the Part: Eligibility
- 2) Code Citation: 89 Ill. Adm. Code 682
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
682.200	Amendment
682.400	Amendment
682.410	Amendment
682.500	Amendment
- 4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].
- 5) Effective Date of Rules: January 24, 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. 18312; October 12, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: One substantive change was made to 89 Ill. Adm. Code 682.410(b).
- 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 other rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking is being adopted to implement person centered planning provisions recently published by federal CMS in 42 CFR

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441.301(c)(4)(5) and 441.710(a)(1)(2). The rulemaking also implements the provisions of PA 98-935. The rulemaking seeks to refine customer rights, person centered planning processes and customer self-direction related to the Home Services Program (HSP) eligibility process, Customer rights, service planning and other requirements of HSP providers.

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

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield IL 62762

217/785-9772

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

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TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAM

PART 682
ELIGIBILITY

SUBPART A: GENERAL APPLICABILITY

Section
682.10 General Applicability

SUBPART B: NON-FINANCIAL ELIGIBILITY CRITERIA

Section
682.100 General Eligibility Criteria

SUBPART C: FINANCIAL ELIGIBILITY CRITERIA

Section
682.200 Assets Limitation
682.210 Transfer of Assets
682.220 Exempt Assets
682.230 Assets Held in Joint Ownership
682.240 Income Allowances (Repealed)
682.250 Cost Sharing Provisions (Repealed)
682.260 General Exceptions to Cost Share Provisions (Repealed)

SUBPART D: EFFECT OF OTHER SERVICES ON HSP

Section
682.300 Effect of Other Services on HSP

SUBPART E: REDETERMINATION OF ELIGIBILITY

Section
682.400 Redetermination Requirements
682.410 Redetermination Time Frames

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SUBPART F: GRANDFATHERING PROVISIONS

Section

682.500	Exceptions to Eligibility Standards
682.510	Exceptions to Cost Sharing Provisions (Repealed)
682.520	Exceptions to Service Cost Maximums

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5070, effective March 21, 1995; amended at 20 Ill. Reg. 6307, effective April 18, 1996; amended at 20 Ill. Reg. 15749, effective December 3, 1996; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. 2226, effective January 12, 1998; amended at 23 Ill. Reg. 3981, effective March 19, 1999; amended at 23 Ill. Reg. 14450, effective December 6, 1999; amended at 24 Ill. Reg. 7724, effective May 12, 2000; amended at 25 Ill. Reg. 6278, effective May 15, 2001; emergency amendment at 28 Ill. Reg. 15183, effective November 8, 2004, for a maximum of 150 days; emergency expired April 6, 2005; amended at 31 Ill. Reg. 428, effective December 29, 2006; emergency amendment at 38 Ill. Reg. 6463, effective February 28, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 16968, effective July 25, 2014; amended at 43 Ill. Reg. 2122, effective January 24, 2019.

SUBPART C: FINANCIAL ELIGIBILITY CRITERIA

Section 682.200 Assets Limitation

- a) Adult ~~Customer~~~~customers~~, age 18 years or above, may have no more than ~~\$17,500~~~~\$10,000~~ in ~~Customer-only~~~~customer-only~~ non-exempt assets in order to receive services through HSP.
- b) Minor ~~Customer~~~~customers~~, those under 18 years, may have no more than ~~\$35,000~~~~\$30,000~~ in total family non-exempt assets. In order to determine total family assets, the ~~Customer~~~~customer~~ and all other individuals who contribute to the family unit, or rely on the family unit for support, shall be counted.
- c) A married ~~Customer~~~~customer~~, whose spouse does not receive HSP services and is not institutionalized, shall not own interest in non-exempt assets having a total value in excess of ~~\$17,500~~~~\$10,000~~. Non-exempt assets having a value over this figure and up to the amount allowed by the Community Spouse Asset Allowance,

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as adopted by the Illinois Department of [Healthcare and Family Services \(HFS\)Public Aid](#) at 89 Ill. Adm. Code 120.379(d), must be transferred to, or for the sole benefit of, the community spouse. If the ~~Customer's~~[customer's](#) assets exceed the asset disregard and prevention of spousal impoverishment amount, but the excess is less than ~~\$17,500~~[\\$10,000](#), the ~~Customer~~[customer](#) is eligible for HSP services. If the excess is greater than ~~\$17,500~~[\\$10,000](#), the individual is ineligible for services. Customers who may be qualified for the spousal impoverishment exception may receive Interim Services while ~~HFS~~[the Department of Public Aid](#) determines the eligibility factor.

(Source: Amended at 43 Ill. Reg. 2122, effective January 24, 2019)

SUBPART E: REDETERMINATION OF ELIGIBILITY

Section 682.400 Redetermination Requirements

All ~~Customers who want to continue~~[customers](#) receiving services through the HSP must have [their](#) eligibility redetermined and must continue to meet all eligibility criteria ~~as~~ stated in Subparts B and C of this Part ~~to continue to receive services through HSP~~.

(Source: Amended at 43 Ill. Reg. 2122, effective January 24, 2019)

Section 682.410 Redetermination Time Frames

- a) Any ~~Customer~~[customer](#) served under the ~~standard~~ Medicaid Waiver [for Persons with Physical Disabilities](#) shall have his/her eligibility redetermined whenever there is a change in his/her condition or situation that may affect his/her continued eligibility, but if no such change, at least every ~~12~~[twelve](#) months.
- b) Any ~~Customer~~[customer](#) served under the Medicaid Waiver for Persons with ~~HIV/AIDS~~[AIDS](#) shall have his/her eligibility redetermined whenever there is a change in his/her condition or situation that may affect his/her continued eligibility, but if no such change, at least every ~~12~~[six](#) months.
- c) Any ~~Customer~~[customer](#) served under the Medicaid Waiver for Persons with a Brain Injury shall have his/her eligibility redetermined whenever there is a change in his/her condition or situation that may affect his/her continued eligibility, but if no such change occurs, at least once every ~~12~~[six](#) months.

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(Source: Amended at 43 Ill. Reg. 2122, effective January 24, 2019)

SUBPART F: GRANDFATHERING PROVISIONS

Section 682.500 Exceptions to Eligibility Standards

A ~~Customer~~customer who was receiving planned services through HSP prior to July 17, 1983, and has remained in a continuous active status since that time, and meets the current minimum DON point requirements may:

- a) have a planned service cost above the SCM established for that ~~Customer's~~customer's DON score as established July 17, 1983; ~~and~~and
- b) have more than ~~\$17,500~~\$10,000 in non-exempt, ~~Customer-only~~customer-only assets.

(Source: Amended at 43 Ill. Reg. 2122, effective January 24, 2019)

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- 1) Heading of the Part: Service Planning and Provision
- 2) Code Citation: 89 Ill. Adm. Code 684
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
684.10	Amendment
684.50	Amendment
- 4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].
- 5) Effective Date of Rules: January 24, 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. 18318; October 12, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: No substantive changes were made to the text of the proposed rulemaking.
- 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 Rulemaking: This rulemaking is being adopted to implement person centered planning provisions recently published by federal CMS in 42 CFR 441.301(c)(4)(5) and 441.710(a)(1)(2). The rulemaking also implements the provisions of PA 98-935. The rulemaking seeks to refine customer rights, person centered planning

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processes and customer self-direction related to the Home Services Program (HSP) eligibility process, customer rights, service planning and other requirements of HSP providers.

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

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield IL 62762

217/785-9772

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAMPART 684
SERVICE PLANNING AND PROVISION

Section

684.10	Service Plan
684.20	Procuring an Appropriate Service Provider
684.30	Family Members as Service Providers
684.40	Distribution of the Service Plan
684.50	Service Plan Content
684.60	Provision of Services
684.70	Service Planning Limitations
684.75	Required Physician's Certification of HSP Service Plan (Repealed)
684.80	Interim Services
684.90	Coordination of HSP and Other Services
684.100	Denial or Termination of HSP Services

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405].

SOURCE: Adopted at 19 Ill. Reg. 5129, effective March 21, 1995; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. 18955, effective October 1, 1998; amended at 23 Ill. Reg. 6470, effective May 17, 1999; amended at 23 Ill. Reg. 12644, effective October 4, 1999; amended at 24 Ill. Reg. 2687, effective February 2, 2000; amended at 24 Ill. Reg. 10220, effective June 27, 2000; emergency amendment at 28 Ill. Reg. 15188, effective November 8, 2004, for a maximum of 150 days; emergency expired April 6, 2005; amended at 29 Ill. Reg. 16504, effective October 17, 2005; amended at 31 Ill. Reg. 433, effective December 29, 2006; emergency amendment at 35 Ill. Reg. 12113, effective July 15, 2011, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 35 Ill. Reg. 15634, effective September 15, 2011, for the remainder of the 150 days; emergency expired February 11, 2012; emergency amendment at 38 Ill. Reg. 6468, effective February 28, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 16973, effective July 25, 2014; amended at 41 Ill. Reg. 8446, effective August 1, 2017; amended at 43 Ill. Reg. 2128, effective January 24, 2019.

Section 684.10 Service Plan

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- a) All services ~~to be~~ provided to a Customer through HSP must be necessary to meet an unmet care need of the individual or to provide relief to the caregiver for Customers eligible for respite care services and listed on an HSP Service Plan that is developed for the Customer and agreed to and signed by the Customer and counselor.
- b) Services shall be developed with Customer participation, provided in a manner that reflects the individual's choices, when applicable, and address his/her strengths, needs, and desired goals.
- cb) Services provided through HSP to a Customer must be:
- 1) safe and adequate;
 - 2) cost effective;
 - 3) the most economical in terms of the Customer's needs, unless a service is not available at the most economical level. In these instances, the next higher service level may be used as long as services remain within the Service Cost Maximum (SCM) established for the Customer. Documentation of an ongoing effort to locate services at the appropriate level must be in the Customer's case file; and
 - 4) in compliance with all HSP requirements and regulations.

(Source: Amended at 43 Ill. Reg. 2128, effective January 24, 2019)

Section 684.50 Service Plan Content

The HSP Service Plan shall include:

- a) the type of services to be provided to the Customer;
- b) the specific tasks involved;
- c) the frequency with which the specific tasks are to be provided;
- d) the number of hours each task is to be provided per month;

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- e) the rate of payment for the services;
- f) the goals, including any personal goals, of the Customer and desired outcomes;
- gf) for a Customer receiving Individual Provider services, the number of Individual Providers that are necessary to cover the weekly hours on the Service Plan as required by 89 Ill. Adm. Code 686.1520 and sufficient backup Individual Providers to cover those events when a regularly-scheduled Individual Provider is unavailable or unable to provide services ~~as~~ required under 89 Ill. Adm. Code 686.1520; ~~and~~
- hg) the next planned date for redetermination of eligibility; ~~and-~~
- i) signatures of the HSP counselor, the Customer, and each Individual Provider and/or agency provider who is to deliver the services identified in the Service Plan.

(Source: Amended at 43 Ill. Reg. 2128, effective January 24, 2019)

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Provider Requirements, Type Services, and Rates of Payment
- 2) Code Citation: 89 Ill. Adm. Code 686
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
686.910	Amendment
686.1010	Amendment
686.1200	Amendment
686.1220	New Section
686.1230	New Section
686.1240	New Section
686.1250	New Section
686.1260	New Section
686.1270	New Section
- 4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].
- 5) Effective Date of Rules: January 24, 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. 18323; October 12, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Various grammatical changes were made to Sections 686.1200, 686.1230 and 686.1260.
- 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

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- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking is being adopted to implement person centered planning provisions recently published by federal CMS in 42 CFR 441.301(c)(4)(5) and 441.710(a)(1)(2). The rulemaking also implements the provisions of PA 98-935. The rulemaking seeks to refine customer rights, person centered planning processes and customer self-direction related to the Home Services Program (HSP) eligibility process, customer rights, service planning and other requirements of HSP providers.
- 16) Information and questions regarding these adopted rules shall be directed to:

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Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
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Springfield IL 62762

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TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAM

PART 686
PROVIDER REQUIREMENTS, TYPE SERVICES, AND RATES OF PAYMENT

SUBPART A: PERSONAL ASSISTANTS

Section	
686.10	Personal Assistant (PA) Requirements
686.20	Services That May Be Provided by a PA
686.25	Criminal Background Check
686.30	Annual Review of PA Performance
686.40	Payment for PA Services

SUBPART B: ADULT DAY CARE PROVIDERS

Section	
686.100	Adult Day Care (ADC) Provider Requirements
686.110	Services That Must Be Provided by ADC Providers
686.120	Compliance Review of ADC Providers
686.130	Appeal of Compliance Review for ADC Providers
686.140	Payment for ADC Services

SUBPART C: HOMEMAKER SERVICES

Section	
686.200	Homemaker Service Provider Requirements
686.210	Services That Must Be Provided by Homemaker Service Providers
686.220	Compliance Review of Homemaker Service Providers
686.230	Appeal Rights of Homemaker Service Providers
686.235	Enhanced Rate for Health Insurance Costs
686.240	Payment Information for Homemaker Service Providers
686.250	Financial Reporting of Homemaker Service Providers
686.260	Unallowable Expenses for Homemaker Service Providers
686.270	Minimum Homemaker Costs for Homemaker Service Providers
686.280	Cost Categories for Homemaker Services

SUBPART D: ELECTRONIC HOME RESPONSE SERVICES

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Section	
686.300	Electronic Home Response Services (EHRS) Provider Requirements
686.310	Services Which Must Be Provided by EHRS Providers
686.320	Minimum Specifications for EHRS Equipment
686.330	Compliance Review of EHRS Providers
686.340	Appeal of Compliance Review for EHRS Providers
686.350	Rate of Payment for EHRS Services

SUBPART E: MAINTENANCE HOME HEALTH SERVICE

Section	
686.400	Maintenance Home Health Provider Requirements
686.410	Rate of Payment for Maintenance Home Health Services

SUBPART F: HOME DELIVERED MEALS

Section	
686.500	Home Delivered Meals Provider Requirements
686.510	Rate of Payment for Home Delivered Meals

SUBPART G: ENVIRONMENTAL MODIFICATION

Section	Description
686.600	Criteria for the Provision of Environmental Modifications
686.605	Criteria for the Provision of Environmental Modifications
686.608	Environmental Modification Provider Requirements
686.610	Cost of Environmental Modification (Repealed)
686.615	Environmental Modification Bidding Procedures and Requirements
686.620	Permanency of Environmental Modification
686.630	Reason for Denial of Environmental Modification
686.640	Verification of Environmental Modification

SUBPART H: ASSISTIVE EQUIPMENT

Section	Description
686.700	Criteria for the Purchase, Rental, or Repair of Assistive Equipment
686.705	Criteria for the Purchase, Rental, or Repair of Assistive Equipment
686.708	Purchase, Rental, or Repair of Assistive Equipment

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- 686.710 Provision of Assistive Equipment (Repealed)
- 686.715 Assistive Equipment Provider Requirements
- 686.720 Verification of Receipt of Assistive Equipment (Repealed)
- 686.722 Assistive Equipment Bidding Procedures and Requirements
- 686.730 Verification of Receipt of, and Customer Satisfaction with, Assistive Equipment

SUBPART I: RESPITE CARE

- Section
- 686.800 Respite Care Provider Requirements

SUBPART J: CASE MANAGEMENT SERVICES TO PERSONS WITH AIDS

- Section
- 686.900 Program Overview
- 686.910 Case Management Provider Responsibilities
- 686.920 Provider Staffing Requirements, Qualifications, and Training
- 686.930 Monitoring and Liability of Provider
- 686.940 Provider Compliance Requirements

SUBPART K: CASE MANAGEMENT SERVICES
TO PERSONS WITH BRAIN INJURIES

- Section
- 686.1000 Program Overview
- 686.1010 Case Management Provider Responsibilities
- 686.1020 Case Manager Staffing Requirements, Qualifications and Training
- 686.1025 Provisional Case Manager
- 686.1030 Monitoring and Liability
- 686.1040 Provider Compliance Requirements

SUBPART L: BEHAVIORAL SERVICES
FOR PERSONS WITH BRAIN INJURIES

- Section
- 686.1100 Behavioral Services Provider Requirements
- 686.1110 Rate of Payment for Behavioral Services

SUBPART M: DAY HABILITATION SERVICES

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FOR PERSONS WITH BRAIN INJURIES

Section

- 686.1200 Day Habilitation Services Provider Requirements
- 686.1210 Rate of Payment for Day Habilitation Services
- [686.1220 Certification of Day Habilitation Agency Providers](#)
- [686.1230 Provider Standards](#)
- [686.1240 Program and Service Requirements](#)
- [686.1250 Program Outcomes and Reporting](#)
- [686.1260 Provider Billing and Record Retention](#)
- [686.1270 Compliance Review of Day Habilitation Providers](#)

SUBPART N: PREVOCATIONAL SERVICES
FOR PERSONS WITH BRAIN INJURIES

Section

- 686.1300 Prevocational Services Provider Requirements
- 686.1310 Rate of Payment for Prevocational Services

SUBPART O: SUPPORTED EMPLOYMENT SERVICES
FOR PERSONS WITH BRAIN INJURIES

Section

- 686.1400 Supported Employment Service Provider Requirements
- 686.1410 Rate of Pay for Supported Employment Services

SUBPART P: INDIVIDUAL PROVIDER OVERTIME AND TRAVEL TIME

Section

- 686.1500 Definitions
- 686.1510 General Overview
- 686.1520 Hiring Individual Providers and Backup Individual Providers
- 686.1530 Overtime Exceptions
- 686.1540 Customer and Individual Provider Responsibilities
- 686.1550 Individual Providers Working for Multiple Customers
- 686.1560 Travel Time
- 686.1570 Unjustified Overtime and Sanctions

- 686.APPENDIX A Acceptable Human Service Degrees

DEPARTMENT OF HUMAN SERVICES

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AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5104, effective March 21, 1995; amended at 20 Ill. Reg. 12479, effective August 28, 1996; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. 18945, effective October 1, 1998; amended at 22 Ill. Reg. 19262, effective October 1, 1998; amended at 23 Ill. Reg. 499, effective December 22, 1998; amended at 23 Ill. Reg. 6457, effective May 17, 1999; amended at 24 Ill. Reg. 7501, effective May 6, 2000; amended at 24 Ill. Reg. 10212, effective July 1, 2000; amended at 24 Ill. Reg. 18174, effective November 30, 2000; amended at 25 Ill. Reg. 6282, effective May 15, 2001; amended at 26 Ill. Reg. 3994, effective February 28, 2002; amended at 28 Ill. Reg. 6453, effective April 8, 2004; amended at 29 Ill. Reg. 16508, effective October 17, 2005; amended at 31 Ill. Reg. 14238, effective September 27, 2007; emergency amendment at 33 Ill. Reg. 7017, effective May 5, 2009, for a maximum of 150 days; emergency expired October 1, 2009; emergency amendment at 38 Ill. Reg. 6473, effective February 28, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 11519, effective May 15, 2014; amended at 38 Ill. Reg. 16978, effective July 25, 2014; amended at 41 Ill. Reg. 8454, effective August 1, 2017; amended at 43 Ill. Reg. 2133, effective January 24, 2019.

SUBPART J: CASE MANAGEMENT SERVICES TO PERSONS WITH AIDS

Section 686.910 Case Management Provider Responsibilities

a) Case Management

- 1) The case management agency (hereafter referred to as provider) shall receive Customerustomer referrals from hospitals, the Illinois Department of Public Health's AIDS Hotline, HSP AIDS Unit, other State and local agencies, and other referral services (e.g., doctors and individuals). The provider shall assign a case manager to each Customerustomer.
- 2) There shall be two levels of case managers: provisional case managers and case managers.
 - A) The case manager shall have full responsibility for the determination of HSP eligibility; including assessment and implementation of services to be provided. The case manager shall

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develop services with Customer participation that are provided in a manner that reflects the Customer's choices, when applicable, and address his/her strengths, needs and desired goals, development of plans of care, and arrangement and implementation of services to be provided. Assessments, service plans and reassessments completed by case managers may be implemented without consultation with the HSP AIDS Unit.

B) The case manager shall have the option of using a Registered Nurse to review and advise the case manager on the health aspects of the assessment and reassessment and to act as a liaison with the hospital discharge planner, physician, home health agencies, and other medical provider agencies.

C) There shall be two levels of case managers: provisional case managers and case managers. Provisional case managers are those who have not achieved a competency score of 98% or greater for the on-site case reviews done by the HSP AIDS unit, per Section 686.930(d). Assessments, service plans and reassessments completed by case managers may be implemented without consultation with the HSP AIDS Unit. Provisional case managers shall submit all developed plans to the HSP AIDS Unit for approval. Approval of the plan will be based on a review to determine that: the Determination of Need Assessment on which the plan is developed is complete and accurate; the plan meets the needs identified by the assessment; the plan does not place the Customer's customer's health and safety at risk; and the plan is cost effective compared to comparable institutional care.

3) The case manager shall have the option of using a Registered Nurse to review and advise the case manager on the health aspects of the assessment and reassessment and to act as a liaison with hospital discharge planner, physician, home health agencies and other medical provider agencies.

b) The case manager shall provide the following services:

1) initial assessment of eligibility and information gathering (89 Ill. Adm. Code 682);

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- 2) development of a person-centered service~~care~~ plan and implementation (89 Ill. Adm. Code 684);
 - 3) reassessment of level of care at least every 12~~six~~ months for those cases in formal eligibility, three months for those cases that have been presumptively determined eligible for interim services (89 Ill. Adm. Code 684.80), or at such time when the Customer's~~customer's~~ financial or physical condition or need for services changes;
 - 4) networking/coordination/brokering services (i.e., referring and assisting the Customer~~customer~~ in obtaining other agencies' services);
 - 5) assisting the Customer~~customer~~ when Individual Provider~~personal assistance~~ problems develop. Documentation of these problems and the case management team's responses will be kept in the Customer's~~customer's~~ case file;
 - 6) counseling and advocacy;
 - 7) acting as inter-agency liaison (e.g., with other DHS programs, vendors, hospitals);
 - 8) make required Customer contact at least once~~contacting customer a minimum of three times per month, with one contact being~~ a face-to-face contact bi-monthly, to ensure the Customer's needs are being met~~visit~~;
 - 9) maintaining and updating Customer~~customer~~ records; and
 - 10) monitoring the cost effectiveness of the service plan (89 Ill. Adm. Code 679.50).
- c) Eligibility for AIDS Waiver
- 1) Within 10 working days (exceptions being 2 working days for prescreening referrals from cooperating hospitals for interim/emergency services, 5 working days for all other prescreening for interim/emergency services) after receipt of a referral, the case manager shall complete an individual's eligibility determination for the AIDS Waiver program.

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- 2) The case manager shall determine Customer eligibility for the AIDS Waiver by completing an assessment from a home visit or while the applicant is hospitalized (89 Ill. Adm. Code 682). To determine Customer eligibility, the case manager will utilize the HSP Determination of Need Assessment (89 Ill. Adm. Code 682).
 - 3) The case manager shall assess the Customer's limitations in activities of daily living (ADLs) (e.g., cooking, bathing, shopping) and what resources are available to assist the Customer in performing the ADLs (89 Ill. Adm. Code 682).
 - 4) Notice of eligibility must be mailed to the HSP AIDS Unit within ten working days after the date on which a completed application is received by the case management contracting agency.
- d) The case manager will provide a case action notice to each Customer informing him or her of the eligibility determination, of all rights and responsibilities under the case management program, including the Customer's right to request an appeal, the appeals procedures promulgated by the Department, the right to receive assistance in filing the request for appeal and information about the services of the Home Care Ombudsman Program (HCOP) and how to reach HCOP.
- e) Service Plan
- 1) If the DON assessment demonstrates a nursing facility level of care need such as the need for intermediate care facility (ICF), skilled nursing facility (SNF), or hospital care because of the disability of AIDS/HIV, the case manager shall develop a person-centered service plan that will allow him/her to live at home ~~(89 Ill. Adm. Code 684.70)~~.
 - 2) The service plan will be retained during the time the case is opened and for five years after closure, unless an audit exception has occurred. In the case of an audit exception, the service plan will be retained until the audit exception has been resolved. Copies of the service plan will be maintained in the case management team's locations and the HSP AIDS Unit. Closed cases will be retained in the HSP Central Office.

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- 3) If implementation of services is delayed beyond required time limits in subsection (c) of this Section, the case manager must inform the HSP AIDS Unit and assist the Customer~~customer~~ to obtain an alternative provider.
- f) Records of contact with the Customer~~customer~~ will be entered and maintained in the Customer's~~customer's~~ confidential case records. All contacts, verbal or written, with or on behalf of a Customer~~customer~~ shall be documented in a confidential case record. The case manager is responsible for obtaining consents for the release of information as necessary and when required by law or regulation (~~Confidentiality of Records in~~ (42 USC 290dd-2); Health Insurance Portability and Accountability Act (42 USC 1320(d) et seq.); ~~the AIDS Confidentiality Act [410 ILCS 305]; 89 Ill. Adm. Code 505; (Confidentiality of Information)~~; ~~and the Health Insurance Portability and Accountability Act (42 USC 1320(d) et seq.)~~.

(Source: Amended at 43 Ill. Reg. 2133, effective January 24, 2019)

SUBPART K: CASE MANAGEMENT SERVICES TO PERSONS WITH BRAIN INJURIES

Section 686.1010 Case Management Provider Responsibilities

- a) Case Managers
 - 1) The Case Manager shall receive referrals from hospitals, other health providers, and other State and local agencies.
 - 2) The Case Manager shall have full-responsibility for the determining eligibility, including assessment, development of service plans, and arrangement and implementation of services to be provided. The services, developed by the HSP Counselor with Customer participation, shall be provided in a manner that reflects the Customer's choice, when applicable, and shall address his/her strengths, needs and desired goals.
- b) The Case Manager shall provide the following services:
 - 1) ~~initial assessment of eligibility and information gathering (89 Ill. Adm. Code 682);~~
 - 2) ~~development of a care plan and implementation (89 Ill. Adm. Code 684);~~

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- ~~3)~~ reassessment of the level of care at least every six months or at such time when the customer's financial, disabling condition or need for services circumstance changes;
 - 14) networking/coordination/brokering services (i.e., referring and assisting the Customer in obtaining other agencies' services);
 - ~~25)~~ counseling and advocacy;
 - 36) contacting the Customer a minimum of one time per month;
 - 47) maintaining and updating Customer records; and
 - 58) monitoring the cost effectiveness of the service plan (89 Ill. Adm. Code 679.50).
- e) ~~Eligibility for the Brain Injury Waiver~~
- ~~1)~~ After receipt of a referral, the Case Manager shall complete an individual's eligibility determination for the Medicaid Waiver for Persons with a Brain Injury within the following timeframes:
 - ~~A)~~ 2 working days for prescreening referral from cooperating hospitals for interim/emergency services;
 - ~~B)~~ 5 working days for all other prescreening for interim/emergency services); and
 - ~~C)~~ 10 working days for an eligibility referral.
 - ~~2)~~ The Case Manager shall determine customer eligibility for the Brain Injured Waiver by completing an assessment from a home visit or while the customer is hospitalized (89 Ill. Adm. Code 682). To determine customer eligibility, the Case Manager will use the HSP Determination of Need Assessment (89 Ill. Adm. Code 682).
 - ~~3)~~ The Case Manager shall assess the customer's limitations in activities of daily living (ADLs) (e.g., cooking, bathing, shopping) and the resources

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~~available to assist the customer in performing the ADLs (89 Ill. Adm. Code 682).~~

- ~~d)~~ The Case Manager will provide a case action notice to each customer informing him or her of the eligibility determination, of all rights and responsibilities under the case management program, including the customer's right to request an appeal, the appeals procedures promulgated by the Department, the right to receive assistance in filing the request for appeal and information about the services of the Client Assistance Program (CAP) and how to reach CAP. The determination notice must be mailed to the HSP office within 10 working days after the date on which a completed application is received by the Case Manager.
- ce) Service Plan
- ~~1)~~ If the assessment demonstrates the customer is at risk of unnecessary or premature placement in an institution because of his/her brain injury, the Case Manager shall develop a service plan that will allow the customer to live at home (89 Ill. Adm. Code 684.70).
- 12) The person-centered service plan will be retained during the time the case is opened and for five years after closure, unless an audit exception has occurred. In the case of an audit exception, the service plan will be retained until the audit exception has been resolved. Copies of the service plan will be maintained in the Case Manager's location and the HSP office. Closed cases will be retained in the HSP Central Office.
- 23) If implementation of services is delayed beyond required time limits in subsection (c), the Case Manager must inform the HSP administration and assist the Customer~~customer~~ in obtaining another provider.
- df) Records of contact with Customer~~customer~~ will be entered and maintained by the Case Manager in the Customer's~~customer's~~ confidential case record. All contacts, oral or written, with or on behalf of a Customer~~customer~~ shall be documented in a confidential case record. The Case Manager is responsible for obtaining consents for the release of information as necessary and when required by regulation (89 Ill. Adm. Code 505) and the Health Insurance Portability and Accountability Act (42 USC 1320(d) et seq.).

(Source: Amended at 43 Ill. Reg. 2133, effective January 24, 2019)

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SUBPART M: DAY HABILITATION SERVICES
FOR PERSONS WITH BRAIN INJURIES**Section 686.1200 Day Habilitation Services Provider Requirements**

- a) All Habilitation Service Agency providers (hereafter referred to as providers) who provide services to Customers of the DHS-DRS HSP shall have habilitation services accredited by an appropriate accrediting organization or shall be certified by DHS according to the criteria set forth in this Subpart.
- 1) DHS shall apply its criteria to certify a provider that provides HSP approved services as identified on a Customer's service plan, when the provider has not yet received national accreditation.
 - 2) DHS certification shall be granted for two years, after which time the provider must be accredited for Brain Injury Habilitation Services in accordance with subsection (b).
- b) A provider may be accredited by any of the following accreditation organizations:
- 1) Commission on Accreditation of Rehabilitation Facilities.
 - 2) The Joint Commission.
 - 3) Developmental Training Program under the DHS Division of Developmental Disabilities (59 Ill. Adm. Code 119 (Minimum Standards for Certification of Developmental Training Programs)).
- c) If a provider meets the criteria listed in subsection (a), application to HSP should be made to:

Illinois Department of Human Services
Division of Rehabilitation Services
Home Services Program, Program Compliance
100 S. Grand Ave. East
Springfield IL 62794

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~~HSP shall use Day Habilitation Service Providers that are certified under 59 Ill. Adm. Code 119, "Minimum Standards for Certification of Developmental Training Programs."~~

(Source: Amended at 43 Ill. Reg. 2133, effective January 24, 2019)

Section 686.1220 Certification of Day Habilitation Agency Providers

- a) With the submission of an application to HSP, a provider described in Section 686.1200(a)(1) shall be evaluated by representatives of DHS.
- b) The provider service program shall be in operation for a period of one year prior to application.
- c) DHS shall apply the standards set forth in Sections 686.1230 and 686.1240 to the provider.
- d) DHS shall contact the provider to arrange the evaluation date and time that is convenient for all parties, provide written confirmation of that date and time, and explain the on-site evaluation procedure.
- e) During the evaluation process, the DHS representative may review case records, program descriptions and documents, and may interview staff and Customers to ensure that standards are being met.
- f) DHS shall hold an exit interview with the provider. The interview shall identify areas in which the provider does and does not comply with Sections 686.1230 and 686.1240.
- g) A written report of the results of the certification evaluation shall be sent to the provider within 30 calendar days. The results may indicate that remediation is needed to address noncompliance with Sections 686.1230 and 686.1240.
 - 1) If remediation is indicated, the provider shall submit a corrective action plan (CAP) to DHS within 30 calendar days after receipt of the report. The CAP shall identify how the provider will comply with areas of Sections 686.1230 and 686.1240 in which the provider was found noncompliant. The CAP shall include time frames for the remediation.

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- A) Upon acceptance of the CAP, DHS shall notify the provider of the decision to certify the program and services offered by the provider for two years if compliance with the standards are met.
- B) If the provider fails to submit a CAP and/or is unable to institute a plan satisfactorily in compliance with the standards of Sections 686.1230 and 686.1240, DHS shall notify the provider in writing of the decision not to certify the provider.
- 2) Further application for habilitation certification shall not be accepted by HSP until at least one year after the date of the previous habilitation certification denial.
- 3) The provider has the right to appeal the certification evaluation by submitting an appeal request in writing to the Bureau Chief of the Home Services Program. Appeal requests must be filed within 30 days after the certification evaluation results are received by the provider. The Bureau Chief shall conduct a review of the facts and shall, within 15 working days, provide a written decision to the provider.
- 4) If the provider is not satisfied with the decision of the Bureau Chief, the provider may request review of the Bureau Chief's decision by the Director of DHS-DRS. The request must be in writing and received by the DHS-DRS Director within 10 working days after the date the decision was rendered by the Bureau Chief. The decision of the DHS-DRS Director shall be final.

(Source: Added at 43 Ill. Reg. 2133, effective January 24, 2019)

Section 686.1230 Provider Standards

- a) The provider must be a legally constituted agency or organization, or an entity operated by a state or political subdivision of a state under an appropriate federal, state or local statute.
- b) The provider's governing body shall:
- 1) establish in writing the organization's mission, policies, and necessary financial support;

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- 2) employ a full-time Director and delegate to that person the authority and responsibility for the management of the provider agency in accordance with established policies;
 - 3) meet with its executive committee and Director at least quarterly;
 - 4) review and approve the provider agency budget and the independent, certified audit annually, and the income and expense reports at least quarterly;
 - 5) identify a designated staff member or group that shall be responsible for making admission decisions;
 - 6) include written policy that safeguards against possible conflicts of interest between its members and the operation of the provider agency as part of its constitution or bylaws; and
 - 7) provide documentation of current liability insurance to protect assets and to ensure compensation for staff, individuals with disabilities, volunteers, and the public, in the event compensation would be required for occurrences for which the provider agency is liable.
- c) The provider shall employ staff numbers and types to meet the needs of the individuals served in a manner consistent with the purposes and objectives of the organization. Provider employed staff shall receive training in accordance with the provider's policies and procedures.
- d) The provider shall provide all services in a safe environment and establish an executive safety committee with clearly defined responsibilities, including the responsibility to:
- 1) develop a written emergency plan that details staff action and responsibilities in the event of fire, power failure, and natural disasters;
 - 2) maintain an accident prevention program;
 - 3) maintain an accident reporting system that includes a review of the incident reports made and the recommendations for corrective action;

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- 4) ensure staff currently certified in first aid and cardiopulmonary resuscitation are available at all times in all locations where Customers are present in the provider's facilities;
- 5) ensure test drills are completed at least quarterly and the results of the drills are sent to the executive safety committee;
- 6) ensure that independent, comprehensive safety education is conducted at least every two years by qualified safety specialists; and
- 7) ensure that, at least annually, inspections are completed by local or state fire control agencies.
 - A) A satisfactory rating for each site operated by the provider is required.
 - B) If an unsatisfactory rating is given, the provider must take immediate corrective action to address the rating.
- e) The provider shall have public information materials that identify:
 - 1) the programs and services available;
 - 2) the population to be served;
 - 3) how programs and services can be obtained; and
 - 4) its nondiscrimination policy.
- f) The provider shall comply with applicable federal and State regulations.
 - 1) The provider shall offer programs and services that are accessible to persons with disabilities in accordance with section 504 of the federal Rehabilitation Act of 1973, as amended (29 USC 794), the Americans With Disabilities Act (42 USC 12001), and the Illinois Accessibility Code (71 Ill. Adm. Code 400).

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- 2) The provider shall engage in an Affirmative Action Program that provides documentation of its nondiscrimination policy and staff characteristics as required by section 504 of the federal Rehabilitation Act of 1973.
- 3) The provider shall show evidence of compliance with both federal and State Department of Labor rules and regulations governing wage reimbursement and the Workers' Compensation Act [820 ILCS 305].
- 4) The provider shall comply with Department of Human Services rules regarding Fiscal/Administrative Recordkeeping and Requirements (89 Ill. Adm. Code 509).

(Source: Added at 43 Ill. Reg. 2133, effective January 24, 2019)

Section 686.1240 Program and Service Requirements

- a) When HSP refers a Customer to a provider for services, the provider shall notify HSP, in writing, of the disposition of the referral within 15 calendar days after receipt of the referral. This notification shall include the expected date after admission and any pertinent information regarding the Customer's entry into the program.
- b) All Customers referred for services shall receive a personal interview that includes an explanation of why the individual was referred, service opportunities available to the individual, and the right to appeal services under 89 Ill. Adm. Code 510.
- c) Customers on waiting lists shall be contacted monthly, apprised of their status, and given sufficient information to decide whether to remain on the waiting list or seek services elsewhere.
- d) There shall be clearly written entrance and exit criteria for each service offered by the agency.
- e) Customer case records shall be kept secure, confidential, and available only to authorized personnel. Customers referred for services shall be notified in writing of their acceptance or non-acceptance into the program.

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- f) Assessment methods, techniques, and work sites shall be relevant to the Customer's needs.
- g) Each Customer served by the provider shall receive a Brain Injury Habilitation Assessment and participate in the provider's development of his/her Habilitation Plan.
- 1) Each Customer shall be provided goal and service options that assist him/her in choosing a habilitation goal.
 - 2) Each Customer shall be enabled to choose his/her habilitation goals and services and express his/her degree of satisfaction with the results achieved.
 - 3) A written report or narrative of the Brain Injury Habilitation Assessment shall include:
 - A) background information regarding the person;
 - B) interpersonal/personal observations made by agency staff;
 - C) a life skills appraisal of the person;
 - D) a recommended habilitation goal;
 - E) recommended objectives and services to attain the stated habilitation goal; and
 - F) a summary of the conference or staffing conducted, including Customer comments.
 - 4) The Habilitation Plan shall identify:
 - A) a habilitation goal;
 - B) understandable, measurable objectives to achieve the habilitation goal;
 - C) services needed to meet the objectives;

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- D) time frames to achieve the goal and objectives;
 - E) measures to assess the outcome of objectives, including review dates; and
 - F) the persons responsible for implementing the plan.
- 5) All persons involved in the plan development shall receive a copy of the service plan within five State working days after the plan's development.
- h) Services purchased by HSP on a full time weekly basis shall offer at least 25 hours of program time per week. The program hours must relate to the Customer's needs and activities as outlined in the Customer's Habilitation Plan.
- i) Staffings shall be held on a scheduled basis to allow for review and discussion of the Customer's progress towards achieving his/her habilitation goal and objectives, as follows:
- 1) at the completion of the Brain Injury Assessment; and
 - 2) at least once every eight weeks for habilitation training services, up to the date of completion of program objectives.
- j) All persons identified in the Habilitation Plan shall receive a copy of each staffing report within 10 State working days after the staffing.
- k) Customer habilitation trainings shall include individually designed services that meet the Customer's specific needs and desires and enable the Customer to achieve his/her habilitation goal as a direct result of service provided.

(Source: Added at 43 Ill. Reg. 2133, effective January 24, 2019)

Section 686.1250 Program Outcomes and Reporting

- a) The provider shall complete and submit to HSP an annual written evaluation of all its programs and services that shows evidence of:
- 1) maintenance of a safe and accessible program;

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- 2) a review of the quality and appropriateness of the services offered;
 - 3) a review of the effectiveness of the services as measured by outcomes achieved; and
 - 4) Customer satisfaction with the services received and habilitation outcomes achieved.
- b) The provider shall complete and submit to HSP a monthly Customer Habilitation Training Report that summarizes the following:
- 1) accomplishment of the objectives;
 - 2) remaining services needed by the Customer to achieve the habilitation goal; and
 - 3) a summary of the staffings conducted, including the Customer's comments.
- c) The provider shall submit a monthly Customer Outcome Report on each Customer, based upon successful completion of objectives outlined in the Customer Habilitation Plan.
- 1) A habilitation outcome is considered successful when:
 - A) the Customer has a diagnosis of brain injury that, for the individual, causes, or may cause, a substantial impediment to habilitation; has an active HSP service plan; and participates in services offered by the provider as evidenced by habilitation provider billings submitted to HSP;
 - B) it is consistent with the Customer's abilities, interests and needs;
 - C) the Customer performs life skill activities effectively and efficiently;
 - D) the habilitation services are not contraindicated based on the Customer's disability; and

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E) the Customer will not jeopardize the health and safety of himself/herself or others while at the program site.

2) Successful habilitation outcomes are determined by the HSP Counselor (see 89 Ill. Adm. Code 676.30).

(Source: Added at 43 Ill. Reg. 2133, effective January 24, 2019)

Section 686.1260 Provider Billing and Record Retention

- a) The provider shall submit a monthly IL488-1200 Group Billing statement to the HSP field office managing the HSP Customer case within 15 days after the end of the service period.
- b) Each statement must be accompanied by a monthly Customer Outcome Report as required under Section 686.1250(c).
- c) Expenditures may not exceed the service hours or fees indicated on the active Vendor Authorization for Services form, unless express written approval has been given by the HSP.
- d) Supplemental billing for additional hours in a service period that was previously paid, or that is in the process of being paid, is not allowed. If HSP or the provider determines that the previous billing was in error, all payments received for that billing must be refunded to HSP before submitting a corrected statement for the period.
- e) Providers shall keep the following records for a minimum of 5 years:
 - 1) copies of all forms and billings required by, and submitted to, HSP;
 - 2) records of Customer service hours kept by time clock, time cards, or time sheets signed by the Customer;
 - 3) confidential case records (see Section 686.1240(e)); and
 - 4) documentation of credentials and/or licensing for all rendering service staff.

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(Source: Added at 43 Ill. Reg. 2133, effective January 24, 2019)

Section 686.1270 Compliance Review of Day Habilitation Providers

- a) HSP will complete a review of each Day Habilitation Provider, at least every two years, to ensure compliance with the requirements of this Subpart.
- b) The review shall consist of an on-site review conducted by HSP staff. Written notification shall be provided to the provider prior to the review.
- c) Within 15 days after the completion, a copy of the completed review shall be sent to the provider.
- d) If the provider is found deficient in the review, the written notification shall include:
 - 1) the deficiencies found as a result of the review;
 - 2) the action necessary for the provider to come into compliance;
 - 3) the time frames within which the provider must come into compliance;
and
 - 4) the information necessary for the provider to request new review after the compliance issues are addressed.
- e) Day Habilitation Providers who are not satisfied with an HSP compliance review may submit an appeal request in writing to the HSP Bureau Chief. Appeal requests must be filed within 30 days after the compliance review. The Bureau Chief shall conduct a review of the facts and shall, within 15 working days, provide a written decision to the Day Habilitation Provider.
- f) If the Day Habilitation Provider is not satisfied with the decision of the Bureau Chief, the provider may request review of the Bureau Chief's decision by the Director of DHS-DRS. The request must be in writing and received by the DHS-DRS Director within 10 working days after the date the decision was rendered by the Bureau Chief. The decision of the DHS-DRS Director shall be final.

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(Source: Added at 43 Ill. Reg. 2133, effective January 24, 2019)

PROPERTY TAX APPEAL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Practice and Procedure for Appeals Before the Property Tax Appeal Board
- 2) Code Citation: 86 Ill. Adm. Code 1910
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
1910.12	Amendment
1910.30	Amendment
1910.40	Amendment
1910.50	Amendment
1910.60	Amendment
1910.66	Amendment
1910.69	Amendment
- 4) Statutory Authority: 35 ILCS 200/Art.7 and 35 ILCS 200/16-180
- 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.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 16136; August 24, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking: No
- 11) Differences between Proposal and Final Version: Due to a comment, the Property Tax Appeal Board changed Section 1910.69(a) of the proposed amendments to provide that notice to a defaulted taxpayer is to be given in accordance with Section 16-185 of the Property Tax Code.
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No

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- 14) Are there any rulemakings pending on this Part? Yes

<u>Sections Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
1910.5	Amendment	42 Ill. Reg. 25271; December 28, 2018
1910.70	Amendment	42 Ill. Reg. 25271; December 28, 2018

- 15) Summary and Purpose of Rulemaking: Section 1910.12 – Meetings of the Board – Amended to provide that members present at either office of the Property Tax Appeal Board for a simultaneous meeting held through an interactive video conference shall count towards determining a quorum of members physically present at a scheduled meeting of the Board. Allows any person to address the Property Tax Appeal Board during a meeting with advance written notice of at least ten (10) days prior to the meeting.

Sections 1910.30, 1910.40, 1910.60 and 1910.66 were amended to provide that beginning with the 2016 assessment year, requires only one copy of the petition, one copy of the Board of Review Notes on Appeal, one copy of the request to intervene, one copy of the resolution of the taxing body authorizing intervention, one copy of evidence and one copy of rebuttal evidence to be filed.

Section 1910.50 – Determination of Appealed Assessment – Amended to provide that a taxpayer may file an appeal or appeals directly to the Property Tax Appeal Board for the subsequent year or the remaining years within the same general assessment cycle if the decision of the Property Tax Appeal Board is issued after the deadline for filing of a complaint with the board of review or after adjournment of the session of the board of review at which assessments for the subsequent year or years of the same general assessment cycle are being considered.

Section 1910.69 – Sanctions – Amended to provide that a party found in default by the Property Tax Appeal Board shall forfeit any right to have, request or participate in a hearing and shall not receive notice of the proceedings, rulings or decisions from the Board. Notice to any defaulted party other than the taxpayer shall be deemed given when served upon the State's Attorney of the county from which the appeal has been taken. Any defaulted taxpayer will receive notice as provided in Section 16-185 of the Code.

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

Steven M. Waggoner
Acting Executive Director

PROPERTY TAX APPEAL BOARD

NOTICE OF ADOPTED AMENDMENTS

Property Tax Appeal Board
Stratton Office Building, Room 402
401 South Spring Street
Springfield IL 62706

217/782-6076
fax: 217/785-4425
email: steve.waggoner@illinois.gov

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

PROPERTY TAX APPEAL BOARD

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TITLE 86: REVENUE
CHAPTER II: PROPERTY TAX APPEAL BOARDPART 1910
PRACTICE AND PROCEDURE FOR APPEALS
BEFORE THE PROPERTY TAX APPEAL BOARD

Section	
1910.5	Construction and Definitions
1910.10	Statement of Policy
1910.11	Rules of Order (Repealed)
1910.12	Meetings of the Board
1910.20	Board Information – Correspondence
1910.25	Computing Time Limits
1910.30	Petitions
1910.31	Amendments
1910.40	Board of Review Response to Petition
1910.50	Determination of Appealed Assessment
1910.55	Stipulations
1910.60	Interested Parties – Intervention
1910.63	Burdens of Proof
1910.64	Motion Practice – Service of Papers
1910.65	Documentary Evidence
1910.66	Rebuttal Evidence
1910.67	Hearings
1910.68	Subpoenas
1910.69	Sanctions
1910.70	Representation at Hearings
1910.71	Ex Parte Communications
1910.72	Informal Settlement Conference
1910.73	Pre-hearing Conference – Formal Settlement Conference
1910.74	Administrative Review
1910.75	Access to Board Records – Freedom of Information Procedures
1910.76	Board Publications – Distribution
1910.77	Withdrawals and Substitutions of Attorneys
1910.78	Consolidation of Appeals
1910.79	Policy on Discovery
1910.80	Forms
1910.88	Use of Facsimile Machines

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1910.90	Procedural Hearing Rules
1910.91	Business Records (Repealed)
1910.92	Rules of Pleading, Practice and Evidence
1910.93	Request for Witnesses
1910.94	Inspection of Subject Property – Effect of Denial by Taxpayer or Property Owner
1910.95	Service of Documents in Certain Cases
1910.96	Evidence Depositions
1910.98	Transcription of Hearings – Official Record
1910.99	Adoption of Evidence
1910.100	Severability

AUTHORITY: Implementing and authorized by Article 7 and Sections 16-180 through 16-195 of the Property Tax Code [35 ILCS 200/Art. 7 and 16-180 through 16-195].

SOURCE: Adopted at 4 Ill. Reg. 23, p. 106, effective May 27, 1980; codified at 8 Ill. Reg. 19475; amended at 13 Ill. Reg. 16454, effective January 1, 1990; amended at 21 Ill. Reg. 3706, effective March 6, 1997; amended at 21 Ill. Reg. 11949, effective August 13, 1997; amended at 21 Ill. Reg. 14551, effective October 27, 1997; amended at 22 Ill. Reg. 957, effective December 19, 1997; amended at 22 Ill. Reg. 16533, effective September 2, 1998; amended at 24 Ill. Reg. 1233, effective January 5, 2000; amended at 29 Ill. Reg. 13574, effective August 19, 2005; amended at 29 Ill. Reg. 21046, effective December 16, 2005; amended at 30 Ill. Reg. 1419, effective January 20, 2006; amended at 30 Ill. Reg. 2640, effective February 15, 2006; amended at 30 Ill. Reg. 7965, effective April 14, 2006; amended at 30 Ill. Reg. 10103, effective May 16, 2006; expedited correction at 30 Ill. Reg. 14633, effective May 16, 2006; amended at 30 Ill. Reg. 12280, effective June 30, 2006; amended at 30 Ill. Reg. 14148, effective August 11, 2006; amended at 30 Ill. Reg. 16311, effective September 29, 2006; amended at 31 Ill. Reg. 16222, effective November 26, 2007; amended at 32 Ill. Reg. 16864, effective October 1, 2008; amended at 33 Ill. Reg. 7910, effective July 1, 2009; amended at 38 Ill. Reg. 19171, effective October 1, 2014; amended at 41 Ill. Reg. 14020, effective December 1, 2017; amended at 43 Ill. Reg. 2158, effective March 1, 2019.

Section 1910.12 Meetings of the Board

- a) This Section is to be construed and administered in accordance with the appropriate provisions of the Open Meetings Act [5 ILCS 120].
- b) **Participation in Meetings:** Participation in meetings is limited to the Board members and the Board's staff. The Board may waive this limitation except when waiver is inconsistent with the Property Tax Code, the Open Meetings Act, or this

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Part. Any person may address the Property Tax Appeal Board during a meeting provided no less than 10 days advance written notice of the scheduled meeting is given to the Board identifying the name, address, telephone number and email address of the individual appearing to address the Board, along with a summary of the topic that will be presented. No person shall be allowed to address the Board during a meeting in a manner that would violate Section 1910.71 regarding ex parte communications. The time period any person will be allowed to address the Board during a meeting shall not exceed 10 minutes.

- c) Public Notice: The Board shall post, on or before January 1 of each year, its tentative schedule of meetings for that calendar year stating the date, time and place of the meetings. This publication, however, shall not preclude the Board from changing the date of a meeting when necessary to achieve the attendance of the maximum number of Board members, to account for weather emergencies, or other extraordinary circumstances.
- d) Meeting Agenda and Posting: The Board shall prepare an agenda for each meeting. The agenda shall constitute notice of the matters to be heard by the Board at that meeting. The agenda for each regular meeting shall be posted at the Board's offices and at the location where the meeting is to be held, in an area easily accessible to the public, and at the earliest practicable date, but in no event less than 48 hours prior to the scheduled meeting. Agendas for regular meetings are for information purposes only. Inclusion of an item on the agenda shall not require the Board's consideration.
- e) Special Meetings: Special meetings may be called at any time, in conformance with the Open Meetings Act, by the Chair of the Board through the Executive Director.
- f) Minutes: Minutes of open Board meetings shall be taken by the Executive Director or an assigned designee and shall be available for public inspection within 7 days after their approval by the members. Minutes shall include the date, time and place of the meeting, the members of the Board recorded as either present or absent, whether members were physically present or present by means of video or audio conference, a summary of discussion on all matters proposed, deliberated or decided, and a record of any votes taken. The Board shall post the minutes of a regular meeting open to the public on the Board's website within 7 days after approval of the minutes by the Board. Any minutes of meetings open to the public posted on the Board's website shall remain posted on the website for

PROPERTY TAX APPEAL BOARD

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at least 60 days after their initial posting. (See Section 2.06 of the Open Meetings Act.)

- g) Quorum and Voting: Three members of the Board shall constitute a quorum for the transaction of business and the affirmative vote of three members is necessary to adopt any final decision, motion, resolution or ordinance. Members attending the meeting by physical presence, video or audio conference shall constitute an attendance at a Board meeting. [Board members physically present at either office of the Property Tax Appeal Board in Springfield or Des Plaines during a simultaneous meeting at both locations held through an interactive video conference shall count towards determining a quorum of members physically present at a scheduled meeting of the Board.](#) Each member attending a meeting shall have one vote in any matter before the Board. Voting shall be by voice vote and shall be recorded by the Executive Director or an assigned designee. [\(See Section 1.02 of the Open Meetings Act.\)](#)
- h) Attendance by Means Other than Physical Presence:
- 1) Any member of the Board may participate in any meeting of the Board by video or audio conference [from a location other than a Property Tax Appeal Board office](#) provided that a quorum of the members of the Board is physically present [at the Property Tax Appeal Board offices as described in subsection \(g\)](#) and a majority of the Board allows the member to attend by video or audio conference, and the member is prevented from attending the meeting because of:
 - A) personal illness or disability;
 - B) employment purposes or the business of the Board; or
 - C) a family or other emergency.
 - 2) If a member wishes to attend a meeting by the means specified in this subsection (h), the member shall notify the Executive Director at least 24 hours before the meeting unless advance notice is impractical.

(Source: Amended at 43 Ill. Reg. 2158, effective March 1, 2019)

Section 1910.30 Petitions

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- a) In counties with less than 3,000,000 inhabitants, petitions for appeal shall be filed within 30 days after the date of the written notice of the decision of the board of review. In counties with 3,000,000 or more inhabitants, petitions for appeal shall be filed within 30 days after the date of the written notice of the decision of the board of review or within 30 days after the date that the board of review transmits to the county assessor pursuant to Section 16-125 [of the Code](#) its final action on the township in which the property is located, whichever is later. (See Section 16-160 of the Code.)
- b) Petitions for appeal shall be filed within 30 days after the date of written notice of the application of final adopted township equalization factors by the board of review. Petitions shall be filed for the subsequent year within 30 days after the date of the written notice when the Property Tax Appeal Board rendered a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the board of review, or after adjournment of the session of the board of review at which assessments for the subsequent year are being considered. (See Section 16-185 of the Code.)
- c) The petition for appeal shall be on the prescribed form and a separate petition must be filed for each separately assessed parcel except for contiguous single-owner parcels that constitute a single property and except for condominium buildings or unless a written request is made to the Board for the filing of a single petition for multiple parcels. The request, together with the petition, shall be filed within 30 days after the written notice of the decision of the board of review or within 30 days after the date that the board of review transmits to the county assessor, pursuant to Section 16-125 [of the Code](#), its final action on the township in which the property is located, whichever is later. Each petition shall identify and describe the particular property including the PIN assigned to the subject parcel by the county. [A photograph of the subject property should be submitted with the petition if it aids the contesting party in explaining the appeal.](#) In appeals in which multiple PINs are consolidated into a single petition, the assessed values and the relief requested for each individual PIN must be separately listed. [Single petitions containing parcels of 50 or more PINs must also include a formatted Excel spreadsheet submitted electronically. The spreadsheet is available on the Forms page of the PTAB website located at \[www.ptab.illinois.gov\]\(http://www.ptab.illinois.gov\). Instructions for completion and submission of the spreadsheet are contained within the document.](#)

PROPERTY TAX APPEAL BOARD

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- d) Appeals filed with the Property Tax Appeal Board shall bear a signature of the contesting party or the contesting party's attorney on at least one petition, and shall be filed with the Clerk of the Property Tax Appeal Board. Corporations, limited liability companies (LLC), partnerships, and other similar entities, and taxing districts shall be represented at all stages before the Property Tax Appeal Board by any person licensed to practice law in the State of Illinois. By signing a petition or filing an appearance, the attorney certifies that he or she has the authority to appear and/or act on behalf of a party in the proceeding. (See Section 1910.70.)
- e) If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the board of review or board of appeals or after adjournment of the session of the board of review at which assessments for the subsequent year or years of the same general assessment period, as provided in Sections 9-215 through 9-225 of the Code, are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for the subsequent year or years directly to the Property Tax Appeal Board. (See Section 16-185 of the Code.)
- 1) For assessment years prior to 2016, two~~Two~~ copies of the written notice of the decision of the board of review must be filed with the petition, if one has been issued. Alternatively, two copies of the decision of the Property Tax Appeal Board reducing the assessment of the subject property for ~~at~~ the prior year within the same general assessment period shall be provided.
 - 2) Beginning with the 2016 assessment year, and each year thereafter, the contesting party shall file one copy of the petition, one copy of the written notice of the decision of the board of review or the decision of the Property Tax Appeal Board reducing the assessment for the prior year or years within the same general assessment period conferring jurisdiction on the Property Tax Appeal Board, and one copy of the written and documentary evidence, unless the petition and evidence exceeds 500 total pages, in which case, the petition and all written and documentary evidence must be submitted in triplicate.
- f) When filing an appeal petition pursuant to subsections (a) and (b):
- 1) For assessment years prior to 2016, petitions~~Petitions~~ for appeal shall be

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filed in triplicate and all copies of the same shall be properly signed as stated in subsection (d). In every case in which a change in assessed valuation of less than \$100,000 is sought, all written and documentary evidence must be submitted in duplicate with the petition. In every case in which a change in assessed valuation of \$100,000 or more is sought, all written and documentary evidence must be submitted in triplicate with the petition.

2) Beginning with the 2016 assessment year, and each year thereafter, the contesting party shall file one copy of each document required by subsection (f)(1), unless the petition and evidence exceeds 500 total pages, in which case, the petition and all written and documentary evidence must be submitted in triplicate. A photograph of the subject property should be submitted with the petition if it aids the contesting party in explaining the appeal.

- g) If the contesting party is unable to submit written or documentary evidence with the petition, the contesting party must submit a written request for an extension of time with the petition. Upon receipt of this request, the Board shall grant a 30 day extension of time. The Board shall grant additional or longer extensions for good cause shown. Good cause may include, but is not limited to, the inability to submit evidence for a cause beyond the control of the contesting party, such as the pendency of court action affecting the assessment of the property or the death or serious illness of a valuation witness. Without a written request for an extension, no evidence will be accepted after the petition is filed. Evidence sent by mail shall be considered as filed on the date postmarked or in accordance with Section 1910.25(b).
- h) Every petition for appeal shall state the facts upon which the contesting party bases an objection to the decision of the board of review, together with a statement of the contentions of law the contesting party desires to raise. If contentions of law are raised, the contesting party shall submit a brief in support of his position with the petition. Extensions of time shall be granted in accordance with subsection (g). Failure to do so shall result in dismissal of the appeal.
- i) Every petition for appeal shall give the post office address where mail addressed to the contesting party may be received by the contesting party or his or her attorney, together with the contesting party's telephone number. Notice to the

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contesting party's attorney shall be deemed notice to the contesting party. A contesting party or attorney may provide an e-mail address for receipt of service of proceedings. The Property Tax Appeal Board must be notified in writing or electronically by any party of a change of mailing address or e-mail address within 30 days after the change.

- j) The petition shall in all cases state the assessed value of the land, and the assessed value of the improvements (structures), and the total assessed value as placed on the property by the board of review. The petition must also state the assessed valuation of the land, and the assessed value of the improvements (structures), and the total assessed value that the contesting party claims to be correct. The contesting party may only amend the assessment claimed to be correct by filing an appeal petition denoted as "Amended" setting forth the assessed valuation of the land, the assessed value of the improvements, and the total assessed valuation that the contesting party considers correct upon the completion of the filing of the documentary evidence in accordance with extensions granted pursuant to subsection (g). No amendment to the contesting party's assessment request will be accepted after the expiration of the extension of time to submit evidence that has been granted pursuant to subsection (g).
- k) All information required to fully complete the petition shall be furnished by the contesting party at the time the petition is filed. Incomplete petitions and/or a letter shall be returned with an explanation of the reasons for the rejection. The contesting party must resubmit the corrected petition within 30 days after the date of the return of the petition. If the returned petition is not resubmitted within the 30 day period, the appeal will be dismissed from consideration by the Board. Petitions that are not properly signed, petitions that do not state the assessed valuation assigned by the board of review, petitions that do not state the assessed valuation considered correct by the contesting party, and petitions not containing all information as required in this Section, shall be treated as incomplete petitions. Written or documentary evidence will be accepted after receipt of a completed petition only when a written request for an extension of time was filed in accordance with [subsection Section 1910.30](#)(g) and granted.
- l) Upon receipt of a completed petition, including the written and documentary evidence from the contesting party, the Clerk of the Property Tax Appeal Board shall send a copy of the petition, including all documentary evidence, by mail or by electronic means, to the board of review and shall only forward a copy of the petition to the State's Attorney of the county in which the property is located. The

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Clerk shall cause the completed petition, including all documentary evidence, to become a part of the appeal proceedings and record.

- m) If the petition for appeal is filed by an interested taxing body, rather than by the owner or taxpayer whose assessment is in question, the taxing body must furnish the name and address of the owner and/or taxpayer of the property in question. A copy of the completed petition shall then be sent to the owner and/or taxpayer of the property by the Clerk of the Property Tax Appeal Board. Any petition filed by an interested taxing body without the name and address of the owner and/or taxpayer of the property in question shall be treated as an incomplete petition in accordance with subsection (k).

(Source: Amended at 43 Ill. Reg. 2158, effective March 1, 2019)

Section 1910.40 Board of Review Response to Petition

- a) Upon receipt of the completed petition from the contesting party, the Clerk of the Property Tax Appeal Board shall notify the board of review of the filing of the appeal. Upon notification of the filing of the appeal, the board of review shall submit its completed Board of Review Notes on Appeal disclosing the final assessment of the subject property. The Board of Review Notes on Appeal shall also reflect the application of a local township equalization factor when applicable. The board of review shall also submit a copy of the property record card of the subject property. The property record card should contain, if possible, a schematic drawing of all structural improvements to the land, a completed cost analysis, and an indication of the basis of the land value. The Board of Review Notes on Appeal and all written and documentary evidence supporting the board of review's position must be submitted to the Property Tax Appeal Board within 90 days after the date of the notice of the filing of an appeal unless the board of review objects to the jurisdiction of the Property Tax Appeal Board over the assessment appeal.

- 1) For assessment years prior to 2016, in~~in~~ every case in which a change in assessed valuation of less than \$100,000 is sought, all written and documentary evidence must be submitted in duplicate. In every case in which a change in assessed valuation of \$100,000 or more is sought, all written and documentary evidence must be submitted in triplicate. At the time the board of review submits its evidence in response to the appeal, it

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shall also submit its rebuttal evidence, if any, as defined in Section 1910.66.

- 2) For appeals beginning with the 2016 assessment year, and each year thereafter, the board of review shall submit one copy of all written and documentary evidence, unless the evidence exceeds 500 total pages, in which case, the response and all written and documentary evidence must be submitted in triplicate. At the time the board of review submits its evidence in response to the appeal, it shall also submit its rebuttal evidence, if any, as defined in Section 1910.66.
- b) If the board of review objects to the Board's jurisdiction, it must submit a written request for dismissal of the petition prior to the submission of the Board of Review Notes on Appeal and accompanying documentation. The request for dismissal must set forth the basis of the board of review's objections to the Property Tax Appeal Board's jurisdiction over the appeal. In these cases, the Property Tax Appeal Board shall transmit a copy of the request for dismissal to the contesting party and secure a written response to the request for dismissal from the contesting party within 30 days after the date of the notice of the filing of the motion to dismiss. A copy of the response shall be transmitted to the board of review. Upon receipt of the request for dismissal and the response, the Property Tax Appeal Board shall issue a ruling determining if it has jurisdiction in the matter.
- c) If the board of review objects to the Board's jurisdiction and the Property Tax Appeal Board subsequently determines that it has jurisdiction over the parties and the subject matter of the appeal, the board of review shall submit its Board of Review Notes on Appeal, the subject's property record card and all written and documentary evidence within 30 days after the Board's ruling determining jurisdiction.
- d) If the board of review is unable to submit the additional written or documentary evidence with the Notes on Appeal, it must submit a letter requesting an extension of time with the Board of Review Notes on Appeal. Upon receipt of the request, the Board shall grant a 30 day extension of time. The Board shall grant additional or longer extensions for good cause shown. Good cause may include, but is not limited to, the inability to submit evidence for a cause beyond the control of the board of review, such as the pendency of court action affecting the assessment of the property or the death or serious illness of a valuation witness. Without a

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written request for an extension, no evidence will be accepted after the Board of Review Notes on Appeal is filed.

- e) The Clerk shall cause the board of review's evidence to become a part of the appeal proceeding and record and shall send a copy of the evidence, by mail or electronic means, to the contesting party or his or her attorney.
- f) Pursuant to Section 16-180 of the Property Tax Code, in every case in which a change in assessed valuation of \$100,000 or more is sought, the board of review shall, within 30 days after the receipt of the notice of the filing of an appeal with the Board, serve a copy of the petition on all taxing districts as shown on the last available tax bill. The board of review shall also serve a certificate of service on the Property Tax Appeal Board, within 30 days after the receipt of the notice of the filing of an appeal with the Board, affirming that all taxing districts have been notified of the appeal. The certificate of service shall be signed by a member of the board of review or the clerk of the board of review.

(Source: Amended at 43 Ill. Reg. 2158, effective March 1, 2019)

Section 1910.50 Determination of Appealed Assessment

- a) All proceedings before the Property Tax Appeal Board shall be considered de novo meaning the Board will consider only the evidence, exhibits and briefs submitted to it, and will not give any weight or consideration to any prior actions by a local board of review or to any submissions not timely filed or not specifically made a part of the record. *The Board shall not be limited to the evidence presented to the board of review of the county. A party participating in the hearing before the Property Tax Appeal Board is entitled to introduce evidence that is otherwise proper and admissible without regard to whether that evidence has previously been introduced at a hearing before the board of review of the county. Each appeal shall be limited to the grounds listed in the petition filed with the Board.* (Section 16-180 of the Code)
- b) The Property Tax Appeal Board may accept into the record all evidence, exhibits and briefs submitted by all interested parties and render a decision without holding a hearing. On its own motion, the Board may order a hearing to be held at a time and place designated by the Board. *A hearing shall be granted if any party to the appeal submits a request in writing.* (Section 16-170 of the Code)

PROPERTY TAX APPEAL BOARD

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- c) The decisions of the Property Tax Appeal Board will be based on equity and the weight of the evidence.
- 1) In all counties other than Cook, a three-year county wide assessment level to be based on relevant sales during the previous three years as certified by the Department of Revenue will be considered when sufficient probative evidence is presented indicating the estimate of full market value of the subject property on the relevant real property assessment date of January 1.
 - 2) In Cook County, for residential property of six units or less currently designated as Class 2 real estate according to the Cook County Real Property Assessment Classification Ordinance, as amended, when sufficient probative evidence indicating the estimate of full market value of the subject property on the relevant assessment date is presented, the Board may consider evidence of the appropriate level of assessment for property in that class. The evidence may include:
 - A) the Department of Revenue's annual sales ratio studies for Class 2 property for the previous three years; and
 - B) competent assessment level evidence, if any, submitted by the parties pursuant to this Part.
 - 3) In Cook County, for all other classes of property, when sufficient probative evidence indicating the estimate of full market value of the subject property on the relevant assessment date is presented, the Board will consider the level of assessment applicable to the subject property under the Cook County Real Property Assessment Classification Ordinance, as amended.
- d) Whether or not a hearing is held in the appeal proceeding, the proceeding before the Property Tax Appeal Board shall be terminated when the Board renders a decision. The Board may revise and/or correct a decision upon its own initiative at any time prior to the expiration of the administrative review filing period as provided in Section 16-195 of the Property Tax Code if a mistake in the calculation of an assessment or other clerical error is discovered. In this event, the Board shall issue an amended decision. The decision or order of the Property Tax Appeal Board in any such appeal shall, within 10 days after it is made and

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entered, be certified to every party to the proceeding and to the proper authorities, including the board of review whose decision was appealed, the County Clerk who extends taxes upon the assessment in question, and the County Collector (Treasurer) who collects property taxes upon the assessment.

- e) A majority of the Members of the Board is required to make a decision of the Board.
- f) *If a petition is filed by a taxpayer with the Property Tax Appeal Board, the taxpayer is precluded from filing objections based upon valuation in the Circuit Court as may otherwise be permitted by Sections 21-175 and 23-5 of the Property Tax Code. (Section 16-160 of the Code)*
- g) *If a taxpayer files objections based upon valuation in the Circuit Court as permitted by Sections 21-175 and 23-5 of the Property Tax Code, the taxpayer is precluded from filing a petition contesting the assessment of the subject property with the Property Tax Appeal Board. (Section 16-160 of the Code)*
- h) *If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the board of review or after adjournment of the session of the board of review at which assessments for the subsequent year or years of the same general assessment period, as provided in Sections 9-215 through 9-225 of the Code are being considered; and the taxpayer may, within 30 days after the date of the written notice of the Property Tax Appeal ~~Board's Board~~ decision, the taxpayer may:*
 - 1) appeal the assessment for such subsequent year directly to the Property Tax Appeal Board; and/or
 - 2) appeal the assessment for all subsequent years within the same general assessment period directly to the Property Tax Appeal Board.
(Section 16-185 of the Code)
- i) *If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel on which a residence occupied by the owner is situated, such reduced assessment, subject to equalization, shall remain in effect for the remainder of the general assessment period as provided in Sections 9-215 through 9-225 of the Code, unless that parcel is subsequently sold in an arm's length transaction establishing a fair cash value for the parcel that is different*

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from the fair cash value on which the Board's assessment is based, or unless the decision of the Property Tax Appeal Board is reversed or modified upon review. (Section 16-185 of the Code)

- j) The contesting party may, at any time before the hearing begins, move to withdraw or voluntarily dismiss the appeal, by written request filed with the Board and all other parties to the appeal. Motions to withdraw or voluntarily dismiss an appeal are favored by the Board and will be denied only in the most extreme or compelling circumstances.
- k) *The Property Tax Appeal Board shall consider compulsory sales of comparable properties for the purpose of revising and correcting assessments, including those compulsory sales of comparable properties submitted by the taxpayer. (Section 16-183 of the Code)*

(Source: Amended at 43 Ill. Reg. 2158, effective March 1, 2019)

Section 1910.60 Interested Parties – Intervention

- a) Taxpayer/Owner of Property: Any taxpayer or owner of property dissatisfied with a decision of the board of review as such decision pertains to the assessment of his or her property may appeal that decision by filing a petition with the Property Tax Appeal Board within 30 days after the written notice of the decision of the board of review or the date of the written notice of the application of final, adopted township equalization factors by the board of review. If the taxpayer or owner of property files a petition within 30 days after the written notice of the application of final, adopted township equalization factors, the relief the Property Tax Appeal Board may grant is limited to the amount of the increase caused by the application of the township equalization factor. Petitions shall be filed for the subsequent year within 30 days after the date of the written notice when the Property Tax Appeal Board rendered a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the board of review, or after adjournment of the session of the board of review, at which assessments for the subsequent year are being considered. (See Section 16-185 of the Code.)
- b) Taxing Body Acting as Appellant: Any taxing body that has a revenue interest in a decision of the board of review may file an appeal by filing its petition within 30 days after the written notice to the taxpayer of a decision by the board of review.

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Any taxing district so filing must conform its petition and documentation to the provisions of Section 1910.30.

- c) Taxpayer/Owner as Intervenor: Upon notice to the owner that a taxing body has filed an appeal affecting his property, the owner or taxpayer may become an intervening party:
- 1) For appeals filed for assessment years prior to 2016, by filing in triplicate with the Clerk of the Property Tax Appeal Board a Request to Intervene within 30 days after the postmark date of the notice to the owner or taxpayer that the taxing body has filed an appeal and shall comply with subsection (e) regarding the submission of evidence or with subsection (f) to seek an extension of time to submit evidence.
 - 2) For appeals beginning with assessment year 2016 and each year thereafter, by filing one copy with the Clerk of the Property Tax Appeal Board of a Request to Intervene within 30 days after the postmark date of the notice to the owner or taxpayer that the taxing body has filed an appeal and shall comply with subsection (e) regarding the submission of evidence or with subsection (f) to seek an extension of time to submit evidence, unless the Request to Intervene and evidence exceeds 500 total pages, in which case, the Request to Intervene and all written and documentary evidence must be submitted in triplicate.
- d) Intervenor
- 1) Any taxing body that has a revenue interest in an appeal before the Property Tax Appeal Board may become an intervening party by filing in triplicate with the Clerk of the Property Tax Appeal Board a Request to Intervene through legal counsel in accordance with Section 1910.70(c). The Request to Intervene must be filed within the later to occur of:
 - A) 60 days after the postmark date of the notice of the Board to the State's Attorney of the filing of an appeal; or
 - B) within 60 days after the postmark of the board of review service as required in Section 16-180 of the Property Tax Code.

PROPERTY TAX APPEAL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 2) The Request to Intervene must be accompanied by a copy of the resolution of the governing board of the taxing body authorizing its legal representative to file a Request to Intervene on its behalf.
- e) Intervenors – Taxing District and Taxpayer/Owner – Written and Documentary Evidence:
- 1) For appeals filed for assessment years prior to 2016, Requests to Intervene shall be filed in triplicate and all copies of the same shall be signed. All additional written and documentary evidence must be submitted with the Request to Intervene in triplicate. Any Request to Intervene that is received without a properly adopted copy of the resolution of the governing board of the taxing body authorizing its legal representative to file the Request to Intervene on its behalf shall be treated as incomplete and shall be returned. The filing of an incomplete Request to Intervene shall not extend the 60 day deadline without a written request explaining good cause for failure to timely submit a properly completed Request to Intervene and resolution.
 - 2) For appeals beginning with assessment year 2016 and each year thereafter, one copy of the Request to Intervene, one copy of the resolution of the governing board, and one copy of all additional written and documentary evidence must be submitted, unless the Request to Intervene and evidence exceeds 500 total pages, in which case, the Request to Intervene and all written and documentary evidence must be submitted in triplicate. All other requirements of subsection (e)(1) regarding an incomplete Request to Intervene shall apply. At the time the intervenor submits its evidence in response to the appeal, it shall also submit its rebuttal evidence, if any, as defined in Section 1910.66.
- f) Extensions for Filing Additional Evidence: If the intervening party is unable to submit the additional written or documentary evidence with the Request to Intervene, it must submit a letter requesting an extension of time to file additional written or documentary evidence with the Request to Intervene. Upon receipt of such a request, the Board shall grant a 30 day extension of time for the filing of written or documentary evidence. This shall not include an extension of time to file a Request to Intervene or resolution. The Board shall grant additional or longer extensions for the filing of written or documentary evidence for good cause shown. Good cause may include but is not limited to the inability to submit

PROPERTY TAX APPEAL BOARD

NOTICE OF ADOPTED AMENDMENTS

evidence for a cause beyond the control of the intervening party, such as the pendency of court action affecting the assessment of the property or the death or serious illness of a valuation witness. Without a written request for an extension, no evidence will be accepted after the Request to Intervene is filed.

- g) Records: The Clerk of the Property Tax Appeal Board shall cause a Request to Intervene and all accompanying documentation to become a part of the appeal proceeding and record, and shall send a copy of the same, by mail or electronic means, to the contesting party and the board of review. Upon receipt of a timely Request to Intervene, the Clerk of the Property Tax Appeal Board shall cause a copy of the appeal record to be forwarded to the intervening party by mail or electronic means.

(Source: Amended at 43 Ill. Reg. 2158, effective March 1, 2019)

Section 1910.66 Rebuttal Evidence

- a) Upon first receipt of the argument and accompanying documentation filed by an opposing party, any other party may, within 30 days after the date of the Board's notice:
- 1) For appeals filed for assessment years prior to 2016, file two copies of written or documentary rebuttal evidence for appeals with a request for a change in valuation of less than \$100,000 or submit three copies of written or documentary rebuttal evidence for appeals with a request for a change in valuation of \$100,000 or more.
 - 2) For appeals beginning with the 2016 assessment year and each year thereafter, file one copy of written or documentary rebuttal evidence, unless the rebuttal evidence exceeds 500 total pages, in which case, all written and documentary rebuttal evidence must be submitted in triplicate.
 - 3) Except as provided in Sections 1910.40 and 1910.60, any party shall have 30 days after first receipt of the argument and written documentary evidence filed by an opposing party to file written or documentary evidence in rebuttal. ~~file written or documentary rebuttal evidence either by mail or electronic means.~~ Rebuttal evidence shall consist of written or documentary evidence submitted to explain, repel, counteract or disprove facts given in evidence by an adverse party and must tend to explain or

PROPERTY TAX APPEAL BOARD

NOTICE OF ADOPTED AMENDMENTS

contradict or disprove evidence offered by an adverse party. Rebuttal evidence shall include a written factual critique based on applicable facts and law, a review appraisal, or an analysis of an adverse party's appraisal prepared by a person who is an expert in the appraisal of real estate. This written critique, review appraisal, or analysis must be submitted within the responding party's 30-day rebuttal period pursuant to this Section.

- b) In any appeal in which a change in assessed valuation of \$100,000 or more is sought, the Board shall grant one 30-day extension of time to submit rebuttal evidence upon good cause shown in writing. Good cause shall include the complexity of the appeal, the volume of the evidence submitted by an opposing party, and the inability of a rebuttal appraiser to complete the review and written critique within the 30-day filing period. A request for an extension of time to submit rebuttal evidence shall be in writing, supported by affidavit, and served on the Board and all other parties to the appeal. No further extensions to submit rebuttal evidence shall be granted.
- c) Rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties. A party to the appeal shall be precluded from submitting its own case in chief in the guise of rebuttal evidence.

(Source: Amended at 43 Ill. Reg. 2158, effective March 1, 2019)

Section 1910.69 Sanctions

- a) Failure of any party to comply fully with all rules and/or specific requests of the Property Tax Appeal Board as provided in Sections 1910.30, 1910.40, 1910.60, 1910.65, 1910.67, 1910.68 and 1910.73 shall result in the default of that party. Any party found to be in default pursuant to this Section shall forfeit any right to request, have or participate in any hearing and shall not receive further notice of the proceedings, decisions or rulings of the appeal from the Property Tax Appeal Board. Notice to any defaulted party other than the taxpayer shall be deemed to have been given when served upon the State's Attorney of the county from which the appeal has been taken. (See Section 16-170 of the Code.) Notice of the final administrative decision to any taxpayer in default shall be given in accordance with Section 16-185 of the Code.
- b) When a hearing as provided in Section 1910.67, or a pre-hearing conference as provided in Section 1910.73, is ordered by the Property Tax Appeal Board, all

PROPERTY TAX APPEAL BOARD

NOTICE OF ADOPTED AMENDMENTS

parties shall appear for the hearing or pre-hearing on the appeal on the date and at the time set by the Property Tax Appeal Board. Failure to appear on the date and at the time set by the Property Tax Appeal Board shall be sufficient cause to default that party.

- c) When a party, his attorney, or his witness engages in threatening, disruptive, vulgar, abusive or obscene conduct or language which delays or protracts a proceeding, the Board, by any Member, or Hearing Officer, shall exclude the offending person from the proceeding. Any party engaging in such conduct or language shall be defaulted.
- d) Failure of the contesting party to furnish a court reporter as required in Section 1910.98(a) shall be sufficient cause to dismiss the appeal. Failure of the contesting party to furnish a court reporter's transcript as required in Section 1910.98(b) within 60 days after the date of the hearing shall result in the dismissal of the appeal.
- e) Failure of the contesting party to pursue disposition of an appeal in a reasonable time will render the appeal subject to dismissal. In making this determination, the Board shall consider factors including, but not limited to, the history of the appeal, the length of time that has elapsed since the last action taken in the appeal, past attempts to schedule the appeal for hearing, and the contesting party's compliance with any Board or Hearing Officer requests or orders.

(Source: Amended at 43 Ill. Reg. 2158, effective March 1, 2019)

JOINT COMMITTEE ON ADMINISTRATIVE RULES

STRATTON OFFICE BUILDING
ROOM C-1
SPRINGFIELD, ILLINOIS
FEBRUARY 19, 2019
10:30 A.M.

NOTICE: *It is the policy of the Committee to allow only representatives of State agencies to testify orally on any rule under consideration at Committee hearings. If members of the public wish to express their views with respect to a proposed rule, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:*

*Joint Committee on Administrative Rules
700 Stratton Office Building
Springfield, Illinois 62706
217/785-2254 jcar@ilga.gov*

RULEMAKINGS SCHEDULED FOR JCAR REVIEW

The following rulemakings are scheduled for review at this meeting. JCAR staff may be proposing action with respect to some of these rulemakings. JCAR members may have questions concerning, and may initiate action with respect to, any item scheduled for JCAR review and any other issues within the Committee's purview.

PROPOSED RULEMAKINGSAgriculture

1. Meat and Poultry Inspection Act (8 Ill. Adm. Code 125)
 - First Notice Published: 42 Ill. Reg. 20174 – 11/16/18
 - Expiration of Second Notice: 3/9/19

Children and Family Services

2. Placement and Visitation Services (89 Ill. Adm. Code 301)
 - First Notice Published: 42 Ill. Reg. 7710 – 5/4/18
 - Expiration of Second Notice: 3/14/19

Commerce and Economic Opportunity

3. Administrative Hearing Rules (56 Ill. Adm. Code 2605)

- First Notice Published: 42 Ill. Reg. 19290 – 11/2/18
- Expiration of Second Notice: 3/8/19

Healthcare and Family Services

4. Medical Payment (89 Ill. Adm. Code 140)
 - First Notice Published: 42 Ill. Reg. 18242 – 10/12/18
 - Expiration of Second Notice: 2/10/19

Insurance

5. Premium Fund Trust Account (Repealer) (50 Ill. Adm. Code 3113)
 - First Notice Published: 42 Ill. Reg. 18372 – 10/12/18
 - Expiration of Second Notice: 1/11/19
6. Construction and Filing of Life Insurance and Annuity Forms (50 Ill. Adm. Code 1405)
 - First Notice Published: 42 Ill. Reg. 20207 – 11/16/18
 - Expiration of Second Notice: 3/8/19
7. Summary Document and Disclaimer (50 Ill. Adm. Code 3401)
 - First Notice Published: 42 Ill. Reg. 20934 – 11/30/18
 - Expiration of Second Notice: 3/8/19

Labor

8. Minimum Wage Law (56 Ill. Adm. Code 210)
 - First Notice Published: 42 Ill. Reg. 17091 - 9/28/18
 - Expiration of Second Notice: 1/16/19

Public Health

9. Hospital Licensing Requirements (77 Ill. Adm. Code 250)
 - First Notice Published: 42 Ill. Reg. 18384 – 1/25/19
 - Expiration of Second Notice: 3/10/19
10. Emergency Medical Services, Trauma Center, Comprehensive Stroke Center, Primary Stroke Center and Acute Stroke Ready Hospital Code (77 Ill. Adm. Code 515)
 - First Notice Published: 42 Ill. Reg. 20621 – 11/26/18
 - Expiration of Second Notice: 3/14/19

Revenue

-
11. Retailers' Occupation Tax (86 Ill. Adm. Code 130)
 - First Notice Published: 42 Ill. Reg. 18780 – 10/19/18
 - Expiration of Second Notice: 2/27/19

Secretary of State

12. Grant Application and Award Procedures – Census Participation and Immigrant Community Assistance Grants (89 Ill. Adm. Code 1500)
 - First Notice Published: 42 Ill. Reg. 18440 - 10/12/18
 - Expiration of Second Notice: 1/18/19

13. Issuance of Licenses (92 Ill. Adm. Code 1030)
 - First Notice Published: 42 Ill. Reg. 20247 – 11/16/18
 - Expiration of Second Notice: 2/24/19

14. Commercial Driver Training Schools (92 Ill. Adm. Code 1060)
 - First Notice Published: 42 Ill. Reg. 20315 – 11/16/18
 - Expiration of Second Notice: 2/27/19

Transportation

15. Qualification of Drivers (92 Ill. Adm. Code 391)
 - First Notice Published: 42 Ill. Reg. 20939 – 11/30/18
 - Expiration of Second Notice: 3/8/19

EMERGENCY RULEMAKINGS

Public Health

16. Sexual Assault Survivors Emergency Treatment Code (77 Ill. Adm. Code 545)
 - First Notice Published: 43 Ill. Reg. 1089 – 1/11/19

Secretary of State

17. Grant Application and Award Procedures – Census Participation and Immigrant Community Assistance Grants (Emergency Repeal of Emergency Rule) (89 Ill. Adm. Code 1500)
 - First Notice Published: 43 Ill. Reg. 1394 – 1/25/19

AGENCY RESPONSE

Financial and Professional Regulation

-
18. Rules for the Administration of the Compassionate Use of Medical Cannabis Pilot Program (Emergency) (68 Ill. Adm. Code 1290)
 - First Notice Published: 42 Ill. Reg. 23202 – 12/14/18
 - Response: Agree
 19. Pharmacy Practice Act (68 Ill. Adm. Code 1330)
 - First Notice Published: 41 Ill. Reg. 15130 – 12/26/17
 - Response: Agree

Secretary of State

20. Grant Application and Award Procedures – Census Participation and Immigrant Community Assistance Grants (89 Ill. Adm. Code 1500)
 - First Notice Published: 42 Ill. Reg. 18511 – 10/12/18
 - Response: Agree

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of January 22, 2019 through January 25, 2019. The following rulemakings are scheduled for the February 19, 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>
3/8/19	<u>Department of Commerce and Economic Opportunity, Administrative Hearing Rules (56 Ill. Adm. Code 2605)</u>	11/2/18 42 Ill. Reg. 18780	2/19/19
3/8/19	<u>Department of Transportation, Qualification of Drivers (92 Ill. Adm. Code 391)</u>	11/30/18 42 Ill. Reg. 20939	2/19/19
3/8/19	<u>Department of Insurance, Construction and Filing of Life Insurance and Annuity Forms (50 Ill. Adm. Code 1405)</u>	11/16/18 42 Ill. Reg. 20207	2/19/19
3/8/19	<u>Department of Insurance, Summary Document and Disclaimer (50 Ill. Adm. Code 3401)</u>	11/30/18 42 Ill. Reg. 20934	2/19/19
3/9/19	<u>Department of Agriculture, Meat and Poultry Inspection Act (8 Ill. Adm. Code 125)</u>	11/16/18 42 Ill. Reg. 20174	2/19/19
3/10/18	<u>Department of Public Health, Hospital Licensing Requirements (77 Ill. Adm. Code 250)</u>	10/12/18 42 Ill. Reg. 18384	2/19/19

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLICATION ERROR

- 1) Heading of the Part: Procedures for Issuing Loans From the Water Pollution Control Loan Program
- 2) Code Citation: 35 Ill. Adm. Code 365
- 3) Register citation of proposed rulemaking and other pertinent action: 42 Ill. Reg. 24383; December 28, 2018
- 4) Explanation: The version published in the 12/28/18 *Register* strikes the entirety of Section 365.350(e). This subsection should have been published as follows:
 - "e) After the bids are opened and evaluated by the loan applicant ~~in accordance with the methods and criteria set out in the bidding documents~~, a bidding evaluation and certification, on forms prescribed by the Agency, including documentation showing compliance with Section 365.620~~and all supporting information from the selected bidder, including, but not limited to, the following:~~".

EXECUTIVE ORDERS

2019-3**EXECUTIVE ORDER STRENGTHENING THE STATE'S COMMITMENT TO
WORKFORCE DEVELOPMENT AND JOB CREATION**

WHEREAS, the State of Illinois should prioritize revitalizing economic growth and creating economic opportunity in communities across the entire state; and

WHEREAS, the State of Illinois has failed to fully identify and embrace innovative strategies to focus workforce development dollars on emerging growth industries; and

WHEREAS, identifying and investing in growth industries, such as health care, information technology, and green technology, in growing manufacturing sectors, and in innovation to strengthen Illinois' critical agriculture industry will maximize job creation across the state and help us build a stronger economic foundation; and

WHEREAS, the State of Illinois should place a high priority on aligning workforce development resources across related economic development, education, and workforce-based human services programs to ensure efficient and effective investment in emerging growth industries; and

WHEREAS, the State of Illinois should work with employers to meet real-time shifts in market demand, using a data-driven approach and scaling best practices to ensure that resources are used effectively to train workers for industries that are hiring and position the State to attract federal funding; and

WHEREAS, the State of Illinois has the opportunity to position itself to attract additional federal funding by better focusing existing resources, particularly by expanding state-, local- and industry-led partnerships that create and scale work-based learning to meet in-demand occupations; and

WHEREAS, Illinois government must address the failures of the previous administration head-on, get back to the basics of effective governing and create a plan to move our state forward into a new day; and

THEREFORE, I, JB Pritzker, Governor of Illinois, by virtue of the executive authority vested in me by Article V of the Constitution of the State of Illinois, hereby order as follows:

I. Review of Identified Targeted Growth Industries

The Department of Commerce and Economic Opportunity shall, within 90 days of the effective date of this Executive Order, deliver a report to the Governor containing a comprehensive review

EXECUTIVE ORDERS

of industries the Department has identified for targeted growth to determine the ongoing effectiveness of investment in those industries and to identify emerging opportunities for investment in growing industries.

II. Review of Effective and Efficient Investment in Targeted Industries

The Department of Commerce and Economic Opportunity shall, within 90 days of the effective date of this Executive Order, deliver a report to the Governor containing a comprehensive review of the return on investment for targeted industries with recommendations for improving the efficiency and effectiveness of existing investment, and best practices and lessons learned for future investment in emerging growth industries.

III. Report on Improved Alignment of Workforce Resources for Disenfranchised Communities

The Department of Commerce and Economic Opportunity shall, within 90 days of the effective date of this Executive Order, deliver a report to the Governor containing comprehensive recommendations for improving alignment of workforce resources for communities that have been disenfranchised, including rural and urban communities.

IV. Savings Clause

Nothing in this Executive Order shall be construed to contravene any federal or State law or regulation. Nothing in this Executive Order shall affect or alter the existing statutory powers of any State agency or be construed as a reassignment or reorganization of any State agency.

V. Prior Executive Orders

This Executive Order supersedes any contrary provision of any other prior Executive Order.

VI. Severability Clause

If any part of this Executive Order is found to be invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. The provisions of this Executive Order are severable.

VII. Effective Date

This Executive Order shall take effect immediately upon its filing with the Secretary of State.

Issued by Governor: January 16, 2019

EXECUTIVE ORDERS

Filed with Secretary of State: January 18, 2019

2019-4**EXECUTIVE ORDER STRENGTHENING OUR COMMITMENT TO ILLINOIS VETERANS AND THEIR FAMILIES**

WHEREAS, Illinois veterans have selflessly served our nation, sacrificing their comfort and safety to defend our freedom and security; and

WHEREAS, the spouses of veterans have also sacrificed for our country by steadfastly supporting veterans as they devoted their lives to our protection; and

WHEREAS, in appreciation for their service, Illinois owes a moral debt of gratitude and the solemn obligation to treat veterans and their spouses with the utmost dignity and respect by the State and, as veterans age, the State must be able to provide quality long-term care in the Illinois Veterans' Homes; and

WHEREAS, the State must ensure that all Illinois Veterans' Homes provide a safe, healthy environment where veterans and their spouses receive all necessary care; and

WHEREAS, residents and their family members must be assured that the Veterans' Homes have in place and are carefully following policies, protocols and procedures that have been reviewed by healthcare experts and are designed to protect the health and safety of all residents; and

WHEREAS, as part of protecting their health and safety, Illinois Veterans' Homes also must have in place and carefully follow policies, protocols and procedures mandating appropriate and timely communication regarding health and safety issues with residents and their families, as well as with other State, federal and local agencies involved in ensuring high-quality care for residents of the Veterans' Homes; and

WHEREAS, employees of the Veterans' homes must be well trained on the necessary policies, protocols and procedures to protect the health and safety of residents and employees, as well as provided with the necessary resources and tools to deliver services effectively and in a manner that fully protects the health and safety of residents; and

WHEREAS, the agencies and departments of the State of Illinois charged with serving Illinois veterans and their families must be accountable to the people of Illinois, and address any areas in which services have fallen short of this high standard; and

EXECUTIVE ORDERS

THEREFORE, I, JB Pritzker, Governor of Illinois, by virtue of the executive authority vested in me by Article V of the Constitution of the State of Illinois, hereby order as follows:

I. Comprehensive Review of the Department of Veterans Affairs Health and Safety Process and Procedures

The Department of Veterans' Affairs ("Department") shall, within 120 days of the effective date of this Executive Order, provide a report to the Governor containing a comprehensive review of weaknesses, strengths, and opportunities for improvement of policies, protocols and procedures related to ensuring the health and safety of residents and employees at Illinois Veterans' Homes, including, but not limited to policies, protocols and procedures related to:

- A. Identifying and remediating health and safety issues for residents and employees, including health issues that may present public health emergencies;
- B. Communicating within the Department and with other State, federal and local agencies regarding health and safety issues for residents and employees, including public health emergencies;
- C. Communicating with residents, family members, and the public regarding health and safety issues at the Veterans' Homes, including public health emergencies; and
- D. Determining and executing appropriate and necessary maintenance schedules at the Veterans' Homes that protect the health and safety of residents and employees.

In conducting the comprehensive review required by this Executive Order, the Department shall work with the Illinois Department of Public Health, and shall consult, as needed, with State and national experts, residents and their family members and employees involved in providing critical care to residents.

II. Savings Clause

Nothing in this Executive Order shall be construed to contravene any federal or State law or regulation. Nothing in this Executive Order shall affect or alter the existing statutory powers of any State agency or be construed as a reassignment or reorganization of any State agency.

III. Prior Executive Orders

This Executive Order supersedes any contrary provision of any other prior Executive Order.

IV. Severability Clause

EXECUTIVE ORDERS

If any part of this Executive Order is found to be invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. The provisions of this Executive Order are severable.

V. Effective Date

This Executive Order shall take effect immediately upon its filing with the Secretary of State.

Issued by Governor: January 18, 2019

Filed with Secretary of State: January 25, 2019

**2019-5
EXECUTIVE ORDER**

WHEREAS, the Office of the Governor is committed to ensuring that Illinois is the most progressive state in the nation for protecting women's reproductive rights; and

WHEREAS, as part of this commitment, all women should have access to reproductive health care in Illinois regardless of their employer; and

WHEREAS, a woman's health care coverage should not be denied because of how much money she makes or where she lives; and

WHEREAS, when women are denied coverage for safe and legal abortions, the burden falls hardest on low-income women, women of color, and young women; and

WHEREAS, a woman's decision to choose abortion is one she makes with her family, her doctor, and according to her faith; and

WHEREAS, historically, state employees and their dependents were denied coverage for reproductive health care that is commonly available to those who get their insurance in the private sector, including denials of coverage for medically necessary abortions or those required because of lethal fetal anomalies; and

WHEREAS, Public Act 100-0538 removed a long-standing prohibition against coverage for abortion in most instances and replaced it with the intent to allow abortion to be covered to the same extent as other basic health care; and

THEREFORE, I, JB Pritzker, Governor of Illinois, by virtue of the executive authority vested in me by Article V of the Constitution of the State of Illinois, hereby order as follows:

EXECUTIVE ORDERS

I. Review State Employee Group Insurance Plans for Compliance with the Intent of Public Act 100-0538

The Department of Central Management Services ("Department") shall, within 60 days of the effective date of this Executive Order, review the coverage provided in all current State employee health benefits plans and submit a report to the Office of the Governor detailing the coverage for abortion in each plan, specifically identifying where coverage is restrictive under each plan in opposition to the intent of Public Act 100-0538, and the number of current enrollees in each plan.

II. Take Action to Enforce the Intent of Public Act 100-0538

The Department also shall, within 60 days of the Effective Date of this Executive Order, submit a plan to the Office of the Governor to ensure that by July 1, 2019, all State employee health benefits plans provide the coverage necessary to be in compliance with the intent of Public Act 100-0538.

III. Savings Clause

Nothing in this Executive Order shall be construed to contravene any federal or State law or regulation. Nothing in this Executive Order shall affect or alter the existing statutory powers of any State agency or be construed as a reassignment or reorganization of any State agency.

IV. Prior Executive Orders

This Executive Order supersedes any contrary provision of any other prior Executive Order.

V. Severability Clause

If any part of this Executive Order is found to be invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. The provisions of this Executive Order are severable.

VI. Effective Date

This Executive Order shall take effect immediately upon its filing with the Secretary of State.

Issued by Governor: January 22, 2019

Filed with Secretary of State: January 25, 2019

EXECUTIVE ORDERS

2019-6

EXECUTIVE ORDER JOINING THE US CLIMATE ALLIANCE AND COMMITTING TO THE PRINCIPLES OF THE PARIS CLIMATE AGREEMENT

WHEREAS, all residents of the State of Illinois deserve clean air, clean water, and a safe environment where their communities can thrive; and

WHEREAS, the overwhelming consensus of scientists is clear: climate change is real, and must be addressed by public officials; and

WHEREAS, the Trump Administration's withdrawal from the Paris Climate Agreement threatens the health and well-being of all Illinoisans; and

WHEREAS, the State of Illinois must continue to fulfill, uphold, and exceed the objectives of the Paris Climate Agreement because the transition to a clean energy economy has already begun, and Illinois will be left behind if we do not move forward; and

WHEREAS, Illinois is home to forests, farms, prairies, rivers, lakes, and wetlands, and Lake Michigan, and these abundant natural resources must be protected and preserved for future generations; and

WHEREAS, the State of Illinois is already on a path to having 25 percent of its energy come from renewable energy sources by 2025, and we must continue to advance toward a clean energy economy; and

WHEREAS, the State of Illinois has the opportunity to be on a path toward 100 percent clean and renewable energy and lead the transition to a clean energy economy; and

WHEREAS, Illinoisans are experiencing the damaging effects of climate change, including increased temperatures, soil erosion, and pollution, which cause harm to the environment, economy and residents' health; and

WHEREAS, the State of Illinois acknowledges that it must take action immediately in order to prevent further impacts of climate change;

THEREFORE, I, JB Pritzker, Governor of Illinois, by virtue of the executive authority vested in me by Article V of the Constitution of the State of Illinois, hereby order as follows:

I. Join the U.S. Climate Alliance

EXECUTIVE ORDERS

The State of Illinois shall commit to the principles of the Paris Climate Agreement.

II. Direct the Environmental Protection Agency to Protect Illinoisans from Dangerous Federal Environmental Policy

The Environmental Protection Agency shall monitor the Trump Administration's environmental proposals and identify opportunities to protect Illinoisans from environmental harm.

III. Savings Clause

Nothing in this Executive Order shall be construed to contravene any federal or State law or regulation. Nothing in this Executive Order shall affect or alter the existing statutory powers of any State agency or be construed as a reassignment or reorganization of any State agency.

IV. Prior Executive Orders

This Executive Order supersedes any contrary provision of any other prior Executive Order.

V. Severability Clause

If any part of this Executive Order is found to be invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. The provisions of this Executive Order are severable.

VI. Effective Date

This Executive Order shall take effect immediately upon its filing with the Secretary of State.

Issued by Governor: January 23, 2019

Filed with Secretary of State: January 23, 2019

2019-7

**EXECUTIVE ORDER STRENGTHENING OUR COMMITMENT TO IMMIGRANTS,
REFUGEES, AND ASYLUM SEEKERS**

WHEREAS, the State of Illinois is home to 1.8 million immigrants who have chosen to live here and raise their families here; and

WHEREAS, immigrants, refugees, and asylum seekers are a critical to the fabric of our State, contributing the culture and economy that make Illinois a great place to live; and

EXECUTIVE ORDERS

WHEREAS, Illinois government should, in good faith, enter and execute contracts with community-based providers of services that give immigrants, refugees, and asylum seekers the tools they need to build good lives and contribute to the community; and

WHEREAS, the concept of separating children from their families is repugnant to the values that the people of the State of Illinois hold dear, and the State of Illinois is committed to advocating for the swift unification of separated families; and

WHEREAS, every day children cross the border alone without family fleeing violence and are unaccompanied; the State of Illinois advocates for their safe shelter in child welfare institutions until such date as they can be united with a family member in the United States; and

WHEREAS, all State agencies who interact with immigrants, refugees, and asylum seekers should seek to ensure that they are welcome to this State, as well as actively engage them to be sure they are aware of their rights and social and economic opportunities; and

THEREFORE, I, JB Pritzker, Governor of Illinois, by virtue of the executive authority vested in me by Article V of the Constitution of the State of Illinois, hereby order as follows:

I. The Department of Human Services Shall Expand Access to Welcoming Centers for Immigrants, Refugees, and Asylum Seekers

The Department of Human Services shall, within 90 days of the effective date of this Executive Order, deliver a report to the Office of the Governor containing:

- a. a comprehensive review of contracts with community-based welcoming centers to determine whether all dollars appropriated by the legislature in the FY19 budget are being utilized for their intended purpose, and whether all appropriated dollars will be used for such purposes and
- b. a plan to remedy any failures to direct appropriated funds to welcoming centers.

II. State Agencies Shall Inform Immigrants, Refugees, and Asylum Seekers of their Rights and Opportunities

Within 120 days, the Department of Human Services shall coordinate with other State agencies as needed to deliver a report to the Office of the Governor containing:

EXECUTIVE ORDERS

- a. a "Know Your Rights" resource sheet in multiple languages describing the human and civil rights, social opportunity, and economic opportunity available to immigrants, refugees, and asylum seekers in Illinois and
- b. a plan for State agencies to proactively disseminate the "Know Your Rights" resource sheet to immigrants, refugees, and asylum seekers.

III. Savings Clause

Nothing in this Executive Order shall be construed to contravene any federal or State law or regulation. Nothing in this Executive Order shall affect or alter the existing statutory powers of any State agency or be construed as a reassignment or reorganization of any State agency.

IV. Prior Executive Orders

This Executive Order supersedes any contrary provision of any other prior Executive Order.

V. Severability Clause

If any part of this Executive Order is found to be invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. The provisions of this Executive Order are severable.

VI. Effective Date

This Executive Order shall take effect immediately upon its filing with the Secretary of State.

Issued by Governor: January 24, 2019

Filed with Secretary of State: January 25, 2019

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 43, Issue 6 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

PROPOSED RULES

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23 - 2735	1755
23 - 2753	1763
23 - 2758	1771

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23 - 1075	1/24/2019	1775
44 - 4	2/15/2019	1781
68 - 1450	1/25/2019	1975
89 - 112	1/24/2019	2081
89 - 510	1/24/2019	2097
89 - 676	1/24/2019	2102
89 - 677	1/24/2019	2111
89 - 679	1/24/2019	2117
89 - 682	1/24/2019	2122
89 - 684	1/24/2019	2128
89 - 686	1/24/2019	2133
86 - 1910	3/1/2019	2158

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PROCLAMATIONS**

19 - 3	1/16/2019	2186
19 - 4	1/18/2019	2188
19 - 5	1/22/2019	2190
19 - 6	1/23/2019	2192
19 - 7	1/24/2019	2193