

2011

ILLINOIS

REGISTER

RULES
OF GOVERNMENTAL
AGENCIES



Index Department
Administrative Code Division
111 E. Monroe St.
Springfield, IL 62756
217-782-7017
www.cyberdriveillinois.com

 Printed on recycled paper

PUBLISHED BY JESSE WHITE • SECRETARY OF STATE

TABLE OF CONTENTS

March 4, 2011 Volume 35, Issue 10

PROPOSED RULES

FINANCIAL AND PROFESSIONAL REGULATION, DEPARTMENT OF
Illinois Athlete Agents Act
68 Ill. Adm. Code 1155.....3654

LABOR, DEPARTMENT OF
Payment and Collection of Wages or Final Compensation
56 Ill. Adm. Code 300.....3663

SECRETARY OF STATE
Procedures and Standards
92 Ill. Adm. Code 1001.....3666

STATE BOARD OF EDUCATION
Public Schools Evaluation, Recognition and Supervision
23 Ill. Adm. Code 1.....3668

Secular Textbook Loan
23 Ill. Adm. Code 350.....3690

ADOPTED RULES

HUMAN RIGHTS, DEPARTMENT OF
Procedures Applicable to All Agencies
44 Ill. Adm. Code 750.....3695

NATURAL RESOURCES, DEPARTMENT OF
The Taking of Wild Turkeys – Spring Season
17 Ill. Adm. Code 710.....3705

STATE BOARD OF EDUCATION
Transitional Bilingual Education
23 Ill. Adm. Code 228.....3735

Early Childhood Block Grant
23 Ill. Adm. Code 235.....3742

School Technology Program
23 Ill. Adm. Code 575.....3770

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS
The Administration and Operation of the Teachers' Retirement
System
80 Ill. Adm. Code 1650.....3781

EMERGENCY RULES

CENTRAL MANAGEMENT SERVICES, DEPARTMENT OF
Joint Rules of the Comptroller and the Department of Central
Management Services: Prompt Payment (Repealer)
74 Ill. Adm. Code 900.....3792

EXECUTIVE ETHICS COMMISSION
Organization, Information, Rulemaking and Hearings
2 Ill. Adm. Code 1620.....3797

LABOR, DEPARTMENT OF	
Payment and Collection of Wages or Final Compensation	
56 Ill. Adm. Code 300.....	3805
OFFICE OF THE COMPTROLLER	
Joint Rules of the Comptroller and the Department of Central	
Management Services: Prompt Payment (Repealer)	
74 Ill. Adm. Code 330.....	3840
PROCUREMENT POLICY BOARD	
General Policies (Repealer)	
2 Ill. Adm. Code 3002.....	3843
SECRETARY OF STATE	
Procedures and Standards	
92 Ill. Adm. Code 1001.....	3848
JOINT COMMITTEE ON ADMINISTRATIVE RULES AGENDA	
JOINT COMMITTEE ON ADMINISTRATIVE RULES	
March Agenda.....	3866
SECOND NOTICES RECEIVED	
JOINT COMMITTEE ON ADMINISTRATIVE RULES	
Second Notices Received.....	3872

INTRODUCTION

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

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

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

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

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2011

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

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Illinois Athlete Agents Act
- 2) Code Citation: 68 Ill. Adm. Code 1155
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1155.10	New Section
1155.20	New Section
1155.30	New Section
1155.40	New Section
1155.50	New Section
1155.60	New Section
1155.70	New Section
1155.80	New Section
- 4) Statutory Authority: Implementing the Illinois Athlete Agents Act [225 ILCS 401]
- 5) A complete description of the subjects and issues involved: Public Act 96-1030, effective January 1, 2011, creates the Illinois Athlete Agents Act, providing for the licensure of individuals who represent student-athletes; this proposed rulemaking implements that Act. Includes provisions for athlete agents practicing in Illinois as of January 1, 2011 to continue practicing pending adoption of these proposed Rules and subsequent review of their applications.
- 6) Any published studies or reports, along with the sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking has no impact on local governments.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED RULES

Craig Cellini, Rules Coordinator
Department of Financial and Professional Regulation
320 West Washington, 3rd Floor
Springfield, Illinois 62786

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

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

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED RULES

TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1155

ILLINOIS ATHLETE AGENTS ACT

Section

1155.5	Definitions
1155.10	Qualifications for Licensure
1155.20	Fees
1155.30	Endorsement
1155.40	Renewals
1155.50	Restoration
1155.60	Inactive Status
1155.70	Granting Variances
1155.80	Dishonorable, Unethical or Unprofessional Conduct

AUTHORITY: Implementing the Illinois Athlete Agents Act [225 ILCS 401] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Adopted at 35 Ill. Reg. _____, effective _____.

Section 1155.5 Definitions

"Act" means the Illinois Athlete Agents Act [225 ILCS 401].

"Agency contract" means an agreement in which a student-athlete authorizes a person to negotiate or solicit on behalf of the student-athlete a professional sports services contract or an endorsement contract. [225 ILCS 401/15]

"Athlete agent" means an individual who enters into an agency contract with a student-athlete or, directly or indirectly, recruits or solicits a student-athlete to enter into an agency contract. The term includes an individual who represents to the public that the individual is an athlete agent. The term does not include a spouse, parent, sibling, grandparent, or guardian of the student-athlete or an individual acting solely on behalf of a professional sports team or professional sports organization. [225 ILCS 401/15]

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED RULES

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

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

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

"Endorsement contract" means an agreement under which a student-athlete is employed or receives consideration to use on behalf of the other party any value that the student-athlete may have because of publicity, reputation, following, or fame obtained because of athletic ability or performance. [225 ILCS 401/15]

"Intercollegiate sport" means a sport played at the collegiate level for which eligibility requirements for participation by a student-athlete are established by a national association for the promotion or regulation of collegiate athletics. [225 ILS 401/15]

"Professional sports services contract" means an agreement under which an individual is employed, or agrees to render services, as a player on a professional sports team, with a professional sports organization, or as a professional athlete. [225 ILCS 401/15]

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

"Student-athlete" means an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in, any intercollegiate sport. If an individual is permanently ineligible to participate in a particular intercollegiate sport, the individual is not a student-athlete for purposes of that sport. [225 ILCS 401/15]

Section 1155.10 Qualifications for Licensure

- a) Individuals applying for licensure as an athlete agent shall file an application with the Division on forms provided by the Division. The applicant shall:
 - 1) Be at least 21 years of age.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED RULES

- 2) Not have engaged in any practice or conduct that would be grounds for discipline.
- 3) Pay the required non-refundable fee set forth in Section 1155.20.
- 4) Submit an application that is signed or otherwise authenticated by the applicant under penalty of perjury that contains the following information:
 - A) The name and social security number of the applicant and the address of the applicant's principal place of business;
 - B) The name of the applicant's business or employer, if applicable;
 - C) Any business or occupation engaged in by the applicant for the five years immediately preceding the date of submission of the application;
 - D) A description of the applicant's education or formal training as an athlete agent, work history, including but not limited to any practical experience as an athlete agent, and educational background;
 - E) The names and addresses of all persons who are, with respect to the athlete agent's business, if it is not a corporation, the partners, members, officers, managers, associates or profit-sharers of the business and, with respect to a corporation employing the athlete agent, the officers, directors and any shareholder of the corporation having an interest of five percent or greater;
 - F) The names and addresses of three individuals not related to the applicant who are willing to serve as references; and
 - G) The name, sport and last known team for each individual for whom the applicant acted as an athlete agent during the five years immediately preceding the date of submission of the application.
- 5) Comply with all other requirements of the Act and this Part.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED RULES

- b) Section 25(b) of the Act *allows individuals practicing as an athlete agent in Illinois as of January 1, 2011 to continue to practice as provided in the Act until the Department has adopted this Part. To continue practicing as an athlete agent after the adoption of this Part, individuals shall apply for licensure within 90 days. If an application is not filed within the 90 day period, the individual must cease practice as an athlete agent at the conclusion of the 90 day period and until the individual makes an application and the Department grants the license.*
- c) Applicants other than those covered under subsection (b) have 3 years from the date of application to complete the application process. If the process has not been completed in 3 years, then the application shall be denied, the fee shall be forfeited, and the applicant must reapply and meet the requirements in effect at the time of reapplication.

Section 1155.20 Fees

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

- a) **Application Fees**
The fee for application for a license as an athlete agent is \$750.
- b) **Renewal Fees**
The fee for the renewal of a license as an athlete agent shall be calculated at \$375 per year.
- 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.
 - 2) The fee for the issuance of a duplicate license, for the issuance of a replacement license for a license that has been lost or destroyed, or for the issuance of a license with a change of name or address other than during the renewal period is \$20. No fee is required for name and address changes on Division records when no duplicate license is issued.
 - 3) The fee for a certification of a licensee's record for any purpose is \$20.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED RULES

- 4) The fee for a wall certificate showing licensure shall be the actual cost of producing the certificate.
- 5) The fee for a roster of persons licensed as athlete agents in this State shall be the actual cost of producing the roster.

Section 1155.30 Endorsement

- a) An applicant for licensure as an athlete agent who is licensed under the laws of another state shall file an application with the Division that shall include:
 - 1) Documentation certifying that applicant meets the education requirements set forth in Section 1155.10(a)(4)(D);
 - 2) Documentation from the jurisdiction of original licensure and the state by which the applicant is currently licensed, stating whether the file on the applicant contains any disciplinary actions taken or pending, and the applicant's license number;
 - 3) Complete work history; and
 - 4) The required fee set forth in Section 1155.20.
- b) The Division shall examine each endorsement application to determine whether the requirements and examination in the jurisdiction at the date of licensing were substantially equivalent to the requirements and examination then in force in this State and whether the applicant has otherwise complied with the Act.
- c) The Division shall either issue a license by endorsement to the applicant or notify the applicant in writing of the reasons for the denial or deferral, respectively, of the application.

Section 1155.40 Renewals

- a) The first renewal date for licensure under the Act shall be January 31, 2014. Thereafter, every license issued under the Act shall expire on January 31 of even numbered years. The holder of the license may renew the license during the month preceding the expiration date by paying the required fee and completing the renewal form.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED RULES

- b) It is the responsibility of each license 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 pay the renewal fee.
- c) Practice on an expired license shall be considered unlicensed practice and shall subject the individual to discipline or other penalties set forth in Section 75 of the Act.

Section 1155.50 Restoration

- a) A person seeking restoration of a license that has expired for 5 years or less shall have the license restored upon payment of all lapsed renewal fees and completion of a new license application.
- b) A person seeking restoration of a license that has been placed on inactive status for 5 years or less shall have the license restored upon payment of the current renewal fee.
- c) A person seeking restoration of a license after it has expired or been placed on inactive status for more than 5 years shall file an application, on forms supplied by the Division, including the applicant's work history since the license expired and the required fee. The person shall also submit one of the following:
 - 1) Sworn evidence of active practice in another jurisdiction. The evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the registrant was authorized to practice during the term of active practice; or
 - 2) An affidavit attesting to military service as provided in Section 55 of the Act.
- d) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Division because of a lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking restoration of a license shall be requested to provide information as may be necessary.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED RULES

- e) Upon the recommendation of the Director, an applicant shall have the license restored or will be notified in writing of the reason for the denial of the application.

Section 1155.60 Inactive Status

- a) An athlete agent who notifies the Division, on forms provided by the Division, may place his or her license on inactive status and shall be excused from paying renewal fees until he/she notifies the Division in writing of the intention to resume active practice.
- b) Any athlete agent seeking restoration from inactive status shall do so in accordance with Section 1155.50.
- c) Any person violating this Section shall be considered to be practicing without a license and shall be subject to the disciplinary provisions of the Act.

Section 1155.70 Granting Variances

The Director may grant variances from this Part in individual cases when he or she finds that:

- a) The provision from which the variance is granted is not statutorily mandated;
- b) No party will be injured by the granting of the variance; and
- c) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.

Section 1155.80 Dishonorable, Unethical or Unprofessional Conduct

The Division may suspend or revoke a license, refuse to issue or renew a license or take disciplinary action based upon its finding of dishonorable, unethical or unprofessional conduct as defined by Section 75 of the Act.

DEPARTMENT OF LABOR

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Payment and Collection of Wages or Final Compensation
- 2) Code Citation: 56 Ill. Adm. Code 300
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
300.450	Amended
300.510	Amended
300.520	Amended
300.600	Amended
300.620	Amended
300.630	Amended
300.640	Amended
300.700	Amended
300.720	Amended
300.730	Amended
300.760	Amended
300.800	Amended
300.810	Amended
300.930	Amended
300.940	Amended
300.941	New
300.942	New
300.950	Amended
300.960	Amended
300.970	Amended
300.980	Amended
300.990	Amended
300.1000	Amended
300.1020	Amended
300.1030	New
300.1040	New
300.1050	New
300.1060	New
300.1070	New
300.1080	New
300.1090	New
300.1100	New
300.1110	New
300.1120	New

DEPARTMENT OF LABOR

NOTICE OF PROPOSED AMENDMENTS

300.1130	New
300.1140	New
300.1150	New
300.1160	New
300.1170	New
300.1180	New
300.1190	New
300.1200	New
300.1210	New

- 4) Statutory Authority: 820 ILCS 115
- 5) A Complete Description of the Subjects and Issues Involved: The primary purpose of this rulemaking is to establish an administrative procedure to directly adjudicate claims for \$3000 or less, including entering default judgment when an employer fails to respond to a claim. In addition, this rulemaking streamlines and updates the Department's overall process for investigating and resolving wage claims.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? Yes
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested person may comment on this proposed rulemaking: Comments may be submitted in writing to:

Carmela Gonzalez

DEPARTMENT OF LABOR

NOTICE OF PROPOSED AMENDMENTS

Illinois Department of Labor
160 N. LaSalle, 13th Floor
Chicago, Illinois 60601

312/793-1808
217/793-5257 (fax)

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: All small businesses could be impacted by this rulemaking.
- B) Reporting, bookkeeping or other procedures required for compliance: An employer shall make and maintain for a period of not less than three years true and accurate records for each employee, which is already a requirement under the Minimum Wage Law [820 ILCS 105/8].
- C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2011

The full text of the Proposed Amendments is identical to that of the Emergency Amendments, and can be found in this issue of the *Illinois Register* on page 3805:

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Procedures and Standards
- 2) Code Citation: 92 Ill. Adm. Code 1001
- 3) Section Number: 1001.444 Proposed Action: Amendment
- 4) Statutory Authority: Illinois Vehicle Code (625 ILCS 5)
- 5) Complete Description of the Subjects and Issues Involved: This rulemaking implements Public Act 96-1526, which was effective upon signature. The statute reduces the role of the courts in the issuance of a Monitoring Device Driving Permit (MDDP) and requires the Secretary of State to notify DUI offenders of their participation in the program and to establish rule regarding indigency.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: The proposed amendments do not require expenditures by units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days to:

Brenda Glahn
Assistant General Counsel
Office of the General Counsel
298 Howlett Building
Springfield, IL 62756

217/785-3094

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

bglahn@ilsos.net

The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

- 13) Initial Regulatory Flexibility Analysis: None
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Breath Alcohol Ignition Interlock providers
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the most recent regulatory agendas because the Department did not anticipate this rulemaking at the time the agendas were filed.

The full text of the Proposed Amendment is identical to that of the Emergency Amendment of this Part, and can be found in this issue of the *Illinois Register* on page 3848.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Public Schools Evaluation, Recognition and Supervision
- 2) Code Citation: 23 Ill. Adm. Code 1
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
1.30	Amendment
1.88	Amendment
1.110	New Section
1.705	Amendment
- 4) Statutory Authority: 105 ILCS 5/2-3.6
- 5) A Complete Description of the Subjects and Issues Involved: Each of the proposed changes is summarized below by topic in the order in which they appear in the rulemaking.

State Assessment. Section 1.30(i) is being amended to eliminate an obsolete reference to the administration of the Terra Nova assessment for students in grade 2.

Annual Measurable Achievement Objectives (English language learners). Section 1.88 of the rules sets forth the annual measurable achievement objectives (AMAOs) for educational agencies that use funds from Title III of the Act. Section 3122 of the Act requires each state agency receiving funding under Title III to develop AMAOs that relate to the recipient children's development and attainment of English proficiency. Effective January 3, 2011, Section 1.88 established the annual targets that school districts and cooperatives must meet for both progress and proficiency. Currently, the rules provide that a student may show progress in attaining English if he or she increases his or her proficiency level (as determined by his or her scores on the ACCESS for ELLs[®]) by a .5 level increase in any of the four language domains of reading, writing, listening or speaking. While the U.S. Department of Education (USDE) approved this progress target for use in calculating the 2009-2010 AMAO determinations, it questioned whether a gain in one domain is an accurate measure of progress in instances in which the student's level concurrently decreased in another of the four domains.

In response to USDE's concerns, the Illinois Advisory Council on Bilingual Education recommended that the agency define progress as an overall gain in a student's composite proficiency level as determined by his or her overall scale score achieved on the ACCESS for ELLs[®], rather than considering only the student's proficiency level in any one language domain of reading, writing, listening or speaking. In determining the

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

overall scale score, the scores achieved in each language domain of reading, writing, listening and speaking are averaged, with greater weight in the calculation given to the student's literacy ability (i.e., reading and writing make up 70 percent of the score). Under the proposed amendment, it is expected the total percentage of students meeting the composite progress target will be less since an overall composite literacy proficiency level is a more comprehensive measure of English language development than any one single language domain measurement. In recognition of this fact, and based on an analysis of the percentage of students who would meet the new progress target, an adjustment is proposed in the percentage of students showing progress that a school district must have in order to meet the progress target. (See Section 1.88(a)(1)(C).)

Exemptions from Mandates. P.A. 96-1441, effective August 20, 2010, authorizes school districts and private schools to petition regional offices of education for relief from mandates in the School Code or agency rules enacted after the effective date of the Act. Appeals of decisions to approve or deny an exemption request made by school districts, private schools or residents are sent to the State Superintendent of Education for action. New Section 1.110 is proposed to set forth the requirements for this appeal process, and this Section addresses the materials that must be included with an appeal request, notice requirements for the appeal hearing, limits on oral testimony during the hearing, and the criterion to be used to accept or deny the appeal. The Section also proposes a process for City of Chicago School District 299 and private schools in Chicago to seek exemptions since, the State Board of Education serves as the regional office of education for the city of Chicago.

Supervisory and Administrative Qualifications. Section 1.705 sets forth the qualifications for supervisory and administrative staff and must be updated to include consideration of the new principal's endorsement. This endorsement will replace the general administrative endorsement, starting in July 1, 2014, but individuals holding a general administrative endorsement before that time will remain qualified. Additionally, Section 1.705(g) is being corrected to reflect requirements for special education director that are set forth in Section 226.800(g) of rules governing Special Education rather than in Section 226.800(h), which is specific to special education supervisors.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 9) Does this rulemaking contain incorporations by reference? Yes; see Sections 1.30(a)(1) and 1.30(b)(1).
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking will not create or enlarge a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days of the publication of this Notice to:

Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
Springfield, Illinois 62777-0001

217/782-5270

Comments may also be submitted electronically, addressed to:

rules@isbe.net

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

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER a: PUBLIC SCHOOL RECOGNITION

PART 1

PUBLIC SCHOOLS EVALUATION, RECOGNITION AND SUPERVISION

SUBPART A: RECOGNITION REQUIREMENTS

Section

1.10	Public School Accountability Framework
1.20	Operational Requirements
1.30	State Assessment
1.40	Adequate Yearly Progress
1.50	Calculation of Participation Rate
1.60	Subgroups of Students; Inclusion of Relevant Scores
1.70	Additional Indicators for Adequate Yearly Progress
1.75	Student Information System
1.77	Educator Certification System
1.80	Academic Early Warning and Watch Status
1.85	School and District Improvement Plans; Restructuring Plans
1.88	Additional Accountability Requirements for Districts Serving Students of Limited English Proficiency Under Title III
1.90	System of Rewards and Recognition – The Illinois Honor Roll
1.95	Appeals Procedure
1.100	Waiver and Modification of State Board Rules and School Code Mandates
<u>1.110</u>	<u>Appeal Process Under Section 22-60 of the School Code</u>

SUBPART B: SCHOOL GOVERNANCE

Section

1.210	Powers and Duties (Repealed)
1.220	Duties of Superintendent (Repealed)
1.230	Board of Education and the School Code (Repealed)
1.240	Equal Opportunities for all Students
1.242	Temporary Exclusion for Failure to Meet Minimum Academic or Attendance Standards
1.245	Waiver of School Fees

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 1.250 District to Comply with 23 Ill. Adm. Code 180 (Repealed)
- 1.260 Commemorative Holidays to be Observed by Public Schools (Repealed)
- 1.270 Book and Material Selection (Repealed)
- 1.280 Discipline
- 1.285 Requirements for the Use of Isolated Time Out and Physical Restraint
- 1.290 Absenteeism and Truancy Policies

SUBPART C: SCHOOL DISTRICT ADMINISTRATION

Section

- 1.310 Administrative Qualifications and Responsibilities
- 1.320 Evaluation of Certified Staff in Contractual Continued Service
- 1.330 Hazardous Materials Training

SUBPART D: THE INSTRUCTIONAL PROGRAM

Section

- 1.410 Determination of the Instructional Program
- 1.420 Basic Standards
- 1.430 Additional Criteria for Elementary Schools
- 1.440 Additional Criteria for High Schools
- 1.445 Required Course Substitute
- 1.450 Special Programs (Repealed)
- 1.460 Credit Earned Through Proficiency Examinations
- 1.462 Uniform Annual Consumer Education Proficiency Test (Repealed)
- 1.465 Ethnic School Foreign Language Credit and Program Approval
- 1.470 Adult and Continuing Education
- 1.480 Correctional Institution Educational Programs

SUBPART E: SUPPORT SERVICES

Section

- 1.510 Transportation
- 1.515 Training of School Bus Driver Instructors
- 1.520 School Food Services (Repealed)
- 1.530 Health Services
- 1.540 Pupil Personnel Services (Repealed)

SUBPART F: STAFF CERTIFICATION REQUIREMENTS

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

Section

- 1.610 Personnel Required to be Qualified
- 1.620 Accreditation of Staff (Repealed)
- 1.630 Noncertificated Personnel
- 1.640 Requirements for Different Certificates (Repealed)
- 1.650 Transcripts of Credits
- 1.660 Records of Professional Personnel

SUBPART G: STAFF QUALIFICATIONS

Section

- 1.705 Requirements for Supervisory and Administrative Staff
 - 1.710 Requirements for Elementary Teachers
 - 1.720 Requirements for Teachers of Middle Grades
 - 1.730 Minimum Requirements for Secondary Teachers and Specified Subject Area Teachers in Grades Six (6) and Above through June 30, 2004
 - 1.735 Requirements to Take Effect from July 1, 1991, through June 30, 2004
 - 1.736 Requirements to Take Effect from July 1, 1994, through June 30, 2004
 - 1.737 Minimum Requirements for the Assignment of Teachers in Grades 9 through 12 Beginning July 1, 2004
 - 1.740 Standards for Reading through June 30, 2004
 - 1.745 Requirements for Reading Teachers and Reading Specialists at all Levels as of July 1, 2004
 - 1.750 Standards for Media Services through June 30, 2004
 - 1.755 Requirements for Library Information Specialists Beginning July 1, 2004
 - 1.760 Standards for Pupil Personnel Services
 - 1.762 Supervision of Speech-Language Pathology Assistants
 - 1.770 Standards for Special Education Personnel
 - 1.780 Standards for Teachers in Bilingual Education Programs
 - 1.781 Requirements for Bilingual Education Teachers in Prekindergarten, Kindergarten and any of Grades 1-12
 - 1.782 Requirements for Teachers of English as a Second Language in Prekindergarten, Kindergarten and any of Grades 1-12
 - 1.790 Substitute Teacher
-
- 1.APPENDIX A Professional Staff Certification
 - 1.APPENDIX B Certification Quick Reference Chart (Repealed)
 - 1.APPENDIX C Glossary of Terms (Repealed)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 1.APPENDIX D State Goals for Learning
1.APPENDIX E Evaluation Criteria – Student Performance and School Improvement
Determination (Repealed)
1.APPENDIX F Criteria for Determination – Student Performance and School
Improvement (Repealed)
1.APPENDIX G Criteria for Determination – State Assessment (Repealed)

AUTHORITY: Implementing Sections 2-3.25, 2-3.25g, 2-3.44, 2-3.96, 10-17a, 10-20.14, 10-22.43a, 14C-8, 21-0.01, 22-60, 26-13, 27-3.5, 27-12.1, 27-13.1, 27-20.3, 27-20.4, 27-20.5, 27-22, 27-23.3 and 27-23.8 and authorized by Section 2-3.6 of the School Code [105 ILCS 5/2-3.25, 2-3.25g, 2-3.44, 2-3.96, 10-17a, 10-20.14, 10-22.43a, 14C-8, 21-0.01, 22-60, 26-13, 27-3.5, 27-12.1, 27-13.1, 27-20.3, 27-20.4, 27-20.5, 27-22, 27-23.3, 27-23.8 and 2-3.6].

SOURCE: Adopted September 21, 1977; codified at 7 Ill. Reg. 16022; amended at 9 Ill. Reg. 8608, effective May 28, 1985; amended at 9 Ill. Reg. 17766, effective November 5, 1985; emergency amendment at 10 Ill. Reg. 14314, effective August 18, 1986, for a maximum of 150 days; amended at 11 Ill. Reg. 3073, effective February 2, 1987; amended at 12 Ill. Reg. 4800, effective February 26, 1988; amended at 14 Ill. Reg. 12457, effective July 24, 1990; amended at 15 Ill. Reg. 2692, effective February 1, 1991; amended at 16 Ill. Reg. 18010, effective November 17, 1992; expedited correction at 17 Ill. Reg. 3553, effective November 17, 1992; amended at 18 Ill. Reg. 1171, effective January 10, 1994; emergency amendment at 19 Ill. Reg. 5137, effective March 17, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 6530, effective May 1, 1995; amended at 19 Ill. Reg. 11813, effective August 4, 1995; amended at 20 Ill. Reg. 6255, effective April 17, 1996; amended at 20 Ill. Reg. 15290, effective November 18, 1996; amended at 22 Ill. Reg. 22233, effective December 8, 1998; emergency amendment at 24 Ill. Reg. 6111, effective March 21, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 12985, effective August 14, 2000; amended at 25 Ill. Reg. 8159, effective June 21, 2001; amended at 25 Ill. Reg. 16073, effective November 28, 2001; amended at 26 Ill. Reg. 1157, effective January 16, 2002; amended at 26 Ill. Reg. 16160, effective October 21, 2002; amended at 28 Ill. Reg. 8486, effective June 1, 2004; emergency amendment at 28 Ill. Reg. 13637, effective September 27, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 1891, effective January 24, 2005; amended at 29 Ill. Reg. 11811, effective July 13, 2005; amended at 29 Ill. Reg. 12351, effective July 28, 2005; amended at 29 Ill. Reg. 15789, effective October 3, 2005; amended at 29 Ill. Reg. 19891, effective November 23, 2005; amended at 30 Ill. Reg. 8480, effective April 21, 2006; amended at 30 Ill. Reg. 16338, effective September 26, 2006; amended at 30 Ill. Reg. 17416, effective October 23, 2006; amended at 31 Ill. Reg. 5116, effective March 16, 2007; amended at 31 Ill. Reg. 7135, effective April 25, 2007; amended at 31 Ill. Reg. 9897, effective June 26, 2007; amended at 32 Ill. Reg. 10229, effective June 30, 2008; amended at 33 Ill. Reg. 5448, effective March 24, 2009; amended at 33 Ill. Reg. 15193, effective October 20, 2009; amended

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

at 34 Ill. Reg. 2959, effective February 18, 2010; emergency amendment at 34 Ill. Reg. 9533, effective June 24, 2010, for a maximum of 150 days; amended at 34 Ill. Reg. 17411, effective October 28, 2010; amended at 35 Ill. Reg. 1056, effective January 3, 2011; amended at 35 Ill. Reg. 2230, effective January 20, 2011; amended at 35 Ill. Reg. _____, effective _____.

SUBPART A: RECOGNITION REQUIREMENTS

Section 1.30 State Assessment

The State Superintendent of Education shall develop and administer assessment instruments and other procedures in accordance with Section 2-3.64 of the School Code [105 ILCS 5/2-3.64]. In addition, school districts shall collaborate with the State Superintendent in the design and implementation of special studies.

- a) Development and Participation
 - 1) Assessment instruments and procedures shall meet generally accepted standards of validity and reliability as stated in "Standards for Educational and Psychological Testing" (1999), published by the American Educational Research Association, 1230 17th St., N.W., Washington, D.C. 20036. (No later amendments to or editions of these standards are incorporated.)
 - 2) Districts shall participate in special studies, tryouts, and/or pilot testing of these assessment procedures and instruments when one or more schools in the district are selected to do so by the State Superintendent.
 - 3) A school shall generally be selected for participation in these special studies, tryouts, and/or pilot testing no more than once every four years, except that participation may be required twice every four years in the case of the Illinois Alternate Assessment.
 - 4) *All pupils enrolled in a public or State-operated elementary school, secondary school, or cooperative or joint agreement with a governing body or board of control, a charter school operating in compliance with the Charter Schools Law [105 ILCS 5/Art. 27A], a school operated by a regional office of education under Section 13A-3 of the School Code [105 ILCS 5/13A-3], or a public school administered by a local public agency or the Department of Human Services shall be required to participate in*

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

the State assessment, whether by taking the regular assessment, with or without accommodations, or by participating in an alternate form of the assessment (Sections 2-3.25a and 2-3.64 of the School Code).

- A) Students who are served in any locked facility that has a State-assigned RCDTS (region/county/district/type/school) code, students who attend public university laboratory schools under Section 18-8.05(K) of the School Code, and students beyond the age of compulsory attendance (other than students with IEPs) whose programs do not culminate in the issuance of regular high school diplomas are not required to participate in the State assessment.
 - B) It is the responsibility of each district or other affected entity to ensure that all students required to participate in the State assessment do so. See also Section 1.50 of this Part.
- 5) Each district or other affected entity shall ensure the availability of reasonable accommodations for participation in the State assessment by students with disabilities, as reflected in those students' IEPs or plans developed under Section 504 of the Rehabilitation Act of 1973 (29 USC 794), or limited English proficiency.
- b) Assessment Procedures
- 1) All assessment procedures and practices shall be based on fair testing practice, as described in "Code of Fair Testing Practices in Education" (2004), published by the Joint Committee on Testing Practices of the American Educational Research Association, American Psychological Association, and National Council on Measurement in Education, 750 First Avenue, N.E., Washington, D.C. 20002-4242. (No later amendments to or editions of this code are incorporated.)
 - 2) Districts and other affected entities shall protect the security and confidentiality of all assessment questions and other materials that are considered part of the approved State assessment, including but not necessarily limited to test items, reading passages, charts, graphs, and tables.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 3) Districts shall promptly report to the State Superintendent all complaints received by the district of testing irregularities. A district shall fully investigate the validity of any such complaint and shall report to the State Superintendent the results of its investigation.
 - 4) Districts shall administer the Prairie State Achievement Examination (PSAE) or the Illinois Alternate Assessment (IAA), if applicable under subsection (d) of this Section, to students in grade 11. (See Section 2-3.64 of the School Code.) For the purpose of this subsection (b)(4), "grade 11" means the point in time when a student has earned the number of credits necessary for enrollment in grade 11, as determined by his or her school district in accordance with Sections 1.420(b) and 1.440 of this Part. A district shall not promote a student to grade 12 status until that student has taken either the PSAE or IAA, as applicable.
- c) **Accommodations**
Students who have been identified at the local level as having limited proficiency in English as provided in 23 Ill. Adm. Code 228.15, including students not enrolled in programs of bilingual education, may participate in an accommodated State assessment, subject to the limitations set forth in Section 2-3.64 of the School Code. A student with limited proficiency in English shall be afforded extra time for completion of the State assessment when, in the judgment of the student's teacher, extra time is necessary in order for the student's performance to reflect his or her level of achievement more accurately, provided that each test must be completed in one session. See also Section 1.60(b) of this Part.
 - d) **Illinois Alternate Assessment**
Students with the most significant cognitive disabilities whose IEPs identify the regular State assessment as inappropriate for them even with accommodations shall participate in the Illinois Alternate Assessment (IAA), based on alternate achievement standards, for all subjects tested. See also Section 1.60(c) of this Part.
 - e) **Review and Verification of Information**
Each school district and each charter school shall have an opportunity to review and, if necessary, correct the preliminary data generated from the administration of the State assessment, including information about the participating students as well as the scores achieved.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Within 10 days after the preliminary data for the Illinois Standards Achievement Test (ISAT) and the IAA are made available and within five days after preliminary data for the PSAE are made available, each district or charter school shall make any necessary corrections to its demographic and score data and then use a means prescribed by the State Board to indicate either:
 - A) that both its demographic and preliminary data are correct; or
 - B) that it is requesting rescoring of some or all portions of the assessment for specific students.
 - 2) When districts request rescoring, staff of the State Board and/or its contractor shall have an additional period of 21 days within which to work with the affected district or charter school to make any resulting corrections.
 - 3) At the end of the 21-day period discussed in subsection (e)(2) of this Section, all districts' and charter schools' data shall stand as the basis for the applicable school report cards and determination of status. Any inaccuracies that are believed to persist at that time shall be subject to the appeal procedure set forth in Section 1.95 of this Part.
- f) Reports of State Assessment Results
- 1) Following verification of the data under subsection (e) of this Section, the State Board shall send each school and district a report containing final information from the results of each administration of the State assessment.
 - A) The scores of students who are served by cooperatives or joint agreements, in Alternative Learning Opportunities Programs established under Article 13B of the School Code, by regional offices of education under Section 13A-3 of the School Code, by local agencies, or in schools operated by the Department of Human Services, scores of students who are served in any other program or school not operated by a school district and who are scheduled to receive regular high school diplomas, all scores of students who are wards of the State, and all scores of students who have IEPs,

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

shall be reported to the students' respective districts of residence and to the schools within those districts that they would otherwise attend.

- B) The scores of students enrolled in charter schools shall be reported to the chief administrator of the charter school and to any school district serving as a chartering entity for the charter school.
- 2) Each report shall include, as applicable to the receiving entity:
- A) results for each student to whom the State assessment was administered (excluding any scores deemed by the State Board to be invalid due to testing irregularities); and
 - B) summary data for the school and/or district and the State, including but not limited to raw scores, scale scores, comparison scores, including national comparisons when available, and distributions of students' scores among the applicable proficiency classifications (see subsection (h) of this Section).
- g) Each school district and each charter school shall receive notification from the State Board of Education as to the status of each affected school and the district based on the attainment or non-attainment of adequate yearly progress as reflected in the final data. These determinations shall be subject to the appeal process set forth in Section 1.95 of this Part.
- h) **Classification of Scores**
Each score achieved by a student on a regular or alternate State assessment shall be classified among a set of performance levels, as reflected in score ranges that the State Board shall disseminate at the time of testing, for the purpose of identifying scores that "demonstrate proficiency".
- 1) Each score achieved by a student on a regular State assessment (i.e., the ISAT or the PSAE) shall be classified as "academic warning", "below standards", "meets standards", or "exceeds standards". Among these scores, those identified as either meeting or exceeding standards shall be considered as demonstrating proficiency.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 2) Each score achieved by a student on the IAA shall be classified as "entry", "foundational", "satisfactory", or "mastery". Among these scores, those identified as "satisfactory" or "mastery" shall be considered as demonstrating proficiency.
- i) Scores Relevant to Adequate Yearly Progress
For purposes of determining whether a district or a school has made adequate yearly progress, scores achieved on a State assessment in reading or mathematics shall be "relevant scores". For schools without grades higher than 2 (that is, for schools where no State assessment is administered), ~~scores achieved by students in Grade 2 on the Terra Nova examination (CTB McGraw Hill, 20 Ryan Ranch Road, Monterey CA 93940 (2001)) shall also be considered "relevant scores" for school years from 2002-03 through 2005-06. Beginning with the 2006-07 school year,~~ the determination as to whether a school in this group has made adequate yearly progress shall be the determination applicable to the school where the largest number of students go on into the third grade.

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

Section 1.88 Additional Accountability Requirements for Districts Serving Students of Limited English Proficiency Under Title III

This Section implements section 3122 of the No Child Left Behind Act of 2001 (NCLB) (20 USC 6842), which requires that states establish "Annual Measurable Achievement Objectives" (AMAOs) for educational agencies that use funds provided under Title III of the Act to serve students of limited proficiency in English and hold those entities accountable for meeting those objectives. Further, this Section implements section 3113(b)(5) of NCLB (20 USC 6823), which requires states to hold local educational agencies and schools accountable for meeting all the objectives described in NCLB section 3122.

- a) The three distinct AMAOs address progress, proficiency, and adequate yearly progress (AYP), respectively, in connection with students taking the annual English language proficiency assessment prescribed by the State Board of Education in 23 Ill. Adm. Code 228 (Transitional Bilingual Education). These objectives shall apply at the district or cooperative level, as applicable, i.e., based on the test scores achieved by all the students served by each entity that receives Title III funding. In order to "meet AMAOs" for any given year, a district or cooperative must achieve all of the applicable objectives described in this subsection (a).

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 1) "Progress" relates to the percentage of a school district's or cooperative's students who are making progress in learning English. An individual student is determined to have made progress in English when his or her composite English proficiency level, which is derived from his or her score whose scores on a given administration of the English language proficiency assessment, increased in comparison to ~~the~~their previous composite English proficiency level achieved scores by at least .5 of a proficiency level or, in the second administration of the English language proficiency assessment, the student achieved the maximum composite English proficiency level attainable on the assessment. (Also see subsection (a)(1)(E) of this Section.)~~of attainment on any one of the four domains (listening, speaking, reading, and writing) or reflect the maximum attainable level in any one of the four domains.~~ The composite English proficiency levels scores of students tested but not being served in bilingual education programs shall not be counted for this purpose.
- A) For the purpose of this subsection (a), "composite English proficiency level" means the level associated with the overall scale score achieved on the English language proficiency assessment. The overall scale score is calculated using individual scores achieved in each of the four domains of listening, speaking, reading and writing, with greater value being placed on literacy development (i.e., reading and writing scores are weighted).
- B) The Illinois annual progress target shall be ~~54.491~~ percent of students showing progress for school year ~~2010-11~~2009-10, which shall increase to ~~69.697~~ percent by school year 2015-16.
- ~~C~~B) The percentage of a district's or cooperative's students who show progress shall increase by a minimum of ~~31~~ percent each year.
- ~~D~~E) The provisions of this subsection (a)(1) shall apply provided that the number of students enrolled during the time in which the State-prescribed English language proficiency assessment is administered and being served in bilingual education programs is no fewer than 45 at the district or cooperative level, as applicable.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- ED) A student's composite English proficiency level~~score~~ shall be counted for this purpose only if he or she has participated in at least two consecutive administrations of the State-prescribed English language proficiency assessment, except as provided in subsections (a)(1)(D)(i) and (ii) of this Section.
- i) For a student who previously was enrolled in an Illinois school district and who re-enrolled in an Illinois school district during the current school year, the level of attainment for making progress shall be determined as prescribed in subsection (a)(1) of this Section using the student's current composite English proficiency level~~score~~ on the State-prescribed English language proficiency assessment compared to the student's most recent, previous composite English proficiency level~~score~~ achieved when he or she was enrolled in an Illinois district.
- ii) For a student enrolled in an Illinois school district and who, for any reason other than not having been enrolled in an Illinois school district at the time of testing, does not have composite English proficiency level~~scores~~ from two consecutive administrations of the State-prescribed English language proficiency assessment, the level of attainment for making progress shall be calculated by multiplying the number of years between the two most recent administrations of the State-prescribed English language proficiency assessment in which the student has participated by .5. For example, a student who took the test in school year 2010-11~~2009-10~~ and school year 2008-09~~2007-08~~ must increase his or her composite English proficiency level~~score~~ by 1.0 of a proficiency level of attainment in any of the four domains in order to be considered as making progress (.5 of a proficiency level of attainment x 2 years = 1.0 of a proficiency level of attainment).
- 2) "Proficiency" relates to the percentage of students who attained the scores identified by the State Board of Education (ISBE) as demonstrating English language proficiency and eligibility to exit bilingual education.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

The scores of students tested but not being served in bilingual education programs shall not be counted for this purpose.

- A) The Illinois annual proficiency target shall be six percent of students attaining English proficiency for school year 2009-10, with the target increasing to 15 percent by school year 2015-16.
 - B) The percentage of the district's or cooperative's students attaining proficiency shall increase by 1 or 2 percent each year. The State Superintendent shall inform districts and cooperatives annually of the percentage to be used.
 - C) The provisions of this subsection (a)(2) shall apply provided that the number of students enrolled during the time in which the State-prescribed English language proficiency assessment is administered and being served in bilingual education programs is no fewer than 45 at the district or cooperative level, as applicable.
- 3) "Adequate yearly progress" or "AYP" has the meaning given to that term in Section 1.40 of this Part, except that, for purposes of this Section, AYP is specific to the scores earned on the reading and mathematics portions of the State assessment by students with limited proficiency in English, to their participation in the State assessment, and to their attendance or graduation rate, as applicable. The AYP objective shall apply only when the number of students served is treated as a subgroup under Section 1.60(a) of this Part.
- b) In order to avoid penalizing districts and cooperatives for the decision bias that is associated with drawing inferences from a small distribution, a 95 percent "confidence interval" shall be applied to the data involved in each calculation discussed in subsection (a) of this Section. (A confidence interval is a mathematical approach designed to compensate for the unreliability of data derived from consideration of small groups.)
 - c) The scores of all students served by a cooperative shall be analyzed as one group for purposes of determining whether the cooperative has met AMAOs in a given year. When a district changes cooperative membership, the scores of its students from the most recently completed school year will be used to determine whether

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

the new cooperative has met progress under subsection (a)(1) of this Section. The determination for a cooperative shall also apply to each of its member districts.

- d) Section 3122(b) of NCLB requires entities funded under Title III that fail to reach AMAOs for two consecutive years to prepare improvement plans designed to ensure that the entities will meet those objectives in the future. Each entity that is subject to this requirement shall submit its plan no later than six months after it receives notification from ISBE of its failure to meet AMAOs for the second consecutive year. Should a district or cooperative elect not to apply for Title III funding in the subsequent year, it shall be required to submit an improvement plan before it next applies, unless data on the performance of its students demonstrate that the entity met AMAOs in the most recent year preceding its new application for funding. ISBE shall not approve an application for Title III funds from an entity that is subject to this requirement until its plan has been submitted.
- e) When an entity funded under Title III has failed to reach AMAOs for four consecutive years, ISBE shall, as required by section 3122(b)(4) of NCLB:
- 1) require the entity to modify its curriculum, program, and method of instruction; or
 - 2) make a determination regarding the entity's continued receipt of funds under Title III and require the entity to replace educational personnel relevant to the entity's failure to meet the achievement objectives.
- f) The sanctions chosen pursuant to subsection (e) of this Section shall be identified based upon ISBE's analysis of the factors that prevented the entity from attaining the AMAOs, including those factors presented in the improvement plan submitted in accordance with subsection (d) of this Section. In particular, ISBE shall deny continued Title III funding to an entity that:
- 1) fails or refuses to serve students according to relevant legal and/or regulatory requirements; or
 - 2) prolongs or repeats instances of noncompliance to a degree that indicates an intention not to comply with relevant requirements.

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

Section 1.110 Appeal Process Under Section 22-60 of the School Code

Section 22-60 of the School Code [105 ILCS 5/22-60] authorizes regional superintendents of schools to grant exemptions from certain mandates contained in the School Code [105 ILCS 5] or in administrative rules of the State Board of Education. Any decision of the regional superintendent regarding a school district's or private school's request for an exemption may be appealed to the State Superintendent by the school district, the private school or a resident of the district.

- a) A school district, private school or resident wishing to appeal the decision of the regional superintendent to deny or approve an exemption request may do so by sending a written appeal on or before April 15 by certified mail to the Illinois State Board of Education, Governmental Relations Division, 100 North First Street, S-404, Springfield, Illinois 62777-0001 or by email to mandateappeal@isbe.net. The written appeal shall include:
- 1) the date the regional office of education acted on the exemption request;
 - 2) a copy of the original request that includes the citation of the rule or School Code section involved;
 - 3) a copy of the regional superintendent's decision to grant or deny the request;
 - 4) a narrative explanation of the petitioner's objections to the regional superintendent's decision (not to exceed two pages), along with any documentation that directly supports the argument being made; and
 - 5) the name, address, telephone number and contact person of the school district or private school submitting the appeal, or the name, address and telephone number of the resident submitting the appeal.
- b) The State Superintendent of Education shall provide written notice of the date, time, and location of the hearing to consider the appeal to the petitioner not less than 10 days before the hearing date. The notice shall be sent by certified mail, return receipt requested. Copies of the notice of hearing also shall be provided to the school district's regional superintendent of schools and, in the case of a resident's appeal, to the school district superintendent or private school administrator. Any hearing shall be held no later than May 15 of each year.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- c) A petitioner may present oral testimony at the hearing, not to exceed 30 minutes. Any responses to the petitioner's testimony made by the school district, private school or regional superintendent of schools also shall be limited to no more than 30 minutes.
- d) The State Superintendent of Education shall consider the net costs associated with the implementation of the mandate and other evidence of its financial impact presented by the school district or private school to determine if implementation or operation is cost-prohibitive. For purposes of this Section, "cost-prohibitive" means that the financial burden of implementing or operating the mandate is greater than the benefits to be received.
- e) The State Superintendent shall inform the petitioner of his or her decision at the conclusion of the hearing. (See Section 22-60(b) of the School Code.) A written summary of the decision, including reasons for accepting or denying the appeal, shall be provided to each affected party no later than 10 calendar days after the hearing.
- f) A school district, private school or regional superintendent of schools shall provide to a resident of the district, upon the resident's request, a copy of the original exemption request or a copy of the decision regarding the exemption request, along with the reason for the denial or approval, no later than 10 calendar days after the request has been made.
- g) City of Chicago School District 299 or a private school located in the City of Chicago shall submit any request for an exemption from a statutory or regulatory mandate to the Division Administrator of the Educator and School Development Division, 100 North First Street, E-310, Springfield, Illinois 62777, within the timelines and in the format specified in Section 22-60 of the School Code.
- 1) The division administrator shall schedule a public hearing to take testimony from the district and interested residents about the request.
 - 2) A committee comprised of representatives from each department of the State Board of Education with a responsibility for the statutory or regulatory mandate shall review the request and the testimony provided at the public hearing. The committee shall recommend to the division administrator whether the request should be granted, and the division

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

administrator shall send written notification of his or her decision to the district or private school on or before March 15, along with reasons why the exemption was granted or denied.

- 3) A public hearing conducted under this subsection (g) shall comply with the Open Meetings Act [5 ILCS 120].
- 4) The process for a school district, private school or resident to appeal a decision made pursuant to subsection (g)(2) of this Section shall be as provided in this Section.

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

SUBPART G: STAFF QUALIFICATIONS

Section 1.705 Requirements for Supervisory and Administrative Staff

- a) Each district superintendent shall hold an administrative certificate with a Superintendent's endorsement.
- b) Each assistant superintendent, principal, or assistant principal shall hold an administrative certificate with a General Administrative, Principal or Superintendent's endorsement, except that a head teacher serving in place of a principal as permitted by Section 10-21.4a of the School Code [105 ILCS 5/10-21.4a] shall hold a teaching certificate endorsed for supervision.
- c) Each general administrator (e.g., director, assistant director, coordinator, administrative assistant, or general supervisor) in general education shall hold an administrative certificate with a General Supervisory, General Administrative, Principal or Superintendent's endorsement.
- d) Each head of a general education department or supervisor for a specific subject shall hold either:
 - 1) an administrative certificate with a General Supervisory, General Administrative, Principal or Superintendent's endorsement; or
 - 2) a teaching certificate endorsed for supervision in the area supervised.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- e) Each supervisory dean shall hold an administrative certificate with a General Supervisory, General Administrative, Director of Special Education's, Principal or Superintendent's endorsement.
- f) Each dean of students shall hold:
 - 1) an administrative certificate with a General Supervisory, General Administrative, Director of Special Education's, Principal or Superintendent's endorsement; or
 - 2) a teaching certificate (endorsed for supervision if the holder suspends students pursuant to Section 10-22.6 of the School Code); or
 - 3) a school service personnel certificate endorsed for any field other than school nursing (and for supervision if the holder disciplines or suspends students).
- g) Each special education director or assistant director shall meet the requirements of 23 Ill. Adm. Code ~~226.800(g)(2)~~226.800(h)(2) and hold an administrative certificate endorsed for "Director of Special Education".
- h) Each special education supervisor shall meet the requirements of 23 Ill. Adm. Code 226.800(h)(2) and hold either:
 - 1) an administrative certificate with a General Supervisory, General Administrative, Director of Special Education's, Principal or Superintendent's endorsement and teaching qualifications in each area supervised; or
 - 2) a teaching certificate endorsed for each area supervised and for supervision.
- i) Each supervisor of more than one school service personnel area shall hold either:
 - 1) an administrative certificate and a General Administrative, Principal or Superintendent's endorsement; or
 - 2) a school service personnel certificate endorsed for supervision in each field supervised.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- j) Each supervisor of one school service personnel area shall hold:
- 1) an administrative certificate with a General Supervisory, General Administrative, Director of Special Education's, Principal or Superintendent's endorsement; or
 - 2) a school service personnel certificate endorsed for the field supervised and for supervision; or
 - 3) a teaching certificate endorsed for speech-language pathology and for supervision (if applicable).
- k) Each director of an area vocational center and each director or supervisor of more than one field in career and technical education (including regional system directors) shall hold an administrative certificate with a General Administrative, Principal or Superintendent's endorsement and have teaching qualifications in one of the five occupational areas and 2,000 hours of work experience outside the field of education.
- l) Each supervisor of one field in career and technical education shall hold either:
- 1) an administrative certificate with a General Supervisory, General Administrative, Principal or Superintendent's endorsement and teaching qualifications in one field of career and technical education, including 2,000 hours of work experience in the specific field outside of education; or
 - 2) teaching qualifications in the specific field supervised, including 2,000 hours of work experience in the specific field outside of education, and a supervisory endorsement.
- m) Each administrator in a bilingual education program shall meet the applicable requirements of 23 Ill. Adm. Code 228.35(d).
- n) Each chief school business official shall hold an administrative certificate and a Chief School Business Official's endorsement.

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Secular Textbook Loan
- 2) Code Citation: 23 Ill. Adm. Code 350
- 3) Section Number: 350.10 Proposed Action: Amendment
- 4) Statutory Authority: 105 ILCS 5/18-17
- 5) A Complete Description of the Subjects and Issues Involved: P.A. 96-1403, effective July 29, 2010, authorizes school districts to purchase electronic textbooks and technological equipment necessary to gain access to and use electronic textbooks under the Textbook Loan Program. This new statutory language is being added to the definition of "Textbook" under Section 350.10 of the rules. Further restrictions on what constitutes "equipment" are not being proposed for several reasons.
 - Inquires of vendors about establishing a list of equipment that would be considered "necessary" revealed that not only would it be difficult to prepare a list of all the possibilities available, but the rapidly changing technology landscape could mean that any list of allowable equipment would be quickly out of date.
 - The agency will be introducing legislation in 2011 to revamp the textbook program so that funding is distributed on a formula basis directly to districts and recognized nonpublic schools for use in purchasing textbooks and related materials (as these are defined under the proposal). Currently, textbooks and related materials are "loaned" to districts and recognized nonpublic schools, and the law requires the agency to "list" those textbooks and materials that can be acquired with Textbook Loan Program proceeds. Should the proposed legislation be enacted, the agency will no longer have authority to limit the types of textbooks and related materials to be purchased beyond what is set forth in the law.
 - In its proposed FY 2012 budget, the agency is seeking \$500,000 to conduct a feasibility study for the establishment of Digitized Educational Materials Program, which would include educational materials and aids for the establishment of local and wide area networks (e.g., network servers and hardware, such as servers, hubs, modems, network adapter cards, transceivers, surge protection, uninterruptible power systems, and network administration software) necessary for students to directly access electronic textbooks in the classroom or at home via laptops, notebooks, interactive white boards (e.g., SMART Boards), and portable electronic readers (e.g., KindlesTM).

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

Further, since the school districts now send their orders for textbooks and related materials to the agency, staff will be able to ensure that the equipment requested for purchase is necessary for students' accessing and using electronic textbooks.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking will not create or enlarge a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this Notice to:

Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
Springfield, Illinois 62777-0001

217/782-5270

Comments may also be submitted electronically, addressed to:

rules@isbe.net

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: Nonpublic schools

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2011

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES
 SUBTITLE A: EDUCATION
 CHAPTER I: STATE BOARD OF EDUCATION
 SUBCHAPTER j: TEXTBOOKS AND EQUIPMENT

PART 350
 SECULAR TEXTBOOK LOAN

Section	
350.10	Definition of Terms
350.15	Acquisition Procedures
350.20	Administrative Practices (Repealed)
350.25	Disposal Procedures
350.30	Fiscal Procedures (Repealed)

AUTHORITY: Implementing and authorized by Section 18-17 of the School Code [105 ILCS 5/18-17].

SOURCE: Adopted September 27, 1976; amended at 2 Ill. Reg. 27, p. 163, effective June 27, 1978; amended at 4 Ill. Reg. 37, p. 770, effective September 6, 1980; codified at 7 Ill. Reg. 13870; amended at 8 Ill. Reg. 2462, effective February 15, 1984; amended at 15 Ill. Reg. 17597, effective November 20, 1991; amended at 20 Ill. Reg. 9951, effective July 12, 1996; amended at 24 Ill. Reg. 7256, effective May 1, 2000; amended at 28 Ill. Reg. 7050, effective May 3, 2004; amended at 29 Ill. Reg. 10141, effective June 30, 2005; amended at 31 Ill. Reg. 10668, effective July 16, 2007; amended at 32 Ill. Reg. 4836, effective March 21, 2008; amended at 35 Ill. Reg. _____, effective _____.

Section 350.10 Definition of Terms

"Eligible Applicant" for the purposes of this Part is a public school district in the State of Illinois; or a nonpublic school that is in compliance with the compulsory attendance laws of Illinois and Title VI of the Civil Rights Act of 1964 and is registered with the State Board of Education; or any other publicly funded school located in the State.

"Student" means *any student in this State who is enrolled in grades kindergarten through 12 at a public school or at a school other than a public school which is in compliance with the compulsory attendance laws of this State and Title VI of the Civil Rights Act of 1964.* (Section 18-17 of the School Code [105 ILCS 5/18-17])

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

"Parent" means a parent or guardian of a child enrolled in a public or nonpublic school.

"Request Form" means an electronic document available via the Internet that the eligible applicant uses to request the secular textbooks to be purchased under the program.

"School Administrator" means the superintendent of a school district or the chief administrative officer of a nonpublic school or other eligible school, or his or her designee.

"Secular Textbook" means *any book or book substitute which a pupil uses as a text or text substitute in a particular class or program. It shall include books, reusable workbooks, manuals, whether bound or in loose-leaf form, ~~and~~ instructional computer software, and electronic textbooks and the technological equipment necessary to gain access to and use electronic textbooks intended as a principal source of study material for a given class or group of students.*

"Textbook" also includes science curriculum materials in a kit format that includes pre-packaged consumable materials if it is shown that the materials serve as a textbook substitute; the materials are for use by pupils as a principal learning resource; each component of the materials is integrally necessary to teach the requirements of the intended course; the kit includes teacher guidance materials; and the purchase of individual consumable materials is not allowed. (Section 18-17 of the School Code)

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

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Procedures Applicable to All Agencies
- 2) Code Citation: 44 Ill. Adm. Code 750
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
750.110	Amendment
750.210	Amendment
750.APPENDIX A	Amendment
- 4) Statutory Authority: Implementing Sections 2-105(A), 7-101(A) and 7-105(A) and authorized by Sections 7-101(A) and 7-105(A) of the Illinois Human Rights Act [775 ILCS 5/2-105(A), 7-101(A) and 7-105]
- 5) Effective Date of Amendments: February 18, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: November 12, 2010; 34 Ill. Reg. 17170
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: In Section 750. Appendix A, in the first sentence, added "or" after "Clause", deleted the comma after "Clause" and deleted "or the Rules and Regulations of the Department". Also, throughout the rest of Section 750.Appendix A, substituted each additional reference to "Rules and Regulations" and "the Department's Rules and Regulations" with "this Part".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and Purpose of Amendments: The amendments state the Department's procedures for renewing expired IDHR (Illinois Department of Human Rights) Numbers, which are evidence of eligibility to bid for or be awarded contracts; make technical clarifications and add order of protection status as a basis to Equal Employment Opportunity Clauses.
- 16) Information and questions regarding these adopted amendments shall be directed to:

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

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

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

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT
AND PROPERTY MANAGEMENT
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES
CHAPTER X: DEPARTMENT OF HUMAN RIGHTS

PART 750
PROCEDURES APPLICABLE TO ALL AGENCIES

SUBPART A: DEFINITIONS

Section
750.5 Definitions

SUBPART B: EQUAL OPPORTUNITY CLAUSE

Section
750.10 Clause to be Included in All Contracts
750.20 Incorporation by Operation of the Regulation
750.30 Subcontracts
750.40 Contracts or Subcontracts with Religious Entities

SUBPART C: DUTIES OF PUBLIC CONTRACTORS AND SUBCONTRACTORS

Section
750.110 General
750.120 Identification of Underutilization
750.130 Affirmative Action Plans
750.140 Information and Reports
750.150 Recruitment of Employees
750.160 Segregated Facilities
750.170 Subcontracts

SUBPART D: BIDDING AND COMPLIANCE

Section
750.210 Eligibility for Public Contracts
750.220 Construction Employee Utilization Projection
750.230 Compliance Review; Enforcement

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

750.APPENDIX A Equal Employment Opportunity Clause

AUTHORITY: Implementing Sections 2-105(A), 7-101(A), and 7-105(A) and authorized by Sections 7-101(A) and 7-105(A) of the Illinois Human Rights Act [775 ILCS 5/2-105(A), 7-101(A) and 7-105].

SOURCE: Adopted November 20, 1972 by the Fair Employment Practices Commission; transferred to the Department of Human Rights by P.A. 81-1216, effective July 1, 1980; emergency amendments at 4 Ill. Reg. 39, p. 335, effective September 17, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 1627, effective February 9, 1981; codified at 8 Ill. Reg. 17889; amended at 22 Ill. Reg. 11774, effective July 1, 1998; amended at 30 Ill. Reg. 18709, effective November 20, 2006; amended at 32 Ill. Reg. 16484, effective September 23, 2008; amended at 34 Ill. Reg. 933, effective December 29, 2009; amended at 35 Ill. Reg. 3695, effective February 18, 2011.

SUBPART C: DUTIES OF PUBLIC CONTRACTORS AND SUBCONTRACTORS

Section 750.110 General

- a) No public contractor or subcontractor shall discriminate or permit discrimination against any applicant for employment, or in the terms or conditions of employment of any employee, or in connection with any apprenticeship or other training program, because of race, color, religion, sex, marital status, order of protection status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, sexual orientation, military status or unfavorable discharge from military service.
- b) Each public contractor and subcontractor shall examine all its job classifications to determine if minority persons or women are underutilized in any classifications (see Section 750.120 of this Part). If underutilization exists in any job classification, the contractor or subcontractor shall take appropriate affirmative action to rectify any underutilization.
- c) If a public contractor or subcontractor hires additional employees in order to perform any contract or portion of a contract, it will determine the availability (see Section 750.120 of this Part) of minorities and women in the areas from which it may reasonably recruit and will hire for each job classification in a way that minorities and women are not underutilized.

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 35 Ill. Reg. 3695, effective February 18, 2011)

SUBPART D: BIDDING AND COMPLIANCE

Section 750.210 Eligibility for Public Contracts

a) DHR Filing Requirement

- 1) The requirements of this Section shall apply to all persons employing 15 or more individuals at any time during the 365 day period immediately preceding the date of filing. No such employer shall be eligible to be awarded a contract by a State agency, as defined in the Illinois Procurement Code [30 ILCS 500/1-15.100], unless that employer has filed with the Department a properly completed DHR Employer Report Form (Form PC-1) or holds a valid Number. This filing with the Department must take place prior to bid opening, if a bidding or competitive selection procedure is required under the Illinois Procurement Code or, in all other cases, contract award.
- 2) Persons covered under this Section may obtain DHR Employer Report Forms by writing to the Public Contracts Unit, Department of Human Rights, 100 W. Randolph Street, Suite 10-100, Chicago IL 60601, by accessing the Department's website at www.state.il.us/dhr, or by TTY at (217)785-5125. An DHR Employer Report Form shall be deemed filed when it is received in the Department's Chicago office, properly completed and signed.
- 3) After January 1, 2010, an DHR Employer Report Form, whether it is a renewal or an initial filing, will not be deemed complete unless it is accompanied by a filing fee of \$75 in the form of a certified check, money order or cashier's check payable to "Department of Human Rights" and mailed to the Department of Human Rights, ATTN: Fiscal Unit, 100 West Randolph Street, Suite 10-100, Chicago, Illinois 60601. Each DHR Employer Report Form containing a separate Federal Employer Identification Number (FEIN) shall be accompanied by a separate \$75 fee. The Number or FEIN of the covered person filing the DHR Employer Report Form shall appear on the certified check, money order or cashier's check. The \$75 fee is non-refundable.

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

- b) Each person who files the form required by subsection (a) shall be issued a Number as evidence of its eligibility to bid on, or be awarded, public contracts. Each Number shall expire five years from the date of issue, without further notice to the employer. A list of Numbers due to expire within a certain month will be published on the Department's website. At any time prior to the expiration date, the Department may suspend or revoke the Number in accordance with the Act or this Part. The Number shall also expire upon dissolution, sale or merger of the public contractor or eligible bidder. Each person who has an expired Number and who files a completed form pursuant to subsection (a) will receive the same Number that the Department previously issued only if the form is filed within 365 days after expiration of the Number.
- c) If the Department finds that a public contractor or eligible bidder is underutilizing minorities and/or women in any job classification, as defined in Section 750.120, it shall require the submission of an acceptable affirmative action plan.
- 1) After submitting an acceptable plan, the contractor or eligible bidder shall file such reports as the Department may require to document the contractor's progress under the plan. The Department may require that such reports contain information that includes, but is not limited to, the contractor's or eligible bidder's:
- A) identification of underutilization (as required in Section 750.120);
 - B) hiring and promotional goals and timetables;
 - C) personnel policies and procedures;
 - D) personnel outreach and recruitment efforts;
 - E) personnel transactions (including hires, promotions, discharges, layoffs and disciplinary actions);
 - F) employee compensation and benefits;
 - G) sexual harassment prevention policies and procedures;
 - H) allegations of unlawful discrimination (as defined in Section 750.110(a)); and

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

- 1) compliance with any specific commitments made by the contractor or eligible bidder in its plan.
- 2) The Department may require a contractor or eligible bidder to file these reports until such time as the underutilization has been eliminated, but no more than quarterly.
- d) A public contractor or eligible bidder may voluntarily relinquish its Number by so notifying the Department in writing addressed to the Department's Chicago office. Each public contractor or eligible bidder must notify the Department in writing of any change of address or other information necessary for the Department to readily contact it.
- e) A public contractor or eligible bidder that cannot be located by the Department, does not respond to a written inquiry sent to its last known address, or does not respond to a notice published in the Illinois Procurement Bulletin (see 30 ILCS 500/15-1) and/or in other publications of general circulation may be deemed to have relinquished its Number.
- f) A written request of a contracting agency for an exemption shall state the specific reasons for the exemption. The Department may exempt any person from the requirements of subsection (a) when it deems that exceptional circumstances and the public interest so require. An exemption shall be granted for a specified purpose and duration but may be withdrawn by the Department at any time; provided, however, that the withdrawal shall not apply to contracts awarded prior to the withdrawal.
- g) The requirements of subsection (a) shall not apply to:
 - 1) State agencies, boards and commissions required to file affirmative action plans with the Department pursuant to 56 Ill. Adm. Code 2520.710;
 - 2) persons located wholly outside the territorial boundaries of the United States and who have no employees in the United States and will not hire employees in the United States to perform any part of any public contract;
 - 3) procurements designated as small purchases pursuant to 30 ILCS 500/20-20;

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

- 4) procurements designated as sole-source pursuant to 30 ILCS 500/20-25;
and
- 5) procurements designated as emergency pursuant to 30 ILCS 500/20-30.

(Source: Amended at 35 Ill. Reg. 3695, effective February 18, 2011)

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

Section 750.APPENDIX A Equal Employment Opportunity Clause

EQUAL EMPLOYMENT OPPORTUNITY

In the event of the contractor's non-compliance with the provisions of this Equal Employment Opportunity Clause ~~or, the Act or the Rules and Regulations of the Department~~, the contractor may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the contract may be cancelled or voided in whole or in part, and other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this contract, the contractor agrees as follows:

- 1) That he or she will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, marital status, order of protection status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, ~~sexual orientation~~, military status or an unfavorable discharge from military service; and, further, that he or she will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any underutilization.
- 2) That, if he or she hires additional employees in order to perform this contract or any portion of this contract, he or she will determine the availability (in accordance with ~~this Part~~ the Department's Rules and Regulations) of minorities and women in the areas from which he or she may reasonably recruit and he or she will hire for each job classification for which employees are hired in a way that minorities and women are not underutilized.
- 3) That, in all solicitations or advertisements for employees placed by him or her or on his or her behalf, he or she will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, sexual orientation, marital status, order of protection status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, ~~sexual orientation~~, military status or an unfavorable discharge from military service.
- 4) That he or she will send to each labor organization or representative of workers with which he or she has or is bound by a collective bargaining or other agreement or understanding, a notice advising the labor organization or representative of the contractor's obligations under the Act and ~~this Part~~ the

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

~~Department's Rules and Regulations~~. If any labor organization or representative fails or refuses to cooperate with the contractor in his or her efforts to comply with the Act and ~~this Part~~Rules and Regulations, the contractor will promptly notify the Department and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations under the contract.

- 5) That he or she will submit reports as required by ~~this Part~~the Department's Rules and Regulations, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Act and ~~this Part~~the Department's Rules and Regulations.
- 6) That he or she will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and the Department for purposes of investigation to ascertain compliance with the Act and the Department's Rules and Regulations.
- 7) That he or she will include verbatim or by reference the provisions of this clause in every subcontract awarded under which any portion of the contract obligations are undertaken or assumed, so that the provisions will be binding upon the subcontractor. In the same manner as with other provisions of this contract, the contractor will be liable for compliance with applicable provisions of this clause by subcontractors; and further it will promptly notify the contracting agency and the Department in the event any subcontractor fails or refuses to comply with the provisions. In addition, the contractor will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

(Source: Amended at 35 Ill. Reg. 3695, effective February 18, 2011)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: The Taking of Wild Turkeys – Spring Season
- 2) Code Citation: 17 Ill. Adm. Code 710
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
710.10	Amendment
710.20	Amendment
710.22	Amendment
710.25	Amendment
710.50	Amendment
710.55	Amendment
710.70	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.20, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.20, 2.9, 2.10 and 2.11]
- 5) Effective Date of Amendments: February 16, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the Department of Natural Resources' principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 34 Ill. Reg. 15749; October 15, 2010
- 10) Has JCAR issued a Statement of Objections to this rulemaking? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary
- 13) Will this rulemaking replace an emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

15) Summary and Purpose of Rulemaking: This Part was amended to: update season dates, group hunting requirements, sites open for hunting and youth hunting regulations and to clarify documents that must be provided for issuance of landowner permits to shareholders/members/beneficiaries/partners.

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

George Sisk, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFEPART 710
THE TAKING OF WILD TURKEYS – SPRING SEASON

Section

710.5	Hunting Zones
710.10	Hunting Seasons
710.20	Statewide Turkey Permit Requirements
710.21	Turkey Permit Requirements – Special Hunts (Renumbered)
710.22	Turkey Permit Requirements – Landowner/Tenant Permits
710.25	Turkey Permit Requirements – Special Hunts
710.28	Turkey Permit Requirements – Heritage Youth Turkey Hunt (Repealed)
710.30	Turkey Hunting Regulations
710.40	Other Regulations (Repealed)
710.50	Regulations at Various Department-Owned or -Managed Sites
710.55	Special Hunts for Disabled Hunters
710.60	Releasing or Stocking of Turkeys
710.70	Spring Youth Turkey Hunt

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.20, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.20, 2.9, 2.10 and 2.11].

SOURCE: Adopted at 4 Ill. Reg. 15, p. 153, effective April 1, 1980; codified at 5 Ill. Reg. 10643; amended at 6 Ill. Reg. 3852, effective March 31, 1982; amended at 7 Ill. Reg. 4208, effective March 25, 1983; amended at 8 Ill. Reg. 5663, effective April 16, 1984; amended at 9 Ill. Reg. 6200, effective April 24, 1985; amended at 10 Ill. Reg. 6848, effective April 4, 1986; amended at 11 Ill. Reg. 2267, effective January 20, 1987; amended at 12 Ill. Reg. 5342, effective March 8, 1988; amended at 13 Ill. Reg. 5090, effective April 4, 1989; amended at 14 Ill. Reg. 663, effective January 2, 1990; amended at 15 Ill. Reg. 4161, effective March 4, 1991; amended at 16 Ill. Reg. 1843, effective January 17, 1992; amended at 17 Ill. Reg. 3184, effective March 2, 1993; amended at 18 Ill. Reg. 1156, effective January 18, 1994; emergency amendment at 18 Ill. Reg. 3751, effective March 1, 1994, for a maximum of 150 days; emergency expired July 29, 1994; amended at 19 Ill. Reg. 2450, effective February 17, 1995; emergency amendment at 19 Ill. Reg. 5312, effective April 1, 1995, for a maximum of 150 days; emergency expired August 29, 1995; amended at 20 Ill. Reg. 777, effective December 29, 1995; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Reg. 9389; amended at 21 Ill. Reg. 3125, effective March 3, 1997; amended at 22 Ill. Reg. 2192, effective January 2, 1998; amended at 22 Ill. Reg. 19568, effective October 23, 1998; amended at 23 Ill. Reg. 11956, effective September 21, 1999; amended at 24 Ill. Reg. 7984, effective May 24, 2000; amended at 24 Ill. Reg. 17778, effective November 27, 2000; amended at 25 Ill. Reg. 14176, effective October 22, 2001; amended at 26 Ill. Reg. 18028, effective December 6, 2002; amended at 27 Ill. Reg. 17075, effective October 22, 2003; amended at 29 Ill. Reg. 3935, effective February 24, 2005; amended at 29 Ill. Reg. 20484, effective December 2, 2005; amended at 31 Ill. Reg. 1958, effective January 16, 2007; amended at 31 Ill. Reg. 16476, effective November 28, 2007; amended at 32 Ill. Reg. 19742, effective December 3, 2008; amended at 34 Ill. Reg. 4868, effective March 19, 2010; amended at 35 Ill. Reg. 3705, effective February 16, 2011.

Section 710.10 Hunting Seasons

a) Northern Zone Season Dates:

- | | |
|-------------------------|---|
| 1 st Season: | Monday, April 11 42-Friday, April 15, 2011 46, 2010 |
| 2 nd Season: | Saturday, April 16 17-Thursday, April 21, 2011 22, 2010 |
| 3 rd Season: | Friday, April 22 23-Wednesday, April 27, 2011 28, 2010 |
| 4 th Season: | Thursday, April 28 29-Wednesday, May 4, 2011 5, 2010 |
| 5 th Season: | Thursday, May 5 6-Thursday, May 12, 2011 13, 2010 |

b) Southern Zone Season Dates:

- | | |
|-------------------------|--|
| 1 st Season: | Monday, April 4 5-Friday, April 8, 2011 9, 2010 |
| 2 nd Season: | Saturday, April 9 10-Thursday, April 14, 2011 15, 2010 |

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 3rd Season: Friday, April ~~15~~¹⁶-Wednesday, April ~~20, 2011~~^{21, 2010}
- 4th Season: Thursday, April ~~21~~²²-Wednesday, April ~~27, 2011~~^{28, 2010}
- 5th Season: Thursday, April ~~28~~²⁹-Thursday, May ~~5, 2011~~^{6, 2010}

c) Open Counties:

NORTHERN ZONE

- Adams
- Boone
- Brown
- Bureau
- Calhoun
- Carroll
- Cass
- Champaign
- Christian
- Clark
- Coles
- Cumberland
- DeKalb
- DeWitt
- Edgar
- Fulton
- Greene
- Grundy
- Hancock
- Henderson
- Henry
- Iroquois
- Jersey
- Jo Daviess
- Kankakee
- Kendall
- Knox

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

La Salle
Lee
Livingston
Logan
Macon
Macoupin
Marshall-Putnam
Mason
McDonough
McHenry
McLean
Menard
Mercer
Montgomery
Morgan
Moultrie
Ogle
Peoria
Piatt
Pike
Rock Island
Sangamon
Schuyler
Scott
Shelby
Stark
Stephenson
Tazewell
Vermilion
Warren
Whiteside
Will
Winnebago
Woodford

SOUTHERN ZONE

Alexander
Bond
Clay

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Clinton
Crawford
Edwards
Effingham
Fayette
Franklin
Hamilton
Gallatin-Hardin
Jackson
Jasper
Jefferson
Johnson
Lawrence
Madison
Marion
Massac
Monroe
Perry
Pope
Pulaski
Randolph
Richland
Saline
St. Clair
Union
Wabash
Washington
Wayne
White
Williamson

(Source: Amended at 35 Ill. Reg. 3705, effective February 16, 2011)

Section 710.20 Statewide Turkey Permit Requirements

- a) To take, or attempt to take, a wild turkey, Illinois residents must first obtain a "Wild Turkey Hunting Permit" from the Department of Natural Resources for a fee of \$15. Lifetime licenses issued after August 15, 2006 shall not qualify a non-resident of Illinois for a resident turkey permit. Non-resident turkey hunters shall

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

be charged the maximum fee as allowed by Section 2.11 of the Wildlife Code [520 ILCS 5/2.11] for each wild turkey hunting permit. All hunters, except those exempted by Section 3.1 of the Wildlife Code [520 ILCS 5/3.1] are also required to obtain a hunting license before hunting wild turkey. Permits are issued for a specific county or area and are valid only in the county or area designated on the permit. Applications for wild turkey permits shall be completed and submitted by visiting one of the Illinois Department of Natural Resources' DNR-Direct License vendors, by applying on-line at www.dnr.state.il.us, by calling DNR-Direct License sales at 1-888-6PERMIT (1-888-673-7648) or by mailing to:

Department of Natural Resources – Spring Turkey
One Natural Resources Way
P.O. Box 19446
Springfield, Illinois 62794-9446

- b) Applicants must supply all information necessary to complete the application. Incomplete applications will be rejected and fees returned. Each applicant must submit payment for his/her individual application at the time of application. Not more than 64 applications may be submitted for group hunters. Applicants submitting applications within three weeks of the season will not be guaranteed receipt of permit by start of season.
- c) Applications from Illinois residents will be accepted through December 1. Applications received in the permit office after December 1 will be included in the next computerized drawing. Permits are not transferable and refunds will not be granted. Permits will be allocated in a computerized drawing to be held in Springfield. Applicants rejected in this drawing will receive preference in the next year's drawing for spring season permits subject to guidelines outlined in subsection (g).
- d) Permits not issued during the first computerized drawing will be available in a second computerized lottery drawing. Applications for this drawing will be accepted through the first working day after January 10. Applications received after this date will be included in the next drawing. All hunters not receiving a permit in the first computerized drawing and non-residents may apply at this time for the available permits. All resident permit applications will receive preference over non-resident applications.
- e) Any hunter who has not received a permit, and hunters that have received only

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

one permit, may apply for a first or a second permit in a third computerized lottery drawing for the remaining permits. All resident permit applications will receive preference over non-resident applications. Applications for this third drawing will be accepted through the first working day after February 8. Applications received after this date will be included in the next drawing.

- f) Permits remaining after the three lotteries will be available in a random daily drawing that begins the first working day after March 8. All applications received on or before the first working day after March 8 will be processed in the first daily drawing. This drawing period is open to hunters applying for their first, second, or third permits.
- g) The following criteria must be met to obtain preference in the first computerized drawing:
 - 1) The applicant must apply using the official agency application.
 - 2) The applicant must be a resident of the State, be eligible to receive a spring turkey permit, and not had turkey hunting privileges revoked.
 - 3) The applicant must apply for the same county and season choices which he/she listed on the previous year's application. Preference will not be granted for special hunt areas as listed in Section 710.25 or for permit areas listed in Section 710.50(c).
- h) A \$3 service fee will be charged for replacement permits issued by the Department.
- i) The periods for accepting applications for the first three lotteries may be extended if applications are not available to the public by November 1. A news release will announce the extension of the application periods.
- j) It shall be unlawful to:
 - 1) Submit applications before the second computerized lottery drawing for more than one permit for the same person.
 - 2) Submit applications before the third computerized lottery drawing for more than two permits for the same person.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 3) Apply for or receive more than three permits for the spring turkey season.
- 4) Provide false and/or deceptive information on a permit application form. In addition to criminal charges, individuals found guilty of violating this section shall have their application rejected, permit revoked, and fees forfeited.

(Source: Amended at 35 Ill. Reg. 3705, effective February 16, 2011)

Section 710.22 Turkey Permit Requirements – Landowner/Tenant Permits

- a) The "immediate family" is defined as the spouse, children, and parents permanently residing on the same property as the landowner or tenant.
- b) A tenant for the purpose of this Part is one who rents 40 acres or more land for commercial agricultural purposes under an agreement with a landowner. Commercial agriculture shall be defined as utilization of land for the raising of hay, grain crops or livestock for profit. A hunting rights lease, or other non-agricultural lease, is not valid for a landowner or tenant permit.
- c) Resident landowners who own 40 acres or more of land, and resident tenants renting or leasing 40 acres or more of commercial agricultural land, and members of their immediate family may apply for one free turkey permit for their property only in counties open for turkey hunting. Non-resident Illinois landowners of 40 or more acres of land and members of their immediate family are eligible to receive a permit for their property only for a fee of \$37.50. All landowners/tenants who do not reside on the property must possess a valid hunting license.
- d) Applicants for Landowner/Tenant permits must apply using the official application form. Applications for Landowner/Tenant wild turkey permits must be submitted to:

Illinois Department of Natural Resources
POH Spring Wild Turkey Permit
One Natural Resources Way
P.O. Box 19227
Springfield IL 62794-9227

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- e) Landowners or tenants are not required to participate in the public drawing for permits. Landowner/tenant permits are valid for the entire 32 days encompassed by the 5 seasons, but allow the taking of only one wild turkey. This turkey hunting permit shall be valid on all lands the permit holder owns, leases, or rents in counties open for spring turkey hunting.
- f) Recipients of Landowner/Tenant permits to hunt their owned or leased property may apply for a second permit in the third lottery (the first working day after February 8), and a third permit in the Random Daily Drawing period that begins the first working day after March 8. Fees for these additional permits shall be \$15 for residents and the maximum fee as allowed by Section 2.11 of the Wildlife Code [520 ILCS 5/2.11] for nonresidents.
- g) Proof of ownership for all landowner or tenant applications must be provided by one of the following methods:
 - 1) Submittal of a copy of property deed;
 - 2) Submittal of a copy of contract for deed;
 - 3) Submittal of copy of most recent real estate tax statement upon which landowner's name appears;
 - 4) Submittal of a copy of a Farm Service Agency 156EZ form; or
 - 5) Submittal of a copy of trust agreement which must indicate that the trust owns at least 40 acres and the applicant is a current income beneficiary of the trust.
- h) If you are applying for a tenant permit, you are required to submit, in addition to the landowner certification and proof of ownership, a copy of one of the following:
 - 1) Submittal of a copy of a lease (not a hunting rights lease) or rental agreement, file stamped as recorded by the County Clerk, covering the current year; or
 - 2) Submittal of a copy of a Farm Service Agency 156EZ form.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- i) If the property is owned or rented by more than one person: Only one landowner (and his immediate family) or one tenant (and his immediate family) will be issued a permit for every 40 acres of owned or rented land. For example, if 3 persons own 90 acres, only 2 of the landowners and their immediate families may receive turkey permits.
- j) Shareholder/Member/Beneficiary/Partner Landowner Permits
- 1) Bona fide equity shareholders of corporations, bona fide equity members of limited liability companies, current income beneficiaries of trusts and bona fide equity partners of general or limited partnerships owning 40 or more acres of land in a county may apply for a free permit to hunt the corporation, limited liability company, trust or partnership lands only. Only one permit per 40 acres, for a maximum number of 15 permits per county, shall be issued based on ownership of lands by corporations, trusts and limited liability companies. Only one permit for 40 acres, for a maximum of 3 permits per county, shall be issued based on ownership of lands by partnerships. Lands leased to corporations, limited liability companies, trusts or partnerships shall not be considered as a basis for a free permit for the shareholders/members/beneficiaries/partners of the lessee. Lands held in trust by corporations, limited liability companies or partnerships shall not be considered as a basis for a free permit by the shareholders/members/partners of the trustee. If application is made for a free permit based upon lands owned by the corporation, limited liability company, trust or partnership, a duly authorized officer of the corporation, limited liability company, trust or partnership must sign a notarized statement authorizing the applicant to hunt on the corporate, company, trust or partnership lands for which a permit is being requested. This statement must identify the applicant as a bona fide equity shareholder, member, beneficiary or partner as defined in subsections (j)(2), (3) and (4), identify authorization to hunt and identify that no more than 15 authorizations will be requested per county for the corporation, limited liability company, trust or partnership lands.

A) In addition:

- i) Corporation applicants must submit a copy of ownership interest in a for-profit corporation with a fully-executed

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

stock certificate, articles of incorporation, corporate agreement, resolution or minutes;

ii) limited liability company applicants must submit a copy of the limited liability company's articles of organization or the operating agreement;

iii) limited partnerships, limited liability limited partners, and limited liability partnership applicants must submit a copy of the partnership agreement, certificate of partnership or statement of qualification; and

iv) general partnership applicants must submit a copy of the partnership agreement.

B) ~~These documents~~**This document** must be attached to the application upon submittal to the Permit Office. This shareholder/member/beneficiary/partner turkey permit shall be free to resident shareholders/members/beneficiaries/partners and the cost to nonresident shareholders and members shall be \$37.50. Nonresident partners are not eligible to receive permits for partnership lands.

2) Bona fide equity shareholder means an individual who:

A) purchased, for market price, publicly sold stock shares in a corporation; purchased shares of a privately-held corporation for a value equal to the percentage of the appraised value of the corporate assets represented by the ownership in the corporation; or is a member of a closely-held family-owned corporation and has purchased or been gifted with shares of stock in the corporation accurately reflecting his or her percentage of ownership; and

B) intends to retain the ownership of the shares of stock for at least 5 years.

3) Bona fide equity member means an individual who:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- A) became a member upon the formation of the limited liability company; or has purchased a distributional interest in a limited liability company for a value equal to the percentage of the appraised value of the limited liability company assets represented by the distributional interest in the limited liability company and subsequently becomes a member of the company pursuant to Article 30 of the Limited Liability Company Act [805 ILCS 180].
 - B) intends to retain the membership for at least 5 years.
- 4) Current income beneficiary means an individual who, at the time of application for a permit, is entitled to income (whether income exists or not) from the trust that owns the land the applicant wishes to hunt with no condition precedent (such as surviving another person, reaching a certain age, etc.) other than the trustee distributing the income, and is listed by name in the trust documents as an income beneficiary.
- 5) Bona fide equity partner means an individual who:
- A) became a partner, either general or limited, upon the formation of a partnership or limited partnership, or has purchased, acquired, or been gifted a partnership interest accurately representing his or her percentage distributional interest in the profits, losses, and assets of a partnership or limited partnership;
 - B) intends to retain ownership of the partnership interest for at least 5 years; and
 - C) is a resident of Illinois as defined in Section 2.26 of the Wildlife Code.
- k) For the purpose of calculating acreage under this Section, the Department shall, after determining the total acreage of the applicable tract or tracts of land, round remaining fractional portions of an acre greater than or equal to half of an acre up to the next whole acre.

(Source: Amended at 35 Ill. Reg. 3705, effective February 16, 2011)

Section 710.25 Turkey Permit Requirements – Special Hunts

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- a) Special hunt sites are defined as those sites that are owned or controlled by agencies/entities other than the Department, or sites at which the Department only controls a portion of the property designated for turkey hunting, which issue turkey hunting permits through the statewide lottery process. The Permit Office issues turkey hunting permits through a computerized drawing for sites listed below, in addition to the Department-owned or -managed sites listed in Section 710.50(c).

Crab Orchard National Wildlife Refuge (check-in and check-out required at Visitor Information Center, windshield card required, area closed ½ hour after sunset to 1½ hours before sunrise, scouting allowed after noon including the afternoon of the day prior to the permitted hunting season)

Joliet Army Training Area (Will County) (check-in and check-out required at central check station; an additional turkey permit must be purchased from the Joliet Army Training Area)

Lake Shelbyville Project – U.S. Army Corps of Engineers – Moultrie County

Lake Shelbyville Project – U.S. Army Corps of Engineers – Shelby County

Midewin National Tallgrass Prairie (an additional site hunting pass required; check-in, check-out and reporting of harvest required)

~~Savanna Army Depot (Jo Daviess County)~~

- b) Each applicant must enclose a separate fee (check or money order) payable to the Department of Natural Resources, or the application will be returned. Applicants should not send cash with their applications. The Department will not be responsible for cash sent through the mail.

(Source: Amended at 35 Ill. Reg. 3705, effective February 16, 2011)

Section 710.50 Regulations at Various Department-Owned or -Managed Sites

- a) Hunters who intend to hunt Department sites and who have a physical disability

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

that requires special accommodations must contact the site superintendent at least 10 days before the date they wish to hunt. The site superintendent shall make reasonable accommodations necessary to allow the disabled person to participate in the hunting experience at the site. Disabled hunters who require an aide or assistant with them during the hunt are responsible for providing the aide or assistant and notifying the site superintendent that an assistant will be present, and whether the assistant will also be hunting.

- b) Hunters must sign in/sign out at all sites in subsections (c) and (d) that are followed by a (1).
- c) Statewide regulations shall apply for the following sites:

Anderson Lake Conservation Area (1)

Argyle Lake State Park (1)

Cache River State Natural Area (1)

Campbell Pond Wildlife Management Area

Cape Bend State Fish and Wildlife Area (1)

Carlyle Lake Wildlife Management Area

Copperhead Hollow State Wildlife Area

Cypress Pond State Natural Area (1)

Deer Pond State Natural Area (1)

Devil's Island State Fish and Wildlife Area

Dog Island Wildlife Management Area (1)

Ferne Clyffe State Park – Cedar Draper Bluff Hunting Area (1)

[Flag Pond State Natural Area](#)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Fort de Chartres State Historic Site (muzzleloading shotgun or archery only; no in-line muzzleloading shotguns or muzzleloaders with scopes allowed) (1)

Giant City State Park (1)

Horseshoe Lake Conservation Area – Alexander County (controlled goose hunting area and public hunting area only) (1)

Horseshoe Lake State Park (Madison County) – Gabaret, Mosenthein, Chouteau Island Units (all hunters must obtain a free site permit)

Jubilee State Park (archery only) (1)

Kaskaskia River State Fish and Wildlife Area (no hunting east of and within 50 yards of the defined Baldwin Lake Waterfowl Rest Area's main north-south road, within 100 yards of any house or building, or south of the Dry Lake access road; a hunter with a P-2 handicapped certification, accompanied by a non-hunting attendant, may hunt at the site's designated handicapped hunting spot within this closed area; the hunting spot will be allocated on a first come-first served basis or via a drawing, if needed, held at the site office) (1)

Kinkaid Lake Fish and Wildlife Area (1)

Mark Twain National Wildlife Refuge, Gardner Division

Mississippi River Fish and Wildlife Area (Pools 25 and 26)

Mississippi River Pools 16, 17, 18, 21, 22, and 24

Nauvoo State Park (Max Rowe Unit only)

Oakford Conservation Area

Peabody River King State Fish and Wildlife Area (except South Subunit) (1)

Pere Marquette State Park (designated area only)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Ray Norbut Fish and Wildlife Area (1)

Rend Lake Project Lands and Waters except Wayne Fitzgerald State Park

Saline County Fish and Wildlife Area (1)

Sanganois Conservation Area (site issued free permit required)

Sielbeck Forest State Natural Area (1)

Skinner Farm State Habitat Area (1)

Trail of Tears State Forest (1)

Turkey Bluffs State Fish and Wildlife Area (1)

Union County Conservation Area – Firing Line Unit and Public Hunting Area only (1)

Weinberg-King State Park (1)

Weinberg-King State Park (Cecil White Unit)

Weinberg-King State Park (Spunky Bottoms Unit)

Wildcat Hollow State Forest (1)

Wise Ridge State Natural Area

- d) Statewide regulations shall apply except that all hunting is allowed by site-specific permit only. The Department of Natural Resources allocates permits for these areas through the lottery process set forth in Section 710.20. This permit is only valid for the specific site and season indicated on the permit.

Apple River Canyon State Park – Thompson and Salem Units (1)

Beaver Dam State Park

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Big Bend State Fish and Wildlife Area (1)

Big River State Forest (1)

Burning Star 5 (preseason scouting is permitted seven days prior to season date listed on permit; hunters must have their permit in possession while scouting; only hunters with valid Burning Star 5 spring turkey permits may be on the property)

Butterfield Trail State Recreation Area (1)

Carlyle Lake State Fish and Wildlife Area – East Fork Management Unit

Castle Rock State Park (1)

Clinton Lake State Recreation Area

Coffeen Lake State Fish and Wildlife Area

Crawford County Conservation Area

Dixon Springs State Park (youth ages 10-15 only) (1)

Eagle Creek State Park (first two seasons only) (1)

Eldon Hazlet State Park

Ferne Clyffe Hunting Area (1)

Fort Massac State Park (Youth Ages 10-15 only) (1)

Fox Ridge State Park (1)

French Bluff State Natural Area (1)

Green River State Wildlife Area (1)

Hamilton County Conservation Area

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Hanover Bluff State Natural Area (1)

Harry "Babe" Woodyard State Natural Area (1)

Hidden Springs State Forest (1)

Horseshoe Lake State Park (Madison County)

Hurricane Creek Habitat Area (must have Fox Ridge State Park permit)
(1)

Iroquois County State Wildlife Area

Jim Edgar Panther Creek State Fish and Wildlife Area

Johnson-Sauk Trail State Park (1)

Kankakee River State Park (hunting hours are from one-half hour before
sunrise until 12:00 noon) (1)

Kickapoo State Park (1)

Kishwaukee River State Fish and Wildlife Area (1)

Lowden Miller State Forest (1)

Mackinaw River Fish and Wildlife Area (1)

Marseilles Fish and Wildlife Area (site is open to hunting Monday through
Thursday only; hunting hours are from one-half hour before sunrise until
8:30 a.m.; if space is available after site permit holders have checked in or
if there have been no site specific permits issued, La Salle County permit
holders who have an unfilled permit for the current season may be allowed
on the site to hunt; if more La Salle County permit holders want to hunt
than there are vacancies, a daily drawing at the site hunter check station
will be held to determine who may enter the site to hunt; unauthorized
personnel may not be on the site outside of the posted check station
operating hours; hunters may only enter the site from designated parking
lots) (1)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Marshall Fish and Wildlife Area (1)

Matthiessen State Park (South of Vermilion River Area) (1)

Meeker State Habitat Area

Mermet Lake State Fish and Wildlife Area (1)

Middlefork State Fish and Wildlife Management Area (1)

Mississippi Palisades State Park (closed during the fifth season) (1)

Momence Wetlands (1)

Moraine View State Park (no hunting on weekends during 4th and 5th season) (1)

Morrison Rockwood State Park (closed during the fifth season) (1)

Mt. Vernon Game Propagation Center

Newton Lake Fish and Wildlife Area

Pere Marquette State Park (Piasa, Quotoga, Potawatomi Camp Areas) (no hunting allowed on weekends)

Pyramid State Park (1)

Pyramid State Park – East Conant Unit

Rall Woods (Falling Down Prairie) State Natural Area (1)

Ramsey Lake State Park (1)

Randolph County Conservation Area (a handicapped hunter with a P-2 handicapped certification, accompanied by a non-hunting attendant, wanting to hunt at one of the site's two designated handicapped hunting spots is not required to have a site-specific permit; these hunting spots will

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

be allocated on a first come-first served basis or via a drawing, if needed, held at the site office) (1)

Red Hills State Park

Red Hills State Park/Chauncey Marsh

Sahara Woods (1)

Sam Dale Lake Conservation Area (1)

Sam Parr State Park

Sand Ridge State Forest

Sandy Ford State Natural Area

Sangamon County Conservation Area

Sanganois Conservation Area (Squirrel Timber Unit) (1)

Sangchris Lake State Park

Siloam Springs State Park (1)

Siloam Springs State Park (Buckhorn Unit) (1)

South Shore State Park (must have Eldon Hazlet State Park permit)

Spoon River State Forest (1)

Stephen A. Forbes State Park (1)

Tapley Woods State Natural Area (1)

Ten Mile Creek Fish and Wildlife Area

Washington County Conservation Area (1)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Wayne Fitzgerald State Recreation Area

Weinberg-King State Park (Scripps Unit) (1)

Weldon Springs State Park – Piatt County Unit

Witkowsky State Wildlife Area (1)

Wolf Creek State Park (first 2 seasons only) (1)

(Source: Amended at 35 Ill. Reg. 3705, effective February 16, 2011)

Section 710.55 Special Hunts for Disabled Hunters

Statewide regulations shall apply except that all hunting is allowed by site-specific permit only. The Department of Natural Resources allocates permits for these areas through the lottery process set forth in Section 710.20, except as noted. Permits are only valid for the specific site and season indicated on the permit. Disabled hunters must possess a Class P2A disability card in order to be eligible for the drawing.

Dixon Springs State Park

[Eldon Hazlet State Park](#)

Mermet Lake State Fish and Wildlife Area

Mississippi Palisades State Park (portion of site quota designated for disabled hunters; closed during the 5th season)

(Source: Amended at 35 Ill. Reg. 3705, effective February 16, 2011)

Section 710.70 Spring Youth Turkey Hunt

a) Hunting Dates

- 1) Northern Zone: the Saturday and Sunday beginning 9 days prior to the opening date of the Northern Zone first spring turkey hunting season.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 2) Southern Zone: the Saturday and Sunday beginning 9 days prior to the opening date of the Southern Zone first spring turkey hunting season.
- b) Open Counties: All counties listed in Section 710.10 are open to Spring Youth Turkey Hunting.
- c) Eligibility: The Spring Youth Turkey Hunt is open only to hunters Illinois residents who have not reached their 16th birthday prior to the opening date of the youth season. Hunters must have an apprentice hunting license, or they must have completed a State-approved Hunter Education course and have a hunting license, unless exempt. In addition, hunters must have a Habitat Stamp, unless exempt. ~~All participating youths must have completed a Department approved Hunter Education course.~~
- d) Permit Requirements – Spring Youth Turkey Hunt
- 1) All youth hunters must have a current, valid Youth Turkey Hunt Permit (\$10). Hunters are eligible to purchase only one Youth Turkey Hunt Permit. Hunting without a permit is a Class B misdemeanor (see 520 ILCS 5/2.9). ~~For permit application and other information write to:~~
- ~~Illinois Department of Natural Resources
Youth Turkey Hunt
One Natural Resources Way
P.O. Box 19227
Springfield IL 62794-9227~~
- 2) For a county permit: Youth Turkey Hunt Permits valid for counties open to youth turkey hunting will be available for sale over-the-counter (OTC) from agents beginning the first Tuesday in March through the last day of the Youth Turkey Season. ~~Each applicant must enclose a separate fee (check or money order) payable to the Department of Natural Resources or the application will be returned. Applicants should not send cash with their applications. The Department will not be responsible for cash sent through the mail.~~
- 3) For a Special Hunt Area permit: Youth hunters may apply online (<http://dnr.state.il.us/admin/turkey.htm>) for a site-specific permit valid for one of the Special Hunt Areas. The application period begins the third

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

~~Tuesday in January and ends the third Monday in February. Permits will be allocated via a lottery drawing. Each applicant must complete the official Department Youth Wild Turkey Permit application.~~

~~4) Applications will be accepted through the second Monday in February.~~

~~4)5) The applicants must not have had their hunting privileges suspended or revoked in this State or any other state.~~

~~6) If more than one application for an Illinois Youth Turkey Hunt Permit is received from the same person, all applications submitted in that name will be rejected and permits revoked.~~

~~5)7) A \$3 service fee will be charged for replacement permits issued by the Department, except when permits are lost in the mail, there will be no charge. Monies derived from this source will be deposited in the Wildlife and Fish Fund.~~

~~6)8) The Youth Turkey Hunt Permit shall be valid only for the dates and counties/Special Hunt Area listed on the permit. ~~Each youth must also possess a valid Illinois hunting license or apprentice hunting license and Habitat Stamp prior to hunting, unless exempt. Hunting without a permit is a Class B misdemeanor [520 ILCS 5/2.9].~~~~

~~7)9) A permit issued for the Youth Turkey Hunt will count toward the maximum number of permits (Section 710.20(j)) an individual can receive for the Spring Wild Turkey Season .~~

e) Youth Turkey Hunting Regulations

1) Each Illinois Youth Turkey Hunt Permit holder is required to be accompanied afield by a parent/guardian or responsible adult who possesses a valid Firearm Owners Identification (FOID) Card. The accompanying adult must be present for the permit holder (youth) to hunt. The adult and/or adult caller is not allowed to hunt, but may accompany the youth hunter as a caller or observer. The supervising adult shall be criminally liable for the actions of the youth in the hunting party and shall be subject to the criminal penalties provided by law.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 2) All regulations prescribed by Section 710.30 of this Part apply during the Youth Turkey Hunt.
- f) The following sites will be open to holders of a valid Youth Turkey Hunt Permit for the county in which the site is located. Persons wishing to hunt one of the listed sites should contact that site prior to hunting for information about site regulations and restrictions.

Anderson Lake Fish and Wildlife Area

Apple River Canyon State Park – Thompson and Salem Units (1)

Argyle Lake State Park

Big Bend Fish and Wildlife Area (Whiteside County)

Big River State Forest

Cache River State Natural Area

Cape Bend State Fish and Wildlife Area

~~Castle Rock State Park~~

Copperhead Hollow State Wildlife Area

Crab Orchard National Wildlife Refuge Public Hunting Area

Crawford County Conservation Area

Cypress Pond State Natural Area

Deer Pond State Natural Area

Devil's Island State Fish and Wildlife Area

Dog Island Wildlife Management Area

~~Falling Down Prairie State Natural Area (1)~~

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Ferne Clyffe State Park – Cedar Draper State Habitat Area

Giant City State Park

Green River State Wildlife Area

Hanover Bluff State Natural Area (1)

Horseshoe Lake Conservation Area – Alexander County

~~Kankakee River State Park~~

Kaskaskia River State Fish and Wildlife Area

Kinkaid Lake State Fish and Wildlife Area

Mackinaw River State Fish and Wildlife Area (1)

Mermet Lake State Fish and Wildlife Area

Moraine View State Park (free site permit required)

Mississippi River Area Pools 21, 22, 24, 25 and 26

~~Momence Wetlands~~

Mt. Vernon Game Propagation Center (1)

Nauvoo State Park (Max Rowe Unit Only)

Newton Lake State Fish and Wildlife Area

Pere Marquette State Park (open area south of Graham Hollow Road only)

Pyramid State Park

Pyramid State Park – East Conant Unit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Rall Woods State Natural Area (1)

Ray Norbut Fish and Wildlife Area

Rend Lake Corps of Engineers-managed land in Jefferson and Franklin Counties

Rend Lake State Fish and Wildlife Area

Sam Parr State Park

Sielbeck Forest State Natural Area

Siloam Springs State Park

Siloam Springs State Park (Buckhorn Unit)

Skinner Farm State Habitat Area

Spoon River State Forest

Tapley Woods State Natural Area (1)

Trail of Tears State Forest

Ten Mile Creek State Fish and Wildlife Area

Turkey Bluffs State Fish and Wildlife Area

Union County Conservation Area

Weinberg-King State Park

Weinberg-King State Park (Cecil White Unit)

Weinberg-King State Park (Scripps Unit)

Weinberg-King State Park (Spunky Bottoms Unit)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Winston Tunnel State Natural Area (1)Wise Ridge State Natural Area

Witkowsky State Wildlife Area (1)

- g) Statewide regulations shall apply except that all hunting is allowed by site-specific permit only. The Department of Natural Resources allocates permits for these areas through the lottery process set forth in Section 710.70(d). This permit is only valid for the specific site and season indicated on the permit.

Burning Star 5 (preseason scouting is permitted beginning the Saturday prior to the youth season; hunters must have their permit in possession while scouting; ~~permit holders must display a parking card in the dash of their vehicle~~)

Butterfield Trail State Recreation AreaCastle Rock State Park

Clinton Lake State Recreation Area

Coffeen Lake State Fish and Wildlife Area

Crab Orchard National Wildlife Refuge (Closed Portion)

Eldon Hazlet State Park

Ferne Clyffe State Park – Ferne Clyffe Hunting Area

Harry "Babe" Woodyard State Natural Area

Hidden Springs State Forest

Iroquois County State Fish and Wildlife Area

Jim Edgar Panther Creek State Fish and Wildlife Area

Kankakee River State Park

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Kickapoo State Recreation Area

Lake Shelbyville Project Land (U.S. Army Corps of Engineers managed)
Moultrie County

Lake Shelbyville Project Land (U.S. Army Corps of Engineers managed)
Shelby County

Middlefork State Fish and Wildlife Area

Momence Wetlands

Sam Dale Lake State Fish and Wildlife Area

Sand Ridge State Forest

Sangchris Lake State Park

South Shore State Park (must have Eldon Hazlet State Park permit)

Stephen A. Forbes State Park

Wayne Fitzgerald State Recreation Area

Weldon Springs – Piatt County Unit

(Source: Amended at 35 Ill. Reg. 3705, effective February 16, 2011)

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Transitional Bilingual Education
- 2) Code Citation: 23 Ill. Adm. Code 228
- 3) Section Number: 228.50 Adopted Action: Amendment
- 4) Statutory Authority: 105 ILCS 5/2-3.39(1) and Art. 14C
- 5) Effective Date of Amendment: February 17, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: November 12, 2010; 34 Ill. Reg. 17180
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested by JCAR, and no agreements letter was issued.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other proposed rulemakings pending on this Part? No
- 15) Summary and Purpose of Amendments: P.A. 96-1170, effective January 1, 2011, requires that school districts seeking reimbursement for bilingual education services under Article 14C of the School Code [105 ILCS 5/Art. 14C] and Part 228 (Transitional Bilingual Education) devote at least 60 percent of the funding received to "instructional costs". Currently, Part 100 (Requirements for Accounting, Budgeting, Financial Reporting, and Auditing) defines "instructional costs" and lists the expenditure codes for school districts to use to account for the funds used for this purpose. Reference to Table

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENT

D of those rules has been placed in Part 228 to ensure the uniform application of those expenditure codes when districts are budgeting, reporting, accounting for, and auditing the use of State bilingual funding.

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

Robin Lisboa, Division Administrator
Division of English Language Learning
Illinois State Board of Education
100 W. Randolph, Suite 14-300
Chicago, Illinois 60601

312/814-3850

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

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER f: INSTRUCTION FOR SPECIFIC STUDENT POPULATIONS

PART 228
TRANSITIONAL BILINGUAL EDUCATION

Section

228.5	Purpose and Applicability
228.10	Definitions
228.15	Identification of Eligible Students
228.20	Student Language Classification Data
228.25	Program Options, Placement, and Assessment
228.27	Language Acquisition Services for Certain Students Exiting the Program
228.30	Establishment of Programs
228.35	Personnel Qualifications; Professional Development
228.40	Students' Participation; Records
228.50	Program Plan Approval and Reimbursement Procedures
228.60	Evaluation

AUTHORITY: Implementing Article 14C and authorized by Section 2-3.39(1) of the School Code [105 ILCS 5/Art. 14C and 2-3.39(1)].

SOURCE: Adopted May 28, 1976; codified at 8 Ill. Reg. 5176; Part repealed, new Part adopted at 11 Ill. Reg. 5969, effective March 23, 1987; amended at 17 Ill. Reg. 104, effective December 18, 1992; amended at 26 Ill. Reg. 898, effective January 15, 2002; amended at 27 Ill. Reg. 9996, effective June 20, 2003; amended at 30 Ill. Reg. 17434, effective October 23, 2006; amended at 34 Ill. Reg. 11581, effective July 26, 2010; amended at 35 Ill. Reg. 3735, effective February 17, 2011.

Section 228.50 Program Plan Approval and Reimbursement Procedures

- a) Reimbursement for programs provided by school districts pursuant to the provisions of Article 14C of the School Code and this Part is contingent upon the submission and approval of a program plan and request for reimbursement in accordance with the requirements of Section 14C-12 of the School Code and this Section.

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENT

- b) Program Plan Submission and Approval
- 1) Applications for program approval shall be submitted, on forms provided by the State Superintendent of Education, at least 60 calendar days prior to the start of the proposed initial or continuing program.
 - 2) The State Superintendent of Education will waive the requirement in subsection (b)(1) of this Section only when an application is accompanied by a statement of facts showing that the waiver will enable the district to begin serving a student or students sooner than would otherwise be the case.
 - 3) School districts shall be granted at least 45 calendar days to complete and submit applications to the State Superintendent of Education. A district's failure to submit a completed application by the date specified on the form will delay its receipt of reimbursement pursuant to subsection (c) of this Section.
 - 4) Applications for a Transitional Bilingual Education Program and/or a Transitional Program of Instruction must contain at least the following information:
 - A) The number of students to be served by grade or grade equivalent and language group in a full-time or part-time program.
 - B) A summary description of the number and types of personnel who will provide services in the program.
 - C) A description of the full-time and/or part-time program to be provided to the students identified pursuant to subsection (b)(4)(A) of this Section in relation to the applicable program standards set forth in Section 228.30 of this Part.
 - D) Additional requirements for programs offering instruction in Spanish language arts in kindergarten and any of grades 1 through 12:
 - i) For the 2011-12 school year only, a description of the steps the district will take to align its curriculum in the Spanish

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENT

language arts with the standards required under Section 228.30(b)(4) this Part; and

- ii) For 2012-13 and each subsequent school year, a description of the methods by which the district will measure and monitor its students' progress with respect to the standards required under Section 228.30(b)(4) of this Part.
- E) A budget summary containing a projection of the program expenditures (e.g., instruction, support services, administration and transportation) and offsetting revenues for the upcoming fiscal year, and a detailed budget breakdown, including allowable program expenditures for which reimbursement is sought, other program expenditures, and total program costs. At least 60 percent of the funding received from the State must be used for instructional costs [105 ILCS 5/14C-12]. "Instructional costs" are limited to any of the costs described under Account Number 1000, as set forth in 23 Ill. Adm. Code 100.Appendix D (Expenditure Accounts).
- F) In the case of a TBE program, an assurance that the district's Bilingual Parent Advisory Committee established pursuant to Section 14C-10 of the School Code and Section 228.30(c)(5) of this Part has had an opportunity to review the application.
- G) Inclusion of certifications, assurances and program-specific terms of the grant, as the State Board of Education may require, to be signed by the applicant that is a party to the application and submitted with the application.
- 5) Applications that, upon review by the State Superintendent of Education staff, are found to contain the information required pursuant to this Section shall be recommended for approval by the State Superintendent of Education. If the application is found to be incomplete, State Board staff will send a written notice to applicants requesting that they supply the needed information. In order to permit accurate allocation of funds for the program among eligible recipients, the State Superintendent may establish a deadline by which applicants must supply the requested information.

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENT

- 6) The State Superintendent of Education will approve applications that demonstrate compliance with Article 14C of the School Code and this Part, except that the State Superintendent shall invoke subsection (b)(5) of this Section with respect to any requested information that is missing from any application submitted for approval.
- c) Account of Expenditures and Reimbursement Procedures
- 1) An account of each district's expenditures pursuant to Article 14C of the School Code and this Part shall be maintained as required in Section 14C-12 of the School Code. Accounting procedures shall be in accordance with applicable requirements of 23 Ill. Adm. Code 100 (Requirements for Accounting, Budgeting, Financial Reporting, and Auditing).
 - 2) The final annual report of district expenditures, which shall include the information specified in Section 14C-12 of the School Code, shall be submitted on forms provided by the State Superintendent of Education no later than July 31 of each year.
 - 3) School districts shall submit claims for reimbursement of programs approved in accordance with this Part on forms provided by the State Superintendent of Education and in accordance with Section 14C-12 of the School Code, as limited by subsection (b)(4)(E) of this Section. No State reimbursement shall be available with respect to any student served for fewer than five class periods per week.
 - 4) In the event that funds appropriated by the General Assembly are insufficient to cover the districts' excess costs, the funds will be distributed on a pro rata basis and in accordance with the timelines specified in Section 14C-12 of the School Code.
 - 5) A request to amend a district's approved budget shall be submitted on forms provided by the State Superintendent of Education whenever a district determines that there is a need to increase or decrease an approved line item expenditure by more than \$1,000 or 20 percent, whichever is larger. A budget amendment must also be submitted for approval when a grantee proposes to use funds for allowable expenditures not identified in the approved budget. An amendment shall not be approved if it results in instructional costs comprising less than 60 percent of the total

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENT

reimbursement requested.

- 6) Budget amendment requests will be approved if the rationale provided for each amendment includes facts demonstrating that:
- A) there is a need (e.g., a change in the number of students served or personnel needed); and
 - B) the altered expenditures and their related program services will be in compliance with the requirements of Article 14C of the School Code and this Part.

(Source: Amended at 35 Ill. Reg. 3735, effective February 17, 2011)

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Early Childhood Block Grant
- 2) Code Citation: 23 Ill. Adm. Code 235
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
235.10	Amendment
235.20	Amendment
235.30	Amendment
235.55	New Section
235.60	Amendment
235.70	Amendment
235.100	Repeal
235.110	Repeal
235.120	Repeal
235.130	Repeal
235.140	Repeal
235.200	Amendment
235.210	Amendment
- 4) Statutory Authority: 105 ILCS 5/1C-2
- 5) Effective Date of Amendments: February 17, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: November 12, 2010; 33 Ill. Reg. 17187
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: In Section 235.20(c)(16), a cross-reference to Section 235.70 ("Terms of the Grant") has been added to assist readers in understanding the program-specific terms that apply.

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

In Section 235.55(b)(3), a clarification was added to allow for priority consideration of those proposals where the number of preschool programs available is insufficient to meet the needs of the community.

Section 235.70, proposed for repeal, has been restored to the rulemaking, and new subsections (h) through (n) have been added.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other proposed rulemakings pending on this Part? No
- 15) Summary and Purpose of Amendments: The amendments flow from two Public Acts (PA 96-944 and 96-948), each of which removes from Section 2-3.71 of the School Code [105 ILCS 5/2-3.71] the original prekindergarten program for students at risk of academic failure and permanently replaces it with the 4-year-old Preschool for All (PFA) program. Additionally, the agency made changes in the funding priorities, and references to the parental training program throughout the rules have been removed.

The PFA program was initially established for a two-year period, during which time the agency was to award new preschool grants to only PFA programs; however, any prekindergarten at-risk program funded previous to 2006 could continue to apply for renewal grants under the prekindergarten at-risk program requirements found in Subpart A of the rules. In 2008, the "sunset" of the PFA program was again extended until June 30, 2010.

At the time the PFA program was established, Part 235 was amended to include Subpart B specific to those elements unique to the PFA program. Although Subpart B is being proposed for repeal, the PFA requirements need to be retained. Therefore these are being moved into Subpart A without change. Currently, 486 prekindergarten at-risk programs are still being funded. All meet the current requirements for PFA, so they would have no difficulty converting to PFA programs.

As noted above, the PFA program, unlike the prekindergarten program, is open to any child, regardless of his or her at-risk status. As a way to preserve the law's original intent of ensuring that the most vulnerable children are ready to start school, the PFA program provides a funding priority first to programs that serve "primarily" children who are

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

determined to be at risk of academic failure and then to those programs that serve "primarily" children who are from low-income families, as defined in the law. The rules addressed these priorities in Sections 235.110 and 235.120, and this text has been moved to Sections 235.30(b) and (c) and new Section 235.55, respectively.

The law sets forth the priority categories, but the rules define what is meant by "primarily" as 51 percent or more children in the given category. This percentage was established in 2006, in consultation with the Governor's Office, as a way to broaden the scope of state-funded preschools and encourage moderate-income families to participate. Even so, more than 83 percent of all children served in PFA programs in FY 2010 were considered to be at risk. Among the 190 PFA programs for which total enrollment figures are available, nearly 60 percent (111 programs) serve 80 percent or more children who are at risk. In light of the elimination of the prekindergarten at-risk programs and the need to target limited state resources to the neediest children, the rules now define "primarily" as 80 percent or more children in a given category.

Finally, a 2005 law required that any funding provided for parental training under Section 2-3.71a of the School Code [105 ILCS 5/2-3.71a] be awarded as part of either the preschool program or the prevention initiative (0-to-age-3 program), although parental training programs in existence before the law's enactment could continue to renew their grants. The number of separate parental training programs has fallen to 84 funded in FY 2011, receiving a little more than \$3 million of the approximately \$209 million in Early Childhood Block Grant monies that are allocated to competitive programs in areas outside of Chicago. (Chicago receives its early childhood funding directly through its block grant; in FY 2011, it received approximately \$127 million). All but five of the currently funded parental training programs serve children ages 0 to 3 years, and staff estimate that nearly half would be able to convert their existing programs to prevention initiative grants, given the similarities between the two programs and the level of funding each currently receives.

Under the law, continuing to fund these existing, stand-alone parental training programs is "subject to appropriation". Given the reduction in the Early Childhood Block Grant in the last two years and the priority of the agency to maintain, as much as possible, the number of preschool programs, separate parental training grants will no longer be renewed, and the rules need to reflect that policy.

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

Kay Henderson, Division Administrator

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

Early Childhood Division
Illinois State Board of Education
100 North First Street, E-225
Springfield, Illinois 62777

217/524-4835

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

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
 SUBTITLE A: EDUCATION
 CHAPTER I: STATE BOARD OF EDUCATION
 SUBCHAPTER f: INSTRUCTION FOR SPECIFIC STUDENT POPULATIONS

PART 235
 EARLY CHILDHOOD BLOCK GRANT

SUBPART A: PRESCHOOL EDUCATION AND
 PREVENTION INITIATIVE PROGRAMS

Section

235.10	Purpose; Eligible Applicants
235.20	Application Procedure and Content for New or Expanding Programs
235.30	Additional Program Components for Preschool Education Proposals
235.40	Additional Program Components for Prevention Initiative Proposals
235.50	Proposal Review and Approval for New or Expanding Programs
<u>235.55</u>	<u>Proposal Review Process and Additional Funding Priorities for Preschool Education Programs</u>
235.60	Application Content and Approval for Continuation Programs
235.70	Terms of the Grant

SUBPART B: PRESCHOOL FOR ALL CHILDREN PROGRAM

Section

235.100	Purpose; Eligible Applicants <u>(Repealed)</u>
235.110	Application Procedure and Content for New or Expanding Programs <u>(Repealed)</u>
235.120	Proposal Review and Approval for New or Expanding Programs <u>(Repealed)</u>
235.130	Application Content and Approval for Continuation Programs <u>(Repealed)</u>
235.140	Terms of the Grant <u>(Repealed)</u>

SUBPART C: SOCIAL AND EMOTIONAL CONSULTATION SERVICES

Section

235.200	Implementation and Purpose; Eligible Applicants
235.210	Application Procedure and Content
235.220	Proposal Review and Approval of Proposals

235.APPENDIX A Illinois Early Learning Standards

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

235.APPENDIX B Illinois Birth to Three Program Standards

AUTHORITY: Authorized by Section 1C-2 of the School Code [105 ILCS 5/1C-2] and implementing Sections 2-3.71 and 2-3.89 of the School Code [105 ILCS 5/2-3.71 and 2-3.89].

SOURCE: Adopted at 16 Ill. Reg. 10181, effective June 10, 1992; expedited correction at 16 Ill. Reg. 15186, effective June 10, 1992; amended at 26 Ill. Reg. 903, effective January 15, 2002; old Part repealed at 30 Ill. Reg. 4618 and new Part adopted at 30 Ill. Reg. 4620, effective February 28, 2006; emergency amendment adopted at 30 Ill. Reg. 11793, effective June 26, 2006, for a maximum of 150 days; emergency expired November 22, 2006; amended at 30 Ill. Reg. 19383, effective November 28, 2006; amended at 32 Ill. Reg. 13357, effective July 25, 2008; amended at 33 Ill. Reg. 4027, effective February 23, 2009; amended at 34 Ill. Reg. 11615, effective July 26, 2010; amended at 35 Ill. Reg. 3742, effective February 17, 2011.

SUBPART A: PRESCHOOL EDUCATION AND
PREVENTION INITIATIVE PROGRAMS**Section 235.10 Purpose; Eligible Applicants**

- a) This Subpart A establishes the procedures and criteria for the approval of proposals submitted to the State Board of Education by eligible applicants for grants to assist in establishing early childhood education programs funded through the Early Childhood Block Grant authorized by Section 1C-2 of the School Code [105 ILCS 5/1C-2]. The Early Childhood Block Grant program shall include:
 - 1) preschool education primarily for at-risk and low-income children ages 3 years old to kindergarten enrollment age as defined in Section 10-20.12 of the School Code [105 ILCS 5/10-20.12], to include those programs and activities that meet the requirements of Section ~~2-3.712-3.71(a)~~ of the School Code [105 ILCS 5/~~2-3.712-3.71(a)~~]-and parental training activities as authorized under Section 2-3.71a of the School Code [105 ILCS 5/2-3.71a]; and
 - 2) prevention initiative for at-risk children from birth to age 3 and their families, to include those programs and activities that meet the requirements of Section 2-3.89 of the School Code [105 ILCS 5/2-3.89] and parental training activities as authorized under Section 2-3.71a of the School Code.

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

- 3) For the purposes of this Part, "at risk" is defined as those children *who because of their home and community environment are subject to such language, cultural, economic and like disadvantages ~~to cause them to that they~~ have been determined as a result of screening procedures (to be carried out in conformance with Section 235.20(c)(5) of this Part) to be at risk of academic failure.* (Section 2-3.71(a)~~(4.5)~~(4) of the School Code)
- b) Eligible applicants for Early Childhood Block Grant programs include any public or private not-for-profit or for-profit entity with experience in providing educational, health, social and/or child development services to young children and their families. If the Early Childhood Block Grant program is operated in or by a child care center subject to the licensure requirements of the Illinois Department of Children and Family Services (DCFS), then that child care center must hold the appropriate licensure in accordance with rules promulgated by DCFS (see 89 Ill. Adm. Code 403 (Licensing Standards for Group Homes), 405 (Licensing Standards for Day Care Agencies), 406 (Licensing Standards for Day Care Homes), 407 (Licensing Standards for Day Care Centers) and 408 (Licensing Standards for Group Day Care Homes)).
- c) Joint applications for funds may be submitted by any combination of eligible applicants, as described in subsection (b) of this Section.
 - 1) If a joint application is submitted, then an administrative agent shall be designated.
 - 2) A school district or other eligible applicant shall only participate in one proposal for a specific program.
- d) Eligible applicants may subcontract with a private school, not-for-profit or for-profit corporation, or other governmental agency that would otherwise be eligible under subsection (b) of this Section to conduct an Early Childhood Block Grant program.
- e) ~~Parental training programs funded under Section 2-3.71a of the School Code prior to July 1, 2006, are not subject to the requirements of this Part, but may be awarded continuation funding in accordance with the requirements of Section 235.60 of this Part.~~

(Source: Amended at 35 Ill. Reg. 3742, effective February 17, 2011)

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

Section 235.20 Application Procedure and Content for New or Expanding Programs

Each applicant that is proposing a program that has not received funding in the year previous to the current application or is seeking additional funds to expand its currently funded program shall submit to the State Board of Education a proposal that includes the components specified in this Section. For purposes of this Section, an "expanded" program includes one in which the applicant is proposing to serve additional children and their families or to offer initiatives not provided under its currently funded program.

- a) Grants for new or expanded programs shall be offered in years in which the level of available funding is such that one or more new or expanded programs can be supported, along with those currently funded programs that seek continuation funding in accordance ~~with~~ Section 235.60 of this Part.
- b) When sufficient funding is available, the State Superintendent of Education shall issue one or more Requests for Proposals (RFP) specifying the information that applicants shall include in their proposals, informing applicants of any bidders' conferences, and requiring that proposals be submitted no later than the date specified in the RFP. The RFP shall provide at least 45 calendar days in which to submit proposals.
- c) All proposals submitted in response to an RFP shall include the following components:
 - 1) A cover page completed on a form supplied by the State Board of Education and signed by the school district superintendent or official authorized to submit the proposal or, in the case of a joint application, by the superintendent from each of the school districts and each authorized official of other eligible entities participating in the joint proposal.
 - 2) For applicants other than public school districts, a description that includes the following:
 - A) the applicant's mission statement, organizational structure, and goals or policies regarding early childhood programs;

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

- B) the applicant's existing competencies to provide early childhood education programs, to include a list of any early childhood accreditations that have been achieved; and
 - C) in the case of a joint application, the goals and objectives of the collaboration and a brief description of each partner's experience in providing services similar to those to be provided under the Early Childhood Block Grant program.
- 3) A description of the need for the program, which shall include:
- A) current demographic or descriptive information regarding the community in which the families and children reside (including information on the prevalence of homelessness); and
 - B) the process that was used to determine the need for the program in the community in relation to other similar services that may be operating in the same geographic area.
- 4) A description of the population to be served, as defined in Section 235.10(a) of this Part, for each program to be funded under the Early Childhood Block Grant. This description shall include:
- A) how the eligible population will be recruited;
 - B) the geographic area to be served; and
 - C) the estimated number of children and/or families to be enrolled.
- 5) A description of the procedures to be used to screen children and their families to determine their need for services. Results of the screening shall be made available to the program staff and parents of the children screened. All screening procedures shall include:
- A) criteria to determine at what point performance on the screening instrument indicates that children are at risk of academic failure as well as to assess other environmental, economic and demographic information that indicates a likelihood that the children would be at risk;

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

- B) screening instruments/activities related to and able to measure the child's development in at least the following areas (as appropriate for the age of the child): vocabulary, visual-motor integration, language and speech development, English proficiency, fine and gross motor skills, social skills and cognitive development;
 - C) written parental permission for the screening;
 - D) parent interview (to be conducted in the parents' home language, if necessary), including at least the following:
 - i) for preschool education programs, a summary of the child's health history and social development; or
 - ii) for prevention initiative programs, information about the parents, such as age, educational achievement and employment history;
 - E) vision and hearing screening, in accordance with 77 Ill. Adm. Code 685 (Vision Screening) and 675 (Hearing Screening); and
 - F) where practicable, provision for the inclusion of program teaching staff in the screening process.
- 6) A description of the parent education and involvement~~training~~ component that will be provided, which shall include activities in each of the following areas: to meet at least all of the requirements of Section 2-3.71a of the School Code.
- A) communication between the home and the preschool education program that is regular, two-way and meaningful;
 - B) parenting skills are promoted and supported;
 - C) recognition that parents play an integral role in assisting student learning;

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

D) parents are welcome in the program, and their support and involvement are sought; and

E) parents are full partners in the decisions that affect children and families.

- 7) A description of how the program will coordinate with other programs, as specified in the RFP, that are in operation in the same area and that are concerned with the education, welfare, health and safety needs of young children. A copy of the written agreement between the program and any Head Start program operating in the same area shall be executed by the date and contain the information specified in Section 2-3.71(a)(4.5) of the School Code. If the Head Start program is either unable or unwilling to enter into a written agreement, the program shall notify the State Board of Education of this fact no later than December 31 of each fiscal year.
- 8) A description of the full-time and part-time professional and nonprofessional staff to be paid by the program, indicating that program administrators, early childhood teachers, counselors, psychologists, psychiatrists and social workers are appropriately qualified.
- A) Teachers of children ages 3 to 5 years must hold an initial, initial alternative, standard, master, provisional, provisional alternative, resident teacher, or visiting international teacher early childhood certificate. (See Section 2-3.71(a)(3) of the School Code and 23 Ill. Adm. Code 1.Appendix A.)
- B) By July 1, 2014, noncertificated staff employed to assist in instruction provided to children ages 3 to 5 years shall meet the requirements set forth in 23 Ill. Adm. Code 25.510(c).
- C) Teachers of children ages 3 to 5 years who are assigned to a transitional bilingual program or a transitional program of instruction that is administered by a school district, either in an attendance center or a non-school-based facility, shall meet the requirements set forth in 23 Ill. Adm. Code 228.35 (Transitional Bilingual Education), as applicable.

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

- 9) A description of staff development assessment procedures and ongoing professional development activities to be conducted.
- 10) A description of the required program components, as set forth in either Section 235.30 or 235.40 of this Part.
- 11) Other information, as specified in the RFP, such as daily schedules (including the number of hours per day and days per week the program will operate), classroom locations, facility information (e.g., owner's name, terms of lease arrangement, size of classrooms and other areas to be used by the program), if applicable.
- 12) The plan for ensuring that the program provides either a snack, in the case of a half-day program, or a meal, in the case of a full-day program, for participating children.
- 13) A budget summary and payment schedule, as well as a budget breakdown, i.e., a detailed explanation of each line item of expenditure. ~~Budget information, provided on forms supplied by the State Board of Education.~~ The budget shall specify that no more than 5 percent of the total grant award shall be used for administrative and general expenses not directly attributed to program activities, except that a higher limit not to exceed 10 percent may be negotiated with an applicant that has provided evidence that the excess administrative expenses are beyond its control and that it has exhausted all available and reasonable remedies to comply with the limitation.
- 14) A description of how the applicant will ensure that no fees will be charged of parents or guardians and their children who are enrolled and participate in Early Childhood Block Grant programs.
- 15) A plan for evaluating the proposed programs and activities to be included in the Early Childhood Block Grant, which shall correspond to the applicable specifications set forth in the RFP.
- 16) Such certifications, assurances and program-specific terms of the grant as the State Superintendent of Education may require, to be signed by each applicant that is a party to the application and submitted with the proposal. (Also see Section 235.70 of this Part.) ~~Such certifications and assurances as the State Board of Education may require.~~

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

- d) Applicants may be requested to clarify various aspects of their proposals. The contents of the approved proposal shall be incorporated into a grant agreement to be signed by the State Superintendent of Education or designee and the school district superintendent or, in the case of an entity that is not the school district, the person legally authorized to submit the proposal and bind the applicant to its contents.

(Source: Amended at 35 Ill. Reg. 3742, effective February 17, 2011)

Section 235.30 Additional Program Components for Preschool Education Proposals

- a) In addition to the requirements set forth in Section 235.20, applications for funding for preschool education programs and activities, as defined in Section 235.10(a)(1) of this Part, must provide:
- ~~1)a)~~ a description of how the comprehensive services to be provided are aligned with the Illinois Early Learning Standards as set forth in Appendix A of this Part;
 - ~~2)b)~~ a description of how the proposed educational program is developmentally appropriate for each child, which shall:
 - ~~A)1)~~ be accepted based upon evidence in the proposal that the results of the individualized assessment profile for each child will be the basis for determining that child's educational program;
 - ~~B)2)~~ address the domains of development specified in Section 235.20(c)(5)(B) and how a language and literacy development program shall be implemented for each child based on that child's individual assessment; and
 - ~~C)3)~~ address how student progress will be assessed and documented to ensure that the educational program meets the needs of the student and provides a system whereby that student's parents are routinely advised of their child's progress;
 - ~~3)e)~~ the maximum number of children to be screened for program eligibility and, for those children that are screened, the maximum to be served by the

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

educational program. The maximum number must be served in each classroom if, following completion of screening, the program has a waiting list of eligible children;

- 4)d) the child/staff ratio for each classroom, which shall not exceed a ratio of 10 children to one adult, with no more than 20 children being served in each classroom;
 - 5)e) a description of how the program will ensure that those children who are age-eligible for kindergarten are enrolled in school upon leaving the preschool education program; ~~and~~
 - 6)f) for school district applicants, a description of the steps to be taken to ensure that the provisions of Article 14C of the School Code [105 ILCS 5/Art. 14C] and 23 Ill. Adm. Code 228 (Transitional Bilingual Education) are met; ~~and-~~
 - 7) a description of the provisions to be made to allow for the participation of children with disabilities in the program.
- b) Each applicant also shall describe whether the program qualifies as a program serving primarily at-risk children or a program serving primarily children whose families meet the income guidelines set forth in Section 2-3.71(a)(4.5) of the School Code.
- 1) A program serving "primarily at-risk children" is one that:
 - A) has 80 percent or more of the enrolled children identified as being at risk of academic failure (see Sections 235.10(a)(3) and 235.20(c)(5) of this Part);
 - B) gives priority for enrollment to academically at-risk students over those students who have not been identified as academically at risk; and
 - C) has taken specific proactive measures to ensure that parents of children who may be at risk of academic failure are aware of the opportunity to enroll in the preschool education program.

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

- 2) A program serving "primarily children whose families meet income guidelines" is one that has 80 percent or more of the enrolled children from families meeting the income guidelines and does not qualify under subsection (b)(1) of this Section as serving primarily academically at-risk children.
 - 3) Each applicant shall estimate the percentage of children to be enrolled who are considered to be at risk of academic failure or whose families meet income guidelines, as applicable.
- c) Programs serving primarily at-risk children shall describe:
- 1) the process to ensure that, if the program has a waiting list of children to be enrolled, all children identified as being at risk of academic failure are enrolled before other children not identified as being at risk; and
 - 2) the specific proactive measures the program has taken or will take to ensure that parents of children who may be at risk of academic failure are made aware of the opportunity to participate in the preschool education program.

(Source: Amended at 35 Ill. Reg. 3742, effective February 17, 2011)

Section 235.55 Proposal Review Process and Additional Funding Priorities for Preschool Education Programs

In order to meet the funding priorities set forth in Section 2-3.71(a)(4.5) of the School Code, each proposal for a preschool education program shall be reviewed using both quantitative and qualitative criteria.

- a) Proposals shall first be screened to identify those proposals that meet the criteria for each funding priority (see Section 235.30(b) of this Part). Proposals shall be separated into the following three categories:
 - 1) proposals serving primarily at-risk children;
 - 2) proposals serving primarily children whose families meet income guidelines; and

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

- 3) all other proposals.
- b) Within each of the three categories set forth in subsection (a) of this Section, the proposals shall be reviewed and scored using the qualitative criteria set forth in Section 235.50(a) of this Part to determine which proposals provide evidence of a "qualified program". "Qualified programs" shall be those scoring at least 60 out of 100 total points.
- 1) All qualified programs within the category set forth in subsection (a)(1) of this Section shall be funded before funding any qualified programs in the categories set forth in subsection (a)(2) or (a)(3) of this Section.
- 2) All qualified programs within the category set forth in subsection (a)(2) of this Section shall be funded before funding any qualified programs in the category set forth in subsection (a)(3) of this Section.
- 3) Within each category, priority for funding will be given to substantially similar proposals that either:
- A) serve children from a community with limited preschool education programs or an insufficient number of programs to meet the community's need; or
- B) have few resources promoting preschool education.

(Source: Added at 35 Ill. Reg. 3742, effective February 17, 2011)

Section 235.60 Application Content and Approval for Continuation Programs

The requirements of ~~this~~the Section shall apply to those applicants seeking funding to continue preschool education and prevention initiative programs beyond the initial grant period ~~and for programs offering parental training services under Section 2-3.71a of the School Code that were first funded previous to school year 2006-07.~~

- a) In order to continue to operate an Early Childhood Block Grant Program, a grantee each year shall electronically submit an application for continuation. The application shall include at least the following:
- 1) an overview of the program, addressing: ~~A~~A—the program components outlined in Section 235.20 of this Part and either Section 235.30 or Section

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

235.40 of this Part, as applicable for preschool education or prevention initiative programs; ~~or~~

~~B) the requirements of Section 2-3.71a of the School Code for parental training programs;~~

2) ~~budget summary and payment schedule, as well as a budget breakdown, i.e., a detailed explanation of each line item of expenditure budget information for the year in which the application is being made;~~ and

3) the certifications and assurances referred to in Section 235.20(c)(16) of this Part applicable to the renewal period.

b) An Early Childhood Education Block Grant Program shall be approved for continuation provided that:

1) a need continues to exist for the program, as evidenced by the number or proportion of children and families to be served;

2) the program components proposed will be effective in assisting at-risk children and families;

3) the proposed budget is cost-effective, as evidenced by the cost of proposed services in relation to the numbers to be served and the services to be provided; and

4) in the year previous to the continuation application, the applicant complied with the terms and conditions of any grant it received pursuant to this Subpart A.

(Source: Amended at 35 Ill. Reg. 3742, effective February 17, 2011)

Section 235.70 Terms of the Grant

a) Expenditure reports must be filed electronically with the Division of Funding and Disbursements four times a year.

b) Each grantee shall submit evaluation information on forms provided by the State Board of Education, specifying:

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

- 1) descriptive statistics on the population served, eligibility, screening procedures and staff qualifications and training, including any social and emotional consultation services provided pursuant to Subpart C of this Part;
 - 2) descriptive information, including type and quality of the educational program, amount and extent of interagency collaboration, and parent education and involvement;
 - 3) the extent to which program objectives have been accomplished; and
 - 4) any similar program-related information that the State Superintendent of Education may request upon 30 days' written notice.
- c) An annual program review shall be conducted for each new project to ensure program quality, to assist in program improvement and to provide technical assistance.
- d) All equipment purchased by the grantee for the program with Early Childhood Block Grant funds must be documented on a form supplied by the State Board of Education and be maintained in the grantee's files.
- e) A time distribution worksheet shall be kept for any staff member in a part-time position.
- f) Grantees shall use funds provided under the Early Childhood Block Grant *to supplement, not supplant, funds received from any other source.* (Sections 2-3.71 and 2-3.89 of the School Code)
- g) Grant funds may not be used to provide religious instruction, conduct worship services, or engage in any form of proselytization.
- h) [Prior to final funding approval, each grantee shall:](#)
- 1) [present evidence that all teachers providing instruction meet the requirements of Section 235.20\(c\)\(8\)\(A\) and \(c\)\(8\)\(C\) of this Part, as applicable, and](#)

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

- 2) if subject to licensure requirements of the Illinois Department of Children and Family Services (DCFS), present evidence that it holds the appropriate licensure (also see Section 235.10(b) of this Part).
- i) Reporting: All grantees must report the following to the Illinois State Board of Education no later than October 15 of each year. Other reports shall be submitted in a format specified by and according to the timeline set forth by the State Superintendent of Education.
- 1) The percentage of children enrolled in the program who have been identified as being at risk of academic failure.
- 2) The percentage of children enrolled in the program who are from families whose incomes are less than four times the federal poverty level (FPL), established by U.S. Department of Health and Human Services.
- 3) The percentage of children enrolled in the program who do not qualify under either category.
- j) Each grantee shall enter information and other data relative to the students participating in the preschool education program into the Student Information System in accordance with the provisions of 23 Ill. Adm. Code 1.75 (Student Information System).
- k) Failure of a grantee to enroll the required percentage of children (80 percent) in the particular prioritization category for which the proposal was funded (i.e., at-risk status or income levels) shall result in the amount of grant award being reduced proportionate to the decrease in percentage of children enrolled.
- l) School district grantees with programs serving homeless children must comply with all applicable provisions of the federal McKinney-Vento Homeless Assistance Act (42 USC 11431 et seq.). Non-school district grantees should, to the extent possible, ensure that homeless children enrolled in their programs receive the support necessary for successful and continued participation, including, without limitation, arranging for appropriate transportation when necessary.

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

- m) No funds may be used to help support or sustain any institution controlled by any church or sectarian denomination (see Article X, Section 3 of the Illinois Constitution).
- n) Each grantee that operates a program in a facility licensed by DCFS shall require all employees and volunteers who are persons subject to background checks, as defined by 89 Ill. Adm. Code 385.20 (Definitions), to authorize DCFS to perform a Child Abuse and Neglect Tracking System (CANTS) background check. The grantee shall maintain evidence of completion of required CANTS checks for all persons subject to background checks and copies of the evidence of completion shall be provided to the administrator of the DCFS-licensed facility. The requirement applies to any paid or unpaid individual, including any certified teacher employed by a school district or other entity but working in the facility, who is used to perform essential staff duties as evidenced by being counted in the staff-child ratio or being allowed to be alone with children in a licensed child care facility outside the visual or auditory supervision of facility staff.

(Source: Amended at 35 Ill. Reg. 3742, effective February 17, 2011)

SUBPART B: PRESCHOOL FOR ALL CHILDREN PROGRAM

Section 235.100 Purpose; Eligible Applicants (Repealed)

- a) ~~This Subpart B establishes the procedures and criteria for the approval of proposals submitted to the State Board of Education by eligible applicants for grants to assist in establishing Preschool for All Children programs authorized by Section 2-3.71(a)(4.5) of the School Code [105 ILCS 5/2-3.71(a)(4.5)].~~
- b) ~~Applicants eligible to apply for the Preschool for All Children program are those listed in Section 235.10(b) and (c) of this Part.~~
- e) ~~This Subpart is repealed as of June 30, 2010 (see Section 2-3.71(a)(4.5) of the School Code).~~

(Source: Repealed at 35 Ill. Reg. 3742, effective February 17, 2011)

Section 235.110 Application Procedure and Content for New or Expanding Programs (Repealed)

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

~~In addition to meeting the requirements set forth in Section 235.20 of this Part (with the exception of Section 235.20(c)(6) of this Part) and Section 235.30 of this Part, each application for funding for a Preschool for All Children program shall provide the following:~~

- a) ~~Each applicant shall describe whether the program qualifies as a program serving primarily at-risk children or a program serving primarily children whose families meet the income guidelines set forth in Section 2-3.71(a)(4.5) of the School Code.~~
 - 1) ~~A program serving "primarily at-risk children" is one that:~~
 - A) ~~has 51 percent or more of the enrolled children identified as being at risk of academic failure (see Sections 235.10(a)(3) and 235.20(c)(5) of this Part);~~
 - B) ~~gives priority for enrollment to academically at-risk students over those students who have not been identified as academically at risk, and~~
 - C) ~~has taken specific proactive measures to ensure that parents of children who may be at risk of academic failure are aware of the opportunity for preschool education through the Preschool for All Children program.~~
 - 2) ~~A program serving "primarily children whose families meet income guidelines" is one that has 51 percent or more of the enrolled children from families meeting the income guidelines and does not qualify under subsection (a)(1) of this Section as serving primarily academically at-risk children.~~
 - 3) ~~Each applicant shall estimate the percentage of children to be enrolled who are considered to be at risk of academic failure or whose families meet income guidelines, as applicable.~~
- b) ~~Programs serving primarily at-risk children shall describe:~~
 - 1) ~~the process to ensure that, if the program has a waiting list of children to be enrolled, all children identified as being at risk of academic failure are enrolled before other children not identified as being at risk; and~~

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

- ~~2) the specific proactive measures the program has taken or will take to ensure that parents of children who may be at risk of academic failure are made aware of the opportunity to participate in the Preschool for All Children program.~~
- e) ~~Each applicant shall describe the provisions to be made to allow for:~~
 - ~~1) the participation of children with disabilities in the program, and~~
 - ~~2) the continued participation of children of homeless families in the program in those instances in which the children move outside the area served by the Preschool for All Children program.~~
- d) ~~Each applicant shall describe the parent education and involvement component, which shall include activities in each of the following areas:~~
 - ~~1) Communication between home and the Preschool for All Children program that is regular, two-way and meaningful.~~
 - ~~2) Parenting skills are promoted and supported.~~
 - ~~3) Recognition that parents play an integral role in assisting student learning.~~
 - ~~4) Parents are welcome in the program, and their support and involvement are sought.~~
 - ~~5) Parents are full partners in the decisions that affect children and families.~~

(Source: Repealed at 35 Ill. Reg. 3742, effective February 17, 2011)

Section 235.120 Proposal Review and Approval for New or Expanding Programs
(Repealed)

~~In order to meet the funding priorities set forth in Section 2-3.71(a)(4.5) of the School Code, each proposal shall be reviewed using both quantitative and qualitative criteria.~~

- a) ~~Proposals shall first be screened to identify those proposals that meet the criteria for each funding priority (see Section 235.110(a) of this Part). Proposals shall be separated into the following three categories:~~

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

- ~~1) proposals serving primarily at-risk children;~~
 - ~~2) proposals serving primarily children whose families meet income guidelines; and~~
 - ~~3) all other proposals.~~
- b) ~~Within each of the three categories set forth in subsection (a) of this Section, the proposals shall be reviewed and scored using the qualitative criteria set forth in Section 235.50(a) of this Part to determine which proposals provide evidence of a "qualified program". "Qualified programs" shall be those scoring at least 60 out of 100 total points.~~
- ~~1) All qualified programs within the category set forth in subsection (a)(1) of this Section shall be funded before funding any qualified programs in the categories set forth in subsection (a)(2) or (a)(3) of this Section.~~
 - ~~2) All qualified programs within the category set forth in subsection (a)(2) of this Section shall be funded before funding any qualified programs in the category set forth in subsection (a)(3) of this Section.~~
 - ~~3) Within each category, priority for funding will be given to substantially similar proposals that serve children from a community with limited preschool programs or few resources promoting preschool education.~~
- e) ~~The selection of proposals for funding may be based in part on the need to make programs available on a statewide basis and/or provide resources to school districts and communities with varying demographic characteristics.~~
- d) ~~The State Superintendent of Education shall determine the amount of individual grant awards. The final award amounts shall be based upon:~~
- ~~1) the total amount of funds available for the Preschool for All Children program; and~~
 - ~~2) the resources requested in the top-ranked proposals, as identified pursuant to subsections (b) and (c) of this Section.~~

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

(Source: Repealed at 35 Ill. Reg. 3742, effective February 17, 2011)

Section 235.130 Application Content and Approval for Continuation Programs (Repealed)

~~The requirements of this Section shall apply to those applicants seeking funding to continue Preschool for All Children programs beyond the initial grant period.~~

- a) ~~In order to continue to operate a Preschool for All Children program, a grantee each year shall electronically submit an application for continuation. The application shall include at least the following:~~
- ~~1) an overview of the program, addressing the program components outlined in Sections 235.20 and 235.110 of this Part;~~
 - ~~2) budget information for the year in which the application is being made; and~~
 - ~~3) the certifications and assurances referred to in Section 235.20(c)(16) of this Part applicable to the renewal period.~~
- b) ~~A Preschool for All Children program shall be approved for continuation provided that:~~
- ~~1) a need continues to exist for the program, as evidenced by the number or proportion of children and families to be served;~~
 - ~~2) the program components proposed will be effective in meeting the needs of children and families to be served by the program;~~
 - ~~3) the proposed budget is cost-effective, as evidenced by the cost of proposed services in relation to the numbers to be served and the services to be provided; and~~
 - ~~4) in the year previous to the continuation application, the applicant complied with the terms and conditions of any grant it received pursuant to this Subpart B.~~

(Source: Repealed at 35 Ill. Reg. 3742, effective February 17, 2011)

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

Section 235.140 Terms of the Grant (Repealed)

~~In addition to meeting each of the requirements set forth in Section 235.70 of this Part, each grantee receiving funding for a Preschool for All Children program shall comply with the following terms and conditions of the grant.~~

- ~~a) Each grantee is required to collaborate with its local Head Start program. Children currently enrolled or pre-enrolled in Head Start shall not be recruited to be in the Preschool for All Children program.~~
- ~~b) Each grantee with a program funded to serve primarily at risk children shall be required to:
 - ~~1) enroll 51 percent or more of children who have been identified as being at risk of academic failure;~~
 - ~~2) give priority in enrollment to children identified as being at risk of academic failure over those children who are not academically at risk, and~~
 - ~~3) take specific proactive measures to ensure that the parents of children who may be academically at risk are made aware of the availability of the opportunity for participation in the Preschool for All Children program.~~~~
- ~~c) Any grantee that fails to enroll the required percentage of children (at least 51 percent) in the particular prioritization category for which the proposal was funded (i.e., at risk status or income levels) shall have its grant award reduced proportionate to the decrease in percentage of such children enrolled.~~
- ~~d) School district grantees with programs serving homeless children must comply with all applicable provisions of the McKinney Vento Homeless Assistance Act (42 USC 11301 et seq.). Non-school district grantees should, as much as possible, ensure that homeless children enrolled in their programs receive the support necessary for successful and continued participation, including, without limitation, arranging for appropriate transportation, when necessary in cases where such children move outside of the area served by the program during the grant period.~~

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

- e) ~~Staff from the Illinois State Board of Education shall conduct an annual program review for each new project to ensure program quality, to assist in program improvement and to provide technical assistance.~~

(Source: Repealed at 35 Ill. Reg. 3742, effective February 17, 2011)

SUBPART C: SOCIAL AND EMOTIONAL CONSULTATION SERVICES

Section 235.200 Implementation and Purpose; Eligible Applicants

- a) The State Superintendent of Education may annually allocate a portion of the Early Childhood Block Grant to assist preschool education programs funded under Section 2-3.71 of the School Code in providing to teachers in their programs ongoing social and emotional consultation services from mental health professionals.
- b) For the purposes of this Subpart C, social and emotional consultation services shall mean services that help prepare teachers to promote the social and emotional development of their students and to manage inappropriate classroom behaviors that may result from a student's exposure to such challenges as domestic violence, substance abuse, depression or other mental illness, homelessness and other potential concerns.
- c) Eligible applicants are those programs operating ~~either a preschool education~~Prekindergarten Program for Children at Risk of Academic Failure or a Preschool for All Children program funded under Subpart A of this Part during the fiscal year in which funds are made available for social and emotional consultation services.
- 1) Joint applications may be submitted, in which case one of the programs shall be designated as the administrative agent.
 - 2) A program shall only participate in one proposal for social and emotional consultation services.

(Source: Amended at 35 Ill. Reg. 3742, effective February 17, 2011)

Section 235.210 Application Procedure and Content

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

- a) When an allocation for social and emotional consultation services is made available pursuant to Section 235.200(a) of this Part, the State Superintendent of Education shall issue a Request for Proposals (RFP) specifying the information that applicants shall include in their proposals, informing applicants of any bidders' conferences, and requiring that proposals be submitted no later than the date specified in the RFP. The RFP shall provide at least 30 calendar days in which to submit proposals.
- b) Each proposal submitted in response to an RFP shall include the following components.
 - 1) A description of the need for the services, to include, but not limited to:
 - A) the number or proportion of students who are being served in each State-funded preschool education program included in the proposal who come from families experiencing the type of problems outlined in Section 235.200(b) of this Part;
 - B) the impact that these types of problems have in the classroom (e.g., classroom disruptions, difficulties in learning, lack of positive social interaction);
 - C) the number of teachers likely to use the consultation services on an ongoing basis; and
 - D) other resources that may be available to the program to provide similar services.
 - 2) A description of the types of services to be provided, to include the frequency of each, the person responsible, and how the effectiveness of the service will be measured.
 - 3) A description of the process, measures and data elements to be used to determine the effectiveness of the consultation services on teacher quality and classroom management.
 - 4) The name of each individual to provide the social and emotional consultation services, to include a description of his or her qualifications and experience that at least addresses the person's educational attainment

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

and specialties, experience working with a population similar to that being served in the State-funded preschool [education](#) program, and evidence that he or she possesses any licenses or other credentials required to practice his or her profession.

- 5) A budget summary and payment schedule, as well as a budget breakdown, i.e., a detailed explanation of each line item of expenditure.
 - 6) Such certifications, assurances and program-specific terms of the grant as the State Superintendent of Education may require, to be signed by each applicant that is a party to the application and submitted with the proposal. ~~Such certifications and assurances as the State Board of Education may require.~~
- c) Applicants may be requested to clarify various aspects of their proposals. The contents of the approved proposal shall be incorporated into a grant agreement to be signed by the State Superintendent of Education or designee and the school district superintendent or, in the case of an entity that is not the school district, the person legally authorized to submit the proposal and bind the applicant to its contents.

(Source: Amended at 35 Ill. Reg. 3742, effective February 17, 2011)

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: School Technology Program
- 2) Code Citation: 23 Ill. Adm. Code 575
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
575.100	Amendment
575.300	Amendment
575.500	Amendment
575.600	Amendment
575.700	Amendment
- 4) Statutory Authority: 105 ILCS 5/2-3.117a
- 5) Effective Date of Amendments: February 17, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: November 12, 2010; 34 Ill. Reg. 17213
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested by JCAR, and no agreements letter was issued.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other proposed rulemakings pending on this Part? No
- 15) Summary and Purpose of Amendments: PA 96-783, effective August 28, 2009, allows nonpublic schools that are recognized by the State Board of Education under Part 425 (Voluntary Registration and Recognition of Nonpublic Schools) to apply for a loan under

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

the School Technology Revolving Loan Fund. Under the law, priority consideration for awarding loans goes to eligible public entities that submit applications prior to October 1 during each fiscal year. "Public entities" include school districts, charter schools, area vocational centers and approved university laboratory schools. The law also directs the agency to establish a mechanism to recover any equipment purchased with loan proceeds from any nonpublic school that closes.

The amendments in Section 575.500(b) address the requirement for priority consideration of public entities by having two points at which loan award determinations will be made. In the first-round consideration, all applications that are complete, approvable and submitted by eligible public entities on or before September 30 will be funded on a first come, first serve basis, and the loan award determination shall be made no later than October 15. In the second round, all other applications from public entities and those from nonpublic entities will be considered on a first come, first serve basis, as the rules now provide.

Priority consideration for public entities is further preserved in Section 575.500(e), which addresses funding applications from entities that were approvable in a given cycle but did not receive a loan due to an insufficient appropriation. Under the rules as amended, priority consideration will be given to applications from public entities before October 1 and then to recognized nonpublic schools after the October 1 cut-off date.

The rules currently allow the agency to withhold general state aid (GSA) payments in the event that a public entity is in default more than 90 days on a loan payment. This ability to withhold funding is being extended to nonpublic schools in that any money received under the School Safety and Educational Improvement Block Grant may be withheld. (NOTE: Nonpublic schools do not qualify for GSA.) In FY 2010, 642 nonpublic schools received \$1,570,360 in grants, with individual awards ranging from \$96 to \$18,179. No funding was provided for the block grant in FY 2011, however, so the proposed amendments also provide that a nonpublic school's recognition pursuant to Part 425 may be affected, if the school fails to make a loan payment.

As noted above, the law directs the State Board to recover equipment purchased with loan proceeds from recognized nonpublic schools that close. The rules do not demand immediate recovery, however, instead allowing the school to continue to repay the loan (Section 575.700). In order to ensure the return of the equipment, if that becomes necessary, nonpublic schools are required to mark all equipment as being purchased under the Technology Revolving Loan Program. The process for equipment recovery is

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

set forth in Section 575.700(g) and includes notification and an opportunity for the nonpublic school to pay the outstanding loan balance due.

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

Marica Cullen, Division Administrator
Curriculum and Instruction Division
Illinois State Board of Education
100 North First Street, C-215
Springfield, Illinois 62777

217/557-7323

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

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER 6: MISCELLANEOUS

PART 575

SCHOOL TECHNOLOGY PROGRAM

SUBPART A: SCHOOL TECHNOLOGY GRANTS

Section

575.10	Purpose (Repealed)
575.20	Eligible Expenditures (Repealed)
575.30	Application Procedure and Content (Repealed)
575.40	Matching Requirements (Repealed)
575.50	Proposal Review and Approval (Repealed)
575.60	Terms of the Grant (Repealed)

SUBPART B: SCHOOL TECHNOLOGY REVOLVING LOAN PROGRAM

Section

575.100	Purpose
575.200	Use of Funds
575.300	Maximum Amount of Loan
575.400	Application Procedures
575.500	Review of Application and Notification of Loan Award
575.600	Repayment Procedures
575.700	Terms and Conditions of Loan Agreement

AUTHORITY: Implementing and authorized by Section 2-3.117a of the School Code [105 ILCS 5/2-3.117a].

SOURCE: Adopted at 20 Ill. Reg. 3522, effective February 13, 1996; emergency amendment at 22 Ill. Reg. 9591, effective May 22, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19770, effective November 2, 1998; amended at 23 Ill. Reg. 8370, effective July 12, 1999; amended at 25 Ill. Reg. 8167, effective June 21, 2001; amended at 26 Ill. Reg. 915, effective January 15, 2002; amended at 28 Ill. Reg. 13227, effective September 17, 2004; amended at 29 Ill. Reg. 18474, effective October 31, 2005; amended at 32 Ill. Reg. 8773, effective May 27,

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

2008; amended at 33 Ill. Reg. 11639, effective July 22, 2009; amended at 35 Ill. Reg. 3770, effective February 17, 2011.

SUBPART B: SCHOOL TECHNOLOGY REVOLVING LOAN PROGRAM

Section 575.100 Purpose

- a) This Subpart establishes the procedures and criteria for applications submitted by eligible participants pursuant to the School Technology Revolving Loan Program established by Section 2-3.117a of the School Code [105 ILCS 5/2-3.117a].
 - 1) For the purpose of the School Technology Revolving Loan Program, "laboratory schools" eligible to apply for a loan are only those schools as defined in Section 18-8.05(K) of the School Code [105 ILCS 5/18-8.05(K)].
 - 2) A nonpublic school is eligible to apply for a loan if it is recognized pursuant to 23 Ill. Adm. Code 425 (Voluntary Registration and Recognition of Nonpublic Schools).
- b) Priority shall be given to school districts, charter schools, area vocational centers, and laboratory schools that apply for a loan prior to October 1 of each year. (Section 2-3.117a of the School Code)

(Source: Amended at 35 Ill. Reg. 3770, effective February 17, 2011)

Section 575.300 Maximum Amount of Loan

The maximum loan amount shall be calculated on a per-pupil basis, based upon the total enrollment in the eligible grade levels. A participant may request a loan amount that does not exceed \$150 per pupil in the eligible grade levels plus a base amount of \$25,000; however, no single loan in a given fiscal year shall exceed \$6,000,000. The State Board of Education shall annually notify participants of the maximum loan amount to which they are entitled.

- a) For school districts, approved university laboratory schools, ~~and~~ charter schools, and recognized nonpublic schools, the maximum loan amount shall be calculated using the enrollment as reported as of the last school day in September of the immediately preceding school year.

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

- b) For area vocational centers, the maximum loan amount shall be calculated using the enrollment as reported to the State Board of Education in April of the immediately preceding school year.

(Source: Amended at 35 Ill. Reg. 3770, effective February 17, 2011)

Section 575.500 Review of Application and Notification of Loan Award

- a) Applications shall be reviewed for completeness. If an application is incomplete, then State Board of Education staff shall request the needed information from the applicant no later than 20 calendar days ~~after following~~ receipt of the application. Applications will not be processed until all requested information is received.
- b) All complete applications that demonstrate compliance with Section 2-3.117a of the School Code and this Subpart shall be approved for funding ~~on a first come, first served basis, as long as funds appropriated for a given fiscal year remain available. Loan award determinations shall be made on December 15 of each fiscal year.~~
- 1) Approved applications from school districts, charter schools, area vocational centers and laboratory schools received on or before September 30 of each fiscal year shall receive a loan on a first-come, first-served basis, as long as funds appropriated for a given fiscal year remain available. Applications from recognized nonpublic schools shall not be considered in this round regardless of date of receipt. Loan award determinations under this subsection (b)(1) shall be made no later than October 15 of each fiscal year.
- 2) Approved applications from school districts, charter schools, area vocational centers and laboratory schools received on or after October 1 and applications from any recognized nonpublic school shall receive a loan on a first-come, first-served basis, as long as funds appropriated for a given fiscal year remain available after funding any loans awarded pursuant to subsection (b)(1) of this Section. Loan award determinations under this subsection (b)(2) shall be made no later than December 15 of each fiscal year.
- c) Notification of a loan award shall be made no later than 15 calendar days ~~after following~~ the applicable award determination date established in subsection

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

(b) of this Section. Applications not approved for funding on or before December 15 of the fiscal year in which the application was made shall expire.

- d) Applications received after the December 1 deadline in a given fiscal year shall not be considered for funding in that fiscal year and shall be returned to the applicant.
- e) School districts, charter schools, area vocational centers and laboratory schools Applicants otherwise eligible but not receiving loans due to insufficiency of the appropriation shall receive first consideration in the next fiscal year in which the grade levels specified on the application shall be eligible for funding. Otherwise eligible but not funded recognized nonpublic schools shall receive first consideration among all applications received on or after October 1 in that fiscal year.

(Source: Amended at 35 Ill. Reg. 3770, effective February 17, 2011)

Section 575.600 Repayment Procedures

Loans shall be repaid within three years (see Section 2-3.117a of the School Code).

- a) The rate of interest shall be stipulated on the loan application and *shall not be greater than 50% of the rate for the most recent date shown in the 20 G.O. Bonds Index of average municipal bond yields as published in the most recent edition of The Bond Buyer, published in New York, New York* (Section 2-3.117a(a) of the School Code). Interest shall be computed semi-annually.
- b) Payments on the loan (principal and interest) shall be made by check twice annually in six equal installments.
- 1) Loan payments shall be due on December 1 and June 1, with the first payment under each loan due on June 1 of the fiscal year in which the loan is made.
 - 2) Checks shall be made payable to the "ISBE-School Technology Revolving Loan Fund" and mailed to the Fiscal and Procurement Administrative Services Division, Illinois State Board of Education, 100 North First Street, W-380, Springfield, Illinois 62777-0001.

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

- 3) Payments not received within 15 calendar days after the due date shall be assessed a penalty of 5 percent of the payment due; however, the late payment penalty shall be waived when either:
- A) the postmark date on the envelope used to submit the payment is dated five days or more before the end of the 15-day grace period; or
 - B) the payment is not received at the State Board's office within 60 days afterfollowing the due date, but the participant provides to the State Superintendent of Education no later than 70 days beyond the due date the following:
 - i) a copy of the original check, dated at least five days before the end of the 15-day grace period;
 - ii) a copy of the stop payment order placed on the original check; and
 - iii) a new check issued in the amount due.
- c) A participant may prepay the balance due on the loan in its entirety on any scheduled payment date or at the midpoint between any two scheduled payment dates, provided that the participant first contacts the State Superintendent's designee to obtain the total amount of the principal and interest due at that time.
- d) A participant may prepay a portion of the balance due on the loan on any scheduled payment date or at the midpoint between any two scheduled payment dates, provided that the participant first contacts the State Superintendent's designee for instructions. The remaining payments shall be recalculated to account for any early repayment, and the participant shall be notified accordingly.

(Source: Amended at 35 Ill. Reg. 3770, effective February 17, 2011)

Section 575.700 Terms and Conditions of Loan Agreement

- a) Loan proceeds under this program shall be used exclusively for the purposes listed in Section 575.200 of this Part and shall be expended in accordance with the approved application and the participant's policies and procedures related to such

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

expenditures. In the event that the loan proceeds are not expended in the manner approved, then the participant, upon written notification from the State Board of Education, shall be required to submit, by the next payment due date, payment of the outstanding principal of the loan and the amount of the interest accrued as of that payment due date.

- b) Loan proceeds shall be obligated no later than six months following receipt of the loan.
- c) Use of loan proceeds shall be accounted for in accordance with the rules of the State Board of Education at 23 Ill. Adm. Code 100 (Requirements for Accounting, Budgeting, Financial Reporting, and Auditing) or, for participants not subject to those rules, in accordance with generally accepted standards of governmental accounting principles.
- d) Loan recipients shall submit to the State Board of Education a report detailing how the loan proceeds were used. This expenditure report, to be submitted on a form supplied by the State Board of Education, shall be due not later than nine months after following receipt of the loan.
- e) Along with the report required under subsection (d) of this Section, each recognized nonpublic school shall submit an inventory listing the property identification number, serial number, description and location of each piece of equipment purchased with loan proceeds. The recognized nonpublic school shall identify (tag) each piece of equipment as "Purchased with proceeds from the State of Illinois' School Technology Revolving Loan Fund, School Year ____"; this designation may be removed once the outstanding principal of the loan and any amount of interest accrued has been paid in full. The recognized nonpublic school shall not transfer or assign any interest in the equipment during the pendency of the loan.
- f) InSubject to Section 575.400(b)(5) of this Part, in the event of default that is not cured within 90 calendar days, the State SuperintendentBoard of Education or designee shall take the action specified either in subsection (f)(1) or (f)(2) of this Sectiondeduct the amount owed from the participant's next payment of General State Aid. The participant shall be ineligible for additional loans until good standing has been restored; however, the chartering school district of a charter school participant or the school districts participating in a vocational education cooperative shall be allowed to apply for loans on behalf of their respective

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

school districts.

- 1) For school districts, charter schools, area vocational centers and laboratory schools, the State Superintendent or designee shall deduct the amount owed from the participant's next payment of General State Aid, subject to the provisions of Section 575.400(b)(5) of this Part.
 - 2) For recognized nonpublic schools, the State Superintendent or designee shall deduct the amount owed from the participant's next payment of school safety and educational improvement block grant funding. In any fiscal year in which the recognized nonpublic school does not receive a block grant, or when either the grant is not funded by the State or the grant payment is insufficient to cover the amount owed, then the school shall be subject to consequences for noncompliance as set forth in 23 Ill. Adm. Code 425.50 (Renewal of Recognition).
- g) A recognized nonpublic school that ceases operating before the outstanding principal of the loan and the amount of interest accrued is repaid shall notify the State Superintendent or designee in writing of that fact no later than 10 days after the closure. The notification of closure shall include the name, address and telephone number of the party responsible for the loan, as specified by his or her signature on the loan agreement, and the address of the location at which the equipment is being stored. The nonpublic school shall continue to repay the loan as set forth in Section 575.600 of this Part until the outstanding principal and the amount of the interest accrued is paid in full.
- 1) In the event of default that is not cured within 90 calendar days, the State Superintendent or designee shall notify the school in writing by certified mail, return receipt requested, that payment of the outstanding principal and amount of the interest accrued as of the date of the notification is due immediately. The school shall have 30 days from the date the notification is received to submit its payment.
 - 2) Failure to make the payment by the date set forth in subsection (g)(1) of this Section shall result in the repossession of any equipment purchased with the loan proceeds. Written notification of this fact shall be provided to the school, along with a copy of the equipment inventory required by subsection (e) of this Section. The notification shall include the time and

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

date on which State Board of Education staff will pick up the equipment, as listed on the inventory.

3) A recognized nonpublic school that has closed and has paid in full the outstanding principal and the amount of the interest accrued is not subject to the requirements of this subsection (g).

h) The contents of the approved application and terms and conditions of the loan shall be incorporated into a promissory note. Should the indebtedness represented by the promissory note or any part thereof be collected at law or in equity or in bankruptcy, receivership or other court proceedings or if the promissory note is placed in the hands of attorneys for collection after default, the participant agrees to pay, in addition to the principal and interest due, reasonable attorneys' fees and costs of collection.

(Source: Amended at 35 Ill. Reg. 3770, effective February 17, 2011)

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: The Administration and Operation of the Teachers' Retirement System
- 2) Code Citation: 80 Ill. Adm. Code 1650
- 3) Section Number: 1650.481 Adopted Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Article 16 of the Illinois Pension Code [40 ILCS 5/16].
- 5) Effective Date of Amendment: February 18, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Teachers' Retirement System's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: August 20, 2010; 34 Ill. Reg. 12145
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: Various punctuation changes recommended by JCAR were made in the final version.
- 12) Have all the changes agreed upon by the agency and JCAR been as indicated in the agreements issued by JCAR? Yes
- 13) Will these rules replace any emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: The amendment to TRS Rule 1650.481 will make it clear that any increase or decrease in a member's retirement annuity due to salary attributable to reciprocal service is not subject to a "salary increase in excess of 6%" employer contribution.

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

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

Thomas S. Gray
General Counsel
Teachers' Retirement System
2815 West Washington, P.O. Box 19253
Springfield, Illinois 62794-9253

217/753-0375

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

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE D: RETIREMENT SYSTEMS

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

PART 1650

THE ADMINISTRATION AND OPERATION OF THE
TEACHERS' RETIREMENT SYSTEM

SUBPART A: REPORTS BY BOARD OF TRUSTEES

Section

1650.10 Annual Financial Report (Repealed)

SUBPART B: BASIC RECORDS AND ACCOUNTS

Section

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

SUBPART C: FILING OF CLAIMS

Section

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

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

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

SUBPART D: MEMBERSHIP AND SERVICE CREDITS

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

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

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

SUBPART E: CONTRIBUTION CREDITS AND PAYMENTS

Section

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

SUBPART F: ANNUITANTS AND BENEFICIARIES

Section

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

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

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

SUBPART G: ATTORNEY GENERALS' OPINION

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

SUBPART H: ADMINISTRATIVE REVIEW

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

SUBPART I: AMENDMENTS TO BYLAWS AND RULES

- Section
- 1650.710 Amendments

SUBPART J: RULES OF ORDER

- Section
- 1650.810 Parliamentary Procedure

SUBPART K: PUBLIC RECORD REQUESTS

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

Section

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

SUBPART L: BOARD ELECTION PROCEDURES

Section

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

SUBPART M: QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDERS

Section

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

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

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

SUBPART N: PAYROLL DEDUCTION PROGRAM

Section

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

SUBPART O: RETIREMENT BENEFITS

Section

1650.2900	Excess Benefit Arrangement
-----------	----------------------------

SUBPART P: COMPETITIVE SELECTION PROCEDURES
FOR INVESTMENT SERVICES

Section

1650.3000	Summary and Purpose
1650.3005	Definitions
1650.3010	Manager Database
1650.3015	Emerging Investment Managers
1650.3020	Public Market Searches
1650.3025	Small and Mid Cap Equity Searches
1650.3030	Private Market and Commingled Fund Searches
1650.3035	Private Market Real Estate Separate Account Searches
1650.3040	Consultant Searches
1650.3045	Evaluation by Investment Committee

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

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

SOURCE: Filed June 20, 1958; emergency rules adopted at 2 Ill. Reg. 49, p. 249, effective November 29, 1978, for a maximum of 150 days; adopted at 3 Ill. Reg. 9, p. 1, effective March 3, 1979; codified at 8 Ill. Reg. 16350; amended at 9 Ill. Reg. 20885, effective December 17, 1985; amended at 12 Ill. Reg. 16896, effective October 3, 1988; amended at 14 Ill. Reg. 18305, effective October 29, 1990; amended at 15 Ill. Reg. 16731, effective November 5, 1991; amended at 17 Ill. Reg. 1631, effective January 22, 1993; amended at 18 Ill. Reg. 6349, effective April 15, 1994; emergency amendment at 18 Ill. Reg. 8949, effective May 24, 1994, for a maximum of 150 days; emergency modified at 18 Ill. Reg. 12880; amended at 18 Ill. Reg. 15154, effective September 27, 1994; amended at 20 Ill. Reg. 3118, effective February 5, 1996; emergency amendment at 21 Ill. Reg. 483, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 2422, effective January 31, 1997; amended at 21 Ill. Reg. 4844, effective March 27, 1997; emergency amendment at 21 Ill. Reg. 17159, effective December 9, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 7243, effective April 9, 1998; emergency amendment at 22 Ill. Reg. 7314, effective April 9, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 9374, effective May 14, 1998, for a maximum of 150 days; emergency rule modified in response to JCAR Objection at 22 Ill. Reg. 11640; emergency amendment at 22 Ill. Reg. 13151, effective June 29, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 15620, effective August 17, 1998; amended at 22 Ill. Reg. 19079, effective October 1, 1998; amended at 22 Ill. Reg. 22090, effective December 1, 1998; amended at 23 Ill. Reg. 3079, effective February 23, 1999; amended at 24 Ill. Reg. 2440, effective January 27, 2000; amended at 24 Ill. Reg. 10300, effective June 26, 2000; amended at 25 Ill. Reg. 203, effective December 22, 2000; amended at 26 Ill. Reg. 2758, effective February 11, 2002; amended at 26 Ill. Reg. 11476, effective July 11, 2002; amended at 27 Ill. Reg. 1668, effective January 17, 2003; amended at 27 Ill. Reg. 9209, effective May 28, 2003; amended at 28 Ill. Reg. 10055, effective June 29, 2004; amended at 29 Ill. Reg. 1546, effective January 14, 2005; amended at 29 Ill. Reg. 13244, effective August 9, 2005; amended at 30 Ill. Reg. 194, effective December 23, 2005; amended at 30 Ill. Reg. 472, effective December 21, 2005; amended at 30 Ill. Reg. 11728, effective June 23, 2006; amended at 30 Ill. Reg. 17525, effective October 18, 2006; amended at 31 Ill. Reg. 10688, effective July 13, 2007; amended at 32 Ill. Reg. 4073, effective February 28, 2008; amended at 32 Ill. Reg. 7979, effective May 6, 2008; amended at 32 Ill. Reg. 13534, effective August 6, 2008; amended at 33 Ill. Reg. 4401, effective March 3, 2009; amended at 33 Ill. Reg. 15863, effective November 2, 2009; amended at 34 Ill. Reg. 4900, effective March 22, 2010; amended at 34 Ill. Reg. 7787, effective May 21, 2010; amended at 35

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

Ill. Reg. 2413, effective January 21, 2011; amended at 35 Ill. Reg. 2788, effective January 25, 2011; amended at 35 Ill. Reg. 3781, effective February 18, 2011.

SUBPART E: CONTRIBUTION CREDITS AND PAYMENTS

Section 1650.481 Employer Contribution Required for Salary Increases in Excess of 6%

The employer contribution required under 40 ILCS 5/16-158(f) will be determined as follows:

- a) Calculate the member's monthly benefit using salaries as reported, excluding that part of the member's salary that exceeds the member's annual full-time salary rate with the same employer for the preceding year by more than 20%.
- b) Calculate the member's monthly benefit using salaries as reported, excluding that part of the member's salary that exceeds the member's salary with the same employer for the preceding year by more than 6%.
- c) Subtract (b) from (a).
- d) Multiply (c) by a Monthly Benefit Factor for the member's exact age at the retirement date. The Monthly Benefit Factors are based on the actuarial assumptions of the System for life expectancy and investment return as determined by the System's actuaries at five year intervals pursuant to 40 ILCS 5/16-176.
- e) If a member's monthly benefit is calculated pursuant to 40 ILCS 5/16-133(a), this Section will not apply.
- f) If there is more than one employer during the final average salary period, each employer will pay its respective contribution based on salary increases granted by that employer in excess of 6%.
- g) If the member's benefit is increased as a result of applying the provisions of Section 20 of the Retirement Systems Reciprocal Act [40 ILCS 5/20], no additional employer contribution will be due.
- h) If the member's benefit is reduced as a result of applying proportional reductions required by 40 ILCS 5/20-124, no employer contribution will be assessed for any salaries attributable to any reciprocal employment used in the calculation.

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

i) If the average salary is calculated using salary earned through employment covered by another participating system under 40 ILCS 5/20, no employer will be assessed for any salaries attributable to that employment.

(Source: Amended at 35 Ill. Reg. 3781, effective February 18, 2011)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY REPEAL OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Joint Rules of the Comptroller and the Department of Central Management Services: Prompt Payment
- 2) Code Citation: 74 Ill. Adm. Code 900
- 3) Section Number: 900.120 Emergency Action: Repeal
- 4) Statutory Authority: Authorized by the State Prompt Payment Act [30 ILCS 540]
- 5) Effective Date of Repealer: February 16, 2011
- 6) If this emergency repealer is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency repealer is not to expire prior to the end of the 150-day period.
- 7) Date filed with the Index Department: February 16, 2011
- 8) A copy of the emergency repealer, including any material incorporated by reference, is on file with the agency's principal office and is available for public inspection.
- 9) Reasons for Emergency: The emergency repeal is in response to the Joint Committee on Administrative Rules Objection that indicated the need for specific program policies and procedures for the State vendor payment program to be implemented by the Comptroller and the Department of Central Management Services.
- 10) A complete Description of the Subjects and Issues Involved: This Part is a joint rulemaking of the Comptroller and the Department of Central Management Services. The text of the Part appears at 74 Ill. Adm. Code 900. This emergency repeal revises Section 900.120 (n) of the Prompt Payment rules. That Section currently allows for the payment of prompt payment interest for payments that have been assigned or sold to a third party if the assignment or sale is pursuant to a vendor payment program that is approved by the Governor's Office of Management and Budget and the Comptroller. The repeal will disqualify from prompt payment interest any underlying payment that has been assigned by a vendor to any third party.
- 11) Are there any proposed amendments to this Part pending? No

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY REPEAL OF EMERGENCY AMENDMENT

- 12) Statement of Statewide Policy Objectives: To clearly indicate to the public and vendors that the vendor payment program as provided in the emergency amendment is rescinded.
- 13) Information and questions regarding this emergency repealer shall be directed to:

Lynn Carter
Deputy General Counsel
Illinois Department of Central Management Services
James R. Thompson Center, Suite 4-607
100 West Randolph Street
Chicago, Illinois 60601

lynn.carter@illinois.gov

The full text of the Emergency Repealer begins on the next page:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY REPEAL OF EMERGENCY AMENDMENT

TITLE 74: PUBLIC FINANCE

CHAPTER VIII: CENTRAL MANAGEMENT SERVICES

PART 900

JOINT RULES OF THE COMPTROLLER AND
THE DEPARTMENT OF CENTRAL MANAGEMENT SERVICES:
PROMPT PAYMENT

Section

900.10	Scope
900.20	Definitions
900.30	General Duties of State Agencies
900.35	Duties of State Agencies: Interest Payments
900.40	Statement Indicating That Interest Penalty May Be Available
900.50	Other Interest Provisions
900.60	When a Payment is Late
900.70	Approval by the State
900.80	Submission and Receipt of Bills
900.90	When and How Vendors Must Request Interest
900.100	Calculation of Interest
900.110	No Interest on Interest
900.120	Exclusions (Repealed)
<u>EMERGENCY</u>	
900.130	Special Rules and Procedures Regarding the Application of the Act to the State Employee's Group Insurance Program
900.140	Resolution of Disputes

AUTHORITY: Implementing the State Prompt Payment Act [30 ILCS 540].

SOURCE: Emergency rule adopted at 17 Ill. Reg. 11168, effective July 1, 1993, for a maximum of 150 days; emergency expired November 28, 1993; adopted at 18 Ill. Reg. 11498, effective July 11, 1994; amended at 24 Ill. Reg. 19049, effective December 18, 2000; amended at 25 Ill. Reg. 11351, effective August 28, 2001; emergency amendment at 26 Ill. Reg. 10939, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 14666, effective September 19, 2002; amended at 31 Ill. Reg. 5751, effective March 29, 2007; emergency amendment at 34 Ill. Reg. 16587, effective October 8, 2010, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 35 Ill. Reg. 3792, effective February 16, 2011, for the remainder of the 150 days.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY REPEAL OF EMERGENCY AMENDMENT

Section 900.120 Exclusions (Repealed)**EMERGENCY**

The following non-exhaustive list represents the types of payments that are excluded from the Act and consequently do not qualify for interest penalties:

- a) ~~Inter and intra agency payments. This includes transfers and payments to revolving funds, reimbursement of petty cash funds and imprest accounts, inter-fund transfers and inter-fund payments in which an agency or department serves as the Vendor of Goods or Services.~~
- b) ~~Payments to State employees for personal services (salary only and not including health insurance benefits).~~
- e) ~~Awards and grants, as defined by the Comptroller's Office in SAMS Manual Procedure 15, including pass-through grants and distributive payments and refunds.~~
- d) ~~Contract retainers associated with construction contracts.~~
- e) ~~State Board of Education categorical grants.~~
- f) ~~Community College Board grants.~~
- g) ~~Illinois Student Assistance Commission grants.~~
- h) ~~Payments to local government entities, including school districts.~~
- i) ~~Payments of interest penalties.~~
- j) ~~Payments made to contractual employees (these payments are generally made via a Contractual Services Payroll Voucher).~~
- k) Deleted
- l) ~~Payments from accounts or funds not appropriated by the General Assembly.~~
- m) ~~Gratuitous payments made to induce a business to remain in or to locate in this State.~~

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY REPEAL OF EMERGENCY AMENDMENT

- n) ~~Any type of payment to a Vendor assigned or sold by that Vendor to a different payee, including any assignments made by the Vendors to the Department of Public Aid.~~
- o) ~~Barter transactions.~~
- p) ~~Payments made by a State agency comprised of federal funds only and no State or local funds.~~
- q) ~~Medical and claims payments under the Workers' Compensation and Workers' Occupational Diseases Acts.~~
- r) ~~Tax refunds.~~
- s) ~~State Employee's Group Insurance Program payments covered by late payment interest provisions in 5 ILCS 375/6.12.~~

(Source: Added by emergency rulemaking at 34 Ill. Reg. 16587, effective October 8, 2010, for a maximum of 150 days; repealed by emergency rulemaking at 35 Ill. Reg. 3792, effective February 16, 2011, for the remainder of the 150 days)

EXECUTIVE ETHICS COMMISSION

NOTICE OF EMERGENCY REPEAL OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Organization, Information, Rulemaking and Hearings
- 2) Code Citation: 2 Ill. Adm. Code 1620
- 3) Section Number: 1620.825 Emergency Action: Repealed
- 4) Statutory Authority: Implementing and authorized by Section 50-39 of the Illinois Procurement Code [30 ILCS 500/50-39]
- 5) Effective Date of Repealer: February 17, 2011
- 6) If this emergency repealer is to expire before the end of the 150-day period, please specify the date on which it is to expire: May 30, 2011
- 7) Date Filed with the Index Department: February 17, 2011
- 8) A copy of the emergency repealer, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: This regulation was originally adopted in the January 7, 2011 *Illinois Register* at 35 Ill. Reg. 563 by emergency rulemaking. On January 9, 2011, the Joint Committee on Administrative Rules voted an Objection stating that the rulemaking did not meet the criteria for emergency rulemaking under the Illinois Administrative Procedure Act. Therefore, the Commission is repealing the rule.
- 10) A Complete Description of the Subjects and Issues Involved: Section 1620.825 originally implemented the ex parte administrative reporting requirements concerning procurement under Section 50-39 of the Illinois Procurement Code.
- 11) Are there any proposed amendments to this Part pending? Yes

<u>Section Number</u> :	<u>Proposed Action</u> :	<u>Illinois Register Citation</u> :
1620.825	New Section	December 27, 2010; 34 Ill. Reg. 19800
- 12) Statement of Statewide Policy Objectives: None
- 13) Information and questions regarding this emergency repealer shall be directed to:

EXECUTIVE ETHICS COMMISSION

NOTICE OF EMERGENCY REPEAL OF EMERGENCY AMENDMENT

Chad D. Fornoff, Executive Director
Executive Ethics Commission
401 S. Spring Street
Wm. Stratton Building, Room 513
Springfield, IL 62706

217/558-1393
eec.cms@illinois.gov

The full text of the Emergency Repealer begins on the next page:

EXECUTIVE ETHICS COMMISSION

NOTICE OF EMERGENCY REPEAL OF EMERGENCY AMENDMENT

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE E: MISCELLANEOUS STATE AGENCIES
CHAPTER VI: EXECUTIVE ETHICS COMMISSION

PART 1620

ORGANIZATION, INFORMATION, RULEMAKING AND HEARINGS

SUBPART A: ORGANIZATION

Section	
1620.5	Definitions
1620.10	Composition of Executive Ethics Commission
1620.20	Officers
1620.30	Appointment of Executive Director
1620.40	Duties of Executive Director
1620.50	Duties of Staff

SUBPART B: INFORMATION

Section	
1620.110	Requests for Records
1620.120	Response to Requests for Records
1620.130	Appeal of a Denial (Repealed)
1620.140	Copies of Public Records – Fees
1620.150	Materials Immediately Available

SUBPART C: RULEMAKING

Section	
1620.200	Rulemaking Procedures

SUBPART D: INVESTIGATIONS

Section	
1620.300	Conduct of Investigations
1620.310	State Officer or Employee Case Initiation Form
1620.320	Case Initiation Form – Contents
1620.330	Opening an Investigation File
1620.340	Referral to the Appropriate Executive Inspector General

EXECUTIVE ETHICS COMMISSION

NOTICE OF EMERGENCY REPEAL OF EMERGENCY AMENDMENT

- 1620.350 Investigations
- 1620.360 Investigations Not Concluded Within Six Months (Repealed)

SUBPART E: HEARINGS

- Section
- 1620.420 Attorney of Record
- 1620.430 Filing Requirements
- 1620.440 Complaint
- 1620.450 Complaint – Required Provisions
- 1620.460 Service
- 1620.470 Objections
- 1620.480 Sufficiency of the Complaint
- 1620.490 Discovery
- 1620.500 Subpoenas
- 1620.510 Motions
- 1620.520 Hearings
- 1620.530 Decision of the Commission

SUBPART F: REVOLVING DOOR PROHIBITION

- Section
- 1620.610 Revolving Door Prohibition
- 1620.620 Waiver of Revolving Door Prohibition – Commission Procedure (Repealed)
- 1620.630 Finality of Decision (Repealed)
- 1620.640 Waiver of Prohibition of Executive Inspector General Employees as Judicial Appointee
- 1620.650 Waiver of Prohibition of Executive Inspector General Employees as Judicial Appointee – Commission Procedure

SUBPART G: GIFT BAN

- Section
- 1620.700 Gift Ban

SUBPART H: MISCELLANEOUS FILINGS

- Section
- 1620.800 Personnel Policies

EXECUTIVE ETHICS COMMISSION

NOTICE OF EMERGENCY REPEAL OF EMERGENCY AMENDMENT

- 1620.810 Quarterly and Six-Month Status Reports
1620.820 Ex Parte Communications
1620.825 Ex Parte Communications Related to Procurement ([Repealed](#))
[EMERGENCY](#)
1620.830 Designation of Ethics Officer

SUBPART I: ETHICS TRAINING

- Section
1620.900 Ethics Training

SUBPART J: RELEASE OF INVESTIGATION REPORTS

- Section
1620.1000 Investigation Reports Finding a Violation
1620.1010 Investigation Reports Finding No Violation
1620.1020 Release of Summary Reports

SUBPART K: DISCIPLINARY ACTION

- Section
1620.1100 Disciplinary Action under the Ethics Act
1620.1110 Hearings to Contest Disciplinary Actions

SUBPART L: PROCUREMENT CODE CONFLICTS OF INTEREST EXEMPTIONS

- Section
1620.1200 Procurement Code Conflicts of Interest Exemptions

AUTHORITY: Implementing and authorized by Section 3(h) of the Freedom of Information Act [5 ILCS 5/140/3(h)] and Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

SOURCE: Adopted by emergency rulemaking at 29 Ill. Reg. 3340, effective February 23, 2005, for a maximum of 150 days; adopted at 29 Ill. Reg. 9619, effective July 1, 2005; amended at 32 Ill. Reg. 7099, effective July 1, 2008; amended at 34 Ill. Reg. 13108, effective August 27, 2010; amended at 34 Ill. Reg. 19507, effective December 6, 2010; emergency rulemaking at 35 Ill. Reg. 563, effective January 1, 2011, for a maximum of 150 days; emergency amendment

EXECUTIVE ETHICS COMMISSION

NOTICE OF EMERGENCY REPEAL OF EMERGENCY AMENDMENT

repealed by emergency rulemaking at 35 Ill. Reg. 3797, effective February 17, 2011, for the remainder of the 150 days.

SUBPART H: MISCELLANEOUS FILINGS

**Section 1620.825 Ex Parte Communications Related to Procurement (Repealed)
EMERGENCY**

- a) *Any State officer or employee who receives a written or oral communication that imparts or requests material information or makes a material argument regarding potential action concerning a procurement matter, including but not limited to an application, a contract or a project, shall report the communication to the Procurement Policy Board. [30 ILCS 500/50-39(a)]*

- b) **Communications**
 - 1) ~~A communication that imparts or requests material information or makes a material argument is a communication that a reasonable person would believe was made for the purpose of influencing procurement decisions, including but not limited to decisions:~~
 - A) ~~establishing or defining a procurement need or method of source selection;~~
 - B) ~~drafting, reviewing, or preparing specifications, plans or requirements;~~
 - C) ~~drafting, reviewing, or preparing any invitations for bid, requests for proposals, requests for information, sole source procurement justifications, emergency procurement justifications or selection information;~~
 - D) ~~evaluating bids, responses and offers;~~
 - E) ~~publishing notices to the procurement bulletins;~~
 - F) ~~letting or awarding a contract;~~

EXECUTIVE ETHICS COMMISSION

NOTICE OF EMERGENCY REPEAL OF EMERGENCY AMENDMENT

- G) ~~determining the contents of the procurement file or the contract file;~~
 - H) ~~resolving protests;~~
 - I) ~~determining inclusion on prequalification lists or prequalification in general;~~
 - J) ~~identifying potential conflicts of interest or voiding or allowing a contract, bid, offer or subcontract for a conflict of interest;~~
 - K) ~~voiding or allowing a contract or subcontract pursuant to Section 50-50 of the Illinois Procurement Code;~~
 - L) ~~determining firm performance evaluations;~~
 - M) ~~determining suspensions or debarments; and~~
 - N) ~~approving change orders or the renewal or extension of an existing contract.~~
- 2) ~~Excluded Communications~~
~~Notwithstanding subsection (b)(1), unsolicited communications providing general information about products, services, or industry best practices that are not further disseminated, considered or used by the receiving employee or any person in a procurement decision are not required to be reported under this Section.~~
- e) ~~This Section does not apply to the following communications:~~
- 1) ~~Communications made by a person publicly made in a public forum;~~
 - 2) ~~Communications regarding matters of procedure and practice, such as format, the number of copies required, the manner of filing, and the status of a matter;~~
 - 3) ~~Communications regarding the administration and implementation of an existing contract, except communications regarding change orders or the renewal or extension of an existing contract; [30 ILCS 500/50-39(a)]~~

EXECUTIVE ETHICS COMMISSION

NOTICE OF EMERGENCY REPEAL OF EMERGENCY AMENDMENT

- 4) ~~Communications between a State employee and:
 - A) ~~the State employee's agency's head;~~
 - B) ~~other state employees of that agency;~~
 - C) ~~employees of the Executive Ethics Commission; and~~
 - D) ~~employees of the Department of Central Management Services' Bureau of Strategic Sourcing and Procurement (BOSSAP) concerning procurement activities being conducted by BOSSAP on behalf of those employees' agency.~~~~

- d) ~~Upon receipt of a communication described in subsection (b), the State officer or employee shall report the communication to the Procurement Policy Board in accordance with the Board's rules.~~

- e) ~~For purposes of this Section, "State employee" means:
 - 1) ~~any person employed full time, part time, or pursuant to a contract and whose employment duties are subject to the direction and control of an employer with regard to the material details of how the work is to be performed; or~~
 - 2) ~~any appointed or elected commissioner, trustee, director, or board member of a board of a State agency; or~~
 - 3) ~~any other person appointed to a position in or with a State agency, regardless of whether the position is compensated.~~~~

(Source: Added by emergency rulemaking at 35 Ill. Reg. 563, effective January 1, 2011, for a maximum of 150 days; repealed by emergency rulemaking at 35 Ill. Reg. 3797, effective February 17, 2011, for the remainder of the 150 days)

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Payment and Collection of Wages or Final Compensation
- 2) Code Citation: 56 Ill. Adm. Code 300
- 3)

<u>Section Numbers</u> :	<u>Emergency Action</u> :
300.450	Amended
300.510	Amended
300.520	Amended
300.600	Amended
300.620	Amended
300.630	Amended
300.640	Amended
300.700	Amended
300.720	Amended
300.730	Amended
300.760	Amended
300.800	Amended
300.810	Amended
300.930	Amended
300.940	Amended
300.941	New
300.942	New
300.950	Amended
300.960	Amended
300.970	Amended
300.980	Amended
300.990	Amended
300.1000	Amended
300.1020	Amended
300.1030	New
300.1040	New
300.1050	New
300.1060	New
300.1070	New
300.1080	New
300.1090	New
300.1100	New
300.1110	New
300.1120	New

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY AMENDMENTS

300.1130	New
300.1140	New
300.1150	New
300.1160	New
300.1170	New
300.1180	New
300.1190	New
300.1200	New
300.1210	New

- 4) Statutory Authority: 820 ILCS 115
- 5) Effective Date of Rulemaking: February 22, 2011
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency is not scheduled to expire before the end of the 150-day period.
- 7) Date Filed with the Index Department: February 22, 2011
- 8) A copy of the emergency amendments, including any material incorporated by reference, is on file in the Department's Chicago office and is available for public inspection.
- 9) Reason for Emergency: This emergency rule implements Public Act 96-1407, which became effective on January 1, 2011. Emergency rulemaking is essential in this instance because, by some estimates, Illinois workers lose approximately \$7.3 million in wages each week to wage theft in Cook County alone. See Center for Urban Economic Development, Univ. of Illinois at Chicago, *Unregulated Work in Chicago, The Breakdown of Low Wage Protections in the Low Wage Labor Market* (April 2010). This emergency rulemaking will enable certain cases of wage theft to be halted and remedied expeditiously, via a means not currently available in Illinois.

The Illinois Department of Labor receives thousands of claims for unpaid wages each year. Many times employers simply ignore, without meaningful repercussions, the demands for wages sent by the Department while Illinois workers continue to go unpaid. This is because under the current enforcement mechanism, the Department has no authority to directly adjudicate wage claims. Instead, the Department must refer these claims to the Illinois Attorney General's office for prosecution, where legal action – if any is taken – must be instituted and prosecuted anew.

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY AMENDMENTS

Due to the State of Illinois' limited resources, many of the smaller (under \$3000) wage claims simply do not get pursued. As a result, thousands of low wage Illinois residents who are owed millions of dollars in unpaid wages are essentially left unable to pursue their claims. Public Act 96-1407 seeks to remedy that. Adoption of this emergency rulemaking to implement the Act as soon as possible will most expeditiously halt and reverse this wage theft.

Public Act 96-1407 provides, as of January 1, 2011, a new adjudicative process that will allow the Department of Labor to decide smaller wage cases in which the employer fails to respond (the very cases least likely to be acted upon currently) via a default hearing. At the conclusion of the default hearing, the unpaid worker will have an enforceable judgment. This means he or she can go directly into State court – without involving the Attorney General – and have judgment entered quickly in his or her behalf.

Immediately upon the passage of Public Act 96-1407, the Department began drafting rules to implement this new adjudicative process. The Department submitted its draft rules to interested advocacy groups and the Governor's office for review and comment. In the interim, these advocacy groups, including the Just Pay For All Coalition as well as the sponsors of the legislation, have urged emergency rules be adopted while the proposed rules are being considered.

Failure to adopt emergency rules will jeopardize the public interest, particularly the welfare of the many thousands of Illinois workers who are owed potentially millions of dollars.

- 10) A Complete Description of the Subjects and Issues Involved: The primary purpose of this rulemaking is to establish an administrative procedure to directly adjudicate claims for \$3000 or less, including entering default judgment when an employer fails to respond to a claim. Delay in the implementation of these rules will continue to deny Illinois low wage workers meaningful access to wages long overdue them. In addition, this rulemaking streamlines and updates the Department's overall process for investigating and resolving wage claims.

- 11) Are there any proposed amendments to this Part pending? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
300.450	Amended	35 Ill. Reg. 3805; March 4, 2011
300.510	Amended	35 Ill. Reg. 3805; March 4, 2011

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY AMENDMENTS

300.520	Amended	35 Ill. Reg. 3805; March 4, 2011
300.600	Amended	35 Ill. Reg. 3805; March 4, 2011
300.620	Amended	35 Ill. Reg. 3805; March 4, 2011
300.630	Amended	35 Ill. Reg. 3805; March 4, 2011
300.640	Amended	35 Ill. Reg. 3805; March 4, 2011
300.700	Amended	35 Ill. Reg. 3805; March 4, 2011
300.720	Amended	35 Ill. Reg. 3805; March 4, 2011
300.730	Amended	35 Ill. Reg. 3805; March 4, 2011
300.760	Amended	35 Ill. Reg. 3805; March 4, 2011
300.800	Amended	35 Ill. Reg. 3805; March 4, 2011
300.810	Amended	35 Ill. Reg. 3805; March 4, 2011
300.930	Amended	35 Ill. Reg. 3805; March 4, 2011
300.940	Amended	35 Ill. Reg. 3805; March 4, 2011
300.941	New	35 Ill. Reg. 3805; March 4, 2011
300.942	New	35 Ill. Reg. 3805; March 4, 2011
300.950	Amended	35 Ill. Reg. 3805; March 4, 2011
300.960	Amended	35 Ill. Reg. 3805; March 4, 2011
300.970	Amended	35 Ill. Reg. 3805; March 4, 2011
300.980	Amended	35 Ill. Reg. 3805; March 4, 2011
300.990	Amended	35 Ill. Reg. 3805; March 4, 2011
300.1000	Amended	35 Ill. Reg. 3805; March 4, 2011
300.1020	Amended	35 Ill. Reg. 3805; March 4, 2011
300.1030	New	35 Ill. Reg. 3805; March 4, 2011
300.1040	New	35 Ill. Reg. 3805; March 4, 2011
300.1050	New	35 Ill. Reg. 3805; March 4, 2011
300.1060	New	35 Ill. Reg. 3805; March 4, 2011
300.1070	New	35 Ill. Reg. 3805; March 4, 2011
300.1080	New	35 Ill. Reg. 3805; March 4, 2011
300.1090	New	35 Ill. Reg. 3805; March 4, 2011
300.1100	New	35 Ill. Reg. 3805; March 4, 2011
300.1110	New	35 Ill. Reg. 3805; March 4, 2011
300.1120	New	35 Ill. Reg. 3805; March 4, 2011
300.1130	New	35 Ill. Reg. 3805; March 4, 2011
300.1140	New	35 Ill. Reg. 3805; March 4, 2011
300.1150	New	35 Ill. Reg. 3805; March 4, 2011
300.1160	New	35 Ill. Reg. 3805; March 4, 2011
300.1170	New	35 Ill. Reg. 3805; March 4, 2011
300.1180	New	35 Ill. Reg. 3805; March 4, 2011
300.1190	New	35 Ill. Reg. 3805; March 4, 2011

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY AMENDMENTS

300.1200	New	35 Ill. Reg. 3805; March 4, 2011
300.1210	New	35 Ill. Reg. 3805; March 4, 2011

- 12) Statement of Statewide Policy Objectives: This emergency rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 13) Information and questions regarding these emergency amendments shall be directed to:

Carmela Gonzalez
Illinois Department of Labor
160 N. LaSalle, 13th Floor
Chicago, Illinois 60601

312/793-1808
217/793-5257 (fax)

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

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER I: DEPARTMENT OF LABOR
SUBCHAPTER b: REGULATION OF WORKING CONDITIONS

PART 300

PAYMENT AND COLLECTION OF WAGES OR FINAL COMPENSATION

Section

300.100	Cash or Inventory Shortages (Repealed)
300.110	Failure to Follow Credit Card, Check-Cashing, Accounts Receivable Procedures (Repealed)
300.120	Acceptance of Disputed Paycheck (Repealed)
300.200	Cash Advance Repayment Agreement (Repealed)
300.210	Deduction Limit (Repealed)
300.220	Balance Due at Termination (Repealed)
300.230	Acceptance of Disputed Paycheck (Repealed)
300.300	Damaged Property (Repealed)
300.310	Acceptance of Disputed Paycheck (Repealed)
300.400	Return of Employer's Property (Repealed)
300.410	Deposit (Repealed)
300.420	Conditions of Return of Deposit (Repealed)
300.430	Time for Return of Deposit (Repealed)

SUBPART A: GENERAL PROVISIONS

Section

300.440	Application
300.450	Definitions
<u>EMERGENCY</u>	
300.460	Independent Contractor Exemption

SUBPART B: WAGES OR FINAL COMPENSATION

Section

300.500	Earned Bonuses
300.510	Earned Commissions
<u>EMERGENCY</u>	
300.520	Earned Vacations
<u>EMERGENCY</u>	

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY AMENDMENTS

SUBPART C: PAYMENT OF WAGES OR FINAL COMPENSATION

Section

300.600 Direct Deposit

EMERGENCY

300.610 Gratuitous Payments at Separation

300.620 Personal Liability of Officers and AgentsEMERGENCY

300.630 Records and Notice Requirements

EMERGENCY

300.640 Refusal to Pay Wages or Final Compensation

EMERGENCY

SUBPART D: DEDUCTION FROM WAGES OR FINAL COMPENSATION

Section

300.700 Scope of Subpart D

EMERGENCY

300.710 Burden of Proof

300.720 Written Agreement Authorizing Deductions

EMERGENCY

300.730 Cash or Inventory Shortages

EMERGENCY300.740 Failure to Follow Credit Card, Cash Checking, or Accounts Receivable
Procedures

300.750 Cash Advance Repayment Agreement

300.760 Advanced Vacation Pay

EMERGENCY

300.770 Tuition Reimbursement

300.780 Training and Educational Expenses

300.790 Cash Advance Exception

300.800 Deduction Limit

EMERGENCY

300.810 Balance Due at Termination

EMERGENCY

300.820 Damaged Property

300.830 Return of Employer's Property

300.840 Uniforms Required by an Employer

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY AMENDMENTS

- 300.850 Equipment Required by an Employer
 300.860 Medical Examinations and Records
 300.870 Deposit
 300.880 Conditions of Return of Deposit
 300.890 Time for Return of Deposit
 300.900 Overpayment
 300.910 Deductions From Bank Accounts
 300.920 Acceptance of Disputed Paycheck
 300.930 Notice of Disputed Deductions

EMERGENCY

SUBPART E: FILING OF A CLAIM~~INVESTIGATION OF CLAIMS~~ FOR WAGES OR
 FINAL COMPENSATION

Section

- 300.940 Filing of a Claim~~and the Employer's Response~~

EMERGENCY

- 300.941 Employer and Employee Response

EMERGENCY

- 300.942 Withdrawal of a Claim

EMERGENCYSUBPART F: INFORMAL INVESTIGATIVE HEARING

- 300.950 Scheduling and Notice of an Informal Investigative Hearing

EMERGENCY

- 300.960 Continuances

EMERGENCY

- 300.970 Application of the Rules of Evidence, Pleadings and Procedures in an Informal
 Investigative Hearing

EMERGENCY

- 300.980 Participants at Informal~~Attorneys and Witnesses in~~ Investigative Hearings

EMERGENCY

- 300.990 Contumacious Conduct at Informal~~in~~ Investigative Hearings

EMERGENCY

- 300.1000 Informal Telephone Hearings

EMERGENCY

- 300.1010 Issuance of Administrative Subpoena

- 300.1020 Review of Hearing Officer Determination~~Decisions~~

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY AMENDMENTS

EMERGENCYSUBPART G: FORMAL DEFAULT HEARINGS300.1030 ApplicabilityEMERGENCY300.1040 Scheduling and Notice of a Formal Default HearingEMERGENCY300.1050 Manner and Service of NoticeEMERGENCY300.1060 Formal Default Hearing ContinuancesEMERGENCY300.1070 Application of the Rules of Evidence, Pleadings and Procedures in a Formal Default HearingEMERGENCY300.1080 Participants at a Formal Default HearingEMERGENCY300.1090 Conduct in a Formal Default HearingEMERGENCY300.1100 Telephone Hearing for a Formal Default HearingEMERGENCY300.1110 SubpoenasEMERGENCY300.1120 Ex Parte (One Party Only) CommunicationsEMERGENCY300.1130 Disqualification of a Hearing OfficerEMERGENCY300.1140 Consolidation/SeveranceEMERGENCY300.1150 Failure of a Party to Appear at a Formal Default HearingEMERGENCY300.1160 Notice and Appeal of Department's Default OrderEMERGENCYSUBPART H: CIVIL, CRIMINAL AND ADMINISTRATIVE FEES300.1170 ApplicabilityEMERGENCY300.1180 Non-Waivable Administrative Fee to the Department

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY AMENDMENTS

EMERGENCY300.1190 Statutory Damages Due to the EmployeeEMERGENCY300.1200 Additional Penalties Due to the Department and EmployeeEMERGENCY300.1210 Payment of Demands or Final Orders; Penalties and FeesEMERGENCY

AUTHORITY: Implementing and authorized by Section 9 of the Illinois Wage Payment and Collection Act [820 ILCS 115/9].

SOURCE: Filed October 16, 1975, effective October 26, 1975; codified at 8 Ill. Reg. 18488; amended at 16 Ill. Reg. 13828, effective September 1, 1992; emergency amendment at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days.

SUBPART A: GENERAL PROVISIONS

Section 300.450 Definitions**EMERGENCY**

Except for the terms set forth in Section 2 of the ~~Wage Payment and Collection~~ Act, all other terms used in this Part ~~300~~ shall have the meanings ~~as set forth~~ in this Section ~~herein~~.

- a) "Act" means the Illinois Wage Payment and Collection Act, as amended [820 ILCS 115]~~(Ill. Rev. Stat. 1991, ch. 48, pars 39m-1 et seq.)~~.
- b) "Administrative employee" means an employee as defined by Section ~~213~~213(a)(1) of the Fair Labor Standards Act of 1938 (29 ~~USC~~U.S.C. 213(a)(1)) and ~~regulations promulgated thereunder (29 CFR Part 541, as both existed on March 30, 2003, (1992, no subsequent dates or editions), as amended at 56 FR 8251)~~.
- c) "Claim" means a signed application alleging a violation of the Act, accompanied by supporting documentation required by the Department.
- d) "Claimant" means any person who submits a claim.
- e) "Day" means a calendar day.
- f) "Department" means the Illinois Department of Labor, its Director~~director~~, and

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY AMENDMENTS

his/her authorized representatives.

- g) "Executive employee" means an employee as defined by Section ~~213132~~(a)(1) of the Fair Labor Standards Act of 1938 (~~29 U.S.C. 213(a)(1)~~) and ~~regulations promulgated thereunder at 29 CFR Part 541, as both existed on March 30, 2003, (1992, no subsequent dates or editions), as amended at 56 FR 8251.~~
- h) "Hearing Officer" means an individual authorized by the Department to determine the merits of claims alleging violations of the Act.
- i) "Other representative" means any person with a direct relationship to the party, who is not an attorney or legal representative, who can address the substance of the claim, including a spouse, relative or friend who can provide further clarification on the issues being considered or assist with translation for the party he or she represents.
- ii) "Party" means a claimant and any employer whose payment of wages or final compensation is in question.
- kj) "Professional employee" means an employee as defined by Section ~~21313~~(a)(1) of the Fair Labor Standards Act of 1938 (~~29 U.S.C. 213(a)(1)~~) and ~~regulations promulgated thereunder at 29 CFR Part 541, as both existed on March 30, 2003, (1992, no subsequent dates or editions), as amended at 56 FR 8251.~~

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

SUBPART B: WAGES OR FINAL COMPENSATION

Section 300.510 Earned Commissions**EMERGENCY**

- a) Absent an express agreement to the contrary, an employee who is the procuring cause of a sale or other transaction is entitled to commission, notwithstanding the fact that the sale or other transaction was consummated by the principal personally or through another agent.
- b) When/Where the employer and employee agree that the employee is to be advanced a commission in anticipation of a particular sale, and the sale is

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY AMENDMENTS

subsequently voided, the employer may not deduct from the employee's wages or final compensation any amount greater than the amount of the commission previously advanced on that particular sale.

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

Section 300.520 Earned Vacations**EMERGENCY**

- a) Whenever an employment contract or an employment policy provides for paid vacation earned by length of service, vacation time is earned pro rata as the employee renders service to the employer.
- b) Oral promises, handbooks, memoranda, and uniform patterns of practice may create a duty to pay the monetary equivalent of earned vacation.
- c) Claims for vacation pay must be brought to the Department within 3~~three~~ years from the date the vacation is earned.
- d) Nothing in this Section~~provision~~ shall be construed to reduce or impair the right of the claimant to maintain a civil action to recover additional vacation pay found due by a court~~such courts~~.
- e) An employment contract or an employer's policy may require an employee to take vacation by a certain date or lose the vacation, provided that the employee is given a reasonable opportunity to take the vacation. The employer must demonstrate that the employee had notice of the contract or policy provision.
- f) The Department recognizes policies under which~~provisions whereby~~:
 - 1) no vacation is earned during a limited period at the commencement of employment. The employer must demonstrate that the policy~~provision~~ is not a subterfuge to avoid payment of vacation actually earned by length of service and, in fact, no vacation is implicitly earned or accrued during that period.
 - 2) vacation is earned and accrues at an accelerating rate during the year. The policy~~provision~~ is acceptable when the acceleration period and the

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY AMENDMENTS

changes in accrual rates are reasonable, and the policy is uniformly applied.

- 3) the employer does not have separate arrangements for vacation and sick leave. Under the policy provision, employees earn a certain amount number of "paid time days off" that which they can use for any purpose, including vacation and sick leave. Because employees have an absolute right to take this time these days off (unlike traditional sick leave in which where using such sick leave is contingent upon illness), the Department will shall treat "paid time days off" as earned vacation days.
- g) Any employer that provides paid vacation to its employees must maintain true and accurate records of the number of vacation days earned for each year and the dates on which such vacation days were taken and paid.

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

SUBPART C: PAYMENT OF WAGES OR FINAL COMPENSATION

Section 300.600 Direct Deposit**EMERGENCY**

An employer shall not require an employee to enroll in a direct deposit arrangement or make payment of wages or final compensation by direct deposit unless the employee designates a bank or a financial institution.

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

Section 300.620 Personal Liability of Officers and Agents**EMERGENCY**

- a) In addition to an individual who is deemed to be an employer pursuant to Section 2 of the Act, any officers of a corporation or agents of an employer who knowingly permit the employer to violate the provisions of the Act shall be deemed to be employers of the employees of the corporation and shall be personally liable for a claimant's wages or final compensation. An officer of a corporation or an agent of an employer may be personally liable under Section 13

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY AMENDMENTS

~~of the Act for a claimant's wages or final compensation when the officer or agent actively asserted substantial control over the management and financial affairs of the corporation or employer.~~

- b) As used in Subpart A of this Part~~Section 13 of the Act:~~
- 1) "Knowingly" means knowledge of the existence of facts constituting the alleged violation, rather than a knowledge of the unlawfulness of the act or omission.
 - 2) "Permit" means to allow to happen or to fail to prevent.

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

Section 300.630 Records and Notice Requirements**EMERGENCY**

- a) Every employer shall ~~make and maintain~~keep, for a period of not less than ~~3~~three years, ~~the following~~ true and accurate records ~~for each employee:~~of the name and address of each employee, the hours worked each day in each work week by each employee, the rate of pay, the amount paid each pay period to each employee and all deductions made from wages or final compensation. Additionally, any employer that provides paid vacation to its employees must maintain, ~~for a period of not less than 3 years,~~ true and accurate records of the number of vacation days earned for each year and the dates on which ~~such~~ vacation days were taken and paid ~~for a period of not less than three years.~~
- b) In the absence of employer records, a claimant may not be denied recovery of wages or final compensation on the basis that the employee is unable to prove the precise extent of uncompensated work or final compensation. An employee need only produce sufficient evidence to demonstrate the amount and extent of work or time earned as a just and reasonable inference. The employer must then produce evidence of the exact amount of work or time earned or produce evidence to negate the reasonable inferences drawn from the employee's evidence. The employer's failure to make and maintain records as required under subsection (a) shall not preclude a finding based on the information available that wages or final compensation are due, even though the award may be only approximate.

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY AMENDMENTS

- c) Every employer shall furnish each employee with an itemized statement of deductions made from wages for each pay period.
- db) The employer shall bear the burden of showing that it was not possible to notify the employee in writing, at the time of hiring, of the rate of pay and of the time and place of payment. "Rate of pay" shall include a description of all wages ~~or~~ final compensation, as defined by Section 2 of the Act and this Part ~~further defined herein and hereafter.~~

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

Section 300.640 Refusal to Pay Wages or Final Compensation**EMERGENCY**

- a) The duty to pay wages or final compensation arises out of a contract of employment, an employment policy, or an agreement between the parties. The Department ~~will~~shall make a determination in accordance with Subpart F or GE ~~of these rules~~ as to whether the duty to pay exists.
- b) An employer doing business at the time the duty to pay wages or final compensation arises is presumed to have the ability to pay.
- c) A willful refusal to pay is a voluntary, conscious and intentional act. An employer who subordinates the wage claims of employees to the claims of other creditors has ~~willfully~~willfully refused to pay wages or final compensation, in violation of the Act.

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

SUBPART D: DEDUCTION FROM WAGES OR FINAL COMPENSATION

Section 300.700 Scope of Subpart D**EMERGENCY**

Nothing in this Subpart shall be construed to permit an employer to violate the provisions of the Minimum Wage Law [820 ILCS 105]~~(Ill. Rev. Stat. 1991, ch. 48, pars. 1001 et seq.)~~ or the Fair Labor Standards Act of 1938, as amended (29 USCU.S.C. 201 et seq.).

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY AMENDMENTS

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

Section 300.720 Written Agreement Authorizing Deductions**EMERGENCY**

Any written agreement between employer and claimant permitting or authorizing deductions from wages or final compensation must be given freely at the time the deduction is made. In the case of cash advances, the agreement may be made either at the time of the deduction or at the time of the advance itself.

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

Section 300.730 Cash or Inventory Shortages**EMERGENCY**

An employer shall not deduct from an employee's pay or otherwise demand reimbursement from an employee for cash and/or inventory shortages ~~shall not be deducted from an employee's pay~~ unless the employee's express written consent is given freely at the time the deduction or demand for reimbursement is made.

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

Section 300.760 Advanced Vacation Pay**EMERGENCY**

If an employer permits an employee to take a vacation ~~that~~which has not yet been earned, and the employee resigns or is terminated, the employer may not deduct the unearned vacation pay from the employee's wages or final compensation without a written agreement as set forth in ~~the rules pertaining to cash advances~~ (see Sections 300.720 and 300.750).

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

Section 300.800 Deduction Limit**EMERGENCY**

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY AMENDMENTS

No cash advance repayment agreement shall provide for a repayment schedule of more than 15% of an employee's gross wages or final compensation per paycheck.

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

Section 300.810 Balance Due at Termination**EMERGENCY**

If, upon termination, an employee owes an amount greater than 15% of gross wages or final compensation, that amount may be withheld from the employee's wages or final compensation, but only if such an arrangement was included in the agreement signed when the advance was made.

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

Section 300.930 Notice of Disputed Deductions**EMERGENCY**

- a) Notice by an employer of disputed deductions from wages under Section 9 of the Act shall be either typewritten or clearly handwritten and shall include: the name and last known address of the employee from whose wages or final compensation the deduction is being made; the amount that is being withheld; the reason for which the deduction is being made; the date on which payment would have been made; and the name, business address and telephone number of the employer and any officer or agent of the employer who will present the employer's position to the Department during its investigation of the deduction. TheSuch notice shall be prominently marked "Notice of Disputed Deduction" on both the letter and the envelope and shall be mailed or delivered to the Department's Chicago office on or before the day the money is due to the employee.
- b) The Department willshall notify the employee of the proposed deduction and provide an opportunity for the employee to contest the deduction. The employee's response shall be typewritten or clearly handwritten and shall state the reasonsreason(s) why the employee contests the deduction. TheSuch response shall be prominently marked "DISPUTED DEDUCTION RESPONSE" on both the letter and the envelope and shall be mailed or delivered to the Department's

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY AMENDMENTS

Chicago office. If the employee does not respond within 10 days after receipt of the Department's ~~notice~~~~communication~~, the deduction shall be permitted and the Department will take no further action. Acceptance of late responses by the employee shall be at the sole discretion of the Department.

- c) The Department may permit a deduction when an employer can establish by clear and convincing evidence that:
- 1) the employee is indebted to the employer in an amount equal to or greater than the amount sought to be withheld;⁵ and
 - 2) it would be inequitable to require the employer to make payment to the employee prior to the employee satisfying his/her obligation to the employer.

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

SUBPART E: ~~FILING OF A CLAIM~~~~INVESTIGATION OF CLAIMS~~ FOR WAGES OR FINAL COMPENSATION

Section 300.940 Filing of a Claim ~~and the Employer's Response~~
EMERGENCY

- a) An employee may file a complaint with the Department alleging violations of the Act by submitting ~~2~~~~a~~ signed ~~copies of a~~ completed wage claim application on the form provided by the Department and by submitting 2 copies of all supporting documentation. Complaints shall be filed within ~~one year~~~~180 days~~ after the wages or final compensation were due.
- b) Applications shall be reviewed by the Department to determine whether there is cause for investigation. The Department will limit its investigation to reviewing the ~~3~~~~three~~ years prior to the date the complaint was filed.
- c) ~~The Department will seek to verify the accuracy of the employer's address, as provided by the claimant, using one or more of the following: When appropriate, the Department will notify the employer of the existence of the claim.~~
 - 1) address on file with the Department;

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY AMENDMENTS

- 2) address on file with the Secretary of State;
 - 3) address on file with any other State agency with which the employer has the duty to maintain a current address; or
 - 4) any other address the Department reasonably calculates to be a true and current address for the employer.
- d) ~~The Department will notify the employer of the existence of the claim. The employer must remit payment of all undisputed amounts and submit a written explanation of all the amounts remaining in dispute within 10 days after receipt.~~
 - e) ~~The employer's response shall include the reason(s) for non-payment and any business records and other documentation to support the employer's position.~~
 - f) ~~Upon receipt of an employer's response disputing the claim, the Department may, when appropriate, send a copy of the employer's response to the claimant.~~
 - g) ~~If the employee disagrees with the employer's response, he/she must submit a response to the Department within 10 days stating his/her reasons for the disagreement. If the employee fails to submit a written response, the Department shall dismiss the claim.~~
 - h) ~~If the employer fails to respond within the prescribed deadlines, the Department shall review the information offered by the employee in order to determine whether the wages are due.~~
 - i) ~~The Department may consider untimely submissions by either party upon written request by the party within a reasonable period of time, if there is a showing that the delay was occasioned by good cause beyond the party's control.~~

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

Section 300.941 Employer and Employee Response
EMERGENCY

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY AMENDMENTS

- a) The employer must remit payment of all undisputed amounts and submit a written explanation of all the amounts remaining in dispute within 15 days from the date of the Department's notice.
- b) The employer's response shall include the reasons for non-payment and any business records and other documentation to support the employer's position. Two copies of all supporting documentation shall be provided to the Department.
- c) Upon receipt of an employer's response, the Department may send a copy of the employer's response to the claimant.
- d) Within 15 days after receiving the employer's response from the Department, the employee must submit a response to the Department in order to continue the Department's investigation. If the employee fails to submit a written response, the Department may dismiss the claim.
- e) If the employer fails to respond to the Department's notice, the claim is \$3000 or less per employee and the Department can verify the accuracy of the employer's address consistent with Section 300.940(c), a formal default hearing will be conducted in accordance with Subpart G.
- f) If the employer fails to respond within the prescribed deadlines, the Department will review the information offered by the employee in order to determine whether wages or final compensation are due and may make a determination that the Act has been violated based upon the evidence available to the Department. The Department will notify both parties of its determination.
- g) The Department may consider untimely submissions by either party, upon written request by the party within a reasonable period of time, if there is a showing that the delay was occasioned by good cause beyond the party's control. Examples of good cause include the non-receipt or delayed receipt of mail, accident, illness or other circumstances beyond the party's control.

(Source: Added by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

Section 300.942 Withdrawal of a Claim
EMERGENCY

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY AMENDMENTS

An employee may voluntarily withdraw his or her claim by submitting a written statement to the Department or making a verbal statement on the record during the hearing or at any time prior to the issuance of the Hearing Officer's decision. The Department will provide written notice to all parties of the withdrawal of the claim.

(Source: Added by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

SUBPART F: INFORMAL INVESTIGATIVE HEARING**Section 300.950 Scheduling and Notice of an Informal Investigative Hearing**
EMERGENCY

- a) When the Department is unable to resolve a dispute ~~after~~^{upon} review of the information submitted by the parties, the Department may schedule an informal investigative hearing before a Hearing Officer. The Department conducts hearings to obtain further information; to determine if any violation of the Act exists; to attempt to resolve the matter equitably; and to decide whether there is sufficient evidence to recommend court action.
- b) A written notice of hearing shall be sent to the parties not less than 10 days prior to the date of the hearing.
- c) On the day of a scheduled in-person hearing, the parties may be given a grace period of an additional 10 minutes to arrive at the hearing.

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

Section 300.960 Continuances**EMERGENCY**

Parties shall be prepared to proceed at the informal hearing. Absent an emergency, all requests ~~A request by one party for a continuance will be granted prior to the hearing only if the other party agrees and the Hearing Officer grants permission. Otherwise, a request~~ for continuances a ~~continuance~~ must be made in writing~~person~~ to the Hearing Officer prior to at the time of the ~~prior to~~ scheduled informal hearing and will be granted only upon a showing of good cause. Examples of good cause include the non-receipt or delayed receipt of mail or the unavailability of a witness or a party due to accident, illness or other circumstances beyond the party's control. The

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY AMENDMENTS

Department may also cancel and continue a hearing due to an emergency or the unavailability of a Hearing Officer. If granted, the Department will provide the parties with notice of the continuance of the hearing.

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

Section 300.970 Application of the Rules of Evidence, Pleadings and Procedures in an Informal Investigative Hearing EMERGENCY

When a Hearing Officer makes an investigation or conducts a hearing, the Hearing Officer is not bound either by the rules of evidence or by any technical or formal rules of pleading or procedure.

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

Section 300.980 Participants at Informal ~~Attorneys and Witnesses in~~ Investigative Hearings EMERGENCY

a) A party may be accompanied at an informal investigative hearing by his/her attorney; or other representative and by a translator, if necessary. The participation of the other representative in the informal hearing shall be limited to fact-finding and support functions. Other representatives shall not be permitted to engage in any conduct or function that constitutes or reasonably approximates the practice of law. Other representatives shall not: examine or cross-examine any party or witness; offer any documents or other exhibits into evidence; make evidentiary, procedural or other legal objections; cite, file or interpret case law, statutes, administrative rulings or other legal authority; make legal arguments or interpretations; or give legal advice or opinions to parties or witnesses. Other representatives must provide to the represented party for signature a written disclosure document that explicitly states that the representative is not an attorney and that the representative is not permitted to present legal arguments or otherwise engage in any function that reasonably approximates the practice of law as described in this subsection (a). The document shall be signed by both the representative and the represented party.

b) The parties may bring witnesses to the hearing, and~~but~~ the Hearing Officer shall

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY AMENDMENTS

~~heard~~~~decide which~~ witnesses with information related to the claim. The Hearing Officer shall ~~determine~~~~be heard and~~ the order in which the witnesses are to~~they shall~~ be heard and shall limit testimony to that which is relevant, not cumulative in nature, not unduly repetitious and material to the claim. In deciding whether to permit a witness to testify, the Hearing Officer may consider the relevance and materiality of the testimony. The Hearing Officer may exclude witnesses ~~and other persons~~ from the hearing when they are not giving testimony. The Hearing Officer shall conduct and control the proceedings. No tape recordings, stenographic report or other verbatim record of the hearing shall be made. The Department will provide translation services for the proceedings as necessary.

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

Section 300.990 Contumacious Conduct at Informal Investigative Hearings
EMERGENCY

If any person becomes so disruptive or abusive that a full and fair informal investigative hearing cannot be conducted, the Hearing Officer shall exclude the person from the hearing. The Hearing Officer, in his/her discretion, may take any of the following actions: continue the hearing without the participation of the excluded individual; render a decision based upon the evidence previously presented; dismiss the employee's claim; or strike the employer's response.

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

Section 300.1000 Informal Telephone Hearings
EMERGENCY

- a) The Department does not routinely hold informal investigative hearings by telephone. Written requests to participate by telephone must be received by the Department's Chicago office no later than 7 days prior to the hearing date. The ~~request~~~~Request~~ shall be prominently marked "REQUEST FOR TELEPHONE HEARING" on both the letter and the envelope. ~~The~~~~Such~~ request shall be ~~typewritten or clearly written in writing~~ and shall contain a compelling reason why the party needs to participate by telephone and the name, address and telephone number of the person to be contacted.
- b) On its own initiative, the Department may also schedule a matter for telephone

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY AMENDMENTS

hearing without regard to the 7 day notice requirement.

- c) The Department may consider untimely requests for telephone hearings upon a showing that the delay was occasioned by good cause beyond the party's control. Examples of good cause include the non-receipt or delayed receipt of mail, accident, illness or other circumstances beyond the party's control.
- d) A party shall not consider its request granted unless the participant receives notice of the Department's approval prior to the hearing date by telephone or ~~letter~~ in writing.

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

Section 300.1020 Review of Hearing Officer Determination Decisions
EMERGENCY

- a) Requests for review of a Hearing Officer's determination must be made in writing to the Department's Chicago office, within 15 days ~~after the~~ after the date of the Department's determination~~decision~~. The request shall be prominently marked "REQUEST FOR REVIEW" on both the letter and the envelope. The request must set forth the reasons why the party believes the Hearing Officer ~~misconstructed~~ misconstrued the evidence or misapplied the law to the facts, and any newly discovered evidence ~~which~~ the party could not have discovered by the hearing date or, if applicable, why the party failed to attend the informal hearing.
- b) The Department may consider untimely submissions by either party upon written request by the party, made within a reasonable period of time, if there is a showing that the delay was occasioned by good cause beyond the party's control. Examples of good cause include the non-receipt or delayed receipt of mail, accident, illness or other circumstances beyond the party's control.

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

SUBPART G: FORMAL DEFAULT HEARINGS

Section 300.1030 Applicability
EMERGENCY

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY AMENDMENTS

This Subpart shall apply to complaints filed with the Department after January 1, 2011 for violations of the Act occurring on or after January 1, 2011.

(Source: Added by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

Section 300.1040 Scheduling and Notice of a Formal Default Hearing
EMERGENCY

- a) If the employer does not timely respond to the written notice of claim issued by the Department in accordance with Section 300.941 and the claim is for wages or final compensation totaling \$3000 or less per employee, and the Department can verify the accuracy of the employer's address consistent with Section 300.940(c), the Department will schedule a formal default hearing before a Hearing Officer pursuant to this Subpart.
- b) A written notice of the formal default hearing shall be served on the parties not less than 21 days prior to the date of the hearing. The notice shall advise all parties that a failure to appear at the default hearing may result in the entry of an enforceable judgment against a party not appearing. The notice shall further advise all parties that, should the employer appear at the default hearing, the Hearing Officer may terminate the formal default hearing pursuant to this Subpart and conduct the matter as an informal investigative hearing in accordance with Subpart F.
- c) On the day of the scheduled in-person default hearing, the parties may be given a grace period of an additional 10 minutes to arrive at the hearing.

(Source: Added by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

Section 300.1050 Manner and Service of Notice
EMERGENCY

- a) Service of notice of a formal default hearing shall be complete when the notice of hearing is:
 - 1) Personally served; or

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY AMENDMENTS

- 2) Sent not less than 21 days prior to the date designated for the default hearing by:
 - A) Regular US mail, postage prepaid, to the parties' addresses; or
 - B) Certified US mail, postage prepaid, to the parties' addresses.
- b) For purposes of subsection (a), notice of a formal default hearing shall be deemed properly served if sent to the parties at an address:
 - 1) On file with the Department;
 - 2) On file with the Illinois Secretary of State;
 - 3) On file with any other State agency with which the party has a duty to maintain a current address; or
 - 4) The Department reasonably calculates to be a true and current address for the party.
- c) The notice of a formal default hearing under this Subpart shall include:
 - 1) The time, place and nature of the hearing;
 - 2) A copy of the claim;
 - 3) The legal authority and jurisdiction under which the hearing is to be held;
 - 4) Notice that, upon appearance by the employer, the formal default hearing may be terminated and converted to an informal investigative hearing conducted in accordance with Subpart F;
 - 5) Instructions for all parties to bring all evidence and/or witnesses that support or dispute the employee claims;
 - 6) A description of the procedure to request a continuance or to appear at the hearing telephonically; and

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY AMENDMENTS

- 7) A designation of a Hearing Officer to preside over the default hearing and the address of the Hearing Officer.

(Source: Added by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

Section 300.1060 Formal Default Hearing Continuances
EMERGENCY

Parties shall be prepared to proceed at the hearing. Absent an emergency, all requests for a continuance must be made in writing to the Hearing Officer prior to the scheduled default hearing and will be granted only upon a showing of good cause. Examples of good cause include the non-receipt or delayed receipt of mail or the unavailability of a witness or a party due to accident, illness or other circumstances beyond the party's control. The Department may also cancel and continue a hearing due to an emergency or the unavailability of a Hearing Officer. If granted, the Department will provide the parties with notice of the continuance of the hearing.

(Source: Added by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

Section 300.1070 Application of the Rules of Evidence, Pleadings and Procedures in a Formal Default Hearing
EMERGENCY

- a) Technical rules of evidence do not apply in a default hearing before a Hearing Officer. The decision of the Hearing Officer will be based upon the evidence and testimony. The Hearing Officer may rely upon evidence of a type commonly relied upon by a reasonably prudent person in the conduct of his or her affairs. Absence of employer records required to be made and kept by an employer pursuant to Section 300.630 and Section 10 of the Act shall not deny a claimant recovery of wages or final compensation on the basis that the employee is unable to prove the precise extent of uncompensated work or final compensation. An employee need only produce sufficient evidence to demonstrate the amount and extent of work or time earned as a just and reasonable inference. The employer must then produce evidence of the exact amount of work or time earned or produce evidence to negate the reasonable inferences drawn from the employee's evidence. The employer's failure to make and maintain records as required under Section 300.630 shall not preclude a finding based on the information available

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY AMENDMENTS

that wages or final compensation are due, even though the award may be only approximate.

- b) A complete record of all proceedings before the Hearing Officer at the default hearing shall be maintained. The record will consist of: a verbatim record of the parties and witnesses; all pleadings, motions, rulings, evidence received, matters officially noticed, offers of proof, objections and rulings thereon; decision and findings of fact; and any ex parte communications.
- c) The testimony of a party or witness shall be sworn or affirmed. If a party or witness refuses to consent to the recording of the default hearing by the Hearing Officer or refuses to take the oath or affirmation when requested, the participation of that individual in the default hearing shall be terminated, and the default hearing shall be conducted as if the individual failed to appear.

(Source: Added by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

Section 300.1080 Participants at a Formal Default Hearing
EMERGENCY

- a) A party may be accompanied at a formal default hearing by his/her attorney or other representative. The participation of the other representative in the default hearing shall be limited to fact-finding and support functions. Other representatives shall not be permitted to engage in any conduct or function that constitutes or reasonably approximates the practice of law. Other representatives shall not: examine or cross-examine any party or witness; offer any documents or other exhibits into evidence; make evidentiary, procedural or other legal objections; cite, file or interpret case law, statutes, administrative rulings or other legal authority; make legal arguments or interpretations; or give legal advice or opinions to parties or witnesses. Other representatives must provide to the represented party for signature a written disclosure document that explicitly states that the representative is not an attorney and that the representative is not permitted to present legal arguments or otherwise engage in any function that reasonably approximates the practice of law as described in this subsection (a). The document shall be signed by both the representative and the represented party.

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY AMENDMENTS

- b) The parties may bring witnesses to the default hearing and the Hearing Officer shall determine the order in which the witnesses are to be heard and shall limit testimony to that which is relevant, not cumulative in nature, not unduly repetitious and material to the claim. In deciding whether to permit a witness to testify, the Hearing Officer may consider the relevance and materiality of the testimony. The Hearing Officer may exclude witnesses when they are not giving testimony. The Department will provide translation services for the default hearing as necessary.

(Source: Added by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

Section 300.1090 Conduct in a Formal Default Hearing
EMERGENCY

- a) The Hearing Officer shall conduct and control the default hearing, which will be confined to the factual and/or legal issues of the claim. The Hearing Officer will ensure that all parties who have appeared have a reasonable opportunity to present all relevant evidence and testimony regarding the issues.
- b) Following examination of each witness by the Hearing Officer, that witness may be questioned and cross-examined by any other party, except the other representative, and further questioned by the Hearing Officer, if necessary, to ensure clarity and completeness of the issues and of the record.
- c) If any person becomes abusive or disruptive so that a full and fair hearing cannot be conducted, the Hearing Officer shall exclude that person from the hearing. The Hearing Officer shall then continue the hearing without the participation of the excluded individual and will render a decision based on the evidence in the record.

(Source: Added by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

Section 300.1100 Telephone Hearing for a Formal Default Hearing
EMERGENCY

- a) Written requests to participate via telephone must be received by the Department's Chicago office no later than 7 days prior to the hearing date. The request shall be

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY AMENDMENTS

prominently marked "REQUEST FOR TELEPHONE HEARING" on both the letter and envelope. The request shall be in writing and contain a compelling reason why the party needs to participate by telephone and the name, address and telephone number of the person to be contacted.

- b) On its own initiative, the Department may also schedule a matter for telephone hearing without regard to the 7 day notice requirement.
- c) The Department may consider untimely requests for telephone hearings by the party upon a showing that the delay was occasioned by good cause beyond the party's control. Examples of good cause include the non-receipt or delayed receipt of mail, accident, illness or other circumstances beyond the party's control.
- d) A party shall not consider the request granted unless the participant receives notice of the Department's approval prior to the hearing date by telephone or in writing.

(Source: Added by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

Section 300.1110 Subpoenas
EMERGENCY

The Department may issue an administrative subpoena to compel the attendance of a witness and/or the production of documents upon the Department's determination that the information to be produced by a subpoena is necessary and relevant to the Department's adjudication of the claim and cannot be obtained by any other reasonable means.

(Source: Added by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

Section 300.1120 Ex Parte (One Party Only) Communications
EMERGENCY

- a) A Hearing Officer may not engage in ex parte communications, directly or indirectly, in any matter in connection with any substantive issue, with any interested person or party. If the Hearing Officer receives any ex parte communication, including any documents, the Hearing Officer shall inform the parties of the substance of any such communication and provide copies of any

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY AMENDMENTS

written communication or documents. The other party shall be given an opportunity to review any ex parte communication.

b) Nothing shall prevent the Hearing Officer from communicating ex parte about routine matters such as requests for continuances or opportunities to inspect the file as long as the parties are informed of the substance of the ex parte communication. The date and type of communication, the persons involved and the results of those routine communications shall be part of the record.

c) When a party fails to appear at the default hearing, the other parties' participation at the hearing shall not be considered ex parte communication.

(Source: Added by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

Section 300.1130 Disqualification of a Hearing Officer
EMERGENCY

At any time prior to the issuance of a substantive ruling by a Hearing Officer, a party may move to disqualify the Hearing Officer on the grounds of bias or conflict of interest. The motion shall be made in writing to the General Counsel or Chief Administrative Law Judge, with a copy to the Director and the Hearing Officer, setting forth the specific instances of bias or conflict of interest. The Director and/or her/his designee will assign the matter for a determination to a Hearing Officer not challenged in the motion. An adverse decision or ruling, in and of itself, is not grounds for disqualification. The Hearing Officer's employment or contract as a Hearing Officer by the Department is not, in and of itself, a conflict of interest. The case shall be suspended until the neutral Hearing Officer rules on the motion. The neutral Hearing Officer may decline to disqualify the presiding Hearing Officer or appoint another Hearing Officer to hear the case.

(Source: Added by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

Section 300.1140 Consolidation/Severance
EMERGENCY

a) The Department may, on its own or at the request of a party, consolidate hearings if it believes a common question of fact or law is involved, consolidation will expedite the hearings and no right of any party will be prejudiced.

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY AMENDMENTS

- b) All parties will be given an opportunity to be heard on the issue of consolidation and may be severed from the proceeding upon a showing of good cause.

(Source: Added by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

Section 300.1150 Failure of a Party to Appear at a Formal Default Hearing
EMERGENCY

- a) Failure of a claimant to appear at a scheduled formal default hearing may result in dismissal of the claim. If the hearing or any party's appearance is by telephone, failure of that party to inform the Hearing Officer of the telephone number at which he or she can be reached, or failure to answer the telephone at the scheduled time, may result in dismissal of the claim.
- b) Failure of the employer to appear at a scheduled formal default hearing shall cause the Hearing Officer to issue a decision based on the evidence introduced and the evidence of record. If the hearing or the employer's appearance is by telephone, failure of the employer to inform the Hearing Officer of the telephone number at which the employer can be reached, or failure to answer the telephone at the scheduled time, shall cause the Hearing Officer to issue a decision based on the evidence introduced and the evidence of record. Failure of the employer to appear may also result in an entry of default judgment against the employer.
- c) Failure of any witness to appear at a scheduled formal default hearing shall cause the Hearing Officer to conduct the hearing with those parties and witnesses who have appeared, and to issue a decision based on the evidence introduced and the evidence of record. If the hearing or the witness' appearance is by telephone, failure of that witness to inform the Hearing Officer of the telephone number at which he or she can be reached, or failure to answer the telephone at the scheduled time, shall cause the Hearing Officer to conduct the hearing with those parties and witnesses who have appeared and to issue a decision based on the evidence introduced and the evidence of record.

(Source: Added by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

Section 300.1160 Notice and Appeal of Department's Default Order

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY AMENDMENTS

EMERGENCY

a) Following the entry of a final default order, the Department will send written notice of its order to the parties by regular U.S. mail, setting forth the amount of the judgment, if any, including all damages, administrative fees and penalties, as well as the parties' appeal rights. Service shall be presumed to be accomplished upon mailing.

b) A party may file a motion to reconsider with the Department within 15 days of the Department's order and such motion will only be considered by the Department for procedural issues. A motion to reconsider should be sent to the Chief Administrative Law Judge at the Department's Chicago office. The Department will issue a written decision on any motions to reconsider and serve such decision on all parties via regular US mail. No further appeal process or administrative remedies may be sought at the Department level.

c) Any party may appeal the Department's order or dismissal to the circuit court within 35 days in accordance with the provisions of the Administrative Review Law [735 ILCS 5/Art. III]. If a motion to reconsider is filed with the Department, the time period to appeal to the circuit court shall begin when the Department issues its written decision on any motion to reconsider via regular US mail.

d) The order of the Department will become final and enforceable if no appeals are filed within 35 days after the Department's order or after all appeals are exhausted.

(Source: Added by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

SUBPART H: CIVIL, CRIMINAL AND ADMINISTRATIVE FEES**Section 300.1170 Applicability****EMERGENCY**

This Subpart shall apply to complaints filed with the Department after January 1, 2011 for violations of the Act occurring on or after January 1, 2011.

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY AMENDMENTS

(Source: Added by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

Section 300.1180 Non-Waivable Administrative Fee to the Department
EMERGENCY

If the Department determines that an employer owes wages or final compensation to the claimant, it shall assess a \$250 non-waivable administrative fee payable to the Department and make the administrative fee against the employer a part of the determination. The administrative fee shall be due to the Department within 15 days after the demand or order becomes final.

(Source: Added by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

Section 300.1190 Statutory Damages Due to the Employee
EMERGENCY

If the Department determines that an employer owes wages or final compensation to the claimant, statutory damages shall be assessed at 2% of the amount owed, multiplied by the number of months that elapse between the time of initial underpayment and the time the demand or order is paid. The total amount due to the employee, including the unpaid wages and/or final compensation plus statutory damages, shall be due to the employee within 15 days after the demand or order becomes final.

(Source: Added by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

Section 300.1200 Additional Penalties Due to the Department and Employee
EMERGENCY

If an employer fails to comply with the demand or order within 15 days after the demand or order becomes final, the employer shall also be liable to the Department for a statutory penalty in the amount of 20% of the amount owed and shall be additionally liable to the claimant for a statutory penalty in the amount of 1% per day of the amount owed. The Department may periodically seek to amend the demand or final order to incorporate these penalties.

(Source: Added by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY AMENDMENTS

Section 300.1210 Payment of Demands or Final Orders; Penalties and Fees
EMERGENCY

An employer shall mail 2 separate checks or money orders to pay the amount of a demand or final order, one for the amount of any wages or final compensation, statutory damages and statutory penalties owed to the employee, the other for the amount of any penalties and fees owed to the Department.

(Source: Added by emergency rulemaking at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days)

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY REPEAL OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Joint Rules of the Comptroller and the Department of Central Management Services: Prompt Payment
- 2) Code Citation: 74 Ill. Adm. Code 330
- 3) Section Number: 330.120 Emergency Action:
Repeal
- 4) Statutory Authority: Authorized by the State Prompt Payment Act [30 ILCS 540].
- 5) Effective Date of Repealer: February 16, 2011
- 6) If this emergency repealer is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency repealer is not to expire prior to the end of the 150-day period.
- 7) Date filed with the Index Department: February 16, 2011
- 8) A copy of the emergency repealer, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reasons for Emergency: The emergency repeal is in response to the Joint Committee on Administrative Rules objection which indicated the need for specific program policies and procedures for the State vendor payment program to be implemented by the Comptroller and the Department of Central Management Services.
- 10) A complete Description of the Subjects and Issues Involved: This Part is a joint rulemaking of the Comptroller and the Department of Central Management Services. The text of the Part appears at 74 Ill. Adm. Code 900. This emergency repeal revises Section 900.120 (n) of the Prompt Payment rules. That Section currently allows for the payment of prompt payment interest for payments that have been assigned or sold to a third party if the assignment or sale is pursuant to a vendor payment program that is approved by the Governor's Office of Management and Budget and the Comptroller. The repeal will disallow the payment of prompt payment interest due on any account receivable hereafter assigned to be made to a third party.
- 11) Are there any proposed amendments to this Part pending? No

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY REPEAL OF EMERGENCY AMENDMENT

- 12) Statement of Statewide Policy Objectives: To clearly indicate to the public and vendors that the vendor payment program as provided in the emergency amendment is rescinded.
- 13) Information and questions regarding this emergency repealer shall be directed to:

Alissa J. Camp
General Counsel
Office of the Comptroller
Room 201 Statehouse
Springfield, IL 62706

CampAJ@mail.ioc.state.il.us

The Source of the Emergency Repeal begins on the next page and the full text of the Emergency Repeal is identical to the text of the Department of Central Management Services Emergency Repeal of Emergency Amendment that appears in this issue of the Illinois Register on page ____:
(This Part is a joint rule of the Comptroller and the Department of Central Management Service.)

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY REPEAL OF EMERGENCY AMENDMENT

TITLE 74: PUBLIC FINANCE
CHAPTER II: COMPTROLLERPART 330
JOINT RULES OF THE COMPTROLLER AND
THE DEPARTMENT OF CENTRAL MANAGEMENT SERVICES:
PROMPT PAYMENT

SOURCE: Emergency rule adopted at 17 Ill. Reg. 11170, effective July 1, 1993, for a maximum of 150 days; emergency expired November 28, 1993; adopted at 18 Ill. Reg. 11521, effective July 11, 1994; amended at 24 Ill. Reg. 19123, effective December 18, 2000; amended at 25 Ill. Reg. 11358, effective August 28, 2001; emergency amendment at 26 Ill. Reg. 10981, effective July 1, 2002; amended at 26 Ill. Reg. 14678, effective September 19, 2002; amended at 31 Ill. Reg. 5836, effective March 29, 2007; emergency amendment at 34 Ill. Reg. 16593, effective October 8, 2010, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 35 Ill. Reg. 3840, effective February 16, 2011, for the remainder of the 150 days.

(Editor's Note: This Part is a joint rule of the Comptroller and the Department of Central Management Services. The text of the Part appears at 74 Ill. Adm. Code 900.)

PROCUREMENT POLICY BOARD

NOTICE OF EMERGENCY REPEAL OF EMERGENCY AMENDMENT

- 1) Heading of the Part: General Policies
- 2) Code Citation: 2 Ill. Adm. Code 3002
- 3) Section Number: 3002.1400 Emergency Action:
Repealed
- 4) Statutory Authority: Section 50-39 of the Illinois Procurement Code [30 ILCS 500/50-39]
- 5) Effective Date of Repealer: February 17, 2011
- 6) If this emergency repealer is to expire before the end of the 150-day period, please specify the date on which it is to expire: May 30, 2011
- 7) Date Filed with the Index Department: February 17, 2011
- 8) A copy of the emergency repealer, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: This regulation was originally adopted in the January 14, 2011 *Illinois Register* at 34 Ill. Reg. 1146. On January 9, 2011, the Joint Committee on Administrative Rules voted an Objection stating that the rulemaking did not meet the criteria for emergency rulemaking under the Illinois Administrative Procedure Act. Therefore, the Board is repealing the rule.
- 10) A Complete Description of the Subjects and Issues Involved: Section 3002.1400 originally implemented the ex parte administrative reporting requirements concerning procurement under Section 50-39 of the Illinois Procurement Code.
- 11) Are there any proposed amendments to this Part pending? Yes

<u>Section Number:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
3002.1400	New Section	January 14, 2011; 35 Ill. Reg. 748
- 12) Statement of Statewide Policy Objectives: None
- 13) Information and questions regarding this emergency repealer shall be directed to:

PROCUREMENT POLICY BOARD

NOTICE OF EMERGENCY REPEAL OF EMERGENCY AMENDMENT

Aaron Carter
Executive Director
Illinois Procurement Policy Board
511 West Capitol Avenue, Suite 102

217/785-3988
217/557-9927

The full text of the Emergency Repealer begins on the next page:

PROCUREMENT POLICY BOARD

NOTICE OF EMERGENCY REPEAL OF EMERGENCY AMENDMENT

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE E: MISCELLANEOUS STATE AGENCIES
CHAPTER LX: PROCUREMENT POLICY BOARDPART 3002
GENERAL POLICIES

Section

3002.100	Authority and Purpose
3002.200	Definitions
3002.300	Agenda
3002.400	Meetings of the Board
3002.410	Open Meetings Act Compliance
3002.500	Board Review
3002.600	Publication of Notices, Proposals and Action by the Board
3002.700	Comments from the Public
3002.800	Petition to the Board by Public
3002.900	Submission of Complaints
3002.1000	Obtaining Other Information
3002.1100	Coordination with State Agencies and the General Assembly
3002.1200	Coordination with the Joint Committee, Administrative Code Division and CPOs
3002.1300	Proposed Contract Review
3002.1400	Procurement Communications Reporting (<u>Repealed</u>)

EMERGENCY

AUTHORITY: Implementing and authorized by the Illinois Procurement Code [30 ILCS 500].

SOURCE: Adopted at 23 Ill. Reg. 6895, effective June 1, 1999; amended at 25 Ill. Reg. 14390, effective October 24, 2001; amended at 29 Ill. Reg. 812, effective January 1, 2005; amended at 32 Ill. Reg. 1153, effective February 1, 2008; emergency amendment at 35 Ill. Reg. 1146, effective January 1, 2011, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 35 Ill. Reg. 3843, effective February 17, 2011, for the remainder of the 150 days.

Section 3002.1400 Procurement Communications Reporting (Repealed)EMERGENCY

~~As required by 30 ILCS 500/50-39 of the Procurement Code, any State officer or employee who receives a written or oral communication that imparts or requests material information or makes~~

PROCUREMENT POLICY BOARD

NOTICE OF EMERGENCY REPEAL OF EMERGENCY AMENDMENT

~~a material argument regarding potential action concerning a procurement matter, including, but not limited to, an application, a contract, or a project, shall report the communication to the Procurement Policy Board. "Material" is defined by 2 Ill. Adm. Code 1620.825.~~

- a) ~~Upon receipt of a communication described in and required to be reported pursuant to 2 Ill. Adm. Code 1620.825 the State officer or employee shall report the communication to the Procurement Policy Board using the electronic Procurement Communications Reporting System available on the Procurement Policy Board's official website at <http://pers.illinois.gov>. Reports shall be filed monthly and include at least the following:~~
- ~~1) the date and time of each communication;~~
 - ~~2) the identity of each person whom the written or oral communication was received, the individual or entity represented by that person, and any action that person requested or recommended;~~
 - ~~3) the identity and job title of the person to whom each communication was made;~~
 - ~~4) if a response is made, the identity and job title of the person making each response;~~
 - ~~5) a detailed summary of the points made by each person involved in the communication;~~
 - ~~6) the duration of the communication;~~
 - ~~7) the location or locations of all persons involved in the communication and, if the communication occurred by telephone, the telephone numbers for the callers and recipients of the communication; and~~
 - ~~8) any other pertinent information. The Procurement Policy Board shall publish each report submitted to its website within 7 days. An employee who knowingly and intentionally violates this requirement shall be subject to suspension or discharge.~~
- b) ~~Any State employee engaging in material communication with a registered lobbyist shall make every attempt to obtain the written statement of the lobbyist~~

PROCUREMENT POLICY BOARD

NOTICE OF EMERGENCY REPEAL OF EMERGENCY AMENDMENT

~~regarding the communication that took place, as required by 30 ILCS 500/50-39(e). Executive Ethics Commission rule 2 Ill. Adm. Code 1620.825 defines material as a communication that a reasonable person would believe was made for the purpose of influencing a procurement decision. Should the lobbyist fail to provide said State employee with a written report in the term of 30 days, the employee shall attach a document stating the dates of attempted request for information and affirmation they made every attempt to obtain the required lobbyist report. This document shall be provided in place of the lobbyist report required by 30 ILCS 500/50-39(e) to the Illinois Procurement Policy Board. Each State employee shall provide this form in portable document format (PDF) attached specifically to the lobbyist communication in question within the 30 day window following any communication with a registered lobbyist.~~

(Source: Added by emergency rulemaking at 35 Ill. Reg. 1146, effective January 1, 2011, for a maximum of 150 days; repealed by emergency rulemaking at 35 Ill. Reg. 3843, effective February 17, 2011, for the remainder of the 150 days)

SECRETARY OF STATE

NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Procedures and Standards
- 2) Code Citation: 92 Ill. Adm. Code 1001
- 3) Section Number: 1010.444 Emergency Action: Amendment
- 4) Statutory Authority: Illinois Vehicle Code (625 ILCS 5/6-206.1)
- 5) Effective Date of Rulemaking: February 15, 2011
- 6) If this emergency rulemaking is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency rulemaking will expire at the end of the 150-day period or upon adoption of the permanent rulemaking, whichever comes first.
- 7) Date Filed with the Index Department: February 15, 2011
- 8) A copy of the emergency rulemaking, including any material incorporated by reference, is on file in the Department's Springfield office and is available for public inspection.
- 9) Reason for Emergency: Public Act 96-1526 was signed by Governor Quinn on February 15, 2011, with an immediate effective date. The Public Act requires the Secretary of State to begin immediate notification to DUI offenders, as well as to determine indigency status. As such, it was necessary to file emergency rules to carry out our statutorily required duties.
- 10) Complete Description of the Subjects and Issues Involved: This rulemaking implements Public Act 96-1526, which was effective upon signature. The statute reduces the role of the courts in the issuance of a Monitoring Device Driving Permit (MDDP) and requires the Secretary of State to notify DUI offenders of their participation in the program and to establish rule regarding indigency.
- 11) Are there any other proposed rulemakings pending on this Part? No
- 12) Statement of Statewide Policy Objectives: This rulemaking does not create or expand an existing State mandate.
- 13) Information and questions regarding this emergency rulemaking shall be directed to:

SECRETARY OF STATE

NOTICE OF EMERGENCY AMENDMENT

Brenda Glahn
Assistant General Counsel
Office of the General Counsel
298 Howlett Building
Springfield, IL 62756

217/785-3094
bglahn@ilsos.net

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

SECRETARY OF STATE

NOTICE OF EMERGENCY AMENDMENT

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATE

PART 1001
PROCEDURES AND STANDARDS

SUBPART A: FORMAL ADMINISTRATIVE HEARINGS

Section	
1001.10	Applicability
1001.20	Definitions
1001.30	Right to Counsel
1001.40	Appearance of Attorney
1001.50	Special Appearance
1001.60	Substitution of Parties
1001.70	Commencement of Actions; Notice of Hearing
1001.80	Motions
1001.90	Form of Papers – Original Documents Required
1001.100	Conduct of Formal Hearings
1001.110	Orders; Notification; Time Limits on Obtaining Relief
1001.120	Record of Hearings
1001.130	Invalidity

SUBPART B: ILLINOIS SAFETY RESPONSIBILITY HEARINGS

Section	
1001.200	Applicability
1001.210	Definitions
1001.220	Hearings: Notice; Location; Procedures; Record
1001.230	Rules of Evidence
1001.240	Scope of Hearings
1001.250	Decisions and Orders
1001.260	Rehearings
1001.270	Judicial Review
1001.280	Invalidity

SUBPART C: RULES ON THE CONDUCT OF INFORMAL HEARINGS IN
DRIVER'S LICENSE SUSPENSIONS AND REVOCATIONS

SECRETARY OF STATE

NOTICE OF EMERGENCY AMENDMENT

Section

- 1001.300 Applicability
- 1001.310 Definitions
- 1001.320 Right to Representation
- 1001.330 [Record](#)~~Records~~ and Reports
- 1001.340 Location of Hearings
- 1001.350 Duties and Responsibilities
- 1001.360 Decisions; Time Limits on Obtaining Relief
- 1001.370 Invalidity

SUBPART D: STANDARDS FOR THE GRANTING OF RESTRICTED DRIVING PERMITS, REINSTATEMENT, AND THE TERMINATION OF CANCELLATIONS OF DRIVING PRIVILEGES BY THE OFFICE OF THE SECRETARY OF STATE

Section

- 1001.400 Applicability; Statement of Principle and Purpose
- 1001.410 Definitions
- 1001.420 General Provisions Relating to the Issuance of Restricted Driving Permits
- 1001.430 General Provisions for Reinstatement of Driving Privileges after Revocation
- 1001.440 Provisions for Alcohol and Drug Related Revocations, Suspensions, and Cancellations
- 1001.441 Procedures for Breath Alcohol Ignition Interlock Device Conditioned RDPs
- 1001.442 BAIID Providers Qualification Procedures and Responsibilities; Certification of Breath Alcohol Ignition Interlock Devices; Inspections; BAIID Installer's Responsibilities; Disqualification of a BAIID Provider
- 1001.443 Breath Alcohol Ignition Interlock Device Multiple Offender – Compliance with Interlock Program
- 1001.444 Monitoring Device Driving Permit (MDDP) Provisions

[EMERGENCY](#)

- 1001.450 New Hearings
- 1001.460 Requests for Modification of Revocations and Suspensions
- 1001.470 Renewal, Correction and Cancellation of RDPs
- 1001.480 Unsatisfied Judgment Suspensions
- 1001.485 Reinstatement Application Based Upon Issuance of Drivers License in a State Which is a Member of the Driver License Compact
- 1001.490 Invalidity

SUBPART E: FORMAL MEDICAL HEARINGS

SECRETARY OF STATE

NOTICE OF EMERGENCY AMENDMENT

Section

1001.500	Applicability
1001.510	Definitions
1001.520	Procedure
1001.530	Conduct of Medical Formal Hearings
1001.540	Subsequent Hearings

SUBPART F: ZERO TOLERANCE SUSPENSION OF DRIVING PRIVILEGES;
PERSONS UNDER THE AGE OF 21 YEARS; IMPLIED CONSENT
HEARINGS; RESTRICTED DRIVING PERMITS

Section

1001.600	Applicability
1001.610	Definitions
1001.620	Burden of Proof
1001.630	Implied Consent Hearings; Religious Exception
1001.640	Implied Consent Hearings; Medical Exception
1001.650	Rebuttable Presumption
1001.660	Alcohol and Drug Education and Awareness Program
1001.670	Petitions Petition for Restricted Driving Permits
1001.680	Form and Location of Hearings
1001.690	Invalidity

SUBPART G: MOTOR VEHICLE FRANCHISE ACT

Section

1001.700	Applicability
1001.710	Definitions
1001.720	Organization of Motor Vehicle Review Board
1001.730	Motor Vehicle Review Board Meetings
1001.740	Board Fees
1001.750	Notice of Protest
1001.760	Hearing Procedures
1001.770	Conduct Of Protest Hearing
1001.780	Mandatory Settlement Conference
1001.785	Technical Issues
1001.790	Hearing Expenses; Attorney's Fees
1001.795	Invalidity

SECRETARY OF STATE

NOTICE OF EMERGENCY AMENDMENT

1001.APPENDIX A BAIID Regions and Minimum Installation/Service Center Site Location Guidelines (Repealed)

AUTHORITY: Subpart A implements Sections 2-113, 2-118, 6-108, 6-205, and 6-206 and is authorized by Sections 2-103 and 2-104 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 6-108, 6-205 and 6-206]. Subpart B implements Chapter 7 and is authorized by Sections 2-103, 2-104, 2-106, 2-107, 2-108, 2-113, and 2-114, and Ch. 7 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-106, 2-107, 2-108, 2-113, 2-114 and Ch. 7]. Subpart C implements Sections 6-205(c) and 6-206(c)3 and is authorized by Sections 2-103 and 2-104 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 6-205(c) and 6-206(c)3]. Subpart D is authorized by Sections 2-104 and 11-501 of the Illinois Vehicle Code and implementing Sections 6-103, 6-205(c), 6-206(c)3, and 6-208 of the Illinois Vehicle Code [625 ILCS 5/2-104, 6-103, 6-205(c), 6-206(c)3, 6-208 and 11-501]. Subpart E implements Sections 2-113, 2-118, 2-123, 6-103, 6-201, 6-906, and 6-908 and is authorized by Sections 2-103, 2-104, 6-906, and 6-909 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 2-123, 6-103, 6-201, 6-906, 6-908 and 6-909]. Subpart F implements Sections 2-113, 2-118, 6-208.2, 11-501.1, and 11-501.8 and is authorized by Sections 2-103, 2-104, and 11-501.8 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 6-208.2, 11-501.1 and 11-501.8]. Subpart G implements and is authorized by the Motor Vehicle Franchise Act [815 ILCS 710].

SOURCE: Adopted and codified at 7 Ill. Reg. 7501, effective June 17, 1983; amended at 8 Ill. Reg. 4220, effective April 1, 1984; emergency amendment at 9 Ill. Reg. 17030, effective October 18, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 4558, effective March 18, 1986; amended at 11 Ill. Reg. 17844, effective October 15, 1987; amended at 13 Ill. Reg. 15803, effective October 1, 1989; amended at 14 Ill. Reg. 2601, effective February 15, 1990; amended at 14 Ill. Reg. 16041, effective October 1, 1990; emergency amendment at 16 Ill. Reg. 19926, effective December 8, 1992, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 2047, effective January 27, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 6274, effective May 1, 1993; amended at 17 Ill. Reg. 8528, effective June 1, 1993; emergency amendment at 18 Ill. Reg. 7916, effective May 10, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 15127, effective September 21, 1994; emergency amendment at 19 Ill. Reg. 54, effective January 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 6667, effective May 1, 1995; emergency amendment at 20 Ill. Reg. 1626, effective January 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 8328, effective June 12, 1996; emergency amendment at 20 Ill. Reg. 9355, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15773, effective November 28, 1996; amended at 23 Ill. Reg. 692, effective January 15, 1999; amended at 24 Ill. Reg. 19257, effective December 15, 2000; expedited correction at 25 Ill. Reg. 7352, effective December 15, 2000; emergency amendment at 25 Ill. Reg. 13790, effective October 15, 2001, for a maximum of 150 days; emergency expired on March 13, 2002;

SECRETARY OF STATE

NOTICE OF EMERGENCY AMENDMENT

emergency amendment at 25 Ill. Reg. 14979, effective November 9, 2001, for a maximum of 150 days; emergency expired on April 7, 2002; amended at 26 Ill. Reg. 9380, effective June 13, 2002; amended at 26 Ill. Reg. 13347, effective August 21, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 14706, effective September 20, 2002, for a maximum of 150 days; emergency expired on February 16, 2003; amended at 27 Ill. Reg. 5969, effective March 31, 2003; amended at 27 Ill. Reg. 13577, effective August 1, 2003; amended at 28 Ill. Reg. 12123, effective September 1, 2004; amended at 28 Ill. Reg. 15804, effective November 19, 2004; amended at 31 Ill. Reg. 6185, effective May 1, 2007; amended at 31 Ill. Reg. 14837, effective November 1, 2007; amended at 33 Ill. Reg. 282, effective January 1, 2009; emergency amendment at 35 Ill. Reg. 3848, effective February 15, 2011, for a maximum of 150 days.

SUBPART D: STANDARDS FOR THE GRANTING OF RESTRICTED DRIVING PERMITS, REINSTATEMENT, AND THE TERMINATION OF CANCELLATIONS OF DRIVING PRIVILEGES BY THE OFFICE OF THE SECRETARY OF STATE

Section 1001.444 Monitoring Device Driving Permit (MDDP) Provisions

- a) ~~Order of the Court~~-Breath Alcohol Ignition Interlock Device (BAIID) Required for Issuance; Fee Required
- 1) The Secretary shall notify a first offender (MDDP offender), as defined in Section 11-500 of the IVC, that he or she will be issued an MDDP unless the Secretary receives, from the court of venue, an opt-out form, prescribed by the Secretary, that has been signed by the offender and filed with the court. The issuance of the MDDP shall be conditioned on the issuance of an MDDP to a first offender (MDDP offender), as defined in Section 11-500 of the IVC, shall be conditioned upon receipt by the Secretary of an order from the court of venue, on a form prescribed by the Secretary, and the installation and use of a BAIID in any vehicle operated, as required by Section 6-206.1 of the IVC. Only BAIIDs certified by the Secretary under Section 1001.442 of this Part may be utilized. As provided in Section 6-206.1 of the IVC, an MDDP offender must pay a non-refundable fee in an amount equal to \$30 per month times the number of months or any portion of a month remaining on the statutory summary suspension at the time the Secretary issues of the receipt in the office of the Secretary of the order to issue the MDDP from the court. No fee will be charged for any month in which the Secretary issues the MDDP court order is received in the office of the Secretary on or after the 20th day of that month. This total, one time payment for each MDDP issued must be

SECRETARY OF STATE

NOTICE OF EMERGENCY AMENDMENT

paid in advance and prior to the issuance of the MDDP. Payment must be submitted in the form of a money order, check or credit card charge (with a pre-approved card), made payable to the Secretary of State.

- 2) Any MDDP ~~holder offender~~ whose summary suspension is extended or who is re-suspended as provided for in Section 6-206.1 and who applies for and obtains an extension or re-issuance of an MDDP, shall likewise be required to pay the non-refundable fee for the length of the period of extension or re-suspension under the same terms and conditions as stated in subsection (a)(1). Any such suspension will not be terminated until payment of any and all fees due under this Section is made.
- 3) Any MDDP offender whose driving privileges are otherwise suspended, revoked, cancelled or become otherwise invalid is not eligible to receive an MDDP.
- 4) Any MDDP shall be invalid and must be surrendered to the Secretary if an MDDP ~~holder's offender's~~ driving privileges subsequently are suspended, revoked, cancelled or become otherwise invalid under any provision of the IVC, during the issuance period of the MDDP. This includes a conviction and subsequent revocation of driving privileges for the DUI arrest that resulted in the issuance of the MDDP. The MDDP offender may petition, at a formal hearing conducted pursuant to Section 2-118 of the IVC, for a restricted driving permit during the period of suspension, revocation, cancellation or invalidation, if available pursuant to the IVC. In order to obtain a restricted driving permit pursuant to this Section, the MDDP offender must also satisfy the other provisions of this Part. Further, should a restricted driving permit be granted, the MDDP offender may only operate vehicles in which a properly working BAIID has been installed and is subject to all of the provisions of the BAIID program~~this Section~~.
- 5) Any MDDP ~~holder offender~~ whose MDDP is invalidated as provided in subsection (a)(4), except those MDDP ~~holders offenders~~ cancelled under Section 6-206.1(c-1) of the IVC, may obtain another MDDP upon termination of the sanction that led to the invalidation as long as the offender is still eligible for an MDDP. The offender must notify the Secretary in writing and submit the statutory permit fee. Upon issuance of an MDDP, the MDDP ~~holder offender~~ is subject to all of the provisions of this Section.

SECRETARY OF STATE

NOTICE OF EMERGENCY AMENDMENT

- 6) The MDDP ~~holder offender~~ may voluntarily terminate participation in the MDDP program by written notification and surrender of the permit to the Secretary's BAIID Division. This voluntary termination does not in any way affect any sanction imposed under this Section. An offender may also resume participation by notifying the BAIID Division in writing, but may do so only once during the term of the suspension, extension or re-suspension due to a violation of the program.
- b) Compliance – Installation of BAIID/Notification to the Secretary
- 1) The MDDP ~~HolderOffender~~. Upon the issuance of an MDDP under this Section, the Secretary shall make available a list of certified BAIID providers to the MDDP ~~holderoffender~~. The MDDP ~~holder offender~~ may operate the vehicle for 14 days from the issuance date stated on the MDDP without the BAIID installed only for the purpose of taking the vehicle to a BAIID provider or installer for installation of the BAIID. Failure to comply with this requirement will result in the cancellation of the MDDP issued.
 - 2) The Installer/BAIID Provider. A BAIID provider or installer must:
 - A) Be qualified and comply with all of the procedures and responsibilities set forth in Section 1001.442 of this Part;
 - B) Upon installation, notify the Secretary, in a manner and form specified by the Secretary, that a BAIID has been installed in the vehicles designated by the MDDP offender within 7 days from the date of the installation of the BAIID:
 - C) Upon notification from the MDDP ~~holderoffender~~, as evidenced by the written form from the ~~Secretary court of venue~~ that the MDDP ~~holder offender~~ has been found to be indigent, not charge the MDDP ~~holder offender~~ for any installation, monthly monitoring, deinstallation fees, or a security deposit that exceeds one month's BAIID rental fee. This waiver of charges and fees is limited to one vehicle per MDDP holder.

SECRETARY OF STATE

NOTICE OF EMERGENCY AMENDMENT

- D) Upon request, make records available to ensure compliance with the required payments to and reimbursements from the Indigent BAIID Fund.
- c) Compliance – Driving with BAIID. Any MDDP offender receiving a MDDP under this Section must comply with the following requirements:
- 1) Operate only vehicles with an installed, operating BAIID certified by the Secretary whether the vehicle is owned, rented, leased, loaned, or otherwise in the possession of the MDDP ~~holder~~offender, as required by the MDDP issued under this Section.
 - 2) Either take any and all vehicles operated by the MDDP ~~holder~~ offender and with a BAIID installed or send the device to the BAIID provider or installer at least every 60 days, which shall be referred to as the monitoring period, commencing with the date of installation, for the purposes of calibration and having a monitor report of the BAIID's activity prepared and sent to the Secretary by the BAIID provider or installer. The monitoring period will be 30 days for any MDDP ~~holder~~ offender whose summary suspension is extended or who is re-suspended for a violation of the MDDP program.
 - 3) Either take the vehicle with the BAIID installed or send the device to the BAIID provider or installer as instructed for a monitor report within 5 working days after any service or inspection notification.
 - 4) Maintain a journal of events surrounding unsuccessful attempts to start the vehicle, failures to successfully complete a running retest, or any problems with the BAIID and the name of the driver operating the vehicle at the time of the event. If BAIIDs have been installed on multiple vehicles, a separate journal must be kept for each vehicle.
 - 5) Shall not have a BAIID removed or deinstalled from vehicles without authorization from the Secretary and when, applicable, surrendering to the Secretary or his designee the MDDP.
 - 6) Shall not commit any of the violations listed in subparagraph (d) of this Section.

SECRETARY OF STATE

NOTICE OF EMERGENCY AMENDMENT

- d) Violations. Any of the following, when committed by an MDDP [holder/offender](#), constitutes a violation of the MDDP program:
- 1) A conviction or court supervision for any of the offenses listed in Section 6-206.1(c-1) of the IVC;
 - 2) Tampering or attempting to tamper with, or unauthorized circumvention of, the BAIID;
 - 3) A violation of Section 6-206.2 of the IVC;
 - 4) 10 or more unsuccessful attempts to start the vehicle with a BAIID installed within a 30 day period, excluding a BrAC reading of 0.05 or more;
 - 5) 5 or more unsuccessful attempts to start the vehicle within a 24 hour period, excluding a BrAC reading of 0.05 or more;
 - 6) A BrAC reading of 0.05 or more;
 - 7) Failing a running retest, or failing to take a running retest;
 - 8) Removing the BAIID without authorization from the Secretary;
 - 9) Failing to utilize the BAIID as required;
 - 10) Failing to submit a BAIID for a monitor report in a timely manner.
- e) Sanctions Upon Commission of a Violation. Upon notification of any of the violations in subsection (d), the Secretary shall take the following action:
- 1) For a conviction or court supervision for any of the offenses listed in Section 6-206.1(c-1) of the IVC, [or a notification from a BAIID provider or installer that a physical inspection of any BAIID permittee's vehicle showed any tampering with or unauthorized circumvention of the device](#), immediately cancel the MDDP and authorize the immediate removal/deinstallation of the BAIID. If the MDDP had expired prior to the Secretary receiving notification of the conviction, supervision or violation, the Secretary shall re-suspend the MDDP offender as provided

SECRETARY OF STATE

NOTICE OF EMERGENCY AMENDMENT

for in Section 6-206.1(l) of the IVC. [The MDDP offender may then file a petition for the issuance of an RDP. The MDDP offender must have a formal hearing pursuant to IVC Section 2-118 and satisfy all the requirements of this Subpart D in order to obtain the permit.](#)

- 2) For any MDDP ~~holder offender~~ whose monitor report, ~~physical inspection by an installer or the Secretary of State~~, or other sufficient evidence shows any violation of Section 6-206.2, send the MDDP ~~holder offender~~ a letter asking for an explanation of the tampering or unauthorized circumvention. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that no violation occurred, no further action will be taken. If a response is not received within 21 days or does not reasonably assure the Secretary, the Secretary shall immediately cancel the MDDP. If the summary suspension is already terminated prior to the Secretary receiving the monitor report/physical inspection showing the violation, the Secretary shall re-suspend for 3 months.
- 3) For any MDDP ~~holder offender~~ whose monitor report shows: 10 or more unsuccessful attempts to start the vehicle with a BAIID installed, within a 30 day period; or 5 or more unsuccessful attempts to start the vehicle with a BAIID installed, within a 24 hour period; or any single BrAC reading of 0.05 or more, send the MDDP ~~holder offender~~ a letter asking for an explanation of the unsuccessful attempts to start the vehicle or the BrAC reading. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that no violation occurred, no further action will be taken. If a response is not received within 21 days or does not reasonably assure the Secretary, the Secretary shall extend the summary suspension for 3 months. If the summary suspension is already terminated prior to the Secretary receiving the monitor report showing the violation, the Secretary shall re-suspend for 3 months. Should any monitor report show multiple violations, each violation provided for in this subsection shall be a separate violation requiring a separate 3 month extension or re-suspension.
- 4) For any MDDP ~~holder offender~~ whose monitor reports show a failure to successfully complete a running retest, send the MDDP ~~holder offender~~ a letter asking for an explanation of the failure to successfully complete a running retest. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that no

SECRETARY OF STATE

NOTICE OF EMERGENCY AMENDMENT

violation occurred, no further action will be taken. If a response is not received within 21 days or does not reasonably assure the Secretary, the Secretary shall extend the summary suspension for 3 months. If the summary suspension is already terminated prior to the Secretary receiving the monitor report showing the violation, the Secretary shall re-suspend for 3 months.

- 5) For a removal/deinstallation of a BAIID without authorization, including a removal or deinstallation caused by the MDDP ~~holder's offender's~~ failure to pay lease or rental fees due to the BAIID provider, the Secretary shall immediately cancel the MDDP.
- 6) For a failure to utilize the BAIID by the MDDP ~~holder offender~~ as required, the Secretary shall extend the summary suspension for 3 months. If the summary suspension is already terminated prior to the Secretary receiving the monitor report showing the violation, the Secretary shall re-suspend for 3 months.
- 7) For a failure to submit a BAIID for a monitor report in a timely manner, the following procedure will be followed: unless notified by a BAIID provider that the BAIID has been removed, all monitor reports shall be submitted to the Secretary within 37 days after installation and within every 37 days thereafter. If the Secretary fails to receive an MDDP ~~holder's offender's~~ monitor reports within the 37 days, the Secretary will conduct an informal inquiry (will attempt to contact the BAIID provider and MDDP ~~holder offender~~ by telephone or e-mail) for the purpose of determining the cause for this failure. If it is determined or if it appears that the MDDP ~~holder offender~~ failed to take in a vehicle with the BAIID or send the device in for timely monitor reports, then the Secretary will send a letter to the MDDP ~~holder offender~~ stating that, if the BAIID is not taken in for a monitor report within 10 days after the date of the letter, the Secretary will extend the summary suspension for 3 months, or, if the summary suspension is already terminated prior to the Secretary receiving the monitor report showing the violation, the Secretary will re-suspend for 3 months. If the MDDP holder cannot be located or does not respond to the Secretary's request for information, the MDDP shall be cancelled or, if the MDDP has expired, the Secretary shall re-suspend the MDDP as provided for in IVC Section 6-206.1(l).

SECRETARY OF STATE

NOTICE OF EMERGENCY AMENDMENT

- 8) Violations detected in any one monitoring period shall not, however, result in extensions or re-suspensions totaling more than six months.
- 9) If the MDDP holder is re-suspended for a violation that was not reported to the Secretary until after the termination of the MDDP holder's summary suspension, the MDDP holder may obtain another MDDP by notifying the Secretary in writing and submitting all required fees.
- f) Hearing to Contest Cancellation of MDDP or Extension of the Summary Suspension. Any MDDP ~~holder offender~~ whose summary suspension is extended or re-suspended, or whose MDDP is cancelled as provided for in this Section, may request a hearing to contest that action. A written request, along with the \$50 filing fee, must be received or postmarked within 30 days from the effective date of the ~~notice of~~ extension, re-suspension or cancellation ~~was mailed by the Secretary~~. The hearing will be conducted as any other formal hearing under this Part.
- g) MDDPs – Content. Any MDDPs issued as provided for in this Section shall, in addition to all other requirements, state at a minimum that:
- 1) The MDDP is issued pursuant to the BAIID requirements of this Section and that a vehicle operated by an MDDP ~~holder offender~~ must be equipped with a certified, installed, properly operating BAIID;
 - 2) The provisions of the MDDP also allow the MDDP ~~holder offender~~ to drive to and from the BAIID provider or installer for the purpose of installing the BAIID within 14 days after the issuance date on the MDDP;
 - 3) Once the BAIID is installed, the MDDP ~~holder offender~~ may drive the vehicle with the BAIID properly installed for any purpose and at any time;
 - 4) If applicable, the MDDP ~~holder offender~~ qualifies for any modification or waiver of BAIID, as provided in subsection (i), or employment exemption from BAIID, as provided in subsection (j).
- h) Use of Monitor Reports. The Secretary shall gather all monitor reports and any other information relative to the MDDP ~~holder's offender's~~ performance and compliance with the BAIID requirements under this Subpart D. The reports may

SECRETARY OF STATE

NOTICE OF EMERGENCY AMENDMENT

be used as evidence at any administrative hearing conducted by the Secretary under this Part.

- i) Modification or Waiver of BAIID. Upon request of the MDDP ~~holder~~~~offender~~, the Secretary may consider a medical or physical BAIID modification or waiver for an MDDP issued under this Section. The MDDP ~~holder~~ ~~offender~~ must:
 - 1) Submit a medical report establishing the inability to utilize the BAIID.
 - 2) Have a hearing, pursuant to Subpart A, at which the MDDP ~~holder~~ ~~offender~~ must prove compliance with the alcohol/drug requirements under this Subpart D.
- j) Employment Exemption from BAIID Requirements. In determining whether an MDDP ~~holder~~ ~~offender~~ is exempt from the BAIID requirements pursuant to the waiver provided for in Section 6-206.1 of the IVC, the following shall apply:
 - 1) The term "employer" shall not include an entity owned or controlled in whole or in part by the MDDP ~~holder~~ ~~offender~~ or any member of the MDDP ~~holder's~~ ~~offender's~~ immediate family, unless the entity is a corporation and the MDDP ~~holder~~ ~~offender~~ and the MDDP ~~holder's~~ ~~offender's~~ immediate family own a total of less than 5% of the outstanding shares of stock in the corporation. Immediate family shall include spouse, children, children's spouses, parents, spouse's parents, siblings, siblings' spouses and spouse's siblings;
 - 2) The exemption shall not apply when the employer's vehicle is assigned exclusively to the MDDP ~~holder~~ ~~offender~~ and used solely for commuting to and from employment;
 - 3) This exemption is subject to termination if the Secretary obtains or receives credible evidence that it is being abused or violated by the MDDP holder, such as, but not limited to, driving outside the scope of his or her employment, or driving the employer's vehicle from his or her residence to the place of employment. Upon obtaining or receiving credible evidence of the abuse or violation of an exemption, the Secretary shall send the MDDP holder a letter that requests a response to the evidence. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that an abuse or a violation did not

SECRETARY OF STATE

NOTICE OF EMERGENCY AMENDMENT

occur, no further action will be taken. If a response is not received within 21 days or does not reasonably assure the Secretary, the Secretary shall immediately terminate the exemption;

- 4) The Secretary will also inform the MDDP holder whose employment exemption is terminated that he or she remains eligible to have an interlock device installed in his or her personal vehicle and the employer's vehicle without a hearing. Failure to have the device installed by the date designated by the Secretary will result in the termination of the MDDP offender's monitoring device driving permit;
- 5) The denial of an exemption and the termination of an exemption may be contested pursuant to Section 1001.441(k);
- 6) An exemption also will be granted to an MDDP holder who can prove that his or her duties include test driving vehicles not owned by the permittee. The exemption will be limited to this purpose, and to no more than a 5 mile radius from the permittee's place of employment.

- k) Disqualification/Decertification of BAIID Provider and BAIID Device. The Secretary must notify the MDDP ~~holder offender~~ of the disqualification of a BAIID provider or the decertification of a particular type of BAIID. The MDDP ~~holder offender~~ must then select a new BAIID provider or type of BAIID from the list of approved BAIID providers maintained by the Secretary. The MDDP ~~holder offender~~ must inform the Secretary of that selection within 7 days after the receipt of notification from the Secretary. The MDDP ~~holder offender~~ must complete registration with a new BAIID provider and/or installation of a new BAIID within 21 days after the receipt of the notification from the Secretary. Failure to complete these steps within the 21-day period may result in cancellation of the MDDP ~~holder's offender's~~-MDDP. All costs related to any change in a BAIID provider or a BAIID shall be paid by the MDDP ~~holder offender~~, unless the court has deemed the MDDP ~~holder offender~~ indigent.

- l) Indigent BAIID Fund

- 1) Any BAIID provider who installs a BAIID under the MDDP program must pay 5% of the total gross revenue received by each contract entered into with an MDDP ~~holder offender~~ who is not found to be indigent by the

SECRETARY OF STATE

NOTICE OF EMERGENCY AMENDMENT

~~Secretary court of venue, hereinafter~~ referred to in this subsection as the surcharge.

- A) The surcharge shall include only those fees normally charged an MDDP ~~holder offender~~ for installation, monthly rental and monitoring, and deinstallation of the BAIID during the term of the MDDP ~~holder's offender's~~ statutory summary suspension.
 - B) The surcharge shall be submitted to the Secretary by the 15th of each month and shall include all surcharges incurred during the previous month. The surcharge must be submitted in the form of a check, made payable to the Secretary of State, or by electronic transfer as agreed to by the Secretary and the BAIID Provider.
 - C) Should the summary suspension of an MDDP ~~holder offender~~ be extended or a re-suspension issued under the MDDP program and the ~~holder offender~~ continue to participate in the program, the surcharge is due for the period of extension or re-suspension.
- 2) Any BAIID provider who installs a BAIID under the MDDP program for an MDDP ~~holder offender~~ who has been found to be indigent by the ~~Secretary court of venue~~ may apply for reimbursement for any fees incurred as set out in subsection (b)(2)(C). The request must be in a form and in the manner prescribed by the Secretary. The Secretary will authorize payments in accordance with Section 6-206.1(o) of the IVC.
 - 3) The Secretary may audit the records of BAIID providers or installers to ensure compliance with the required payments to and reimbursements from the Indigent BAIID Fund.
 - 4) An MDDP offender may be declared indigent by the Secretary if:
 - A) The MDDP offender's total monthly income is 150% or less of the federal poverty guidelines, as evidenced by a copy of a United States or State of Illinois tax return for the most recently completed calendar year; or
 - B) The MDDP offender is currently receiving Temporary Assistance to Needy Families (TANF) benefits, as evidenced by

SECRETARY OF STATE

NOTICE OF EMERGENCY AMENDMENT

documentation from the Illinois Department of Human Services;
or

C) The MDDP offender is currently receiving Supplemental Nutrition Assistance Program (SNAP) benefits, as evidenced by documentation from the Illinois Department of Human Services.

5) An MDDP holder's indigency status shall be valid for a period of 12 months. Any MDDP holder whose summary suspension is extended beyond 12 months, who wishes to continue participation in the MDDP program and wishes to be declared indigent must submit current documentation as set forth in subsection (1)(4).

- m) Reciprocity with Other States. The Secretary will honor the BAIID requirements imposed by other states on Illinois drivers and drivers licensed in other states, for offenses committed in other states, and will reciprocate other states' recognition of BAIID requirements imposed by Illinois on drivers licensed in Illinois, or licensed in other states for offenses committed in Illinois.

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 3848, effective February 15, 2011)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
MARCH AGENDA

SCHEDULED MEETING:

STRATTON OFFICE BUILDING
ROOM C-1
SPRINGFIELD, ILLINOIS
MARCH 8, 2011

NOTICES: The scheduled date and time for the JCAR meeting are subject to change. Due to *Register* submittal deadlines, the Agenda below may be incomplete. Other items not contained in this published Agenda are likely to be considered by the Committee at the meeting and items from the list can be postponed to future meetings.

If members of the public wish to express their views with respect to a rulemaking, 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
Email: jcar@ilga.gov
Phone: 217/785-2254*

RULEMAKINGS CURRENTLY BEFORE JCAR

PROPOSED RULEMAKINGS

Auditor General

1. Purchases and Contracts (44 Ill. Adm. Code 500)
 - First Notice Published: 34 Ill. Reg. 18010 – 11/29/10
 - Expiration of Second Notice: 3/11/11

Commerce Commission

2. Rules of Practice (83 Ill. Adm. Code 200)
 - First Notice Published: 34 Ill. Reg. 4947 – 4/9/10
 - Expiration of Second Notice: 3/11/11
3. Standards of Service for Local Exchange Telecommunications Carriers (83 Ill. Adm. Code 730)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
MARCH AGENDA

- First Notice Published: 34 Ill. Reg. 7360 – 5/28/10
- Expiration of Second Notice: 3/11/11

4. Customer Credits (83 Ill. Adm. Code 732)
 - First Notice Published: 34 Ill. Reg. 4954 – 4/9/10
 - Expiration of Second Notice: 3/11/11

Corrections

5. Rights and Privileges (20 Ill. Adm. Code 525)
 - First Notice Published: 34 Ill. Reg. 17015 – 11/12/10
 - Expiration of Second Notice: 4/3/11

Education

6. Programs for the Preparation of Principals in Illinois (23 Ill. Adm. Code 30)
 - First Notice Published: 34 Ill. Reg. 14599 – 10/8/10
 - Expiration of Second Notice: 4/17/11

Employment Security

7. Freedom of Information (2 Ill. Adm. Code 1301)
 - First Notice Published: 34 Ill. Reg. 14729 – 10/8/10
 - Expiration of Second Notice: 3/31/11
8. Interstate and Federal Cooperation (56 Ill. Adm. Code 2714)
 - First Notice Published: 34 Ill. Reg. 14772 – 10/8/10
 - Expiration of Second Notice: 3/31/11
9. Claims, Adjudication, Appeals and Hearings (56 Ill. Adm. Code 2720)
 - First Notice Published: 34 Ill. Reg. 14778 – 10/8/10
 - Expiration of Second Notice: 3/31/11
10. Administrative Hearings and Appeals (56 Ill. Adm. Code 2725)
 - First Notice Published: 34 Ill. Reg. 14793 – 10/8/10
 - Expiration of Second Notice: 3/31/11
11. Notices, Records, Reports (56 Ill. Adm. Code 2760)
 - First Notice Published: 34 Ill. Reg. 14800 – 10/8/10
 - Expiration of Second Notice: 3/31/11

JOINT COMMITTEE ON ADMINISTRATIVE RULES
MARCH AGENDA

12. Recovery of Benefits (56 Ill. Adm. Code 2835)
 - First Notice Published: 34 Ill. Reg. 14812 – 10/8/10
 - Expiration of Second Notice: 3/31/11
13. Claimant's Availability for Work, Ability to Work and Active Search for Work (56 Ill. Adm. Code 2865)
 - First Notice Published: 34 Ill. Reg. 14818 – 10/8/10
 - Expiration of Second Notice: 3/31/11

Financial and Professional Regulation

14. Debt Management Service Act (38 Ill. Adm. Code 140)
 - First Notice Published: 34 Ill. Reg. 11955 – 8/20/10
 - Expiration of Second Notice: 4/13/11
15. Debt Settlement Consumer Protection Act (38 Ill. Adm. Code 145)
 - First Notice Published: 34 Ill. Reg. 11970 – 8/20/10
 - Expiration of Second Notice: 4/11/11
16. Real Estate License Act of 2000 (Repealer) (68 Ill. Adm. Code 1450)
 - First Notice Published: 34 Ill. Reg. 15949 – 10/22/10
 - Expiration of Second Notice: 3/10/11
17. Real Estate License Act of 2000 (68 Ill. Adm. Code 1450)
 - First Notice Published: 34 Ill. Reg. 16062 – 10/22/10
 - Expiration of Second Notice: 3/10/11

Healthcare and Family Services

18. Rights and Responsibilities (89 Ill. Adm. Code 102)
 - First Notice Published: 34 Ill. Reg. 11655 – 8/3/10
 - Expiration of Second Notice: 4/3/11
19. Medical Assistance Programs (89 Ill. Adm. Code 120)
 - First Notice Published: 34 Ill. Reg. 11664 – 8/13/10
 - Expiration of Second Notice: 4/3/11
20. Long Term Care Reimbursement Changes (89 Ill. Adm. Code 153)
 - First Notice Published: 34 Ill. Reg. 17132 – 11/12/10

JOINT COMMITTEE ON ADMINISTRATIVE RULES
MARCH AGENDA

-Expiration of Second Notice: 3/31/11

Human Services

21. General Administrative Provisions (89 Ill. Adm. Code 10)
 - First Notice Published: 34 Ill. Reg. 13579 – 9/24/10
 - Expiration of Second Notice: 3/10/11
22. Supplemental Nutrition Assistance Program (SNAP) (89 Ill. Adm. Code 121)
 - First Notice Published: 34 Ill. Reg. 13597 – 9/24/10
 - Expiration of Second Notice: 3/10/11

Insurance

23. Unearned Premium Reserve Computation (Repealer) (50 Ill. Adm. Code 911)
 - First Notice Published: 34 Ill. Reg. 12301 – 8/27/10
 - Expiration of Second Notice: 3/10/11
24. Life Reinsurance Agreements (50 Ill. Adm. Code 1103)
 - First Notice Published: 34 Ill. Reg. 12304 – 8/27/10
 - Expiration of Second Notice: 3/10/11
25. Mandatory Child Only Open Enrollment Period for Individual Market Carriers (50 Ill. Adm. Code 5410)
 - First Notice Published: 34 Ill. Reg. 17917 – 11/29/10
 - Expiration of Second Notice: 4/1/11

Public Health

26. Hospital Licensing Requirements (77 Ill. Adm. Code 250)
 - First Notice Published: 34 Ill. Reg. 15127 – 10/8/10
 - Expiration of Second Notice: 3/16/10
27. Birth Center Demonstration Program Code (77 Ill. Adm. Code 265)
 - First Notice Published: 34 Ill. Reg. 12012 – 8/20/10
 - Expiration of Second Notice: 3/19/11
28. Emergency Medical Services and Trauma Center Code (77 Ill. Adm. Code 515)
 - First Notice Published: 34 Ill. Reg. 19368 – 12/17/10
 - Expiration of Second Notice: 3/31/11

JOINT COMMITTEE ON ADMINISTRATIVE RULES
MARCH AGENDA

29. Swimming Facility Code (77 Ill. Adm. Code 820)
-First Notice Published: 35 Ill. Reg. 5562 – 4/16/10
-Expiration of Second Notice: 3/30/11

Secretary of State

30. Illinois State Library Grant Programs (23 Ill. Adm. Code 3035)
-First Notice Published: 34 Ill. Reg. 18954 – 12/3/10
-Expiration of Second Notice: 3/11/11

State Fire Marshal

31. Illinois Elevator Safety Rules (41 Ill. Adm. Code 1000)
-First Notice Published: 34 Ill. Reg. 8872 – 7/9/10
-Expiration of Second Notice: 3/11/11

EMERGENCY RULEMAKINGS

Employment Security

32. Disqualifying Income and Reduced Benefits (56 Ill. Adm. Code 2920)
-Notice Published: 35 Ill. Reg. 2801 – 2/14/11

Racing Board

33. Medication (11 Ill. Adm. Code 603)
-Notice Published: 35 Ill. Reg. 2810 – 2/14/11

Secretary of State

34. Lobbyist Registration and Reports (2 Ill. Adm. Code 560)
-Notice Published: 35 Ill. Reg. 2424 – 2/4/11

PEREMPTORY RULEMAKINGS

Central Management Services

35. Pay Plan (80 Ill. Adm. Code 310)
-Notice Published: 35 Ill. Reg. 2465 – 2/4/11

JOINT COMMITTEE ON ADMINISTRATIVE RULES
MARCH AGENDA

80-310-11-03577P ES

36. Pay Plan (80 Ill. Adm. Code 310)
-Notice Published: 35 Ill. Reg. 3577 – 2/25/11

EXEMPT RULEMAKINGS

Emergency Management Agency

37. General Provisions for Radiation Protection (32 Ill. Adm. Code 310)
-Proposed Date: 10/29/10
-Adopted Date: 2/18/11
38. Licensing of Radioactive Material (32 Ill. Adm. Code 330)
-Proposed Date: 11/12/10
-Adopted Date: 2/18/11

AGENCY RESPONSES

Central Management Services

39. Joint Rules of the Comptroller and the Department of Central Management Services:
Prompt Payment (74 Ill. Adm. Code 900; 34 Ill. Reg. 16587)

Comptroller

40. Joint Rules of the Comptroller and the Department of Central Management Services:
Prompt Payment (74 Ill. Adm. Code 330; 34 Ill. Reg. 16593)

Executive Ethics Commission

41. Organization, Information, Rulemaking and Hearings (2 Ill. Adm. Code 1620; 35 Ill. Reg. 563)

Procurement Policy Board

42. General Policies (2 Ill. Adm. Code 3002; 35 Ill. Reg. 1146)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of February 15, 2011 through February 21, 2011 and have been scheduled for review by the Committee at its March 8, 2011 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
3/31/11	<u>Department of Employment Security, Freedom of Information (2 Ill. Adm. Code 1301)</u>	10/8/10 34 Ill. Reg. 14729	3/8/11
3/31/11	<u>Department of Employment Security, Interstate and Federal Cooperation (56 Ill. Adm. Code 2714)</u>	10/8/10 34 Ill. Reg. 14772	3/8/11
3/31/11	<u>Department of Employment Security, Claims, Adjudication, Appeals and Hearings (56 Ill. Adm. Code 2720)</u>	10/8/10 34 Ill. Reg. 14778	3/8/11
3/31/11	<u>Department of Employment Security, Administrative Hearings and Appeals (56 Ill. Adm. Code 2725)</u>	10/8/10 34 Ill. Reg. 14793	3/8/11
3/31/11	<u>Department of Employment Security, Notices, Records, Reports (56 Ill. Adm. Code 2760)</u>	10/8/10 34 Ill. Reg. 14800	3/8/11
3/31/11	<u>Department of Employment Security, Recovery of Benefits (56 Ill. Adm. Code 2835)</u>	10/8/10 34 Ill. Reg. 14812	3/8/11
3/31/11	<u>Department of Employment Security, Claimant's Availability for Work, Ability to Work and Active Search for Work (56 Ill. Adm. Code 2865)</u>	10/8/10 34 Ill. Reg. 14818	3/8/11

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

3/31/11	<u>Department of Healthcare and Family Services,</u> Long Term Care Reimbursement Changes (89 Ill. Adm. Code 153)	11/12/10 34 Ill. Reg. 17132	3/8/11
3/31/11	<u>Department of Public Health,</u> Emergency Medical Services and Trauma Center Code (77 Ill. Adm. Code 515)	12/17/10 34 Ill. Reg. 19368	3/8/11
4/1/11	<u>Department of Insurance,</u> Mandatory Child Only Open Enrollment Period for Individual Market Carriers (50 Ill. Adm. Code 5410)	11/29/10 34 Ill. Reg. 17917	3/8/11
4/3/11	<u>Department of Healthcare and Family Services,</u> Rights and Responsibilities (89 Ill. Adm. Code 102)	8/13/10 34 Ill. Reg. 11655	3/8/11
4/3/11	<u>Department of Healthcare and Family Services,</u> Medical Assistance Programs (89 Ill. Adm. Code 120)	8/13/10 34 Ill. Reg. 11664	3/8/11
4/3/11	<u>Department of Corrections,</u> Rights and Privileges (20 Ill. Adm. Code 525)	11/12/10 34 Ill. Reg. 17015	3/8/11

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 35, Issue 10 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

PROPOSED RULES

68 - 1155	.....	3654
56 - 300	.....	3663
92 - 1001	.....	3666
23 - 1	.....	3668
23 - 350	.....	3690

ADOPTED RULES

44 - 750	2/18/2011	3695
17 - 710	2/16/2011	3705
23 - 228	2/17/2011	3735
23 - 235	2/17/2011	3742
23 - 575	2/17/2011	3770
80 - 1650	2/18/2011	3781

EMERGENCY RULES

74 - 900	2/16/2011	3792
2 - 1620	2/17/2011	3797
56 - 300	2/22/2011	3805
74 - 330	2/16/2011	3840
2 - 3002	.....	3843
92 - 1001	2/15/2011	3848

ORDER FORM

<input type="checkbox"/> Electronic Version of the Illinois Register (E-mail Address Required) <input type="checkbox"/> New <input type="checkbox"/> Renewal	\$290.00 (annually)
<input type="checkbox"/> Back Issues of the Illinois Register (2009 Only) Volume # _____ Issue# _____ Date _____	\$ 10.00 (each)
<input type="checkbox"/> Microfiche sets of the Illinois Register 1977 – 2003 Specify Year(s) _____	\$ 200.00 (per set)
<input type="checkbox"/> Cumulative/Sections Affected Indices 2003 - 2006 Specify Year(s) _____	\$ 5.00 (per set)
(Processing fee for credit cards purchases, if applicable.)	\$ 2.00
TOTAL AMOUNT OF ORDER	\$ _____

--	--

Check Make Checks Payable To: **Secretary of State**

<input type="checkbox"/> VISA <input type="checkbox"/> Master Card <input type="checkbox"/> Discover (There is a \$2.00 processing fee for credit card purchases.)
Card #: _____ Expiration Date: _____
Signature: _____

Send Payment To: Secretary of State
 Department of Index
 Administrative Code Division
 111 E. Monroe
 Springfield, IL 62756

Fax Order To: (217) 557-8919

Name:	Attention:	ID #:
Address:		
City:	State:	Zip Code:
Phone:	Fax:	E-Mail:

Published by **JESSE WHITE** • Secretary of State
www.cyberdriveillinois.com