
ILLINOIS

REGISTER



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INTRODUCTION

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

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

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

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

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2015

Issue#	Rules Due Date	Date of Issue
1	December 22, 2014	January 2, 2015
2	December 29, 2014	January 9, 2015
3	January 5, 2015	January 16, 2015
4	January 12, 2015	January 23, 2015
5	January 20, 2015	January 30, 2015
6	January 26, 2015	February 6, 2015
7	February 2, 2015	February 13, 2015
8	February 9, 2015	February 20, 2015
9	February 17, 2015	February 27, 2015
10	February 23, 2015	March 6, 2015
11	March 2, 2015	March 13, 2015
12	March 9, 2015	March 20, 2015
13	March 16, 2015	March 27, 2015
14	March 23, 2015	April 3, 2015
15	March 30, 2015	April 10, 2015
16	April 6, 2015	April 17, 2015
17	April 13, 2015	April 24, 2015
18	April 20, 2015	May 1, 2015
19	April 27, 2015	May 8, 2015
20	May 4, 2015	May 15, 2015
21	May 11, 2015	May 22, 2015

22	May 18, 2015	May 29, 2015
23	May 26, 2015	June 5, 2015
24	June 1, 2015	June 12, 2015
25	June 8, 2015	June 19, 2015
26	June 15, 2015	June 26, 2015
27	June 22, 2015	July 6, 2015
28	June 29, 2015	July 10, 2015
29	July 6, 2015	July 17, 2015
30	July 13, 2015	July 24, 2015
31	July 20, 2015	July 31, 2015
32	July 27, 2015	August 7, 2015
33	August 3, 2015	August 14, 2015
34	August 10, 2015	August 21, 2015
35	August 17, 2015	August 28, 2015
36	August 24, 2015	September 4, 2015
37	August 31, 2015	September 11, 2015
38	September 8, 2015	September 18, 2015
39	September 14, 2015	September 25, 2015
40	September 21, 2015	October 2, 2015
41	September 28, 2015	October 9, 2015
42	October 5, 2015	October 16, 2015
43	October 13, 2015	October 23, 2015
44	October 19, 2015	October 30, 2015
45	October 26, 2015	November 6, 2015
46	November 2, 2015	November 13, 2015
47	November 9, 2015	November 20, 2015
48	November 16, 2015	November 30, 2015
49	November 23, 2015	December 4, 2015
50	November 30, 2015	December 11, 2015
51	December 7, 2015	December 18, 2015
52	December 14, 2015	December 28, 2015

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Reports of Child Abuse and Neglect
- 2) Code Citation: 89 III. Adm. Code 300
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
300.20	Amendment
300.120	Amendment
- 4) Statutory Authority: Implementing and authorized by the Abused and Neglected Child Reporting Act [325 ILCS 5], the Abandoned Newborn Infants Protection Act [325 ILCS 2] and Section 3 of the Consent by Minors to Medical Procedures Act [410 ILCS 210/3]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments implement PA 97-1076 concerning sibling visitation and contact and comply with Section 7 of the C&FS Act.

Sections affected:

Rule 300.20 – Definition of "sibling" is broadened to comply with legislation. "Contact between siblings" and "visitation" are defined. Definitions that have been quoted verbatim from statute have been updated.

Rule 300.120 – Requires training for DCFS investigation staff regarding the importance of maintaining sibling relationships.

- 6) Published studies and reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand the State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

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

Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield IL 62701-1498

217/524-1983
Fax: 217/557-0692
E-Mail: CFPolicy@idcfs.state.il.us

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

- 13) Initial Regulatory Flexibility Analysis: The Department has determined that the proposed amendments will not have an economic impact on small businesses.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2014

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER a: SERVICE DELIVERY

PART 300

REPORTS OF CHILD ABUSE AND NEGLECT

Section

300.10	Purpose
300.20	Definitions
300.30	Reporting Child Abuse or Neglect to the Department
300.40	Content of Child Abuse or Neglect Reports
300.45	Five Year Demonstration of the Differential Response Program
300.50	Transmittal of Child Abuse or Neglect Reports
300.60	Special Types of Reports (Recodified)
300.70	Referrals to the Local Law Enforcement Agency and State's Attorney
300.80	Delegation of the Investigation
300.90	Time Frames for the Investigation
300.100	Initial Investigation
300.110	The Formal Investigative Process
300.120	Taking Children into Temporary Protective Custody
300.130	Notices Whether Child Abuse or Neglect Occurred
300.140	Transmittal of Information to the Illinois Department of Professional Regulation and to School Superintendents
300.150	Referral for Other Services
300.160	Special Types of Reports
300.170	Child Death Review Teams
300.180	Abandoned Newborn Infants
300.APPENDIX A	Acknowledgement of Mandated Reporter Status
300.APPENDIX B	Child Abuse and Neglect Allegations

AUTHORITY: Implementing and authorized by the Abused and Neglected Child Reporting Act [325 ILCS 5], the Abandoned Newborn Infants Protection Act [325 ILCS 2] and Section 3 of the Consent by Minors to Medical Procedures Act [410 ILCS 210/3].

SOURCE: Adopted and codified as 89 Ill. Adm. Code 302 at 5 Ill. Reg. 13188, effective November 30, 1981; amended at 6 Ill. Reg. 15529, effective January 1, 1983; recodified at 8 Ill. Reg. 992; peremptory amendment at 8 Ill. Reg. 5373, effective April 12, 1984; amended at 8 Ill.

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Reg. 12143, effective July 9, 1984; amended at 9 Ill. Reg. 2467, effective March 1, 1985; amended at 9 Ill. Reg. 9104, effective June 14, 1985; amended at 9 Ill. Reg. 15820, effective November 1, 1985; amended at 10 Ill. Reg. 5915, effective April 15, 1986; amended at 11 Ill. Reg. 1390, effective January 13, 1987; amended at 11 Ill. Reg. 1151, effective January 14, 1987; amended at 11 Ill. Reg. 1829, effective January 15, 1987; recodified from 89 Ill. Adm. Code 302.20, 302.100, 302.110, 302.120, 302.130, 302.140, 302.150, 302.160, 302.170, 302.180, 302.190, and Appendix A at 11 Ill. Reg. 3492; emergency amendment at 11 Ill. Reg. 4058, effective February 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 12619, effective July 20, 1987; recodified at 11 Ill. Reg. 13405; amended at 13 Ill. Reg. 2419, effective March 1, 1989; emergency amendment at 14 Ill. Reg. 11356, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 17558, effective October 15, 1990; amended at 14 Ill. Reg. 19827, effective November 28, 1990; emergency amendment at 15 Ill. Reg. 14285, effective September 25, 1991; amended at 15 Ill. Reg. 17986, effective December 1, 1991; emergency amendment at 17 Ill. Reg. 15658, effective September 10, 1993, for a maximum of 150 days; emergency expired February 7, 1994; amended at 18 Ill. Reg. 8377, effective May 31, 1994; amended at 18 Ill. Reg. 8601, effective June 1, 1994; amended at 19 Ill. Reg. 3469, effective March 15, 1995; amended at 19 Ill. Reg. 10522, effective July 1, 1995; amended at 20 Ill. Reg. 10328, effective July 19, 1996; amended at 22 Ill. Reg. 18847, effective October 1, 1998; amended at 23 Ill. Reg. 13590, effective November 15, 1999; amended at 24 Ill. Reg. 7707, effective June 1, 2000; amended at 25 Ill. Reg. 12781, effective October 1, 2001; amended at 26 Ill. Reg. 7435, effective May 15, 2002; amended at 26 Ill. Reg. 11730, effective August 1, 2002; amended at 27 Ill. Reg. 1114, effective January 15, 2003; amended at 27 Ill. Reg. 9431, effective June 9, 2003; peremptory amendment at 29 Ill. Reg. 21065, effective December 8, 2005; amended at 33 Ill. Reg. 7862, effective June 15, 2009; amended at 34 Ill. Reg. 6373, effective May 1, 2010; amended at 35 Ill. Reg. 1599, effective January 15, 2011; amended at 35 Ill. Reg. 2861, effective February 8, 2011; amended at 36 Ill. Reg. 4026, effective March 5, 2012; amended at 36 Ill. Reg. 16756, effective November 15, 2012; emergency amendment at 38 Ill. Reg. 1100, effective January 1, 2014, for a maximum of 150 days; emergency expired May 30, 2014; amended at 38 Ill. Reg. 1962, effective December 31, 2013; amended at 38 Ill. Reg. 13214, effective June 11, 2014; amended at 39 Ill. Reg. _____, effective _____.

Section 300.20 Definitions

"Abandonment" means parental conduct that demonstrates the purpose of relinquishing all parental rights and claims to the child. Abandonment is also defined as any parental conduct that evinces a settled purpose to forego all parental duties and relinquish all parental claims to the child.

"Abused child" means a child whose parent or immediate family member, or any

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person responsible for the child's welfare, or any individual residing in the same home as the child, or a paramour of the child's parent:

inflicts, causes to be inflicted, or allows to be inflicted upon such child physical or mental injury, by other than accidental means, which causes death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;

creates a substantial risk of physical or mental injury to such child by other than accidental means which would be likely to cause death, disfigurement, impairment of physical or emotional health, or loss of or impairment of any bodily function;

commits or allows to be committed any sex offense against such child, as such sex offenses are defined in the Criminal Code of 2012 [720 ILCS 5], or in the Wrongs to Children Act [720 ILCS 150], and extending those definitions of sex offenses to include children under 18 years of age;

~~*commits or allows to be committed the offense of involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons as defined in Section 10-9 of the Criminal Code of 2012 against the child;*~~

commits or allows to be committed an act or acts of torture upon such child;

~~*inflicts excessive corporal punishment;*~~

commits or allows to be committed the offense of female genital mutilation, as defined in Section 12-34 of the Criminal Code of 2012, against the child;

causes to be sold, transferred, distributed, or given to such child under 18 years of age, a controlled substance as defined in Section 102 of the Illinois Controlled Substances Act [720 ILCS 570] in violation of Article IV of the Illinois Controlled Substances Act or in violation of the Methamphetamine Control and Community Protection Act [720 ILCS 646], except for controlled substances that are prescribed in accordance with Article III of the Illinois Controlled Substances Act and are dispensed to such child in a manner that substantially complies with the

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prescription; or

commits or allows to be committed the offense of involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons for forced labor or services as defined in Section 10-9 of the Criminal Code of 2012 against the child.

A child shall not be considered abused for the sole reason that the child has been relinquished in accordance with the Abandoned Newborn Infant Protection Act [325 ILCS 2]. [325 ILCS 5/3]

"Act" means the Abused and Neglected Child Reporting Act [325 ILCS 5].

"Blatant disregard" means an incident where the real, significant, and imminent risk of harm would be so obvious to a reasonable parent or caretaker that it is unlikely that a reasonable parent or caretaker would have exposed the child to the danger without exercising precautionary measures to protect the child from harm. [325 ILCS 5/3]

"CANTS/SACWIS 8" or "C/S8" means the Department's document titled Notification of a Report of Suspected Child Abuse and/or Neglect. This document explains the Department's child abuse/neglect allegation investigation process.

"CANTS/SACWIS 9" or "C/S9" means the Department's document titled Notification of Intent to Indicate Child Care Worker for Report of Child Abuse and/or Neglect. This document is used to notify a person that the Department plans to indicate that person as a perpetrator of child abuse/neglect.

"CANTS/SACWIS 10" or "C/S10" means the Department's document titled Notice of Intent to Indicate a Child Care Worker for Report of Child Abuse and/or Neglect-Questions and Answers. This is an informational document explaining the impact of a determination of indicated child abuse/neglect and the appeal process.

"CANTS/SACWIS 11" or "C/S11" means the Department's document titled Notification of Indicated Decision in an Employment Related Report of Suspected Child Abuse and/or Neglect. This is the document by which the Department notifies a person that the Department has determined that there is credible evidence that he or she is responsible for the child abuse or neglect described in

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that document.

"Caregiver" means the child's parents, guardian, custodian or relative with whom the child lives and who has primary responsibility for the care and supervision of the child.

"Child" means any person under the age of 18 years, unless legally emancipated by reason of marriage or entry into a branch of the United States armed services. [325 ILCS 5/3]

"Child care facility" means any person, group of persons, agency, association, ~~or~~ organization, corporation, institution, center or group, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody in any facility as defined in the Child Care Act of 1969 [225 ILCS 10], established and maintained for the care of children. "Child care facility" includes a relative who is licensed as a foster family home under Section 4 of the Child Care Act of 1969. [225 ILCS 10/2.05]

"Child care worker" means any person who is employed to work directly with children and any person who is an owner/operator of a child care facility, regardless of whether the facility is licensed by the Department. Child care facilities, for purposes of this definition, include child care institutions; child welfare agencies; day care/night care centers; day care/night care homes; day care/night care group day care homes; group homes; hospitals or health care facilities; schools, including school teachers and administrators, but not tenured school teachers or administrators who have other disciplinary processes available to them; and before and after school programs, recreational programs and summer camps. "Child care worker" also means persons employed as full-time nannies. A child care worker may, at his or her discretion, be subject to this Part if alleged to be responsible for child abuse or neglect outside of his or her employment. "Child care worker" includes a person: currently employed as a child care worker; currently enrolled in an academic program that leads to a position as a child care worker; or who has applied for a license required for a child care worker position. A person will be considered to be "employed as a child care worker" under this Part if, at the time of the notice of the investigation, he or she: has applied for, or will apply within 180 days for, a position as a child care worker; is enrolled in, or will commence within 180 days, an academic program that leads to a position as a

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child care worker; or has applied for a license as a child care worker.

"Child-placing agency" means a licensed public or private agency that receives a child for the purpose of placing or arranging for the placement of the child in a foster family home or other facility for child care, apart from the custody of the child's parents. [325 ILCS 2/10]

"Child Protective Service Unit" ~~or "CPS" or "CPS"~~ means certain specialized State employees of the Department assigned by the Director ~~or his or her designee or his or her designee~~ to perform the duties and responsibilities described under this Part. [325 ILCS 5/3] CPS staff ~~are~~ also referred to as child protection~~investigative~~ staff. ~~[325 ILCS 5/3]~~

"Children for whom the Department is legally responsible" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or children whose parents have signed an adoptive surrender or voluntary placement agreement with the Department.

"CPSW" means a Child Protective Service Worker.

"Collateral contact" means obtaining information concerning a child, parent, or other person responsible for the child from a person who has knowledge of the family situation but was not directly involved in referring the child or family to the Department for services.

"Contact between siblings" means contact between or among siblings who are residing apart from one another, and may include, but is not limited to: telephone calls; video conferencing; sending/receiving cards, letters, emails, text messages, gifts, etc.; sharing photographs or information; use of any approved social media (e.g., Facebook); and any other agreed upon forms of communication technology.

"Credible evidence of child abuse or neglect" means that the available facts, when viewed in light of surrounding circumstances, would cause a reasonable person to believe that a child was abused or neglected.

"Delegation of an investigation" means the investigation of a report of child abuse or neglect has been deferred to another authority. The Department maintains responsibility for determining whether the report is indicated or unfounded, entering information about the report in the State Central Register and notifying

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the subjects of the report and mandated reporters of the results of the investigation.

"Department" or "DCFS" means the Department of Children and Family Services.

"Determination" means a final Department decision about whether there is credible evidence that child abuse or neglect occurred. A determination must be either "indicated" or "unfounded".

"DR Specialist" means a Differential Response Specialist as described in Section 300.45(e)(1).

"Disfigurement" means a serious or protracted blemish, scar, or deformity that spoils a person's appearance or limits bodily functions.

"Ecomap" means a pictorial representation of family connections to different systems and community and other resources to identify significant people and/or systems around the family to illustrate the strengths, impact and quality of each connection. (Hartman, A., Diagrammatic Assessment of Family Relationships. Social Casework, 59, 465-476 (1978).)

"Emergency medical facility" means a freestanding emergency center or trauma center, as defined in the Emergency Medical Services (EMS) Systems Act [210 ILCS 50]. [325 ILCS 2/10]

"Emergency medical professional" includes licensed physicians, and any emergency medical technician-basic, emergency medical technician-intermediate, emergency medical technician-paramedic, trauma nurse specialist, and pre-hospital RN, as defined in the Emergency Medical Services (EMS) Systems Act. [325 ILCS 2/10]

"Fire station" means a fire station within the State with at least one staff person. [325 ILCS 2/10]

"Formal investigation" means those activities conducted by Department [child protection](#) ~~investigative~~ staff necessary to make a determination as to whether a report of suspected child abuse or neglect is indicated or unfounded. Those activities shall include: *direct contact with the subject or subjects of the report as soon as possible after the report is received; an evaluation of the environment of*

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the child named in the report and any other children in the same environment; a determination of the risk to such children if they continue to remain in the existing environments, as well as a determination of the nature, extent and cause of any condition enumerated in such report; the name, age and condition of other children in the environment; and an evaluation as to whether there would be an immediate and urgent necessity to remove the child from the environment if appropriate family preservation services were provided. After seeing to the safety of the child or children, the Department shall forthwith notify the subjects of the report, in writing, of the existence of the report and their rights existing under the Act in regard to amendment or expungement. [325 ILCS 5/7.4(b)(3)]

"Genogram" means a pictorial representation of an individual's family relationships.

"Godparent" is a person who sponsors a child at baptism or one in whom the parents have entrusted a special duty that includes assisting in raising a child if the parent cannot raise the child. The worker shall verify the godparent/godchild relationship by contacting the parents to confirm the fact that they did, in fact, designate the person as the godparent. If the parents are unavailable, the worker should contact other close family members to verify the relationship. If the person is considered to be the child's godparent, in order for placement to occur, the same placement selection criteria as contained in 89 Ill. Adm. Code 301.60 (Placement Selection Criteria) must be met. If the godparent is not a licensed foster parent, all the conditions currently in effect for placement with relatives in 89 Ill. Adm. Code 301.80 must be met.

"Hospital" has the same meaning as in the Hospital Licensing Act [210 ILCS 85].

"Indicated report" means any report of child abuse or neglect made to the Department for which it is determined, after an investigation, that credible evidence of the alleged abuse or neglect exists.

"Initial investigation" means those activities conducted by Department [child protection](#) ~~investigative~~ staff to determine whether a report of suspected child abuse or neglect is a good faith indication of abuse or neglect and, therefore, requires a formal investigation. Good faith in this context means that the report was made with the honest intention to identify actual child abuse or neglect.

"Initial oral report" means a report alleging child abuse or neglect for which the

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State Central Register has no prior records on the family.

"Involved subject" means a child who is the alleged victim of child abuse or neglect or a person who is the alleged perpetrator of the child abuse or neglect.

"Legal custody" means the relationship created by a court order in the best interest of a newborn infant that imposes on the infant's custodian the responsibility of physical possession of the infant, the duty to protect, train, and discipline the infant, and the duty to provide the infant with food, shelter, education, and medical care, except as these are limited by parental rights and responsibilities. [325312 ILCS 2/10]

"Local law enforcement agency" means the police of a city, town, village or other incorporated area or the sheriff of an unincorporated area or any sworn officer of the Illinois Department of State Police.

"Mandated reporters" means those individuals required to report suspected child abuse or neglect to the Department. A list of these persons and their associated responsibilities is provided in Section 300.30 ~~of this Part.~~

"Member of the clergy" means a clergyman or practitioner of any religious denomination accredited by the religious body to which he or she belongs. [325 ILCS 5/3]

"Neglected child" means any child:

who is not receiving the proper or necessary nourishment or medically indicated treatment, including food or care, not provided solely on the basis of present or anticipated mental or physical impairment as determined by a physician acting alone or in consultation with other physicians or otherwise is not receiving the proper or necessary support, or medical or other remedial care recognized under State law as necessary for a child's well-being (including when there is harm or substantial risk of harm to the child's health or welfare) ~~(including where there is harm or substantial risk of harm to the child's health or welfare),~~ or other care necessary for a child's well-being, including adequate food, clothing and shelter; or

who is subjected to an environment ~~that which~~ is injurious insofar as:

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the child's environment creates a likelihood of harm to the child's health, physical well-being or welfare; and

the likely harm to the child is the result of a blatant disregard of parent or caretaker responsibilities; or

who is abandoned by his or her parents or other person responsible for the child's welfare without a proper plan of care; or

who has been provided with interim crisis intervention services under Section 3-5 of the Juvenile Court Act of 1987 [705 ILCS 405/3-5] and whose parent, guardian, or custodian refuses to permit the child to return home and no other living arrangement agreeable to the parent, guardian, or custodian can be made, and the parent, guardian, or custodian has not made any other appropriate living arrangement for the child; or

who is a newborn infant whose blood, urine or meconium contains any amount of controlled substance as defined in Section 102(f) of the Illinois Controlled Substances Act [720 ILCS 570/102(f)] or a metabolite thereof, with the exception of a controlled substance or metabolite thereof whose presence in the newborn infant is the result of medical treatment administered to the mother or newborn infant.

A child shall not be considered neglected for the sole reason that the child's parent or other person responsible for his or her welfare has left the child in the care of an adult relative for any period of time.

A child shall not be considered neglected for the sole reason that the child has been relinquished in accordance with the Abandoned Newborn Infant Protection Act [325 ILCS 5].

A child shall not be considered neglected or abused for the sole reason that such child's parent or other person responsible for his or her welfare depends upon spiritual means through prayer alone for the treatment or cure of disease or remedial care under Section 4 of the Abused and Neglected Child Reporting Act. Where the circumstances indicate harm or substantial risk of harm to the child's health or welfare and necessary medical care is not being provided to treat or prevent that harm or risk of harm because the

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parent or other person responsible for the child's welfare depends upon spiritual means alone for treatment or cure, the child is subject to the requirements of the Act for the reporting of, investigation of, and provision of protective services with respect to the child and his or her health needs, and in such cases spiritual means through prayer alone for the treatment or cure of disease or for remedial care will not be recognized as a substitute for necessary medical care, if the Department or, as necessary, a juvenile court determines that medical care is necessary.

A child shall not be considered neglected or abused solely because the child is not attending school in accordance with the requirements of Article 26 of the School Code [105 ILCS 5/~~Art. 26~~]. [325 ILCS 5/3]

"Newborn infant" means a child who a licensed physician reasonably believes is 30 days old or less at the time the child is initially relinquished to a hospital, police station, fire station, or emergency medical facility, and who is not an abused or a neglected child. [325 ILCS 2/10]

"Perpetrator" means a person who, as a result of investigation, has been determined by the Department to have caused child abuse or neglect.

"Person responsible for the child's welfare" means the child's parent, guardian, foster parent, or relative caregiver; an operator, supervisor, or employee of a public or private residential agency or institution or public or private profit or not-for-profit child care facility; or any other person responsible for the child's welfare at the time of the alleged abuse or neglect, including any person that is the custodian of a child under 18 years of age who commits or allows to be committed, against the child, the offense of involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons for forced labor or services, as provided in Section 10-9 of the Criminal Code of 2012, or any person who came to know the child through an official capacity or position of trust, including but not limited to health care professionals, educational personnel, recreational supervisors, members of the clergy and volunteers or support personnel in any setting where children may be subject to abuse or neglect, ~~including any person that is the custodian of a child under 18 years of age who commits or allows to be committed, against a child, the offense of involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons for forced labor or services, as provided in Section 10-9 of the Criminal Code of 2012.~~ [325 ILCS 5/3]

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"Police station" means:

a municipal police station;

a county sheriff's office;

a campus police department located on any college or university owned or controlled by the State or any private college or private university that is not owned or controlled by the State when employees or the campus police department are present; or

any of the district headquarters of the Illinois State Police. [325 ILCS 2/10]

"Private guardianship" means an individual person appointed by the court to assume the responsibilities of the guardianship of the person as defined in Section 1-3 of the Juvenile Court Act of 1987 [705 ILCS 405/1-3] or Article XI of the Probate Act of 1975 [755 ILCS 5/~~Art. XI~~].

"Relative", for purposes of placement of children for whom the Department is legally responsible, means any person, 21 years of age or over, other than the parent, who:

is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, first cousin once removed (children of one's first cousin to oneself), second cousin (children of first cousins are second cousins to each other), godparent (as defined in this Section), great-uncle, or great-aunt;

is the spouse, or party to a civil union, of such a relative;

is the child's step-father, step-mother, or adult step-brother or step-sister;
or

is the partner, or adult child of a partner, in a civil union with the child's mother or father.

"Relative" also includes a person related in any of the foregoing ways to a

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sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. For children who have been in the guardianship of the Department, have been adopted, and are subsequently returned to the temporary custody or guardianship of the Department, a "relative" may also include any person who would have qualified as a relative under this definition prior to the adoption, but only if the Department determines that it would be in the best interests of the child to consider this person a relative. [20 ILCS 505/7(b)]

"Relinquish" means to bring a newborn infant, who a licensed physician reasonably believes is 30 days old or less, to a hospital, police station, fire station, or emergency medical facility and to leave the infant with personnel of the facility, if the person leaving the infant does not express an intent to return for the infant or states that he or she will not return for the infant. In the case of a mother who gives birth to an infant in a hospital, the mother's act of leaving ~~that~~ the newborn infant at the hospital;

without expressing an intent to return for the infant; or

stating that she will not return for the infant;

is not a "relinquishment" under the Abandoned Newborn Infant Protection Act~~the Act~~. [325 ILCS 2/10]

"Siblings" mean children who have at least one parent in common. Children continue to be considered siblings after parental rights are terminated or after one or more of the children are adopted or placed in private guardianship, if they were in the custody or guardianship of the Department pursuant to Article II of the Juvenile Court Act of 1987 [705 ILCS 405] immediately prior to the adoption or guardianship. Step-siblings may be considered "siblings" when the children enter into substitute care together and have a positive relationship.

"Strengthening and Supporting Families service period" means a level of service intervention that will average 90 days, but no more than 120 days.

"State Central Register" is the record of child abuse and/or neglect reports maintained by the Department pursuant to the Act.

"Subject of a report" means any child reported to the child abuse/neglect State

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Central Register, and his or her parent, personal guardian or other person responsible for the child's welfare who is named in the report.

"SSF worker" means a Strengthening and Supporting Families worker.

"Temporary protective custody" means custody within a hospital or other medical facility or a place previously designated by the Department, subject to review by the Court. Temporary protective custody cannot exceed 48 hours, excluding Saturdays, Sundays and holidays.

"Undetermined report" means any report of child abuse or neglect made to the Department in which it was not possible to complete an investigation within 60 days on the basis of information provided to the Department.

"Unfounded report" means any report of child abuse or neglect for which it is determined, after an investigation, that no credible evidence of the alleged abuse or neglect exists.

"Visitation" means face-to-face contact:

between parents and their children who are in substitute care;

between siblings in substitute care who are placed apart from one another;
or

between siblings in substitute care with siblings who are not in substitute care (e.g., emancipated, adopted, placed in private guardianship, living in home of parent, etc.).

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 300.120 Taking Children Into Temporary Protective Custody

- a) Local law enforcement officers, Department ~~child protection~~investigative staff, and physicians treating a child may take temporary protective custody of a child without the consent of the persons responsible for the child's welfare, if they have reason to believe that:
 - 1) leaving the child in the home or in the care and custody of the child's

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caregiver presents an imminent danger to the child's life or health. The child shall not be taken into protective custody for the sole reason that the child was left with a relative, so long as the relative is willing to keep the child, and the Department has reason to believe that the relative can adequately and safely care for the child; and

- 2) there is insufficient time to obtain a Juvenile Court order authorizing temporary custody.
- b) In addition to the above requirements, Department ~~child protection~~~~investigative~~ staff shall ensure and document that reasonable efforts were made to prevent or eliminate the need to remove a child from the child's home. However, it may be that due to the individual circumstances of the family and the child's best interest, safety and well-being, no efforts reasonably can be made to maintain the child in the child's home. Reasonable efforts shall not be required if there exists any of the grounds for expedited termination of parental rights as described in 89 Ill. Adm. Code 309 (Adoption Services for Children for Whom the Department of Children and Family Services Is Legally Responsible). Such a determination that no efforts reasonably can be made must be documented. If no efforts reasonably can be made to safely prevent or eliminate the removal of the child, the child shall be taken into protective custody.
- c) Local law enforcement officers or physicians who take temporary protective custody of a child must immediately notify the Department of their action.
- d) When taking temporary protective custody of a child or receiving a child who was taken into temporary protective custody by the local law enforcement officer or by a physician, Department ~~child protection~~~~investigative~~ staff shall:
- 1) immediately notify the State Central Register of this action;
 - 2) make every reasonable effort to notify the child's parents, personal guardian, legal custodian, and any relative caregiver from whom the child was removed, of the action;
 - 3) request that the Guardianship Administrator or designee authorize any ordinary medical care or treatment necessary for those children taken into temporary protective custody;

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- 4) if the child needs treatment of an emergency nature and the parent or guardian is unavailable or unwilling to provide consent, the physician or hospital shall be asked to proceed under the Consent by Minors to Medical Procedures Act [410 ILCS 210], which allows treatment to be given to minors without consent; and
 - 5) obtain a shelter care hearing under the provisions of the Juvenile Court Act within 48 hours, excluding Saturdays, Sundays, and holidays, in order to retain custody for more than 48 hours.
- e) The Department recognizes the importance of maintaining sibling relationships in those situations in which children must be placed away from their parents. The Department shall provide training for child protection specialists, their supervisors and managers regarding the importance of maintaining sibling relationships and the child's sense of attachment to his/her siblings, the importance of maintaining sibling relationships over the child's lifespan, and the impact on the child if those relationships are severed.
- f) At any time during the investigation, but no later than 30 days prior to the date of the scheduled adjudicatory hearing, the child protection specialist~~investigative worker~~ shall request a legal screening to determine whether the State's Attorney should be asked to file a petition for expedited termination of parental rights, if:
- 1) it becomes known that there is present one or more of the grounds for seeking expedited termination of parental rights described in 89 Ill. Adm. Code 309.50 (Identification of Children for Potential Adoption Planning)~~309 (Adoption Services for Children For Whom the Department of Children and Family Services is Legally Responsible), Section 309.50(d)(1) and (2)~~; and
 - 2) the parents are unwilling to voluntarily surrender the child for adoption or consent to the adoption of the child by a specified person.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Placement and Visitation Services
- 2) Code Citation: 89 Ill. Adm. Code 301
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
301.20	Amendment
301.60	Amendment
301.70	Amendment
301.80	Amendment
301.220	Amendment
301.230	Amendment
301.250	New Section
301.255	New Section
- 4) Statutory Authority: The Children and Family Services Act [20 ILCS 505]; the Adoption Act [750 ILCS 50]; The Child Care Act of 1969 [225 ILCS 10/5.2] and PA 96-1513
- 5) A Complete Description of the Subjects and Issues Involved: These changes implement PA 97-1076 concerning sibling visitation and contact.

Sections affected:

Rule 301.20 – Definition of "sibling" is broadened to comply with legislation. "Contact between siblings" and "visitation" are defined. Definitions that have been quoted verbatim from statute have been updated.

Rule 301.60 – adds "preservation of sibling relationships" as a factor in substitute care placement decisions.

Rule 301.70 – amendments to this section emphasize the affirmative responsibility of direct service staff to make ongoing efforts to place siblings together, and to encourage and assist children in building and maintaining relationships with their siblings, regardless of where the sibling resides (e.g., home of parent, adoptive home, ILO/TLP, etc.) or whether the sibling is substitute care (e.g., adult or emancipated sibling, etc.). Amendments also require training for DCFS and POS placement and permanency staff regarding the importance of maintaining sibling relationships/attachments.

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Rule 301.80 – updates relative placement requirements to emphasize the affirmative responsibility to place siblings together, and to encourage relatives to accept entire sibling groups for placement.

Rule 301.220 – updates and expands sibling visitation requirements.

Rule 301.230 – updates and expands sibling contact requirements.

Rule 301.250 (new) – Adoptees, youth under guardianship, or adoptive parents and guardians of a minor may request the Department to help them contact their (the adoptee's/youth's) siblings. The subsidy worker shall strongly encourage adoptive parents/legal guardians to allow continued contact and/or visitation among siblings, and offer to help write, implement or modify a Post Permanency Sibling Contact Agreement.

Rule 301.255 (new) – Adult or emancipated youth may request the Department to help them contact their siblings who are in DCFS custody or guardianship, and the worker will include visitation/contact with that sibling in the ward's visitation and contact plan. If help is requested to contact siblings who were adopted or placed in subsidized guardianship from DCFS custody or guardianship, a subsidy worker shall offer to help write, implement or modify a Post Permanency Sibling Contact Agreement.

- 6) Published studies and reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any proposed rulemakings to this Part pending? No
- 11) Statement of Statewide Policy Objective: These amendments do not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

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

Jeff E. Osowski
Department of Children and Family Services
406 East Monroe, Station # 65
Springfield IL 62701-1498

217/524-1983
TTY: 217/524-3715
E-mail: cfpolicy@idcfs.state.il.us

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

- 13) Initial Regulatory Flexibility Analysis: The Department has determined that the proposed amendments do not affect small businesses.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2014

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

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TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER a: SERVICE DELIVERY

PART 301

PLACEMENT AND VISITATION SERVICES

Section

- 301.1 Purpose (Renumbered)
- 301.2 Definition (Repealed)
- 301.3 Foster Care Placement Goal (Renumbered)
- 301.4 Plans to Achieve This Goal (Renumbered)

SUBPART A: PLACEMENT SERVICES

Section

- 301.10 Purpose
- 301.20 Definitions
- 301.30 Introduction
- 301.40 Legal Authority to Place
- 301.50 Emergency Placement
- 301.60 Placement Selection Criteria
- 301.70 Sibling Placement
- 301.80 Relative Home Placement
- 301.90 Foster Family Home Care
- 301.100 Residential Care
- 301.110 Care in a Medical/Psychiatric Facility
- 301.120 Sharing Appropriate Information with the Caregiver
- 301.130 Medical Examinations for Children in Placement
- 301.140 Education of Children While in Placement

SUBPART B: VISITATION SERVICES

Section

- 301.200 Purpose
- 301.210 Family-Child Visitation
- 301.220 Sibling Visitation
- 301.230 Contact Among Siblings Placed Apart
- 301.240 Grandparents Visitation

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- [301.250](#) [Sibling Visitation and Contact with Adopted Siblings and Siblings in Private Guardianship](#)
[301.255](#) [Sibling Visitation with and Among Adult Siblings](#)

SUBPART C: FOSTER CARE PLACEMENT GOAL

- Section
301.310 Purpose
301.320 Foster Care Placement Goal
301.330 Plans to Achieve This Goal

SUBPART D: FOSTER PARENT/RELATIVE CAREGIVER
IDENTIFYING INFORMATION

- Section
301.410 Purpose
301.420 Confidentiality of Foster Parent/Relative Caregiver Identifying Information
301.430 Routine Disclosure of Foster Parent/Relative Caregiver Identifying Information
301.440 Specific Disclosure of Foster Parent/Relative Caregiver Identifying Information
301.450 Specific Notice of Disclosure
301.460 Disclosure Prohibited
301.470 Redisclosure Prohibited

- 301.APPENDIX A Criminal Convictions which Prevent Placement of Children with Relatives

AUTHORITY: Implementing and authorized by the Children and Family Services Act [20 ILCS 505]; Section 3-6-2(g) of the Unified Code of Corrections [730 ILCS 5/3-6-2(g)]; Section 1-103 of the Illinois Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301]; the Adoption Assistance and Child Welfare Act of 1980 (42 USC 670 et seq.); 45 CFR 1356.40 and 1356.41; the Juvenile Court Act of 1987 [705 ILCS 405]; and the Adoption Act [750 ILCS 50].

SOURCE: Adopted and codified at 7 Ill. Reg. 881, effective January 12, 1983; amended at 9 Ill. Reg. 9904, effective July 1, 1985; amended at 19 Ill. Reg. 9438, effective July 1, 1995; emergency amendment at 20 Ill. Reg. 3961, effective February 16, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 4602, effective March 15, 1996; amended at 20 Ill. Reg. 9036, effective July 11, 1996; amended at 20 Ill. Reg. 9518, effective July 5, 1996; amended at 21 Ill. Reg. 13580, effective October 1, 1997; amended at 23 Ill. Reg. 13062, effective October 20, 1999; emergency amendment at 24 Ill. Reg. 6427, effective March 27, 2000, for a maximum of

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150 days; emergency expired August 23, 2000; amended at 25 Ill. Reg. 841, effective January 5, 2001; amended at 25 Ill. Reg. 11803, effective September 14, 2001; amended at 26 Ill. Reg. 11739, effective August 1, 2002; amended at 34 Ill. Reg. 7898, effective May 31, 2010; amended at 36 Ill. Reg. 2098, effective January 30, 2012; amended at 36 Ill. Reg. 4039, effective March 5, 2012; expedited correction at 37 Ill. Reg. 19418, effective March 5, 2012; amended at 39 Ill. Reg. _____, effective _____.

SUBPART A: PLACEMENT SERVICES

Section 301.20 Definitions

"Administrative case review" or "ACR" means case reviews required by 42 USC 675(1) and 20 ILCS 505/6a.

"Biological father" means a man who was not married to the mother when the child was born and who has acknowledged his paternity in open court, or who has signed a statement acknowledging paternity, or who is legally presumed to be the father because he married the child's mother after the child's birth and his name appears on the child's official record of birth, or whose paternity is adjudicated in court. When paternity has been established in the above manner, the relatives of the biological father as well as those of the mother may be considered for the placement of related children.

"Child only standard of need" means the assistance standard for cases in which no adult member is included, as established by the Illinois Department of Human Services in 89 Ill. Adm. Code 111 (Assistance Standards).

"Children for whom the Department is legally responsible" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or children whose parents signed an adoptive surrender or voluntary placement agreement with the Department.

"Contact between siblings" means contact among siblings who are residing apart from one another, and may include, but is not limited to: telephone calls; video conferencing; sending/receiving cards, letters, emails, text messages, gifts, etc.; sharing photographs or information; use of any approved social media (e.g., Facebook) and any other agreed upon forms of communication technology. ~~as used in this Part, means telephone and written communication among siblings who are placed apart from one another.~~

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"Department" as used in this Part, means the Department of Children and Family Services.

"Diligent search", as used in this Part, means the efforts used by the Department to find a joint placement for siblings who must be placed apart from their families. Diligent search is further defined in Section 301.70(fe) of this Part.

"Family" means one or more adults and children, related by blood, marriage, civil union or adoption and residing in the same household.

"Father" means a man~~"Father" means a man~~ presumed to be the natural father of a child if:

he and the child's natural mother are or have been married to each other, even though the marriage is or could be declared invalid, and the child is born or conceived during such marriage;

after the child's birth, he and the child's natural mother have married each other, even though the marriage is or could be declared invalid, and he is named, with his consent, as the child's father on the child's birth certificate pursuant to Section 12 of the Vital Records Act~~pursuant to Section 12 of the Vital Records Act~~ [410 ILCS 535];

he and the child's natural mother have signed an acknowledgment of paternity in accordance with rules adopted by the Illinois Department of Healthcare and Family Services under Section 10-17.7 of the Illinois Public Aid Code [305 ILCS 5/10-17.7]~~[750 ILCS 45/5]~~; or

he and the child's natural mother have signed an acknowledgement of parentage or, if the natural father is someone other than the one presumed to be the father under this Section, an acknowledgement of parentage and denial of paternity in accordance with Section 12 of the Vital Records Act. [750 ILCS 45/5]~~he and the child's mother have signed a petition to establish the parent and child relationship by consent of the parties in accordance with Section 6 of the Act. (See Sections 5(a)(4) and 6 of the Act [750 ILCS 45/5(a)(4) and 6].)~~

A man can rebut a presumption of paternity only as a provided in Section 5(b)

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~~of the Illinois Parentage Act of 1984 [750 ILCS 45/5(b)] before a court of jurisdiction.~~ Father also means a man who adopts a child or has been determined by court or administrative adjudication to be the child's father.

"Federally-funded foster care" means foster care maintenance payments made in accordance with Title IV-E of the Social Security Act for which federal matching grants are received.

"Final placement decision" means the decision made by the Department, within 90 days after the initial placement of a child with a relative, to leave or remove the child in the relative home based on the evaluation of the results of the criminal background check of the relative and household members and based on the best interest of the child.

"Foster care payment" means the amount paid by the Department for a child's room, board, clothing, and personal allowance in a licensed foster family home.

"Godparent" is a person who sponsors a child at baptism or one in whom the parents have entrusted a special duty that includes assisting in raising the child if the parent cannot raise the child. The worker shall verify the godparent/godchild relationship by contacting the parents to confirm the fact that they did, in fact, designate the person as the godparent. If the parents are unavailable, the worker should contact other close family members to verify the relationship. If the person is considered to be the child's godparent, in order for placement to occur, the same placement selection criteria as contained in Section 301.60 (Placement Selection Criteria) must be met. If the godparent is not a licensed foster parent, all the conditions currently in effect for placement with relatives in Section 301.80 ([Relative Home Placement](#)) must be met.

"Joint placement", in the context of sibling placement, means the siblings are placed in the same substitute care setting.

"LEADS" means Law Enforcement Agency Data System.

"Parents" means the child's legal parents whose parental rights have not been terminated and adoptive parents. Biological fathers are considered legal parents when paternity has been established as required by the definition in this Section.

"Permanency goal" means the desired outcome of intervention and service, which

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is determined to be consistent with the health, safety, well-being, and best interests of the child. A permanent legal status is usually a component of the permanency goal.

"Permanent family placement" means placement in a foster family home or a relative home that is intended to last until the child reaches age 21 or until the child is capable of self-sufficiency. The Department may retain guardianship of the child or the foster parent or relative may assume guardianship of the child.

"Permanent legal status" means a legally binding relationship between a child and a family as established by birth or a court of law.

"Placement Clearance Process" means the approval of a child's placement in foster care or unlicensed relative care from the Placement Clearance Unit.

"Region" means Cook County or any of the downstate Department of Children and Family Services regions.

"Relative", for purposes of placement of children for whom the Department is legally responsible, *means any person, 21 years of age or over, other than the parent, who:*

is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, first cousin once removed (children of one's first cousin to oneself), second cousin (children of first cousins are second cousins to each other), godparent (as defined in this Section), great-uncle, or great-aunt, or

is the spouse, or party to a civil union, of such a relative, or

is the child's step-father, step-mother, or adult step-brother or step-sister, or

is the partner, or adult child of a partner, in a civil union with the child's mother or father.

Relative also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the

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child and its sibling are placed together with that person. For children who have been in the guardianship of the Department, have been adopted, and are subsequently returned to the temporary custody or guardianship of the Department, a "relative" may also include any person who would have qualified as a relative under this definition prior to the adoption, but only if the Department determines that it would be in the best interests of the child to consider this person a relative. [20 ILCS 505/7(b)]

"Residential facility", for the purposes of the Aristotle P. Consent Decree, means all non-foster care or relative home care placements.

"Service plan" means a written plan on a form prescribed by the Department in the plan toward the permanency goal for the children required by 42 USC 675(5), 325 ILCS 5/8.2, and 89 Ill. Adm. Code 315 (Permanency Planning).

~~"Short term diagnostic placement" means a placement limited to 30 days after the time period deemed clinically necessary to complete the appropriate diagnostic evaluation or treatment, and in no event shall last more than 90 days.~~

"Siblings" means children who have at least one parent in common. Children continue to be considered siblings after parental rights are terminated or after one or more of the children are adopted or placed in private guardianship, if they were in the custody or guardianship of the Department pursuant to Article II of the Juvenile Court Act of 1987 [705 ILCS 405] immediately prior to the adoption or guardianship. Step-siblings may be considered "siblings" when the children enter into substitute care together and have a positive relationship who have a shared biological or adoptive parent.

"Substitute care" means the care of children who require placement away from their families. Substitute care includes foster family care, care of a child for whom the Department is legally responsible provided in a relative family home, care provided in a group home, and care provided in a child care or other institution.

"Visitation", ~~as used in this Subpart,~~ means face-to-face contact:

between parents and their children who are in substitute care;

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between siblings in substitute care who are placed apart from one another;
or

between siblings in substitute care with siblings who are not in substitute care (e.g., emancipated, adopted, placed in private guardianship, living in home of parent, etc.).

~~between parents and their children who are in substitute care or among siblings who are placed apart from one another.~~

"Voluntary placement agreement" means a time-limited written request and consent from a parent, guardian or legal custodian of a child for placement of the child out of the home. When signed by designated Department staff, the Department agrees to provide child welfare services which include placement.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 301.60 Placement Selection Criteria

- a) All placement decisions will be made consistent with the safety, best interests and special needs of the child. When a child is removed from the care of a custodial parent, the placing worker shall explore whether the non-custodial parent would be a suitable caregiver for the child. If placement with the non-custodial parent is not consistent with the safety, best interests and special needs of the child or if the non-custodial parent is not a suitable caregiver for the child, placement in substitute care shall be considered.
- b) Substitute care placement decisions consistent with the safety, best interests and special needs of the child shall be made in consideration of the following:
 - 1) the least restrictive setting appropriate for the child ~~that~~which most closely approximates a family;
 - 2) placement within reasonable proximity to the child's home when the permanency goal is return home, and within the child's school district, whenever possible, taking into account any special needs of the child and family, the importance of maintaining continuity of the children's educational and social relationships, and the availability of the service resources needed for the child and family;

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- 3) the ability of prospective foster or adoptive parents to meet the needs of a child. Placement in a foster or adoptive family home shall not be denied or delayed on the basis of the race, color, or national origin of the child, or the foster or adoptive family home members, nor shall placement for adoption of a child be denied or delayed if an approved family is available either outside of the Department's region handling the case or outside of the State of Illinois; ~~and~~
 - 4) preservation of sibling relationships; and
 - 5) placement, if the child is of American Indian heritage, according to criteria described in 89 Ill. Adm. Code 307 (Indian Child Welfare Services).
- c) Approval through the Department's Placement Clearance Process is required prior to all placements in licensed foster family homes and unlicensed relative homes.
 - d) When a private agency or DCFS worker fails to secure prior approval for a placement in a licensed foster family home or unlicensed relative home through the Placement Clearance Process or provides false or misleading information when requesting an approval, the Director may take progressive action including, but not limited to:
 - 1) placing the worker's private agency or DCFS region on hold for cases; and
 - 2) implementing progressive discipline for the DCFS worker.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 301.70 Sibling Placement

- a) It is the policy of the Department to place siblings together unless:
 - 1) it is in the best interests of one or more of the children to be placed apart or to remain apart from his or her siblings;
 - 2) the Department has been unable to locate a joint placement for the siblings, despite a diligent search by the Department as defined in subsection (f) ~~of this Section~~;

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- 3) a court has ordered that the siblings be placed apart; or
 - 4) it is in the best interests of the child or his or her ~~siblings~~sibling(s) to be placed with a relative and the relative is not willing to accept all the children.
- b) When the caseworker determines it is in the best interest of one or more siblings in substitute care to be placed apart or to remain apart from his/her siblings, the caseworker shall select a placement where the caregiver is willing and able to be actively involved in supporting the sibling relationship to the extent that doing so is in each child's best interest.
- c) When an examination of case records or consultation with the child's parents reveals that a sibling of the child was adopted, placed in subsidized guardianship, or is emancipated, the caseworker shall determine, in consultation with the child's parents, whether it would be in the child's best interests to explore placement with the adopted sibling or sibling in guardianship, or emancipated sibling who is at least 21 years of age. Unless the parent objects, if the caseworker determines it is in the child's best interest to explore the placement, the caseworker shall contact the adoptive parent or guardian of the sibling or emancipated sibling to determine whether they are willing to be considered as a placement resource for the child, and, if so, determine whether it is in the best interests of the child to be placed in the home with the sibling.
- d) A determination that it is not in a child's best interest to be placed with a sibling is a Critical Decision that requires supervisory approval. The decision shall be documented in the child's case record and on the Visitation and Contact Plan.
- ~~eb)~~ It shall be in the best interests of a child to be placed apart from his or her siblings only if:
- ~~1)~~ ~~the child has been placed in a short-term diagnostic placement in order to determine the placement needs of the child;~~
 - 12) the child has special medical, educational, behavioral, or emotional needs ~~that~~which require the child to be placed apart from his or her siblings and the child has been placed or accepted at a placement intended to address those needs;

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- ~~23)~~ the child is at risk of physical, mental, or emotional harm if placed with his or siblings and the specific risk and the basis for assessing that risk are documented in the child's case file; or
- ~~34)~~ placement of the child with his or her siblings would require that the child be removed from a current foster home and it is in the best interests of the child to remain in that foster home rather than move to a joint placement with his or her siblings; ~~or~~
- ~~5)~~ ~~it is necessary to place the child apart from his or her siblings in order to achieve permanency for the child.~~
- ~~f~~e) A diligent search to locate a joint placement for siblings shall consist of written documentation that:
- 1) the Department has asked the siblings' parents and known relatives whether there are any relatives who may be willing to become relative foster parents for the siblings;
 - 2) the Department has asked any current foster parents of a child already in Department custody or guardianship whether they can accommodate the child's siblings in accordance with licensing standards; and
 - 3) the Department has asked the adoptive parents or legal guardians of any siblings who were wards of the Department and adopted or placed in legal guardianship whether they can accommodate the child's siblings; and
 - 4) the Department has conducted a search of vacant Department and private agency foster care placements and other appropriate placements within reasonable proximity to the child's home (when the permanency goal is to return home)~~in the same region as the parents' home~~ to identify those placements that can provide a joint placement for the sibling group and that meet the placement requirements for all Department cases as set forth in this Subpart.
- ~~g~~d) If siblings have not been placed together at the time the Department is awarded custody of one or more of the siblings, the diligent search to locate a joint placement for siblings shall be conducted:

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- 1) not later than 30 days after the Department is awarded custody of a sibling group or of any child who has a sibling in placement;
 - 2) when the Department changes the placement of any child with a sibling, unless it is in the best interests of the child or sibling to be placed apart, as delineated in subsection (b) ~~of this Section~~. Nothing in this Part shall preclude removal of a child from a placement with a sibling when such removal is necessary due to an emergency. An emergency includes but is not limited to situations such as a fire or natural disaster destroying the caregiver's home, behavior on the part of the child which poses a threat to the child or to others in the home, incidents of abuse or neglect which put the child at imminent risk of harm, etc.
- h) The placement decision can prove to be critical in the life of a case. When a sibling group must be removed from their home, the Department should do everything in its power to place the children together in substitute care. This includes:
- 1) Selecting a foster family or relative caregiver who can accept all of the children for placement. This may require the caseworker to conduct a diligent search for family members or a licensed foster family home that will accept all of the children. As a general rule, an unrelated foster home that will accept the entire sibling group shall have higher priority than a relative who wants to care for only part of the sibling group.
 - 2) Placing step-siblings who enter care together initially, and re-evaluating continued joint placement after the Integrated Assessment.
 - 3) If the children must be separated, identifying relative caregivers or foster family homes that will support frequent sibling contact and visitation.
- i) When a child enters substitute care or requires a new placement, the Department shall determine whether a sibling of that child is in the custody or guardianship of the Department.
- 1) If the Department determines that a sibling is in its custody or guardianship, the Department shall then determine whether it is in the best interests of each of the siblings for the child needing placement to be placed with the sibling.

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- 2) If the Department determines that it is in the best interest of each sibling to be placed together, and the sibling's caregiver is able and willing to care for the child needing placement, the Department shall place the child with the sibling.
- j) When siblings are placed apart, the caseworker shall develop a Visitation and Contact Plan.
- 1) The Visitation and Contact Plan shall set forth future contact and visits between the siblings to develop, preserve and nurture the siblings' relationships. The Plan shall set forth the role of the caregivers and others in implementing contact and visitation among the siblings. The caseworker shall ensure that the Plan meets the minimum standards regarding frequency of in-person visits provided in Sections 301.220 and 301.230.
 - 2) The Department shall document in the Visitation and Contact Plan why the siblings were placed apart and the efforts made to place siblings together.
 - 3) The assigned caseworker shall file the Visitation and Contact Plan with the Juvenile Court within 10 days, excluding weekends and holidays, after temporary custody is awarded to the Department. The initial Visitation and Contact Plan must be filed within 10 days after temporary custody is awarded whether or not a caseworker has been assigned to the case.
 - 4) The Visitation and Contact Plan shall be modified if one of the children moves to a new placement, or as necessary to meet the needs of the children.
 - 5) The Visitation and Contact Plan may include contact and visitation with other siblings not in the custody or guardianship of the Department, only with the consent and participation of the parent or guardian of those siblings, or the siblings themselves, if over 18 years of age.
- ke) If an entire sibling group is not placed together, the Department shall place as many siblings of the group together as possible, considering their relationship and the best interests of the children.

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- ~~lf)~~ If the Department determines it is not in the best interests of the child to be placed with his or her siblings, the Department shall identify in the child's case plan the reasons why the siblings were placed apart. If siblings have been placed apart pursuant to subsection (a) ~~of this Section~~, the Department shall document in the case file the efforts made to place siblings together.
- ~~mg)~~ If an entire sibling group cannot be placed together, the Department shall make reasonable efforts to place siblings within reasonable proximity to one another, taking into account the placement requirements for all Department cases as set forth in this Part. The Department may place a child at greater distance from his or her siblings if his or her treatment needs require placement farther away.
- ~~nh)~~ If the Department places siblings apart or siblings remain placed apart after a change in placement, the efforts made to place siblings together and the reasons why the siblings are placed apart shall be documented on the Visitation and Contact Plan and specifically reviewed at the first administrative case review following such placement to ensure compliance with the requirements of this Section.
- ~~o)~~ The Department shall provide training for all DCFS and purchase of service permanency workers, and their supervisors and managers, regarding the importance of maintaining sibling relationships, the child's sense of attachment to his/her siblings, the importance of maintaining sibling relationships over the child's lifespan, and the impact on the child if those relationships are severed.
- ~~i)~~ ~~When it is necessary to place siblings apart the Department shall provide for contact and visitation between the siblings in accordance with Sections 301.220 and 301.230 of this Part.~~
- ~~j)~~ ~~If the Department decides to separate siblings who are placed together, it shall notify each child (if seven years of age or older) and the children's attorney and guardian ad litem in writing no later than ten days prior to implementation of its decision unless remaining in the joint placement poses an imminent risk of harm to one or more of the children. In such a case, the Department shall notify each child (seven years of age or older) and the children's attorney and guardian ad litem in writing no later than five days after its decision to separate the siblings.~~

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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Section 301.80 Relative Home Placement

- a) A child for whom the Department is legally responsible may be placed in the home of a relative when the Department has reason to believe that the relative can safely and adequately care for the child in the absence of formal licensing, including training. In determining whether relative home placement is in the best interests of the child, the placing worker shall consider the child's prior relationship with the relative, the comfort level of the child with the relative, and the extent to which the relative complies with the placement selection criteria of Section 301.60(b).
- b) The placing worker shall assess the prospective relative caregiver's willingness to help and support children in developing a relationship with their siblings, including siblings with whom the children do not yet have a relationship; and recognize the value of preserving family ties between siblings, including their need for stability and continuity of relationships, and the importance of sibling contact in the development of each child's identity. The worker shall document the results of this assessment in the case record.
- c) The placing worker shall emphasize to prospective relative caregivers that priority will be given to relative or foster care placements that will accept an entire sibling group over a relative placement that will accept only one or some members of the sibling group requiring care. When it is not possible to place all of the children together, the placing worker shall encourage substitute caregivers to encourage and facilitate contact among the siblings.
- d) The placing worker shall inform prospective relative caregivers that they may be contacted in the future regarding placement of the siblings of a child who may subsequently require placement, or contact with siblings in other living arrangements or living independently.
- ~~e~~b) No child under age 18 for whom the Department is legally responsible shall be placed with a relative unless the conditions for placement specified in this Section have been met prior to placement of the child with the relative. Staff of the placing agency shall meet with the relative and ascertain that the relative meets the following conditions for placement and signs an agreement to that effect. The relative:

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- 1) will care for no more than the number of children consistent with the number and ages of children permitted in a licensed foster family home (89 Ill. Adm. Code 402, Licensing Standards for Foster Family Homes);
- 2) is willing and capable of protecting the children from harm by the parents or any other person whose actions or inactions allegedly threatened the children's safety or well-being as determined by a child abuse or neglect investigation pursuant to the Abused and Neglected Child Reporting Act [325 ILCS 5];
- 3) agrees not to transfer physical custody of the children to anyone, including parents or other relatives, unless previously authorized in writing by the Department;
- 4) agrees not to allow the indicated or alleged perpetrators of abuse or neglect to reside in the relative's home unless previously authorized in writing by the Department;
- 5) agrees to notify the Department of any changes in the household composition;
- 6) agrees to notify the Department of any change of address prior to moving;
- 7) agrees to seek the prior written consent of the Department for non-emergency medical, psychological, or psychiatric testing or treatment;
- 8) agrees to take the children out of state only if previously authorized in writing by the Department;
- 9) agrees to abide by any conditions or limitations on the parent-child visitation plan;
- 10) is willing to cooperate with the agency, the children's parents and other resource persons to help develop and achieve the permanency goal recorded in the children's service plan;
- 11) agrees to adequately supervise the children so they are not left in situations or circumstances which are likely to require judgment or actions greater

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than the child's level of maturity, physical condition, and/or mental abilities would reasonably dictate;

- 12) agrees not to subject the child to corporal punishment, verbal abuse, threats, or derogatory remarks about the child or the child's family;
- 13) agrees that any and all firearms and ammunition shall be locked up at all times and kept in places inaccessible to children. No firearms possessed in violation of a State or federal law or a local government ordinance shall be present in the home at any time; and
- 14) agrees to sign, and have all members residing in the home age 17 and over sign, an authorization for a criminal background check and agrees to be fingerprinted no later than 30 days after the placement for a final child placement decision.

f) Prior to placement with a relative, staff of the placing agency shall visit the home of the proposed caregiver and shall determine whether the following conditions for placement are met:

- 1) background checks of the Child Abuse Neglect Tracking System (CANTS) as required by 89 Ill. Adm. Code 385 (Background Checks) and a check of the Statewide Child Sex Offender Registry have been completed on all adult members of the household and children age 13 and over, communicated to the supervising agency prior to placement, and appropriate decisions made. If a report of abuse or neglect exists, staff of the placing agency have made appropriate decisions whether the child should be placed with the relative based on the following considerations:
 - A) the type of indicated abuse and neglect;
 - B) the age of the individual at the time of the report;
 - C) the length of time that has elapsed since the most recent indicated report;
 - D) the relationship of the report to the ability to care for the related children; and

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- E) evidence of successful parenting;
- 2) a check of the Law Enforcement Agency Data System (LEADS) on all adult members of the household and children age 13 and over is completed prior to placement of the related children. If the results of the LEADS check identify prior criminal convictions listed in Appendix A for any adult member of the household, children shall not be placed in the relative's home unless a waiver has been granted in accordance with the requirements of Appendix A;
- 3) the home is free from observable hazards;
- 4) prescription and non-prescription drugs, dangerous household supplies, and dangerous tools are stored in places inaccessible to children;
- 5) any and all firearms and ammunition are locked up at all times and kept in places inaccessible to children;
- 6) basic utilities (water, heat, electricity) are in operation;
- 7) sleeping arrangements are suitable to the age and sex of the children;
- 8) meals can be provided daily to the related children in sufficient quantities to meet the children's nutritional needs;
- 9) supervision of the related children can be assured at all times, including times when the relative is employed or otherwise engaged in activity outside of the home;
- 10) the relative can provide basic necessities for themselves and their own children;
- 11) the relative can access health care and provide necessary in-home support for any health care needs of the related children;
- 12) no member of the household appears to have a communicable disease that could pose a threat to the health of the related children or an emotional or physical impairment that could affect the ability of the caregiver to provide routine daily care to the related children or to evacuate them

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safely in an emergency;

- 13) there is no evidence of current drug or alcohol abuse by any household member as determined by the placing agency's observations and statements provided by the relative;
 - 14) the relative has the ability to contact the agency, if necessary, and the ability to be contacted;
 - 15) the relative has immediate access to a telephone when the related child has medical or other special needs;
 - 16) the relative shall cooperate with the supervising agency's educational and service plan for the child;
 - 17) the relative is able to communicate with the child in the parent's or child's preferred language.
- gd) Within 90 days after initial placement of a relative child, a final placement decision shall be determined by a supervisor of the placing agency based on the criminal background check results of all persons 17 years and older who are living in the home and based on the best interest of the child.
- he) Prior to or concurrent with placement in a relative's home, staff of the placing agency shall document, on the form prescribed by the Department, that the conditions for placement prescribed by this Section have been met.
- if) The supervising agency shall reassess the appropriateness of the relative home placement on an on-going basis and at least prior to each administrative case review or at any point the supervising agency has reason to believe the relative caregiver can no longer safely or adequately care for the children. Appropriateness is determined by the extent to which the home is in compliance with the conditions described in subsections (eb) and (fe) and by an evaluation of the continued safety of the children, including an evaluation of any pending criminal charges against any adult members of the household.
- ig) The Department may, after providing notice as required by 89 Ill. Adm. Code 337 (Service Appeal Process), move the child to another placement if the Department determines, based on the consideration and assessment of the safety and well-

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being of the child, the child's permanency goal, and the best interests or special needs of the child, that an alternative placement is necessary.

- ~~kh~~) Only placements in licensed foster family homes receive the foster care payment rate. Relatives who care for children for whom the Department is legally responsible ~~are encouraged to may, but need not,~~ apply for licensure as a foster family home in accordance with the requirements of 89 Ill. Adm. Code 402 (Licensing Standards for Foster Family Homes). When a relative is licensed under Part 402, the relative will receive the established foster care payment rate appropriate for the number and ages of foster children placed in care. Relatives who are unlicensed receive the child only standard of need.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART B: VISITATION SERVICES

Section 301.220 Sibling Visitation

- a) The Department or purchase of service agency shall schedule and provide visits among all siblings in substitute care who are placed apart at least twice per month, beginning ~~as soon as possible, but not later than two weeks,~~ no later than two weeks after the Department is awarded temporary custody of any sibling, unless:
- 1) a court has ordered that sibling visits occur less frequently or not at all; ~~or~~
 - 2) ~~one sibling may physically, mentally or emotionally harm another during the visit, and supervision would be inadequate to eliminate the risk of such harm as determined by prior observation or documentation of their interaction as recorded in the child's case file. The specific risk and the basis for assessing that risk shall be documented in the child's case file.~~~~the child has stated that he or she does not want to visit with his or her siblings or wants to visit less frequently and has been counseled by the Department on the importance of maintaining family ties. If such a child is age 16 or under, the Department shall inquire of the child at least quarterly whether he or she wants to resume or increase the frequency of visits; or~~
 - 3) ~~one sibling may physically, mentally, or emotionally harm another during the visit, and supervision would be inadequate to eliminate the risk of such harm as determined by prior observation or documentation of their~~

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~~interaction as recorded in the child's case file.~~

- b) ~~If a sibling is placed in a residential facility, visitation with that child may occur less frequently than twice per month if:~~
- 1) ~~the child is at risk of physical harm if he or she visits with his or her siblings and that harm is specifically documented in the child's case file;~~
 - 2) ~~the child is at risk of mental or emotional harm if he or she visits with his or her siblings as determined by a qualified mental health professional; or~~
 - 3) ~~the child is placed in a residential facility that is located more than 150 miles from his or her siblings, provided, however, that in such event the Department shall provide the child a visit with his or her siblings, preferably overnight, at least every other month.~~
- e) ~~If the frequency of visits between two siblings is reduced to less than twice per month, the frequency of each child's visits with the other siblings, if any, and of the other siblings visits with each other shall not be reduced except for the reasons stated in subsections (a)(1) through (3) or (b)(1) through (3) above of this Section, or by order of a court.~~
- bd) Neither the Department nor its contractual agencies shall withhold or reduce nor seek to have a court withhold or reduce the frequency of visits based on the unavailability of a supervisor for the visits or as a form of discipline.
- e) ~~Visits may begin sooner than two weeks after the Department is awarded temporary custody of a sibling, if the siblings express a desire to see each other, no court has prohibited visits, and a qualified supervisor (if deemed necessary) and an appropriate time and location for visits have been identified.~~
- cf) A Visitation and Contact Plan~~sibling visitation plan~~, specifying the frequency of sibling visits and other approved forms of contact, shall be developed by the siblings' caseworkers, foster parents, and the children/siblings and filed with the juvenile court within 10~~(seven years of age and older) within 30~~ days after award of temporary custody of the siblings. The Visitation and Contact Plan~~sibling visitation plan~~ shall be included in the Family Service Plan~~children's case plans~~.
- dg) The Visitation and Contact Plan~~sibling visitation plan~~ may be included as a part

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of and implemented in coordination with a plan for parent-child visits ~~developed in accordance with Section 301.210, Family Child Visitation~~. The frequency of sibling visitation shall in no way be affected by the failure of any parent to visit his or her children for any reason.

- e) A sibling visit can be scheduled to occur simultaneously with parent-child visitation, but the sibling visit will be deemed to have occurred only if all siblings are present at the parent-child visit.
- f) The Visitation and Contact Plans ~~sibling visitation plan~~ shall specify the duration of sibling visits and ~~shall~~ may also include the location and supervision to be provided for visits. A brief statement of the reasons for selecting the frequency and duration of sibling visits as specified in the visitation plan shall also be recorded in the plan.
- g) After completion of each child's Individualized Assessment, the caseworker shall review the Visitation and Contact Plan to ensure the plan addresses the individualized needs of each child. The Visitation and Contact Plan shall be reviewed on an ongoing basis to determine whether it is possible to allow increased contact and visitation among the siblings. Any time contact and visitation can be increased, the caseworker should ensure it is done. Caregivers should be encouraged to allow siblings to visit each other at holidays, milestones (e.g., birthdays, graduations), etc. Holidays should include nationally recognized holidays as well as holidays recognized by the culture of the family of origin.
- h) The Visitation and Contact Plan should be amended every time a sibling moves and as necessary to meet the needs of the children.
~~No changes shall be made in the sibling visitation plan without prior consultation with the siblings (seven years old and older) and with the siblings' foster parents unless there is substantial risk of harm to the child if the visits continue unchanged. The sibling visitation plan and its implementation shall be reviewed at each child's administrative case review.~~

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 301.230 Contact Among Siblings Placed Apart

- a) Unless ~~If~~ the Department determines that it is not in the child's best interests to be provided information on a sibling's whereabouts or to have his or her whereabouts

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provided to his or her siblings, ~~or a and no~~ court has prohibited disclosure of this information, the Department shall promote contact and communication among siblings placed apart by taking the following actions:

- 1) the Department or purchase of service agency shall provide children ~~who are seven years old and older~~ and their foster parents or other caregiver with each sibling's birth date and the name, address, and telephone number of the foster parent or other ~~caregiver~~ ~~caretaker~~ of each sibling placed by the Department in substitute care. The Department shall also provide ~~the birth date and the name, address and telephone number of~~ such information regarding siblings in the custody of a parent, adoptive parent, legal guardian or adult sibling, if that information is or becomes known to the Department;
- 2) the Department or purchase of service agency shall provide children ~~who are seven years of age and older~~ who are in the care of their parents with the name, address and telephone number of siblings ~~in~~ under the custody/guardianship of the Department, unless:
 - A) the Department or purchase of service agency has determined that it is not in the child's best interests to provide information on his or her whereabouts to his or her siblings, and the Department has notified each child's attorney and guardian ad litem in accordance with subsection (b);
 - B) the Department or purchase of service agency has determined that identifying information of the foster parent/relative caregiver shall not be released to the sibling based on the results of the assessment completed in accordance with Section 301.440(a), and each child's attorney and guardian ad litem has been notified in accordance with Section 301.440(b); or
 - C) a court has prohibited disclosure of this information;
- 3) whenever a child is moved to another placement, the Department shall: ~~give written notice of the name, address, and telephone number of the child's new foster parent or other caregiver to each sibling and the foster parent or other caregiver of each sibling in writing within seven days after the move;~~

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- A) give written notice of the name, address and telephone number of the child's new foster parent or other caregiver to each sibling and the foster parent or other caregiver of each sibling, in writing, within seven days after the move; and
- B) review and, if necessary, amend the Visitation and Contact Plan in consultation with the caseworkers, foster parents, caregivers, children/siblings and other appropriate parties;and
- 4) the Department shall ~~permit and shall~~ encourage foster parents and caregivers to allowassist children in their care to use available modes of communication (e.g., telephone, cell phone, letter writing, email, video conferencing, etc.) to contactwrite and phone their siblings between visits as often as the children wish, provided, however, that, if necessary, a plan for scheduling reasonable ~~contactphone calls~~ may be established by the children's caseworker, together with the foster parent or other caregiver and the children. This plan shall be incorporated in the Visitation and Contact Planchildren's service plans. ~~The Department shall also facilitate the use of mail for siblings' contact with each other, including payment of postage.~~
- b) If the Department determines that it is not in a child's best interests to be ~~provided~~provide information on a sibling's whereabouts or to have information on his or her whereabouts provided to his or her siblings, the Department shall notify each child's attorney and guardian ad litem in writing within seven days after that determination. The Department shall also record the reasons for that determination in the children's case records.
- c) Neither the Department nor its purchase of service or other contractual agencies shall withhold or restrict, or seek to have any court withhold or restrict, contact among siblings as a form of discipline under any circumstances.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 301.250 Sibling Visitation and Contact with Adopted Siblings and Siblings in Private Guardianship

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- a) When one or more members of a sibling group is/are placed apart by the Department for adoption or subsidized guardianship, the Department shall encourage the adoptive parents/legal guardian to develop a Visitation and Contact Plan or Post Permanency Sibling Contact Agreement to enable continued contact among all of the siblings.
- b) The Department shall offer to assist the parties in developing the Plan or Agreement, provide services to the parties post-permanency to support them in implementing and maintaining agreements, and assist them in amending agreements as necessary to meet the needs of the children. A copy of the Plan or Agreement shall be placed in the adoption or guardianship record.

(Source: Added at 39 Ill. Reg. _____, effective _____)

Section 301.255 Sibling Visitation with and Among Adult Siblings

When one or more (but fewer than all) members of a sibling group are adults or emancipated youth, the Department shall offer to develop a Visitation and Contact Plan or Post Permanency Sibling Contact Agreement to enable continued contact among all of the siblings.

(Source: Added at 39 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Services Delivered by the Department of Children and Family Services
- 2) Code Citation: 89 Ill. Adm. Code 302
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
302.20	Amendment
302.40	Amendment
- 4) Statutory Authority: The Children and Family Services Act [20 ILCS 505], the Adoption Act [750 ILCS 50] and PA 96-1513
- 5) A Complete Description of the Subjects and Issues Involved: These changes implement PA 97-1076 concerning contact between siblings who are placed apart (foster care and post permanency).

Sections affected:

Rule 302.20 – Definition of "sibling" is broadened to comply with legislation. Definitions that have been quoted verbatim from statute have been updated.

Rule 302.40 – Emphasizes the affirmative responsibility of direct service staff to make ongoing efforts to place siblings together, and to encourage and assist children in building and maintaining relationships with their siblings, regardless of where the sibling resides (e.g., home of parent, adoptive home, ILO/TLP, etc.) or whether the sibling is in substitute care (e.g., adult or emancipated sibling, etc.). Amendments also require training for DCFS and POS placement and permanency staff regarding the importance of maintaining sibling relationships/attachments.

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

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- 10) Are there any proposed rulemakings to this Part pending? No
- 11) Statement of Statewide Policy Objectives: These amendments do not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days after publication of this Notice. Comments should be submitted to:

Jeff E. Osowski
Department of Children and Family Services
406 East Monroe, Station # 65
Springfield IL 62701-1498

217/524-1983
E-mail: cfpolicy@idcfs.state.il.us

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

- 13) Initial Regulatory Flexibility Analysis: The Department has determined that the proposed amendments do not affect small businesses.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2014

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER a: SERVICE DELIVERY

PART 302

SERVICES DELIVERED BY THE
DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBPART A: GENERAL PROVISIONS

Section	Purpose
302.10	Purpose
302.20	Definitions
302.30	Introduction
302.40	Department Service Goals
302.50	Functions in Support of Services

SUBPART B: REPORTS OF SUSPECTED CHILD ABUSE OR NEGLECT (RECODIFIED)

Section	Purpose
302.100	Reporting Child Abuse or Neglect to the Department (Recodified)
302.110	Content of Child Abuse or Neglect Reports (Recodified)
302.120	Transmittal of Child Abuse or Neglect Reports (Recodified)
302.130	Special Types of Reports (Recodified)
302.140	Referrals to the Local Law Enforcement Agency and State's Attorney (Recodified)
302.150	Delegation of the Investigation (Recodified)
302.160	The Investigative Process (Recodified)
302.170	Taking Children Into Temporary Protective Custody (Recodified)
302.180	Notification of the Determination Whether Child Abuse or Neglect Occurred (Recodified)
302.190	Referral for Other Services (Recodified)

SUBPART C: DEPARTMENT CHILD WELFARE SERVICES

Section	Purpose
302.300	Adoptive Placement Services (Repealed)
302.305	Adoption Listing Service for Hard-to-Place Children or Children with Disabilities for Whom the Department is Not Legally Responsible

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302.310	Adoption Assistance
302.311	Nonrecurring Adoption Expenses (Repealed)
302.315	Adoption Registry (Repealed)
302.320	Counseling or Casework Services
302.330	Day Care Services
302.340	Emergency Caretaker Services
302.350	Family Planning Services
302.360	Health Care Services
302.365	Mental Health Services (Repealed)
302.370	Homemaker Services
302.380	Information and Referral Services
302.390	Behavioral Health Services
302.400	Successor Guardianship (Repealed)
302.405	Subsidized Guardianship Program
302.410	Subsidized Guardianship (KinGap)

SUBPART D: INTENSIVE FAMILY PRESERVATION SERVICES

Section

302.500	Purpose
302.510	Implementation of the Family Preservation Act
302.520	Types of Intensive Family Preservation Services
302.530	Phase In Plan for Statewide Family Preservation Services
302.540	Time Frames

302.APPENDIX A	Acknowledgement of Mandated Reporter Status (Recodified)
302.APPENDIX B	Calculating the Amount of Adoption Assistance (Repealed)

AUTHORITY: Implementing and authorized by the Children and Family Services Act [20 ILCS 505]; Section 3-6-2(g) of the Unified Code of Corrections [730 ILCS 5/3-6-2(g)]; the Illinois Alcoholism and Dangerous Drug Dependency Act [20 ILCS 305]; the Adoption Assistance and Child Welfare Act of 1980 (42 USC 670 et seq.); 45 CFR 1356.40 and 1356.41; the Juvenile Court Act of 1987 [705 ILCS 405]; and the Adoption Act [750 ILCS 50].

SOURCE: Adopted and codified at 5 Ill. Reg. 13188, effective November 30, 1981; amended at 6 Ill. Reg. 15529, effective January 1, 1983; recodified at 8 Ill. Reg. 992; peremptory amendment at 8 Ill. Reg. 5373, effective April 12, 1984; amended at 8 Ill. Reg. 12143, effective July 9, 1984; amended at 9 Ill. Reg. 2467, effective March 1, 1985; amended at 9 Ill. Reg. 9104, effective June 14, 1985; amended at 9 Ill. Reg. 15820, effective November 1, 1985; amended at 10 Ill. Reg.

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5557, effective April 15, 1986; amended at 11 Ill. Reg. 1390, effective January 13, 1987; amended at 11 Ill. Reg. 1551, effective January 14, 1987; amended at 11 Ill. Reg. 1829, effective January 15, 1987; recodified to 89 Ill. Adm. Code 300 at 11 Ill. Reg. 3492, Sections 302.20, 302.100, 302.110, 302.120, 302.130, 302.140, 302.150, 302.160, 302.170, 302.180, 302.190, Appendix A; amended at 13 Ill. Reg. 18847, effective November 15, 1989; amended at 14 Ill. Reg. 3438, effective March 1, 1990; amended at 14 Ill. Reg. 16430, effective September 25, 1990; amended at 14 Ill. Reg. 19010, effective November 15, 1990; amended at 16 Ill. Reg. 274, effective December 31, 1992; emergency amendment at 17 Ill. Reg. 2513, effective February 10, 1993, for a maximum of 150 days; emergency expired July 9, 1993; amended at 17 Ill. Reg. 13438, effective July 31, 1993; amended at 19 Ill. Reg. 9107, effective June 30, 1995; amended at 19 Ill. Reg. 9485, effective July 1, 1995; emergency amendment at 19 Ill. Reg. 10746, effective July 1, 1995, for a maximum of 150 days; emergency expired November 27, 1995; emergency amendment at 19 Ill. Reg. 16735, effective November 28, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 4606, effective March 15, 1996; amended at 20 Ill. Reg. 6670, effective May 1, 1996; emergency amendment at 21 Ill. Reg. 1033, effective January 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3265, effective March 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 6204, effective May 15, 1997; amended at 21 Ill. Reg. 10912, effective July 29, 1997; amended at 22 Ill. Reg. 7140, effective April 13, 1998; emergency amendment at 22 Ill. Reg. 7289, effective April 13, 1998, for a maximum of 150 days; emergency expired September 10, 1998; amended at 22 Ill. Reg. 8803, effective May 15, 1998; amended at 22 Ill. Reg. 21314, effective December 1, 1998; emergency amendment at 25 Ill. Reg. 4292, effective March 15, 2001, for a maximum of 150 days; emergency expired August 11, 2001; amended at 25 Ill. Reg. 11821, effective August 31, 2001; amended at 25 Ill. Reg. 16243, effective December 15, 2001; amended at 26 Ill. Reg. 11747, effective August 1, 2002; amended at 26 Ill. Reg. 16434, effective October 22, 2002; amended at 28 Ill. Reg. 2155, effective February 1, 2004; emergency amendment at 28 Ill. Reg. 10405, effective July 8, 2004, for a maximum of 150 days; emergency expired December 4, 2004; amended at 29 Ill. Reg. 20354, effective November 30, 2005; amended at 30 Ill. Reg. 2323, effective February 2, 2006; amended at 32 Ill. Reg. 11611, effective July 10, 2008; emergency amendment at 33 Ill. Reg. 14310, effective October 1, 2009, for a maximum of 150 days; amended at 34 Ill. Reg. 3248, effective February 26, 2010; emergency amendment at 34 Ill. Reg. 13182, effective September 1, 2010, for a maximum of 150 days; emergency expired January 28, 2011; amended at 35 Ill. Reg. 2899, effective February 8, 2011; amended at 35 Ill. Reg. 8204, effective May 15, 2011; amended at 36 Ill. Reg. 4048, effective March 5, 2011; expedited correction at 37 Ill. Reg. 19427, effective March 15, 2012; amended at 39 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 302.20 Definitions

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"Adoption assistance" or "adoption subsidy" means financial assistance from the Department that is provided to the adoptive parents after the finalization of an adoption.

"Adoption placement" means a living arrangement with a family that is directed toward establishing that family as the child's new legal parents. To be considered an adoptive placement the child must be placed in a licensed foster family home or a license-exempt relative home and either:

be legally free (parental rights have been terminated or both parents have surrendered their parental rights); or

be placed in a legal risk adoptive placement that has passed legal screening as described in 89 Ill. Adm. Code 309 (Adoption Services for Children for Whom the Department of Children and Family Services is Legally Responsible).

"Biological father" means a man who was not married to the mother when the child was born and who has acknowledged his paternity in open court, or who has signed a statement acknowledging paternity, or who is legally presumed to be the father because he married the child's mother after the child's birth and his name appears on the child's official record of birth, or whose paternity is adjudicated in court. When paternity has been established in the above manner, the relatives of the biological father as well as those of the mother may be considered for the placement of the related children.

"Child welfare services" means ~~publicly funded~~ *publicly funded* social services ~~that~~ *that* are directed toward the accomplishment of the following purposes:

protecting and promoting the health, safety and welfare of ~~all~~ children, including homeless, dependent, or neglected children;

preventing, ~~or~~ remedying, or assisting in the solution of problems that may result in, the neglect, abuse, exploitation, or delinquency of children;

preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving their problems, and preventing breakup of the family where the prevention of child

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removal is desirable and possible when the child can be cared for at home without endangering the child's health and safety;

restoring to their families children who have been removed, by the provision of services to the child and the families when the child can be cared for at home without endangering the child's health and safety;

placing children in suitable adoptive homes, in cases where restoration to the biological family is not safe, possible or appropriate;

assuring safe and adequate care of children away from their homes, in cases where the child cannot be returned home or cannot be placed for adoption. At the time of placement, the Department shall consider concurrent planning, so that permanency may occur at the earliest opportunity. Consideration should be given so that if reunification fails or is delayed, the placement made is the best available placement to provide permanency for the child;

providing supportive services and living maintenance ~~that~~which contributes to the physical, emotional and social well-being of children for whom the Department is legally responsible who are pregnant and unmarried;~~and~~

providing shelter and independent living services for homeless youth; and

placing and maintaining children in facilities that provide separate living quarters for children under the age of 18 and for children 18 years of age and older, unless a child 18 years of age is in the last year of high school education or vocational training, in an approved individual or group treatment program, or in a licensed shelter facility, or secure child care facility. The Department is not required to place or maintain children:

who are in a foster home; or

who are persons with a developmental disability, as defined in the Mental Health and Developmental Disabilities Code [405 ILCS 5];
or

who are female children who are pregnant, pregnant and

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parenting or parenting; or

who are siblings, ~~in facilities that provide separate living quarters for children 18 years of age and older and for children under 18 years of age. [20 ILCS 505/5];~~

in facilities that provide separate living quarters for children 18 years of age and older and for children under 18 years of age. [20 ILCS 505/5]

These services include but are not limited to: counseling, advocacy, protective and family maintenance day care, homemaker, emergency caretaker, family planning, adoption, placement, child protection, and information and referral.

"Children for whom the Department is legally responsible" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or children whose parents ~~have~~ signed an adoptive surrender or voluntary placement agreement with the Department.

"Custodial Caregiver" means an individual with whom a child resides who is directly responsible for the day-to-day care of the child ensuring the child's safety and well-being.

"Department" means the Department of Children and Family Services.

"Family" means one or more adults and children, related by blood, marriage, civil union, or adoption and residing in the same household.

"Godparent" is a person who sponsors a child at baptism or one in whom the parents have entrusted a special duty that includes assisting in raising the child if the parent cannot raise the child. The worker shall verify the godparent/godchild relationship by contacting the parents to confirm the fact that they did, in fact, designate the person as the godparent. If the parents are unavailable, the worker should contact other close family members to verify the relationship. If the person is considered to be the child's godparent, in order for placement to occur, the same placement selection criteria as contained in 89 Ill. Adm. Code 301.60 (Placement Selection Criteria) must be met. If the godparent is not a licensed foster parent, all the conditions currently in effect for placement with relatives in

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89 Ill. Adm. Code 301.80 ([Relative Home Placement](#)) must be met.

"Level of care" means one of the following types of substitute care that would be appropriate for the child, if placed in foster care: regular foster care, intensive foster care, or specialized foster care.

"Minimum parenting standards" means that a parent or other person responsible for the child's welfare sees that the child is adequately fed, clothed appropriately for the weather conditions, provided with adequate shelter, protected from physical, mental and emotional harm, and provided with necessary medical care and education as required by law.

"Parents" means the child's legal parents whose rights have not been terminated and adoptive parents. Biological fathers are considered legal parents when paternity has been established as required by the definition in this Section.

"Permanency goal" means the desired outcome of intervention and service, ~~that~~[which](#) is determined to be consistent with the health, safety, well-being, and best interests of the child. A permanent legal status is usually a component of the permanency goal.

"Permanent legal status" means a legally binding relationship between a child and a family as established by birth or a court of law.

"Pre-existing condition" means, for purposes of adoption assistance and subsidized guardianship, a disabling physical, emotional or mental health condition that the child had prior to the finalization of the adoption or transfer of guardianship. Such condition must be documented by a duly licensed or credentialed professional.

"Private guardianship" means an individual person appointed by the court to assume the responsibilities of the guardianship of the person as defined in Section 1-3 of the Juvenile Court Act of 1987 [705 ILCS 405/1-3] or Article XI of the Probate Act of 1975 [755 ILCS 5/~~Art. XI~~].

"Relative", for purposes of placement of children for whom the Department is legally responsible, means any person, 21 years of age or over, other than the parent, who:

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is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, first cousin once removed (children of one's first cousin to oneself), second cousin (children of first cousins are second cousins to each other), godparent (as defined in this Section), great-uncle, or great-aunt; or

is the spouse, or party to a civil union, of such relative; or

is the child's step-father, step-mother, or adult step-brother or step-sister; or

is the partner, or adult child of a partner, in a civil union with the child's mother or father.

Relative also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, where the child and its sibling are placed together with that person. For children who have been in the guardianship of the Department, have been adopted, and are subsequently returned to the temporary custody or guardianship of the Department, a "relative" may also include any person who would have qualified as a relative under this definition prior to the adoption, but only if the Department determines that it would be in the best interests of the child to consider this person a relative. [20 ILCS 505/7(b)]

"Service constellation" means a variety of services provided to a child and his/her family.

"Service plan" means a written plan on a form prescribed by the Department in the plan toward the permanency goal for the children.

"Siblings" means children who have at least one parent in common. Step-siblings may be considered "siblings" when the children enter into substitute care together and have a positive relationship in the custody or guardianship of the Department who have a shared biological or adoptive parent.

"Subsidized Guardianship Program" means a program of the Department~~child welfare demonstration project~~ that offers a financial subsidy to relative care or licensed foster home caregivers who are willing to assume private guardianship of

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children who are eligible for the program. The Subsidized Guardianship Program is further defined in Section 302.405 (Subsidized Guardianship) and Section 302.410 (Subsidized Guardianship (KinGap)).

"Voluntary placement agreement" means a time-limited written request and consent from a parent, guardian or legal custodian of a child for placement of the child out of the home. When signed by designated Department staff, the Department agrees to provide child welfare services that include placement.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 302.40 Department Service Goals

- a) The Department provides, directly or through purchase, a number of services for children and families that are individually planned to meet the needs of each child and family. These services are directed toward four service goals:
 - 1) family preservation;
 - 2) family reunification;
 - 3) adoption or attainment of a permanent living arrangement;
 - 4) youth development.

- b) **Family Preservation**

When family preservation is the goal, services are directed toward ensuring the children's development, safety and well-being in the home of their family and preventing placement of children away from their family. Families may have been reported to the Department for alleged child abuse or neglect or referred to the Department for services. The service constellation for these children and families may include:

 - 1) counseling/advocacy;
 - 2) emergency caretaker;
 - 3) homemaker;

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- 4) protective and family maintenance day care and child development;
 - 5) family planning;
 - 6) parent education;
 - 7) self-help groups;
 - 8) emergency family shelter;
 - 9) intensive family preservation services;
 - 10) other placement prevention services;
 - 11) referral for substance abuse treatment services;
 - 12) referral for financial assistance and employment related day care;
 - 13) referral for housing assistance or housing advocacy;
 - 14) referral for legal services.
- c) **Family Reunification**
When family reunification is the goal, services are directed toward returning a child to his/her parent's or private guardian's home when the child was removed because of alleged child abuse or neglect or other reasons. Family reunification services are directed toward helping the children's parents or private guardians achieve minimum parenting standards ~~and~~ ensuring the children's safety and well-being upon return home, and preserving and supporting sibling relationships. The service constellation for these children and families may include:
- 1) counseling/advocacy;
 - 2) homemaker;
 - 3) protective and family maintenance day care and child development;
 - 4) foster family home care;

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- 5) relative home care;
 - 6) residential care;
 - 7) family planning;
 - 8) parent education;
 - 9) intensive family preservation services;
 - 10) referral for substance abuse treatment services.
- d) Adoption or Attainment of a Permanent Living Arrangement
- 1) When adoption or attainment of a permanent living arrangement is the goal, services are directed at securing a new legal status in a permanent living situation for children who cannot return to their legal families. A goal of permanent living arrangement means that the child is to remain with a relative or foster family permanently and the Department has transferred or intends to transfer legal guardianship to the family. The service constellation for these children may include:
 - A) counseling;
 - B) adoption;
 - C) subsidized guardianship;
 - D) relative home care;
 - E) foster family home care;
 - F) intensive family preservation services.
 - 2) When a prospective adoptive parent or guardian has a medical and/or physical condition that may render him/her unable to care for the child into adulthood, the Department shall request that the prospective adoptive parent or guardian develops a back-up care plan for the child, ~~that which~~ includes a "back-up caregiver" willing and able to care for the child into

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adulthood. The Department shall assess the back-up care plan and meet with the prospective adoptive parent or guardian and the back-up caregiver to review the Department's expectations with regard to the caregiver's role and responsibilities, the child's needs, available services, and financial assistance such as Subsidized Guardianship and/or Adoption Assistance. The Department shall obtain a signed statement from the back-up caregiver acknowledging that he/she is aware of the child's needs and that the back-up caregiver will assume responsibility for the child's care in the event that the adoptive parent or guardian is no longer capable of providing care. The statement will also inform back-up caregivers for guardianship that any subsidy the guardian was receiving is not transferable.

- e) Youth Development
- 1) When youth development is the goal, services are directed at helping youth live independently or assisting unmarried youth with planning for the birth or care of their child. Youth shall also be encouraged to develop and maintain contact with their siblings. The Department shall provide~~Such~~ services ~~may be provided by the Department~~ to youth for whom it is legally responsible and who are:
 - A) 16 years of age or older, to help them live independently of adult caregiver supervision and achieve economic self-sufficiency;
 - B) high school graduates and have been awarded scholarships in accordance with the Children and Family Services Act [20 ILCS 505]; ~~or and~~
 - C) unmarried and pregnant.
 - 2) The service constellation for youth for whom the Department is legally responsible may include:
 - A) counseling/advocacy;
 - B) day care for the children of unmarried youth;
 - C) homemaker services;

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- D) Family planning;
- E) maintenance payments or foster family home, relative home or residential care payment, except that maternity home payment shall be limited to a maximum of 90 days.

f) Sibling Relationships

- 1) The Department recognizes the importance of encouraging and maintaining relationships among siblings. In order to preserve and strengthen sibling relationships, the Department should do everything in its power to place siblings in the same substitute care setting. Priority shall be given to adoptive parents or legal guardians, whether related or unrelated to the children, who can accept an entire sibling group. When siblings cannot be placed together, priority shall be given to adoptive parents or legal guardians who will agree to frequent sibling visitation and contact.
- 2) The Department shall provide training for all Department and purchase of service direct service staff, resource development (foster family home licensing) staff, administrative case review and clinical staff, and their supervisors and managers regarding the importance of developing and maintaining sibling relationships and the child's sense of attachment to his/her siblings, the importance of maintaining sibling relationships over the child's lifespan, and the impact on the child if those relationships are severed. In addition, the Department shall incorporate this training in pre-service and in service training for foster and adoptive families.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Access to and Eligibility for Child Welfare Services
- 2) Code Citation: 89 Ill. Adm. Code 304
- 3) Section Number: 304.2 Proposed Action: Amendment
- 4) Statutory Authority: Section 5 of the Children and Family Services Act [20 ILCS 505/5] and PA 96-1513
- 5) A Complete Description of the Subjects and Issues Involved: These changes implement PA 97-1076 concerning contact between siblings who are placed apart (foster care and post permanency).

Sections affected:

Rule 304.2 - Definitions that have been quoted verbatim from statute have been updated.

- 6) Published studies and reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any proposed rulemakings to this Part pending? No
- 11) Statement of Statewide Policy Objectives: These rules do not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days after publication of this Notice. Comments should be submitted to:

Jeff E. Osowski
Department of Children and Family Services

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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406 East Monroe, Station # 65
Springfield IL 62701-1498

217/524-1983
E-mail: cfpolicy@idcfs.state.il.us

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

- 13) Initial Regulatory Flexibility Analysis: The Department has determined that the proposed amendments will not have an economic impact on small businesses.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2014

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER a: SERVICE DELIVERYPART 304
ACCESS TO AND ELIGIBILITY FOR CHILD WELFARE SERVICES

Section

304.1	Purpose
304.2	Definitions
304.3	Introduction to Child Welfare Services
304.4	Eligibility for Child Welfare Services
304.5	Access to Child Welfare Services
304.6	Decision Concerning Case Opening

AUTHORITY: Implementing and authorized by Section 5 of the Children and Family Services Act [20 ILCS 505/5]; Sections 2 and 2.1 of the Abused and Neglected Child Reporting Act [325 ILCS 5/2 and 2.1]; Section 1-2 of the Juvenile Court Act of 1987 [705 ILCS 405/1-2]; the Illinois Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301]; the Adoption Assistance and Child Welfare Act of 1980, which amends Section 471 of the Social Security Act (42 USC 671(a)(14)).

SOURCE: Adopted and codified at 5 Ill. Reg. 13117, effective November 30, 1981; amended at 8 Ill. Reg. 12118, effective July 9, 1984; amended at 17 Ill. Reg. 251, effective December 31, 1992; amended at 19 Ill. Reg. 9429, effective July 1, 1995; emergency amendment at 19 Ill. Reg. 10738, effective July 1, 1995, for a maximum of 150 days; emergency expired November 27, 1995; amended at 20 Ill. Reg. 1569, effective January 10, 1996; amended at 22 Ill. Reg. 18843, effective October 1, 1998; amended at 26 Ill. Reg. 11756, effective August 1, 2002; amended at 36 Ill. Reg. 4058, effective March 5, 2012; amended at 39 Ill. Reg. _____, effective _____.

Section 304.2 Definitions

"Abused child" means a child whose parent or immediate family member, or any person responsible for the child's welfare, or any individual residing in the same home as the child, or a paramour of the child's parent:

inflicts, causes to be inflicted, or allows to be inflicted upon such child physical or mental injury, by other than accidental means, which causes

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death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;

creates a substantial risk of physical or mental injury to such child by other than accidental means which would be likely to cause death, disfigurement, impairment of physical or emotional health, or loss of or impairment of any bodily function;

commits or allows to be committed any sex offense against such child, as such sex offenses are defined in the Criminal Code of 2012 [720 ILCS 5],~~1961~~ as amended, or in the Wrongs to Children Act [720 ILCS 150], and extending those definitions of sex offenses to include children under 18 years of age;

commits or allows to be committed an act or acts of torture upon such child;

inflicts excessive corporal punishment; ~~or~~

commits or allows to be committed the offense of female genital ~~mutilation~~mutilation, as defined in Section 12-34 of the Criminal Code of 2012~~1961~~, against the child;:-

causes to be sold, transferred, distributed, or given to such child under 18 years of age, a controlled substance as defined in Section 102 of the Illinois Controlled Substances Act [720 ILCS 570] in violation of Article IV of the Illinois Controlled Substances Act or in violation of the Methamphetamine Control and Community Protection Act [720 ILCS 646], except for controlled substances that are prescribed in accordance with Article III of the Illinois Controlled Substances Act and are dispensed to such child in a manner that substantially complies with the prescription; or

commits or allows to be committed the offense of involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons for forced labor or services as defined in Section 10-9 of the Criminal Code of 2012 against the child.

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A child shall not be considered abused for the sole reason that the child has been relinquished in accordance with the Abandoned Newborn Infant Protection Act [325 ILCS 2]. [325 ILCS 5/3]

"Addicted minor" includes any minor who is an addict or an alcoholic as defined in the Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301/1-10].

"Adjudicated" as used in ~~this Part~~these rules means that the Juvenile Court has entered an order declaring that a child is abused, neglected, dependent, a minor requiring authoritative intervention, a delinquent minor or an addicted minor.

"Biological father" means a man who was not married to the mother when the child was born and who has acknowledged his paternity in open court, or who has signed a statement acknowledging paternity, or who is legally presumed to be the father because he married the child's mother after the child's birth and his name appears on the child's official record of birth, or whose paternity is adjudicated in court. When paternity has been established in the above manner, the relatives of the biological father as well as those of the mother may be considered for the placement of related children.

"Child welfare services" means ~~public~~publicly funded social services that are directed toward the accomplishment of the following purposes:

protecting and promoting the health, safety and welfare of ~~all~~ children, including homeless, dependent, or neglected children;

preventing or remedying, or assisting in the solution of problems that may result in, the neglect, abuse, exploitation, or delinquency of children;

preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving their problems, and preventing the breakup of the family where the prevention of child removal is desirable and possible when the child can be cared for at home without endangering the child's health and safety;

restoring to their families children who have been removed, by the provision of services to the child and the families when the child can be cared for at home without endangering the child's health and safety;

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placing children in suitable adoptive homes, in cases where restoration to the biological family is not possible or appropriate;

assuring safe and adequate care of children away from their homes, in cases where the child cannot be returned home or cannot be placed for adoption. At the time of placement, the Department shall consider concurrent planning, as described in Section 5(l-1) of the Act [20 ILCS 505/5(l-1)] so that permanency may occur at the earliest opportunity.~~;~~ Consideration should be given so that, if reunification fails or is delayed, the placement made is the best available placement to provide permanency for the child;

providing supportive services and living maintenance which contribute to the physical, emotional and social well-being of children who are pregnant and unmarried;

providing shelter and independent living services for homeless youth; and

placing and maintaining children in facilities that provide separate living quarters for children under the age of 18 and for children 18 years of age and older, unless a child 18 years of age is in the last year of high school education or vocational training, in an approved individual or group treatment program, in a licensed shelter facility, or secure child care facility. The Department is not required to place or maintain children:

who are in a foster home;

who are persons with a developmental disability as defined in the Mental Health and Developmental Disabilities Code [\[405 ILCS 5\]](#);

who are female children who are pregnant, pregnant and parenting or parenting; or

who are siblings, in facilities that provide separate living quarters for children 18 years of age and older and for children under 18 years of age. [20 ILCS 505/5(a)(3)]

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These services include but are not limited to: counseling, advocacy, day care, homemaker, emergency caretaker, family planning, adoption, visitation, placement, child protection, and information and referral.

"Delinquent minor" means a minor who before his or her ~~18~~¹⁷th birthday violated or attempted to violate a Federal or State law or municipal ordinance. Delinquent minor is further defined in the Juvenile Court Act of 1987 [705 ILCS 405].

"Department client" means a child or a family who is receiving child welfare services either directly from the Department or through the Department's purchase of service providers.

"Dependent minor" means any minor under 18 years of age:

who is without a parent, guardian or legal custodian;

who is without proper care because of the physical or mental disability of his parent, guardian or custodian;

who is without proper medical or other remedial care recognized under State law or other care necessary for his or her well being through no fault, neglect or lack of concern by his parents, guardian or custodian, provided that no order may be made terminating parental rights, nor may a minor be removed from the custody of his or her parents for longer than 6 months, pursuant to an adjudication as a dependent minor under Section 2-4(c) of the Juvenile Court Act of 1987, unless it is found to be in his or her best interest by the court or the case automatically closes as provided under Section 2-31 of ~~that~~^{the} Act; or

who has a parent, guardian or legal custodian who with good cause wishes to be relieved of all residual parental rights and responsibilities, guardianship or custody, and who desires the appointment of a guardian of the person with power to consent to the adoption of the minor under Section 2-29 of the Juvenile Court Act of 1987.

This ~~definition~~^{definition} does not apply to a minor who would be included herein solely for the purpose of qualifying for financial assistance for himself, his parent or parents, guardian or custodian or to a minor solely because his or her parent or parents or guardian has left the minor for any period of time

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in the care of an adult relative, who the parent or parents or guardian knows is both a mentally capable adult relative and physically capable adult relative, as defined by the Juvenile Court Act of 1987. [705 ILCS 405/2-4]

"Family" means one or more adults and children, related by blood, marriage, civil union or adoption and residing in the same household.

"Godparent" is a person who sponsors a child at baptism or one in whom the parents have entrusted a special duty that includes assisting in raising the child if the parent cannot raise the child. The worker shall verify the godparent/godchild relationship by contacting the parents to confirm the fact that they did, in fact, designate the person as the godparent. If the parents are unavailable, the worker should contact other close family members to verify the relationship. If the person is considered to be the child's godparent, in order for placement to occur, the same placement selection criteria as contained in 89 Ill. Adm. Code 301.60 (Placement Selection Criteria) must be met. If the godparent is not a licensed foster parent, all the conditions currently in effect for placement with relatives in 89 Ill. Adm. Code 301.80 ([Relative Home Placement](#)) must be met.

"Minimum parenting standards" means that a parent or other person responsible for the child's welfare sees that the child is adequately fed, clothed appropriately for the weather conditions, provided with adequate shelter, protected from physical, mental and emotional harm, and provided with necessary medical care and education required by law. ~~A parent who has abandoned a child, deserted a child for three months, or failed to demonstrate a reasonable degree of interest, concern, or responsibility as to the welfare of a newborn child for 30 days after birth is deemed to have failed to have met the minimum parenting standards, unless the parent has arranged for the child's care in the home of a relative who is willing and capable of assuming responsibility for the child. In addition, a parent who is addicted to alcohol or who is a drug addict, as defined in Section 1-103 of the Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301/1-10] and who has consistently failed to cooperate in a rehabilitation program for a period of at least six months is deemed to have failed to have met the minimum parenting standards unless the parent has arranged for the child's safety and well being despite the parent's addiction.~~

"Minor requiring authoritative intervention" or "MRAI" means *any minor under 18 years of age:*

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who is:

absent from home without consent of parent, guardian or custodian, or

beyond the control of his or her parent, guardian or custodian, ~~in~~ circumstances ~~that~~~~which~~ constitute a substantial or immediate danger to the minor's physical safety; and

who, after being taken into limited custody for the period provided for in Section 3.3 of the Juvenile Court Act of 1987~~this Section~~ and offered interim crisis intervention services, where available, refuses to return home after the minor and his or her parent, guardian or custodian cannot agree to an arrangement for an alternative voluntary residential placement or to the continuation of such placement.

Any minor taken into limited custody for the reasons specified in Section 3.3~~this Section~~ may not be adjudicated an MRAI~~an MRAI~~ until the following number of days have elapsed from his or her having been taken into limited custody: 21 days for the first instance of being taken into limited custody and 5 days for the second, third, or fourth instances of being taken into limited custody. For the fifth or any subsequent instance of being taken into limited custody for the reasons specified in Section 3.3~~this Section~~, the minor may be adjudicated as requiring authoritative intervention without any specified period of time expiring after his or her being taken into limited custody, without the minor's being offered interim crisis intervention services, and without the minor's being afforded an opportunity to agree to an arrangement for an alternative voluntary residential placement. Notwithstanding any other provision of Section 3.3~~this Section~~, for the first instance in which a minor is taken into limited custody where one year has elapsed from the last instance of his having been taken into limited custody, the minor may not be adjudicated an MRAI~~an MRAI~~ until 21 days have passed since being taken into limited custody. [705 ILCS 405/3-3]

"Neglected child" means any child who is not receiving the proper or necessary nourishment or medically indicated treatment including food or care not provided solely on the basis of present or anticipated mental or physical impairment as determined by a physician acting alone or in consultation with other physicians or otherwise is not receiving the proper or necessary support or medical or other

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remedial care recognized under State law as necessary for a child's well-being (including where there is harm or substantial risk of harm to the child's health or welfare), or other care necessary for a child's well-being, including adequate food, clothing and shelter; or who is abandoned by his or her parents or other person responsible for the child's welfare without a proper plan of care; or who has been provided with interim crisis intervention services under Section 3-5 of the Juvenile Court Act of 1987 [705 ILCS 405/3-5] and whose parent, guardian, or custodian refuses to permit the child to return home and no other living arrangement agreeable to the parent, guardian, or custodian can be made, and the parent, guardian, or custodian has not made any other appropriate living arrangement for the child; or who is a newborn infant whose blood, urine or meconium contains any amount of controlled substance as defined in Section 102(f) of the Illinois Controlled Substances Act or a metabolite thereof, with the exception of a controlled substance or metabolite thereof whose presence in the newborn infant is the result of medical treatment administered to the mother or newborn infant. A child shall not be considered neglected for the sole reason that the child's parent or other person responsible for his or her welfare has left the child in the care of an adult relative for any period of time. A child shall not be considered neglected for the sole reason that the child has been relinquished in accordance with the Abandoned Newborn Infant Protection Act [325 ILCS 5]. A child shall not be considered neglected or abused for the sole reason that such child's parent or other person responsible for his or her welfare depends upon spiritual means through prayer alone for the treatment or cure of disease or remedial care under Section 4 of the Abused and Neglected Child Reporting Act. When the circumstances indicate harm or substantial risk of harm to the child's health or welfare and necessary medical care is not being provided to treat or prevent that harm or risk of harm because the parent or other person responsible for the child's welfare depends upon spiritual means alone for treatment or cure, the child is subject to the requirements of the Abused and Neglected Child Reporting Act for the reporting of, investigation of, and provision of protective services with respect to the child and his or her health needs, and, in such cases, spiritual means through prayer alone for the treatment or cure of disease or for remedial care will not be recognized as a substitute for necessary medical care, if the Department or, as necessary, a juvenile court determines that medical care is necessary. A child shall not be considered neglected or abused solely because the child is not attending school in accordance with the requirements of Article 26 of the School Code [105 ILCS 5/Art. 26]. [325 ILCS 5/3]

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"Purchase of services provider" means an agency or individual offering services to a Department client through a signed contract with the Department.

"Relative", for purposes of placement of children for whom the Department is legally responsible, means any person, 21 years of age or over, other than the parent, who:

is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, first cousin once removed (children of one's first cousin to oneself), second cousin (children of first cousins are second cousins to each other), godparent (as defined in this Section), great-uncle, or great-aunt; ~~or~~

is the spouse, or party to a civil union, of such a relative; ~~or~~

is the child's step-father, step-mother, or adult step-brother or step-sister;
or

is the partner, or adult child of a partner, in a civil union with the child's mother or father.

"Relative" also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. For children who have been in the guardianship of the Department, have been adopted, and are subsequently returned to the temporary custody or guardianship of the Department, a "relative" may also include any person who would have qualified as a relative under this definition prior to the adoption, but only if the Department determines that it would be in the best interests of the child to consider this person a relative. [20 ILCS 505/7(b)]

"Services delivered by the Department" means those social services provided either directly by Department of Children and Family Services staff or by purchase of service providers.

"Voluntary placement agreement" means a time-limited written request and consent from a parent, guardian or legal custodian of a child for placement of the

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child out of the home. When signed by designated Department staff, the Department agrees to provide child welfare services which include placement.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Adoption Services for Children for Whom the Department of Children and Family Services is Legally Responsible
- 2) Code Citation: 89 III. Adm. Code 309
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
309.20	Amendment
309.30	Amendment
309.35	New Section
309.40	Amendment
309.100	Amendment
309.110	Amendment
309.130	Amendment
309.135	New Section
309.140	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 4 and 5 of the Children and Family Services Act [20 ILCS 505/4 and 5] and the Adoption Act [750 ILCS 50]; implementing the Adoption Assistance and Child Welfare Act of 1980 (42 USCA 670 et seq; 45 CFR 1356.40 and 1356.41); and the Adoption and Safe Families Act (42 USCA 1305)
- 5) A Complete Description of the Subjects and Issues Involved: These changes implement PA 97-1076 concerning contact between siblings who are placed apart (foster care and post permanency).

Sections affected:

Rule 309.20 – Definition of "sibling" is broadened to comply with legislation. "Contact between siblings", "visitation" and "relative" are defined. Definitions that have been quoted verbatim from statute have been updated.

Rule 309.30 – Emphasizes the need to recruit adoptive homes that will accept sibling groups for placement, and encourage and support ongoing sibling contact. Requires training for prospective adoptive parents and private guardians regarding the importance of encouraging and maintaining sibling relationships/attachments.

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Rule 309.35 (new) – Requires adoption workers to make a good faith effort to locate siblings previously placed by DCFS in adoptive homes and private guardianship when seeking a permanent placement for an "add on" child.

Rule 309.40 – Updates information about the Adoption Listing Service.

Rule 309.100 – Requires adoption workers to gather and assess information about all known siblings of a child being placed for adoption and why the siblings were placed apart (when applicable). When a child's current caregiver is not a viable adoptive resource, the worker shall contact the adoptive parent or legal guardian of a sibling of the child who was adopted or placed in private guardianship and informing them of the availability of the child for adoption. If, after adoption, the child will live separately from some or all of his/her siblings, how to facilitate contact with his/her siblings, including adult siblings.

Rule 309.110 – When preparing and training adoptive families, the Department shall emphasize the child's sense of attachment to and the importance of maintaining a relationship with his/her siblings. The subsidy worker shall strongly encourage continued sibling contact and offer to help the adoptive parents develop a Post Permanency Sibling Contact Agreement.

Rule 309.130 – The worker shall assess the prospective family's willingness to help and support the child in developing a relationship with siblings. A placement that can accept an entire sibling group shall be given priority over placement that will accept only one (or some) of the siblings.

Rule 309.135 (new) – Sets out the required contents of the Post Permanency Sibling Contact Agreement.

Rule 309.140 – The adoption/subsidy worker shall inform adoptive parents (or legal guardians) that they may be contacted in the future regarding placement of, or contact with, siblings subsequently requiring placement or requesting contact with their adopted siblings.

- 6) Published studies and reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No

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- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand the State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days after publication of this Notice. Comments should be submitted to:

Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield IL 62701-1498

217/524-1983
TDD: 217/524-3715
Fax: 217/557-0692
E-Mail: CFPolicy@idcfs.state.il.us

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

- 13) Initial Regulatory Flexibility Analysis: The Department has determined that the proposed amendments will not have an economic impact on small businesses.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2014

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

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TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER a: SERVICE DELIVERY

PART 309

ADOPTION SERVICES FOR CHILDREN FOR WHOM THE DEPARTMENT OF
CHILDREN AND FAMILY SERVICES IS LEGALLY RESPONSIBLE

Section	
309.10	Purpose
309.20	Definitions
309.30	Recruitment of Adoptive Families
<u>309.35</u>	<u>Good Faith Efforts to Locate Siblings in Adoption and Subsidized Guardianship Placements</u>
309.40	Adoption Listing Services
309.50	Identification of Children for Potential Adoption Planning
309.60	Legal Risk Placements
309.70	Freeing Children for Adoption
309.80	Termination of Parental Rights
309.90	Putative Father Registry
309.100	Preparation of Children for Adoption
309.105	Who May Adopt a Child
309.110	Preparation and Training of Adoptive Families
309.120	Preparation of the Child's Biological Parents
309.130	Placement Considerations
<u>309.135</u>	<u>Post Permanency Sibling Contact Agreement</u>
309.140	Placement of Children with Adoptive Families
309.150	Providing Information to Adoptive Families
309.160	Post-Placement Services
309.170	Post-Adoption Services
309.180	Adoption Assistance
309.190	Adoption Registry

AUTHORITY: Implementing and authorized by Sections 4 and 5 of the Children and Family Services Act [20 ILCS 505/4 and 5], the Adoption Act [750 ILCS 50] and Section 20 of the Illinois Religious Freedom Protection and Civil Union Act [750 ILCS 75/20]; implementing the Adoption Assistance and Child Welfare Act of 1980 (42 USC 670 et seq.; 45 CFR 1356.40 and 1356.41) and the Adoption and Safe Families Act (42 USC 1305).

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SOURCE: Adopted at 22 Ill. Reg. 8769, effective May 15, 1998; amended at 23 Ill. Reg. 11098, effective September 16, 1999; amended at 25 Ill. Reg. 11778, effective September 14, 2001; amended at 26 Ill. Reg. 16449, effective October 23, 2002; emergency amendment at 30 Ill. Reg. 17123, effective October 13, 2006, for a maximum of 150 days; emergency expired March 11, 2007; amended at 31 Ill. Reg. 8466, effective June 8, 2007; amended at 36 Ill. Reg. 4069, effective March 5, 2012; amended at 39 Ill. Reg. _____, effective _____.

Section 309.20 Definitions

"Adoption assistance" or "adoption subsidy" means financial assistance and other services from the Department which are provided to the adoptive parents after the finalization of an adoption of a child with special needs as defined in Section 309.180.

"Adoption placement" means a living arrangement with a family ~~that~~ which is directed toward establishing that family as the child's new legal parents.

"Adoption triad" means the adoptive family, the adoptee (child being adopted) and the biological family.

"Adult" means a person who has attained the age of 18.

"Agency" means a public child welfare agency or a licensed child welfare agency.

"Attachment" means the lasting psychological tie between two people who have significance for each other that endures through space and time and serves to join them emotionally.

"Best interests" as defined in the Juvenile Court Act of 1987 [104 ILCS 405] means consideration of the following factors: ~~"Best interests" as defined in the Juvenile Court Act of 1987 means consideration of the following factors~~ in the context of the child's age and developmental needs:

the physical safety and welfare of the child, including food, shelter, health, and clothing;

the development of the child's identity;

the child's background and ties, including familial and religious;

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the child's sense of attachments, including:

where the child actually feels love, attachment, and a sense of being valued (as opposed to where adults believe the child should feel such love, attachment, and sense of being valued);

the child's sense of security;

the child's sense of familiarity;

continuity of affection for the child;

the least disruptive placement alternative for the child;

the child's wishes and long-term goals;

the child's community ties, including church, school, and friends;

the child's need for permanence which includes the ~~child's~~ need for stability and continuity of relationships with parent figures and with siblings and other relatives;

the uniqueness of every family and child;

the risks attendant to entering and being in substitute care; and

the preferences of the persons available to care for the child. [705 ILCS 405/1-3]

"Certification training" means training directed toward preparing a family to adopt a child for whom the Department of Children and Family Services is legally responsible and may consist of the following different types of training:

six hours of standardized training for foster care conversion adoptions ~~that~~^{which} means that a foster parent or relative caregiver is adopting a child who has been in his or her care; or

six ~~hours~~^{hour} of standardized training and an additional individualized

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training plan specific to the child's needs for adoptive parents who have not had the child in their care prior to the adoptive placement; or

training specified by private child welfare agencies who meet the standards of the Council on Accreditation of Services for Families and Children.

"Children for whom the Department of Children and Family Services is legally responsible" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or children whose parents have signed an adoptive surrender or voluntary placement agreement with the Department.

"Confidential intermediary" is an individual appointed by the court *for the purpose of exchanging medical information with one or more mutually consenting biological relatives, obtaining identifying information about one or more mutually consenting biological relatives, or arranging contact with one or more mutually consenting biological relatives. Additionally, in cases where an adopted or surrendered person is deceased, an adult child of the adopted or surrendered person or his or her adoptive parents or surviving spouse may file a petition under Section 18.3a of the Adoption Act and in cases where the birth parent is deceased, an adult birth sibling of the adopted or surrendered person or of the deceased birth parent may file a petition under Section 18.3a for the purpose of exchanging medical information with one or more mutually consenting biological relatives of the adopted or surrendered person, obtaining identifying information about one or more mutually consenting biological relatives of the adopted or surrendered person, or arranging contact with one or more mutually consenting biological relatives of the adopted or surrendered person for the purpose of obtaining from biological parents or siblings of an adopted person information concerning the background of a psychological or genetically based medical problem experienced or which may be experienced by the adopted person or obtaining assistance in treating such a problem.* [750 ILCS 50/18.3a] The duties and responsibilities of a confidential intermediary are set out in Section 18.3a(i) of the Adoption Act [750 ILCS 50/18.3a(i)] is obliged by law to protect the identity and privacy of the biological family as well as that of the adoptive family and adopted person.

"Consent to adoption by a specified person" is a voluntary act by the parents to relinquish all parental rights of a child to a person or persons specified by the

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parents in the specific consent document. Consent to adoption by a specified person is further described in Section 309.70 (Freeing Children for Adoption).

"Contact between siblings" means contact among siblings who are residing apart from one another, and may include, but is not limited to: telephone calls; video conferencing; sending/receiving cards, letters, emails, text messages, gifts, etc.; sharing photographs or information; use of any approved social media (e.g., Facebook) and any other agreed upon forms of communication technology.

"Internal legal screening" means an internal review required by the Department prior to referring a case for termination of parental rights for the purpose of freeing a child for adoption. Depending on local practice, a representative of the State's Attorney's Office may participate in the screening. The purpose of the screening is to determine whether sufficient grounds for termination of parental rights exist and whether adoption is in the best interest of the child. Legal screening is further described in Section 309.80 (Termination of Parental Rights).

"Legal risk placement" means the placement with a family of a child, not yet legally free for adoption, made in the best interests of the child with the intent that the family will become an adoptive resource for the child should the child become legally free for adoption.

"Parental unfitness" means a finding by the court that a person is unfit to parent a child, without regard to the likelihood that the child will be placed for adoption. The grounds of unfitness are described in Section 1(D) of Section 309.50 (Identification of Children for Potential Adoption Planning) and in the Adoption Act [750 ILCS 50/1(D)].

"Persons approved for adoption" means persons who have been licensed as a foster family home in accordance with 89 Ill. Adm. Code 402 (Licensing Standards for Foster Family Homes) or relative caregivers with whom children have been placed in accordance with 89 Ill. Adm. Code 301 (Placement and Visitation Services) and who also meet the certification requirements of Section 309.110(c) ~~of this Part~~.

"Post-adoption services" are services meant to assist and support the family in maintaining itself in a healthy and nurturing environment and in preserving the adoption. Post-adoption services may include, but are not limited to, social, psychological, psychiatric, health, educational and adoption preservation services.

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Financial services are available to families and adoptees following the legal consummation of the adoption, when they are eligible for adoption assistance. Post-adoption services also address the needs of adult adoptees and their biological families to seek information and contact, when desired.

"Putative father" means a male, regardless of age, who may be a child's father, but who was not married to the child's mother on or before the date that the child was or is to be born and for whom paternity of the child has not been established in a court proceeding.

"Relative", for purposes of placement of children for whom the Department is legally responsible, means any person, 21 years of age or over, other than the parent, who:

is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, first cousin once removed (children of one's first cousin to oneself), second cousin (children of first cousins are second cousins to each other), godparent, great-uncle, or great-aunt; or

is the spouse, or party to a civil union, of such a relative; or

is the child's step-father, step-mother, or adult step-brother or step-sister; or

is the partner, or adult child of a partner, in a civil union with the child's mother or father.

"Relative" also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. For children who have been in the guardianship of the Department, have been adopted, and are subsequently returned to the temporary custody or guardianship of the Department, a "relative" may also include any person who would have qualified as a relative under this definition prior to the adoption, but only if the Department determines that it would be in the best interests of the child to consider this person a relative.

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"Siblings" means children who have at least one parent in common. Children continue to be considered siblings after parental rights are terminated or after one or more of the children are adopted or placed in private guardianship, if they were in the custody or guardianship of the Department pursuant to Article II of the Juvenile Court Act of 1987 [705 ILCS 405] immediately prior to the adoption or guardianship. Step-siblings may be considered "siblings" when the children enter into substitute care together and have a positive relationship.

"Surrender for adoption" is a voluntary act by the parents to relinquish all parental rights of a child to an agency for the purpose of placing the child for adoption.

"Termination of parental rights" is a legal action of the court or a voluntary action by the parents ~~that~~which relieves the birth parents of a child of all parental responsibility for the child and deprives them of all legal rights with respect to the child.

"Visitation" means face-to-face contact:

between parents and their children who are in substitute care;

between siblings in substitute care who are placed apart from one another;
or

between siblings in substitute care with siblings who are not in substitute care (e.g., emancipated, adopted, placed in private guardianship, living in home of parent, etc.).

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 309.30 Recruitment of Adoptive Families

- a) The Department shall make special efforts for the diligent recruitment of potential adoptive families that will accept sibling groups for placement, and encourage and support sibling contact when siblings must be separated. The Department shall provide training for all prospective adoptive parents and private/subsidized guardians regarding the importance of maintaining sibling relationships and the child's sense of attachment to his/her siblings, the importance of maintaining sibling relationships over the child's lifespan, and the impact on the child if those relationships are severed.

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- b) In addition, special efforts shall be made to recruit potential adoptive families that reflect the ethnic and racial diversity of the children for whom adoptive homes are needed. Special efforts shall include contacting and working with community organizations and religious organizations and may include contracting with those organizations, utilizing local media and other resources, and conducting outreach activities. [20 ILCS 505/7]

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 309.35 Good Faith Effort to Locate Siblings in Adoption and Subsidized Guardianship Placements

- a) When a child is in need of an adoptive placement, the caseworker shall examine Department records and other available resources and attempt to determine whether a sibling of the child has been adopted or placed in private guardianship after being in the Department's custody or guardianship. If the caseworker determines that a sibling of the child has been adopted or placed in private guardianship, the caseworker shall make a good faith effort to locate the adoptive parents or guardians of the sibling and inform them of the availability of the child for adoption. If a child available for adoption has a sibling who has been adopted or placed in guardianship, and the adoptive parents or guardians of that sibling apply to adopt the child, the caseworker shall consider them as adoptive applicants for the adoption of the child. The caseworker's final decision as to whether it will consent to the adoptive parents or guardians of a sibling being the adoptive parents of the child shall be based upon the welfare and best interest of the child. In arriving at its decision, the caseworker shall consider all relevant factors, including but not limited to:
- 1) the wishes of the child;
 - 2) the interaction and interrelationship of the child with the applicant to adopt the child;
 - 3) the child's need for stability and continuity of relationship with parent figures;
 - 4) the child's adjustment to his or her present home, school and community;

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- 5) the mental and physical health of all individuals involved;
 - 6) the family ties between the child and the child's relatives, including siblings;
 - 7) the background, age and living arrangements of the applicant to adopt the child;
 - 8) a criminal background report of the applicant to adopt the child.
- b) If placement of the child available for adoption with the adopted sibling or sibling in private guardianship is not feasible, but it is in the child's best interest to develop a relationship with his or her sibling, the caseworker shall invite the adoptive parents, guardian or guardians for a joint team decision-making meeting to facilitate a discussion regarding future sibling contact. [20 ILCS 505/7.4(h)]

(Source: Added at 39 Ill. Reg. _____, effective _____)

Section 309.40 Adoption Listing Services

- a) The Department or its agent shall maintain coded listings ~~that which~~ include the names and addresses of persons who have applied for and have been approved for the adoption of a child. The listings shall also include the names of children for whom:
 - 1) the Department has determined after an internal legal screening that adoption is the appropriate permanency plan for the child~~in the best interests of the child and there are sufficient grounds for termination of parental rights~~; and
 - 2) two weeks have passed since the internal legal screening determination and an adoptive resource has not yet been identified for the child.
- b) The purpose of the adoption listing service is to enable caseworkers to aggressively identify adoptive parents and children for whom adoption is in their best interests.
- c) When it can be demonstrated that it would be contrary to the child's best interests

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to list the child due to the child's mental health problems, the child shall not be listed. This exception must be reviewed and reapproved by the Department's Regional Administrator every six months.

- d) Licensed Illinois adoption~~Child welfare~~ agencies that provide adoption services on behalf of children for whom the Department is legally responsible ~~shall~~~~are to~~ submit to the Department's agent, for inclusion in the coded listing, the names and addresses of all persons who have applied and been approved for adoption of a child, who are waiting for a child and who have authorized the listing. In addition, licensed adoption~~child welfare~~ agencies shall also submit to the Department's agent for inclusion in the coded listing the names of such children who have not been placed for adoption. The Department's agent is:

Adoption Information Center of Illinois
120 West Madison Street, Suite 800
~~188 W. Randolph, Suite 600~~
Chicago, Illinois 60602~~60604~~
(800)-572-2390
www.adoptinfo-il.org

- e) The Department or its agent shall make the coded listings available, without charge, to every licensed adoption~~child welfare~~ agency in the State in a format ~~that which~~, in accordance with 89 Ill. Adm. Code 431, Confidentiality of Personal Information of Persons Served by the Department of Children and Family Services, protects the confidentiality of the persons seeking to adopt and of the child not yet placed for adoption.
- f) Information regarding the child shall be made available as follows:
- 1) Information that is not included in the listing ~~book~~, but is provided to licensed adoption~~child welfare~~ agencies ~~that provide adoption services~~, shall include specific personal information about the child, including, but not limited to, if applicable, the child's mental health history, health history, HIV test results or diagnosis of AIDS, or parental alcohol or substance abuse history.
 - 2) Information provided to the general public shall be limited to general information about the child such as the child's personality, likes, dislikes, interests and activities. More specific personal information shall only be

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provided to persons who have expressed an interest in a specific child and are seriously considering adopting the child.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 309.100 Preparation of Children for Adoption

Preparation of children for adoption begins when adoption has been identified as a potential goal for the child. During this pre-placement phase, specific services are provided to the child for whom adoption is being considered.

- a) The Assessment Phase
The assessment phase consists of preparation activities initiated before an adoptive home has been identified. The primary purpose of this phase is completion of an assessment to guide the identification of needs to be met and in directing intervention. Assessments already completed on the following issues should be reviewed, and if needing update, should be updated before deciding whether or not adoption is appropriate for a child:
- 1) assessing the child in relation to the physical, emotional, educational and social environment;
 - 2) determining the developmental level and potential of the child;
 - 3) gathering and assessing all pertinent information on the child and family, that~~which~~ includes the names and whereabouts of all known siblings, why siblings were not placed together (when applicable), and a complete review of the family history;
 - 4) assessing whether it is in the best interests of the child to be separated from his/her siblings (when they were placed together), and if separated, how best to facilitate contact with his/her siblings;
 - 5) when placement of the child with his or her siblings would require that the child be removed from a current foster home, assessing if it is in the best interests of the child to remain in that foster home rather than move to a joint placement with his or her siblings;
 - 6) assessing the child's capacity for attachment;

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- ~~75~~) assessing the child's ability and opportunity to grieve losses;
 - ~~86~~) assessing issues involving the child's identity;
 - ~~97~~) assessing the child's unique qualities by focusing on the strengths and talents possessed by the child; and
 - ~~108~~) assessing the child's understanding of the adoption process and making a determination of the child's desire to move toward an adoptive placement.
- b) **The Preparation for Placement Phase**
This phase includes activities that are initiated after the assessment has been completed and reviewed and all the placement considerations have been assessed for applicability for a particular child. Such activities include:
- 1) ~~Further~~further assessment of the child's knowledge of adoption as a permanency goal, ensuring that the child understands the selection of the family will be a joint decision between the prospective adoptive family, the child and the Department;
 - 2) Sharing descriptive information about the family with the child;
 - 3) Helping the child deal with feelings of separation and loss;
 - 4) If, after adoption, the child will live separately from some or all of his/her siblings, how to facilitate contact with his/her siblings, including adult siblings.
 - ~~5~~) Arranging for specific recruitment activities for any child for whom an adoptive resource cannot be located.
- c) **Diligent Recruitment Requirements**
If the child's ~~caregiver~~caretaker is not a viable resource for the child, diligent recruitment efforts shall be undertaken to locate adoptive parents who are appropriate to meet the child's needs and best interests, utilizing the placement considerations described in Section 309.130, Placement Considerations. Diligent recruitment efforts include, but are not limited to:

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- 1) locating relatives who may be willing to adopt the child or a sibling group and who the Department has reason to believe will be able to adequately provide for the child's/children's safety and welfare;
 - 2) contacting the adoptive parent or legal guardian of a sibling of the child who was adopted or placed in private guardianship and informing them of the availability of the child for adoption;
 - 32) a review of the Department's available adoptive resources, contacts with local adoption agencies, and specialized recruitment activities such as parent groups, appropriate religious and civic organizations and service providers, advocacy groups and agencies;
 - 43) a review of the Adoption Listing Service to determine the availability of an appropriate family;
 - 54) listing the child with the Adoption Listing Service, in accordance with Section 309.40, ~~that~~which includes among its services an interstate search, when necessary, consisting of contacts with other states, and out of state adoption agencies and referral/advocacy agencies to find a suitable adoptive placement.
- d) The Department shall not deny or delay the placement of a child for adoption when a suitable person or family who has been approved as an adoptive resource is available outside of the State, region, or county of jurisdiction.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 309.110 Preparation and Training of Adoptive Families

The preparation and training of prospective adoptive families will be done in the following four phases:

- a) Pre-service Preparation and Education
During this first phase the Department or adoption agency will educate prospective adoptive parents in the following areas:
 - 1) the purpose and goals of adoption;

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- 2) the selection process and the criteria for being licensed and certified as adoptive parents;
 - 3) the laws, regulations, policies, resources and values that direct the adoption program;
 - 4) information about the needs and strengths of children who require adoption services;
 - 5) the respective roles of adoptive parents, agencies, and courts;
 - 6) differences between parenting in foster home placement, legal risk placement, and adoptive placement regarding attachment, commitment, relationship with the child's family of origin, expectations, responsibilities, supports and the lifelong impact of adoption;
 - 7) the child's sense of attachment to his/her siblings, the importance of maintaining a relationship with siblings over the child's lifespan, and the impact upon the child if those relationships are not preserved;
 - 8) developing, implementing and modifying Post Permanency Sibling Contact Agreements; the role the adoptive parent can take in supporting the child's connections, and the possibility that the adoptive parent/guardian may be contacted in the future regarding placement of or contact with siblings;
 - 97) the knowledge and practical skills necessary to become successful adoptive parents; and
 - 108) the knowledge of developmental challenges and changes faced by adoptive families.
- b) The Assessment Phase
During the assessment phase the Department or adoption agency will:
- 1) help applicants make an accurate and informed assessment of the strengths they bring to adoption, including the kinds of children they could most successfully parent, and their ability to parent a sibling group;

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- 2) help applicants make an accurate assessment of their needs, including the kinds of support they would need from the Department or the adoption agency;
 - 3) make an accurate assessment of the strengths and needs of the prospective adoptive family;
 - 4) match the prospective family's assessment with the Department's or agency's assessment;
 - 5) develop a written strength and needs assessment or family profile to be used to guide placement of specific children; and
 - 6) explore with applicants their willingness to help the child maintain contact with his/her siblings and other significant relationships in the child's past.
- c) **The Certification Process**
The certification process includes completion of the required certification training and an assessment, ~~thatwhich~~ includes a written home study ~~thatwhich~~ incorporates information from the assessment phase and includes a recommendation regarding the types of children the family is able to parent ~~thatwhich~~ have been approved by the Department or adoption agency supervisor.
- d) **Post-Certification Phase**
During this phase the Department or adoption agency will:
- 1) provide continued support to the family, including information regarding children available for adoption;
 - 2) make specialized training available; and
 - 3) introduce adoptive families to adoptive parent support groups, and/or master adoptive parents in those areas where they exist.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 309.130 Placement Considerations

- a) **Consideration of the Child's Needs**

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The child's needs and best interests shall be the primary consideration when selecting an adoptive family for a child. The factors to be considered shall include, but are not limited to:

- 1) the wishes of the child under 14 years of age, who demonstrates the maturity and cognitive ability to participate in the decision;
- 2) the physical, mental, and emotional needs of the child;
- 3) the child's need for stability and continuity of relationship with parent figures;
- 4) the interaction between the child and the prospective adoptive parent;
- 5) the prospective adoptive parent's ability to meet the physical, mental, and emotional needs of the child;
- 6) the prospective adoptive parents' ability and willingness to support, maintain and continue to be sensitive to the child's significant relationships with the child's extended family, siblings, and any other significant persons who played an important part in the child's life or to whom the child has established significant emotional ties;
- 7) the results of an assessment of the child's capacity for attachment conducted in accordance with subsection (b)(7)~~below; and~~
- 8) the consent of a child 14 years of age or older; ~~and~~;
- 9) the prospective adoptive family's willingness to help and support the child in developing a relationship with his/her siblings, including siblings with whom the child does not yet have a relationship; and recognize the value of preserving family ties between the child and his/her siblings, including the child's need for stability and continuity of relationships with siblings, and the importance of sibling contact in the development of the child's identity.

b) Other Placement Considerations

The following factors must also be considered when selecting an adoptive placement for a child:

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- 1) Siblings: Sibling groups ~~shall~~^{are to} be placed together whenever possible. A decision to place siblings apart shall be based on a carefully documented and reviewed determination that such a separation will be in the best interests of all the siblings involved. The Department shall give priority to an adoptive placement that will accept all of the children over a related or unrelated placement that will accept only one or some of the children. When it is not possible to place all of the children together, the Department shall encourage the prospective adoptive families to encourage and facilitate contact among the siblings.
- 2) Foster Parent Preference: In accordance with the Adoption Act, licensed foster parents who have cared for a child for a continuous period of one year or more shall be given preference and first consideration over all other applicants for the adoption of that child in their home when adoption is the permanency goal, the child is legally free for adoption and adoption is in the child's best interests.
- 3) Consideration of Relatives: The Department may consider relatives as a potential adoptive resource for children who do not have an identified adoptive resource and are not going to be adopted by their current caregiver.
- 4) Parenting Capacity of Adoptive Parents: Adoptive parents shall be selected who are likely to retain their parenting capacities or are effectively able to adapt to the needs of the child as they grow, change and develop. Assessments shall include such information as the family's future plans for financial security, child care and supports for child rearing in the event of a significant illness or death of the adoptive parents.
- 5) Religion: The best interests of the child shall be the prime consideration in the placement of a child for adoption. A child shall be placed, whenever possible, with adoptive parents holding the same religious belief as that of the child. (See 750 ILCS 50/15.)
- 6) Communication Needs: In the case of a child who is hearing impaired, the child shall be placed in a home where one of the members is able to communicate in the child's preferred mode of communication; e.g., sign language. In the case of a limited/non-English speaking child, the child

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shall be placed in a home where at least one person speaks the child's primary language. In an otherwise suitable adoptive home, placement shall not be denied if the prospective adoptive parents have enrolled in a language course to learn the method of communication used by the child prior to finalization of the adoption.

- 7) Level of Attachment: When there is some question about a child's level of or capacity for attachment, the Department shall assess the child's level of or capacity for attachment in making an adoptive placement decision. Such assessments require prior supervisory approval after consultation with Department adoption staff.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 309.135 Post Permanency Sibling Contact Agreement

- a) When a child in the Department's care has a permanency goal of adoption or private guardianship, and the Department is preparing to finalize the adoption or guardianship, the child's caseworker shall convene a meeting with the prospective adoptive parents or guardians and the foster parents and caseworkers for the child's siblings in substitute care, and others as applicable. The children should participate when developmentally appropriate. Others, such as therapists and mentors, may participate as appropriate. At the meeting the Department shall encourage the parties to discuss post permanency sibling contact. The caseworker may assist the parties in drafting a Post Permanency Sibling Contact Agreement.
- 1) Parties to the Post Permanency Sibling Contact Agreement shall include:
- A) The adoptive parent or parents or guardian.
- B) The child's siblings in substitute care, and the sibling's current foster parents or guardians, and siblings who are emancipated/living independently.
- C) The child.

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- 2) *The written consent of a child age 14 and over to the terms and conditions of the Post Permanency Sibling Contact Agreement and subsequent modifications is required.*
- 3) *In developing this Agreement, the Department shall encourage the parties to consider the following factors:*
- A) *the physical and emotional safety and welfare of the child;*
 - B) *the child's wishes;*
 - C) *the interaction and interrelationship of the child with the child's siblings who would be visiting or communicating with the child, including:*
 - i) *the quality of the relationship between the child and his/her siblings, and*
 - ii) *the benefits and potential harms to the child in allowing the relationships to continue or in ending them;*
 - D) *the child's sense of attachments to his/her siblings and adoptive family, including:*
 - i) *the child's sense of well being and being valued;*
 - ii) *the child's sense of familiarity and connectedness; and*
 - iii) *continuity of affection for the child; and*
 - E) *other factors relevant to the best interest of the child.*
- 4) *In considering the factors in paragraph (3) of this subsection, the Department shall encourage the parties to recognize the importance to a child of developing a relationship with siblings including siblings with whom the child does not yet have a relationship; and the value of preserving family ties between the child and his/her siblings, including:*

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- A) *the child's need for stability and continuity of relationships with siblings, and*
- B) *the importance of sibling contact in the development of the child's identity.*
- 5) *The parties to the agreement may modify or terminate the Post Permanency Sibling Contact Agreement. If the parties cannot agree to modification or termination, they may request the assistance of the Department or another agency identified and agreed upon by the parties. Any and all terms may be modified by agreement of the parties. Agreements may also be modified to include contact with siblings whose whereabouts were unknown or who had not yet been born when the Order for Adoption or Order for Private Guardianship was entered.*
- 6) *When an Agreement is completed and signed by the parties, the Department shall include the Agreement in the child's Post Adoption or Private Guardianship case record and in the case file of siblings who are parties to the agreement who are in the Department's custody or guardianship. [20 ILCS 505/7.4(i)]*

(Source: Added at 39 Ill. Reg. _____, effective _____)

Section 309.140 Placement of Children with Adoptive Families

When a specific family is identified as appropriate for the placement of a specific child waiting to be adopted, the Department or adoption agency will:

- a) present information on the child to the family to allow the family to make the decision to proceed to the next step in placement;
- b) bring the child and family together in a situation designed to offer the family an opportunity to observe the child's appearance and behavior without risk of rejection;
- c) arrange a face-to-face meeting between the child and family;
- d) plan a series of visits and contacts, usually of progressive duration, to move the child and family toward placement; and

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- e) bring about the actual placement of the child with the adoptive family after which appropriate post-placement services will be provided in accordance with Section 309.160 ~~of this Part~~.
- f) inform the adoptive parents that they may be contacted in the future regarding placement of or contact with siblings subsequently requiring placement or requesting contact with their adopted siblings.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Permanency Planning
- 2) Code Citation: 89 III. Adm. Code 315
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
315.20	Amendment
315.30	Amendment
315.45	Amendment
315.70	Amendment
315.120	Amendment
315.125	New Section
315.130	Amendment
- 4) Statutory Authority: The Children and Family Services Act [20 ILCS 505], the Abused and Neglected Child Reporting Act [325 ILCS 5], the Adoption Act [750 ILCS 50], and Public Act 96-1513 and the Illinois Religious Freedom Protection and Civil Union Act [750 ILCS 75]
- 5) A Complete Description of the Subjects and Issues Involved: These changes implement PA 97-1076 concerning contact between siblings who are placed apart (foster care and post permanency).

Sections affected:

Rule 315.20 – Definition of "sibling" is broadened to comply with legislation. "Contact between siblings" and "visitation" are defined. Definitions that have been quoted verbatim from statute have been updated.

Rule 315.30 – "Best interests" also requires that workers comply with placement selection, visitation and contact requirements in Rule 301 (Placement and Visitation), and that workers encourage contact among siblings after permanency has been attained.

Rule 315.45 – When placing a sibling group, priority shall be given to a placement that can accept all of the members of the sibling group. When possible, priority shall be given to placement with a sibling who is already in substitute care, an adoptive placement or private guardianship.

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Rule 315.70 – Deciding whether children shall be placed apart from siblings who are also placed in substitute care is a critical decision.

Rule 315.120 – Visitation and contact plans are developed and updated by the Child and Family Team at Family Meetings.

Rule 315.125 (new) – When a child enters substitute care or requires a placement change, the placing worker shall consider the development and preservation of sibling relationships.

Rule 315.130 – Describes the SACWIS Visitation and Contact Plan.

- 6) Published studies and reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand the State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days after publication of this Notice. Comments should be submitted to:

Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield IL 62701-1498

217/524-1983
TDD 217/524-3715
Fax: 217/557-0692

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E-Mail: CFPolicy@idcfs.state.il.us

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

- 13) Initial Regulatory Flexibility Analysis: The Department has determined that the proposed amendments will not have an economic impact on small businesses.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2014

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

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TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER a: SERVICE DELIVERY

PART 315

PERMANENCY PLANNING

SUBPART A: PRINCIPLES OF PERMANENCY PLANNING

Section

315.10	Purpose
315.20	Definitions
315.30	Best Interests Health and Safety of the Child
315.40	Accountability
315.45	The Need for a Permanent Home
315.50	Reasonable Efforts/Reasonable Progress
315.60	The Child's Sense of Time
315.70	The Critical Decisions
315.80	Components of the Permanency Planning Process

SUBPART B: ASSESSMENT AND OTHER CASEWORK ACTIVITIES

Section

315.100	Assessment
315.110	Worker Interventions and Contacts
315.120	Family Meetings
315.125	Preservation of Sibling Relationships
315.130	Developing the Service Plan
315.140	Distributing the Service Plan
315.150	Revising the Service Plan
315.160	Case Reviews and Court Hearings

SUBPART C: SELECTING THE PERMANENCY GOAL

Section

315.200	Selection of the Permanency Goal
315.205	Return Home Within Five Months
315.210	Return Home Within One Year
315.215	Return Home Pending Status Hearing
315.220	Substitute Care Pending Court Determination on Termination of Parental Rights
315.225	Adoption

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315.230	Guardianship
315.235	Independence
315.240	Cannot Be Provided for in a Home Environment
315.241	Continuing Foster Care
315.245	Concurrent Planning
315.250	Applicability of Reunification Services

SUBPART D: EVALUATION AND DECISIONMAKING

Section

315.300	Evaluating Whether Children in Placement Should Be Returned Home
315.305	When Reunification Is Inappropriate
315.310	Termination of Services and Planning for Aftercare

AUTHORITY: Implementing and authorized by the Children and Family Services Act [20 ILCS 505], the Abused and Neglected Child Reporting Act [325 ILCS 5], the Adoption Assistance and Child Welfare Act of 1980 (amending section 475 of the Social Security Act (42 USC 670 et seq.)), the Juvenile Court Act of 1987 [705 ILCS 405], and the Adoption Act [750 ILCS 50].

SOURCE: Adopted at 23 Ill. Reg. 2539, effective February 1, 1999; amended at 25 Ill. Reg. 11785, effective September 14, 2001; amended at 26 Ill. Reg. 7720, effective May 24, 2002; amended at 26 Ill. Reg. 11765, effective August 1, 2002; amended at 28 Ill. Reg. 8465, effective June 4, 2004; amended at 32 Ill. Reg. 8103, effective May 30, 2008; amended at 35 Ill. Reg. 14934, effective September 1, 2011; amended at 36 Ill. Reg. 4073, effective March 5, 2012; expedited correction at 37 Ill. Reg. 19431, effective March 5, 2012; amended at 39 Ill. Reg. _____, effective _____.

SUBPART A: PRINCIPLES OF PERMANENCY PLANNING

Section 315.20 Definitions

"Administrative case review" means a review of permanency planning open to the participation of the parents of the child, conducted by a person who panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subjects of the review, pursuant to section 475 of the Social Security Act (See 42 USC 675(6).) The administrative case review is also open to the participation of other professionals involved in assessing or treating the child, any legal representative of the parent or child, and the foster parents as specified in 89 Ill. Adm. Code 316316.60 (Administrative Case Reviews and Court Hearings).

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"Best interest of the child" as defined in the Juvenile Court Act of 1987, means consideration of~~has been defined by law to include~~ the following factors:

the physical safety and welfare of the child, including food, shelter, health, and clothing;

the development of the child's identity;

the child's background and ties, including familial and religious;

the child's sense of attachments, including:

where the child actually feels love, attachment, and a sense of being valued (as opposed to where adults believe the child should feel such love, attachment, and a sense of being valued);

the child's sense of security;

the child's sense of familiarity;

continuity of affection for the child;

the least disruptive placement alternative for the child;

the child's wishes and long-term goals;

the child's community ties, including church, school, and friends;

the child's need for permanence, which includes the child's need for stability and continuity of relationships with parent figures and with siblings and other relatives;

the uniqueness of every family and child;

the risks attendant to entering and being in substitute care; and

the preferences of the persons available to care for the child. [705 ILCS 405/1-3]

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"Children for whom the Department is legally responsible" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or children whose parents have signed an adoptive surrender or voluntary placement agreement with the Department.

"Client service plan" means a written plan on a form prescribed by the Department that guides all participants in the plan of intervention toward the permanency goals for the children.

"Concurrent planning" means a process whereby the Department or its service provider works toward family reunification with a family whose children has been removed from the home while, at the same time, developing an alternative plan, if reunification with the family cannot be attained.

"Contact between siblings" means contact between or among siblings who are residing apart from one another, and may include, but is not limited to: telephone calls; video conferencing; sending/receiving cards, letters, emails, text messages, gifts, etc.; sharing photographs or information; use of any approved social media (e.g., Facebook); and any other agreed upon forms of communication technology.

"Family" means one or more adults and children, related by blood, marriage, civil union, or adoption and residing in the same household.

"Father" means a ~~man~~ *presumed to be the natural father of a child if:*

he and the child's natural mother are or have been married to each other, even though the marriage is or could be declared invalid, and the child is born or conceived during such marriage;

after the child's birth, he and the child's natural mother have married each other, even though the marriage is or could be declared invalid, and he is named, with his consent, as the child's father on the child's birth certificate pursuant to Section 12 of the Vital Records Act [410 ILCS 535/12]~~pursuant to Section 12 of the Vital Records Act;~~

he and the child's natural mother have signed an acknowledgment of paternity in accordance with rules adopted by the Illinois Department of Healthcare and Family Services under Section 10-17.7 of the Illinois

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Public Aid Code [305 ILCS 5/10-17.7] (see 89 Ill. Adm. Code 160 (Child Support Enforcement));

he and the child's mother have signed *an acknowledgement of parentage or, if the natural father is someone other than the one presumed to be the father under this Section, an acknowledgement of parentage and denial of paternity in accordance with Section 12 of the Vital Records Act. [750 ILCS 45/5]* ~~a petition to establish the parent and child relationship by consent of the parties in accordance with Section 6 of the Illinois Parentage Act of 1984.~~

A man can rebut a presumption of paternity only as provided in Section 5(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/5(b)]. ~~A man can rebut a presumption of paternity before a court of jurisdiction. [750 ILCS 45/5]~~

Father also means a man who adopts a child or has been determined by court or administrative adjudication to be the child's father.

"Godparent" is a person who sponsors a child at baptism or one in whom the parents have entrusted a special duty that includes assisting the child if the parent cannot raise the child. The worker shall verify the godparent/godchild relationship by contacting the parents to confirm the fact that they did, in fact, designate the person as the godparent. If the parents are unavailable, the worker should contact other close family members to verify the relationship. If the person is considered to be the child's godparent, in order for placement to occur, the same placement selection criteria as contained in 89 Ill. Adm. Code 301.60 (Placement Selection Criteria) must be met. If the godparent is not a licensed foster parent, all the conditions currently in effect for placement with relatives in 89 Ill. Adm. Code 301.80 (Relative Home Placement) must be met.

"Guardian" means an individual person appointed by the court to assume the responsibilities of the guardianship of the person as defined in Section 1-3 of the Juvenile Court Act of 1987 [705 ILCS 405/1-3] or Article XI of the Probate Act of 1975 [755 ILCS 5/~~Art. XI~~].

"Individual Treatment Plan" or "ITP" or "Treatment Plan" as defined in 59 Ill. Adm. Code 132 (Medicaid Community Mental Health Services Program) means a written document developed by the appropriate service provider staff with the participation of the client with a mental illness and, if applicable, the client's guardian, which specifies the client's diagnosis, problems, and service needs to be

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addressed, the intermediate objectives and long-term goals for the services and the planned interventions for achieving these goals.

"Individualized Education Plan/Program" or "IEP" means the document prepared by the local school district, as a result of a Multi-disciplinary Conference, that identifies the specific special education services that will be provided to the child. The IEP also includes education goals, services, frequency, quantity and duration. IEP is further defined in 23 Ill. Adm. Code 226 (Special Education).

"Individualized Family Service Plan" or "IFSP" means a written working document developed for each child in order to facilitate the provisions of Early Intervention (EI) services. The IFSP is created by the family, an inter-disciplinary team, the core EI agency, and the case manager (service coordinator). The EI agency is responsible for coordinating the IFSP implementation.

"Minimum parenting standards" means that a parent or other person responsible for the child's welfare is able and willing to ensure that a child is healthy and safe, which includes ensuring that the child is adequately fed, clothed appropriately for the weather conditions, provided with adequate shelter, protected from physical, mental and emotional harm, and provided with necessary medical care and education required by law.

"Parents" means the child's legal parents whose rights have not been terminated and adoptive parents. Biological fathers are considered legal parents when paternity has been established as required by the definition in this Section.

"Permanency goal" means the desired outcome of intervention and service ~~that,~~ ~~which~~ is determined to be consistent with the health, safety, well-being, and best interests of the child. A permanent legal status is usually a component of the permanency goal.

"Permanent legal status" means a legally binding relationship between a child and a family as established by birth or by a court of law.

~~"Rehabilitative services plan" means a written plan developed in accordance with 59 Ill. Adm. Code 132.155 (Medicaid Community Mental Health Services), which includes identification of the problems to be addressed, the rehabilitative services to be provided and the outcomes to be achieved for eligible clients served by the Department pursuant to the Abused and Neglected Child Reporting Act,~~

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~~the Children and Family Services Act or the Juvenile Court Act of 1987.~~

"Relative", for purposes of placement of children for whom the Department is legally responsible, means any person, 21 years of age or over, other than the parent, who:

is currently related to the child in any of the following ways by blood, adoption, marriage, or civil union: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, first cousin once removed (children of one's first cousin to oneself), second cousin (children of first cousins are second cousins to each other), godparent (as defined in this Section), great-uncle, or great-aunt; or

is the spouse, or party to a civil union, of such a relative; or

is the child's step-father, step-mother, or adult step-brother or step-sister through a current marriage; or

is the partner, or adult child of a partner, in a civil union with the child's mother or father.

Relative also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. For children who have been in the guardianship of the Department, have been adopted, and are subsequently returned to the temporary custody or guardianship of the Department, a "relative" may also include any person who would have qualified as a relative under this definition prior to the adoption, but only if the Department determines that it would be in the best interests of the child to consider this person a relative. [20 ILCS 505/7(b)]

"Service termination planning" means service planning that starts with the first contact with the family and that focuses on providing a smooth transition from Department guardianship or custody. It includes the receipt of child welfare services to discharge from guardianship or custody and the termination of Department funded services.

"Siblings" means children who have at least one parent in common. Children continue to be considered siblings after parental rights are terminated or after one

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or more of the children are adopted or placed in private guardianship, if they were in the custody or guardianship of the Department pursuant to Article II of the Juvenile Court Act of 1987 [705 ILCS 405] immediately prior to the adoption or guardianship. Step-siblings may be considered "siblings" when the children enter into substitute care together and have a positive relationship.

"Substitute care" means the care of children who require placement away from their families or private guardians. Substitute care includes foster family care, care provided in a relative home placement as defined in 89 Ill. Adm. Code 301 (Placement and Visitation Services), Section 301.80 (Relative Home Placement), care provided in a group home, care provided in a maternity center or a child care, mental health or other institution, and care provided in an independent living arrangement.

"Termination of parental rights" means a court order that relieves the legal parents of parental responsibility for the child and revokes all legal rights with respect to the child. The termination order also frees the child from all obligations of maintenance and obedience with respect to the legal parents.

"Visitation" means face-to-face contact:

between parents and their children who are in substitute care;

between siblings in substitute care who are placed apart from one another;

or

between siblings in substitute care with siblings who are not in substitute care (e.g., emancipated, adopted, placed in private guardianship, living in home of parent, etc.).

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 315.30 Best Interests, Health and Safety of the Child

- a) Best Interests, Health and Safety of the Child
Permanency planning is an on-going process that first and foremost must consider the best interests, health and safety of the child in all planning decisions. Health and safety are the paramount factors that must be considered when determining the best interests of the child. This means that a child is or will be in a living

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arrangement that meets the placement selection criteria contained in 89 Ill. Adm. Code 301 (Placement and Visitation Services), or for an Indian child, that meets the placement selection criteria contained in 89 Ill. Admin. Code 307 (Indian Child Welfare Services), and that protects the child's physical health and safety and promotes the child's emotional, medical, and developmental well-being. ~~When evaluating the best interests of the child, the Department or its purchase of service provider shall consider the following factors as provided in the Juvenile Court Act:~~

- 1) When evaluating the best interests of the child, the Department or its purchase of service provider shall consider the following factors as provided in the Juvenile Court Act:
 - ~~A1)~~ *the physical safety and welfare of the child, including food, shelter, health, and clothing;*
 - ~~B2)~~ *the development of the child's identity;*
 - ~~C3)~~ *the child's background and ties, including familial and religious, including the primary method and/or language of communication between the child and the biological parents or any other special communication needs;*
 - ~~D4)~~ *the child's sense of attachments, including:*
 - ~~iA)~~ *where the child actually feels love, attachment, and a sense of being valued (as opposed to where adults believe the child should feel such love, attachment, and a sense of being valued);*
 - ~~iiB)~~ *the child's sense of security;*
 - ~~iiiC)~~ *the child's sense of familiarity;*
 - ~~ivD)~~ *continuity of affection for the child;*
 - ~~vE)~~ *the least disruptive placement alternative for the child;*
 - ~~E5)~~ *the child's wishes and long-term goals;*

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- F6) *the child's community ties, including church, school, and friends;*
- G7) *the child's need for permanence, which includes the child's need for stability and continuity of relationships with parent figures and with siblings and other relatives;*
- H8) *the uniqueness of every family and child;*
- I9) *the risks attendant to entering and being in substitute care; and*
- J40) *the preferences of the persons available to care for the child. [705 ILCS 405/1-3].*

2) The Department and purchase of service providers shall consider the importance of maintaining, preserving and supporting sibling relationships and, when selecting and assessing placements, shall comply with placement selection, visitation and contact requirements set out in 89 Ill. Adm. Code 301 (Placement and Visitation).

- b) The child's best interests and health and safety must be considered and documented throughout service intervention and during, but not limited to, the following activities:
- 1) investigation of allegations of abuse or neglect;_;
 - 2) completion of safety and risk assessments;_;
 - 3) completion of the comprehensive assessment;_;
 - 4) worker/client contacts;_;
 - 5) service planning;_;
 - 6) permanency goal selection;_;
 - 7) family meetings;_;
 - 8) administrative case reviews;_;

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- 9) legal screenings; and
- 10) permanency hearings and other court proceedings; and
- 11) post-permanency sibling contact.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 315.45 The Need for a Permanent Home

- a) The Department recognizes that the best interest of children require that they have safe, permanent, secure, and nurturing homes for healthy psychological and physical development in order to mature to stable adulthood. Whenever it is determined to be in the best interest of the child, the Department will make reasonable efforts to preserve family life and to stabilize children's homes and to assist in the solution of problems that are likely to result in the abuse, neglect, or exploitation of children.
- b) When children must be removed from a parent to reduce or prevent harm to the children and the other parent is not a placement option, the Department will make reasonable efforts to reunite families as quickly as is consistent with the children's best interests, safety and well-being. When children and parents cannot be reunited because the parents are unable or unwilling to care for the children and therefore cannot achieve the minimum parenting standards, the Department will make reasonable efforts to find other permanent homes for children in a timely fashion consistent with the child's sense of time and need for physical safety and emotional security.
- c) When placing a sibling group, priority shall be given to a placement, whether related or unrelated, that can accept all of the members of the sibling group.
- d) When placing a child who has siblings who are in substitute care, or were adopted or placed in private guardianship from the Department's care, priority shall be given first to placement with the child's siblings who are still in substitute care or who are in an adoptive placement or private guardianship.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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Section 315.70 The Critical Decisions

Although all Department decisions affecting children and families are important, the Department identifies the following decisions ~~that, which~~ require approval of the casework supervisor, as the most critical ones affecting children and families:

- a) deciding whether services can prevent placement away from parents or primary parent figure or deciding whether to remove children from the home of parents or primary parent figure;
- b) deciding whether to recommend the return of children to the home of parents or primary parent figure from a placement away from parents or primary parent figure;
- c) deciding whether to decrease the frequency or the duration of parent and/or sibling visits with the child and whether the visits should be supervised;
- d) deciding whether to release the name, address, and telephone number of the foster parent/relative caregiver to the parent and/or siblings placed apart;
- e) deciding whether to change children's placements;
- f) deciding whether to seek termination of parental rights and seek an alternate permanent home;
- g) deciding if children are prepared for partial or total independence; or
- h) deciding whether children shall be placed apart from siblings who are also placed in substitute care or who have been adopted or are in subsidized guardianship.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART B: ASSESSMENT AND OTHER CASEWORK ACTIVITIES

Section 315.120 Family Meetings

Family meetings are a tool intended to engage the family in the planning process. Therefore, caseworkers shall make intensive efforts to persuade and encourage parents, including non-custodial parents, to attend the family meetings, especially during the first 90 days, by explaining

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to them the importance of the family meeting and of attending and cooperating with the process. Casework staff should make every effort when planning family meetings to be flexible and attempt as much as possible to schedule meetings at a time and place where parents can attend, preferably in the parent's home. Staff shall take into consideration parents' work schedules, transportation issues, availability of interpreters (if the parents' primary language of communication is other than English), and any other barriers that might prevent parents from participating. Parents shall be reminded of the court admonishment to cooperate with the Department and that refusal or chronic failure to attend family meetings may be considered by the Department and the court as a lack of reasonable progress. After reaching agreement with the parents on the date, time, location, and participants of the family meeting, the caseworker shall send a confirmation letter to the parents. Caseworkers shall document in the case file all attempts to include parents in the family meetings. Failure to attend family meetings shall also be documented in the case file.

a) Initial Family Meeting

- 1) The initial family meeting must occur in time to ensure submittal of the service plan to the juvenile court no later than 45 days after the child's placement and includes at a minimum:
 - A) the caseworker;
 - B) the child's custodial parents;
 - C) the non-custodial parent with the following conditions:
 - i) there is no danger of violence between the parents; and
 - ii) no confidential information concerning the custodial parent, such as mental health information, may be shared with the non-custodial parent, unless the custodial parent consents in writing to the sharing of such information as provided in 89 Ill. Adm. Code 431 (Confidentiality of Personal Information of Persons Served by the Department of Children and Family Services). If the custodial parent does not consent to the release of confidential information, the meeting shall be conducted in segments, with the non-custodial parent excluded from any discussion that includes the information about the custodial parent that is

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confidential;

- D) the casework supervisor.
- 2) In addition, at the supervisor's discretion and with the signed consent of the parent, the following may be invited:
- A) appropriate extended family members including non-custodial parents who are not interested in seeking custody;
 - B) foster parents and relative caregivers (see subsections (f), (g), (h) and (i));
 - C) service providers; and
 - D) the child, if emotionally and developmentally appropriate.
- b) Purpose of Initial Family Meeting
- The purposes of the initial family meeting, to be conducted by the casework supervisor, are to:
- 1) share information among all participants;
 - 2) review the initial and comprehensive assessments;
 - 3) [develop Visitation and Contact Plans;](#)
 - ~~4~~3) discuss and prepare the initial service plan; and
 - ~~5~~4) determine the permanency goal.
- c) Ongoing Family Meetings
- 1) Following the initial family meeting, family meetings will be conducted on a flexible schedule, but no less than on a quarterly basis (at least four times a year approximately three months apart). The ongoing family meeting shall include at a minimum:
 - A) the caseworker;

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- B) the child's custodial parents;
 - C) the non-custodial parent with the same conditions as specified in subsection (a)(1)(C);
 - D) the casework supervisor at the supervisor's discretion. However, the supervisor must attend if the non-custodial parent will be attending the meeting when the non-custodial parent presents a safety concern.
- 2) In addition, at the supervisor's discretion and with the signed consent of the parent, the following may be invited:
- A) appropriate extended family members, including non-custodial parents who are not interested in seeking custody;
 - B) foster parents and relative caregivers (see subsections (f), (g), (h) and (i));
 - C) service providers; and
 - D) the child, if emotionally and developmentally appropriate.
- d) Purposes of Ongoing Family Meetings
- The purposes of the ongoing family meetings are to:
- 1) assure disclosure of the expectations of all parties;
 - 2) assess reasonable efforts on behalf of the Department or the purchase of service agency;
 - 3) assess reasonable progress on behalf of the family;
 - 4) assess whether the plan is serving the health, safety, and best interests of the child;
 - 5) provide support for decision making that recognizes the child's sense of time, including whether the permanency goal and time frames for

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achieving the goal should be continued, and whether services and service providers are effective;

- 6) share information among the participants;
 - 7) evaluate whether the identified behaviors and conditions are being addressed and whether the parents are engaged in the change process;
 - 8) develop Visitation and Contact Plans;
 - 98) engage in planning that involves addressing the needs of the child with appropriate services and establishing realistic time frames for achievement of tasks and goals; and
 - 109) review clinical material by various service providers. Clinical reports should be obtained and collateral contacts completed prior to the staffing. Professionals should have discussed findings and recommendations with the client/family prior to the meeting to promote open and honest discussion.
- e) Prior to inviting foster parents/relative caregivers to the initial family meeting, the caseworker must consider the statutory requirement that protects foster parents/relative caregivers' names, addresses and telephone numbers from disclosure. Such information regarding the foster parents/relative caregivers shall not be disclosed to the child's parents at the initial family meeting that occurs in time to ensure submittal of the service plan to the juvenile court no later than 45 days after placement.
- f) In deciding whether to invite the foster parents/relative caregivers to the meeting, the caseworker shall take into consideration the level of violence or tendency toward violence displayed by the child's parents. This shall be assessed as the caseworker is conducting the comprehensive assessment in accordance with Section 315.100. The caseworker shall use information from:
- 1) Department safety and risk assessments;
 - 2) the social history, including information such as the parents arrest history, history of domestic violence, and court records; and

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- 3) the caseworker's own observations.
- g) Information concerning the level or tendency toward violence of the parents may be shared with the foster parents/relative caregivers to help them decide whether to attend the initial family meeting. In no event shall the address and telephone number of the foster parents/relative caregivers be disclosed at the initial family meeting.
- h) For all subsequent family meetings the same violence factor shall be considered when determining whether the foster parent/relative caregiver should attend and whether there is any danger to the foster parent/relative caregiver by attending the family meeting.
- i) The participants in the family meeting will attempt to reach decisions and agree on recommendations by consensus. If a consensus cannot be reached, the final decision rests with the supervisor on all meetings.
- j) Documentation of the meeting and report of the recommendations/decisions is to be made and included in the case record.
- k) Parents have the right to appeal decisions with which they disagree in accordance with 89 Ill. Adm. Code 337 (Service Appeal Process).

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 315.125 Preservation of Sibling Relationships

Whenever a child enters care or requires a new placement, the Department shall consider the development and preservation of sibling relationships [20 ILCS 505/7.4(e)]. The Department shall:

- a) place children who come into its care with other siblings in substitute care in accordance with 89 Ill. Adm. Code 301.70 (Sibling Placement);
- b) encourage the child to develop and maintain a relationship with his/her siblings placed apart in substitute care, still residing with a birth parent or who have attained adulthood, and include those siblings, when possible, in the Sibling Visitation and Contact Plan; and

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- c) encourage the child to develop and maintain a relationship with any of his/her siblings who have been adopted or placed in legal guardianship as described in 89 Ill. Adm. Code 301.250 (Sibling Visitation and Contact with Adopted Siblings and Siblings in Private Guardianship) and, when possible, develop a Post-Permanency Sibling Contact Agreement.

(Source: Added at 39 Ill. Reg. _____, effective _____)

Section 315.130 Developing the Service Plan

Based on the information gathered during the assessment process described in Section 315.100 and through negotiation during the caseworker's contacts, visits, and at the initial family meeting, the caseworker and family shall develop a plan of intervention that is based on the family's strengths and needs and that addresses how the children's needs for health and safety will be met.

- a) Purpose of the Service Plan
The service plan is a written plan that is established between the Department and the children and family served, and any involved service providers. The purpose of the service plan is to:
- 1) formulate goals for the child based on the child's needs for health, safety, and well-being that were identified during the assessment process;
 - 2) identify what actions the family, the caseworker, caregiver, and others will take to meet the needs of the child and achieve permanency;
 - 3) identify what additional interventions and services will be provided to the family, the caregiver, and the child in order to meet the child's needs and achieve permanency; and-
 - 4) ensure that the parents and children have frequent visitation and contact with one another, and that sibling groups develop and/or preserve their relationships.
- b) State and Federal Requirement
Service plans are required by State [20 ILCS 505/6a] and Federal law (42 USCA 675) regardless of whether the child and family are served directly by the Department or through purchase of service providers. The service plan must ensure that the health and safety of the child are the paramount concerns that

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guide all service, placement, and planning provisions.

c) Time Frames

1) Visitation and Contact Plan. The initial Visitation and Contact Plan shall be completed and forwarded to the juvenile court no later than 10 days after the award of temporary custody when the child has siblings who are also in substitute care. The Visitation and Contact Plan shall be reviewed regularly and changed and updated as specified in 89 Ill. Adm. Code 301.220 (Sibling Visitation).

2) Service Plan. The initial service plan shall be completed and forwarded to the juvenile court no later than 45 days after placement and must be reviewed at least once every six months thereafter. The service plan shall be changed and updated as the child and family's situation changes and shall be reviewed regularly as specified in Section 315.150 (Revising the Service Plan).

d) Contents of the Service Plan

Service plans shall contain the following information:

- 1) the names of the children for whom the Department is legally responsible or to whom the Department is providing services;
- 2) the health and safety factors that have resulted in placement of the children away from the family home and an identification of any problems that are causing continued placement of the children away from the home;
- 3) what outcomes would be considered a resolution to these problems and the strengths the family possesses to achieve these outcomes;
- 4) the reasons for the out of home placement and the reason why the child has been put in his or her current placement, the resources or other support that will be necessary to maintain the placement, and, where a residential placement has been deemed necessary, a description of how and when a plan for moving the child to the least restrictive, most homelike placement consistent with the child's best interest can be developed;
- 5) the services to be provided to the parents, for each child while in care, and

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the foster parents (if necessary, when the child is placed in foster care) that may best resolve these problems;

- 6) the health care to be provided to the child and the mental health care to be provided to address the child's serious mental health needs as well as a description of the child's physical, developmental, educational or mental disability and any non-educational specialized services the child is receiving or should receive for each disability. If an Individual Treatment Plan (ITP) or Rehabilitative Services Plan exists for the child, it shall be attached to the service plan. To the extent available and accessible, the service plan shall incorporate the health records of the child, including:
 - A) the names and addresses of the child's health provider;
 - B) a record of the child's immunizations;
 - C) the child's known medical problems; and
 - D) the child's medications;
- 7) a description of the educational program/services the child is receiving or needs to receive (including information regarding Early Intervention, Head Start, or Pre-Kindergarten services for preschool children). If an Individualized Education Plan (IEP) or an Individualized Family Service Plan (IFSP) exists for a child, the IEP or IFSP shall be included in the record. To the extent available and accessible, the service plan shall incorporate the education records of the child, including:
 - A) the names and addresses of the child's educational providers;
 - B) the child's grade level performance; and
 - C) the child's school record;
- 8) who will provide the services, how often they will be provided, and an explanation of why these services will meet the needs of the child;
- 9) if children placed out of the parents' home are placed a substantial distance (more than 150 miles) from the home of the parents or in a different state,

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the reasons why the placement is in the best interests of the children;

- 10) if children placed out of the parents' home are placed in a different state, a requirement that the child be visited periodically, but not less frequently than every six months by a caseworker of the Department or of the state in which the child has been placed, as required in Section 315.110 (Worker Interventions and Contacts)~~every 12 months, by a caseworker of the Department or of the state in which the child has been placed, and that the caseworker submit a report on the visit to the Department;~~
- 11) if siblings are placed apart from one another, the reasons why they are placed apart and what efforts have been and are being made to find a joint placement for the sibling group;
- 12) the permanency goal for each child and the reason for selecting the goal;
- 13) in the case of a child for whom the permanency plan is adoption or other permanent living arrangement, documentation of the steps the Department is taking to find anand adoptive family or other permanent living arrangement;
- 14) in the case of a child for whom the permanency plan is independence or for a child 16 years of age or older, as appropriate, a written description of the programs and services thatwhich will help such a child prepare for the transition from foster care to independent living;
- 15) the responsibilities of the family and the child (when appropriate) in fulfilling the service plan;
- 16) the responsibilities of the Department and purchase of service providers, if any, to assist the family in fulfilling the service plan;
- 17) when children and families are separated, the parent-child and/or sibling Visitation and Contact Plan~~visitation plan~~ developed with the family in accordance with 89 Ill. Adm. Code 301 (Placement and Visitation Services), if visitation and contact is not prohibited by court order. This plan shall include the time and place of visits, the frequency of visits, the length of visits, and who shall be present at the visits. The plan shall also note the permissible modes of communication siblings may use between

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visits to stay in contact with one another;

- 18) whether the name, address, and telephone number of the foster parent/relative caregiver may be released to the parent as determined by the assessment conducted in accordance with Section 315.100(b)(3);
- 19) the time frames for achieving the permanency goal and the objectives to resolve identified problems and the specification of any consequences to the child and family if the time frames are not met;
- 20) a statement that the parents or children may disagree with the service plan and that they may have their disagreement recorded; and
- 21) an explanation of how parents or children may request an appeal and fair hearing.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Administrative Case Reviews and Court Hearings
- 2) Code Citation: 89 III. Adm. Code 316
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
316.20	Amendment
316.30	Amendment
316.40	Amendment
316.80	Amendment
316.110	Amendment
316.120	Amendment
316.130	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 5 of the Children and Family Services Act [20 ILCS 505/5], Section 7.1 of the Abused and Neglected Child Reporting Act [325 ILCS 5/7.1], the Adoption Assistance and Child Welfare Act of 1980, amending Section 475 of the Social Security Act (42 USCA 675), Section 2-5 of the Juvenile Court Act of 1987 [705 ILCS 405/2-5], and Section 1 of the Adoption Act [750 ILCS 50/1]
- 5) A Complete Description of the Subjects and Issues Involved: These changes implement PA 97-1076 concerning contact between siblings who are placed apart (foster care and post permanency).

Sections affected:

Rule 316.20 – Definition of "sibling" is broadened to comport with sibling contact legislation. "Contact between siblings", "visitation" and "relative" are also defined. Definitions that have been quoted verbatim from statute have been updated.

Rule 316.30 – ACRs shall ensure siblings are being placed together whenever possible, when they must be placed separately efforts continue to locate a placement that will accept all children and visitation/contact is occurring as per the Visitation and Contact Plan. Requires training for ACR staff regarding the importance of maintaining sibling relationships /attachments.

Rule 316.40 – more frequent ACRs may be scheduled when there has been failure to establish or fully implement a Visitation and Contact Plan.

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Rule 316.80 – At each ACR, the caseworker shall present a copy of the Visitation and Contact Plan (or Post Permanency Sibling Contact Plan) and report on efforts made to encourage and maintain sibling relationships.

Rule 316.110 – sets out timeframe for filing the initial Visitation and Contact plan with court.

Rule 316.120 – requires DCFS/POS agency to report on whether sibling visitation and contact is occurring as per the Plan at permanency hearings.

Rule 316.130 – requires the caseworker to present a recommendation regarding the Visitation and Contact Plan at permanency hearings.

- 6) Published studies and reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand the State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days after publication of this Notice. Comments should be submitted to:

Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield IL 62701-1498

217/524-1983

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TDD: 217/524-3715

Fax: 217/557-0692

E-Mail: CFPolicy@idcfs.state.il.us

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

- 13) Initial Regulatory Flexibility Analysis: The Department has determined that the proposed amendments will not have an economic impact on small businesses.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2014

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER a: SERVICE DELIVERY

PART 316

ADMINISTRATIVE CASE REVIEWS AND COURT HEARINGS

Section

316.10	Purpose
316.20	Definitions
316.30	Administrative Case Review System
316.40	Frequency of Administrative Case Reviews
316.50	Conduct and Participation at Administrative Case Reviews
316.60	Notice of Administrative Case Reviews
316.70	Roles and Responsibilities of the Administrative Case Reviewer
316.80	Caseworker Responsibilities at the Administrative Case Review
316.90	Decision Review
316.100	Appealability of Decisions
316.110	The Department's Role in the Juvenile Court
316.120	Permanency Hearings
316.130	Caseworker Responsibilities at the Permanency Hearing
316.140	Compliance with the Client Service Planning Requirements

AUTHORITY: Implementing and authorized by Section 5 of the Children and Family Services Act [20 ILCS 505/5], Section 7.1 of the Abused and Neglected Child Reporting Act [325 ILCS 5/7.1], the Adoption Assistance and Child Welfare Act of 1980, amending Section 475 of the Social Security Act (42 USC 675), Section 2-5 of the Juvenile Court Act of 1987 [705 ILCS 405/2-5] and Section 1 of the Adoption Act [750 ILCS 50/1].

SOURCE: Adopted at 23 Ill. Reg. 2528, effective February 1, 1999; amended at 26 Ill. Reg. 16909, effective November 8, 2002; amended at 35 Ill. Reg. 14942, effective September 1, 2011; amended at 36 Ill. Reg. 4082, effective March 5, 2012; amended at 39 Ill. Reg. _____, effective _____.

Section 316.20 Definitions

"Administrative case review" means a review of permanency planning open to the participation of the parents of the child, conducted by a person who is not responsible for the case management of, or the delivery of services to, either the

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child or the parents who are the subjects of the review. (See 42 USC 675(6)). The administrative case review is also open to the participation of other professionals involved in assessing or treating the child, any legal representative of the parent or child, and the foster parents as specified in [this PartSection 316.50 \(Conduct and Participation at Administrative Case Reviews\)](#).

"Administrative case reviewer" means a trained professional who is not responsible for the case management of, or delivery of services to, either the child or the parents who are the subjects of the review.

"Children for whom the Department is legally responsible" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or children whose parents have signed an adoptive surrender or voluntary placement agreement with the Department.

["Contact between siblings" means contact between or among siblings who are residing apart from one another and may include, but is not limited to: telephone calls; video conferencing; sending/receiving cards, letters, emails, text messages, gifts, etc.; sharing photographs or information; use of any approved social media \(e.g., Facebook\); and any other agreed upon forms of communication technology.](#)

"Family" means one or more adults and children, related by blood, marriage, civil union, or adoption and residing in the same household.

"Parents" means the child's legal parents, including adoptive parents, whose rights have not been terminated. Biological fathers are considered legal parents when paternity has been established as required by the definition in [Permanency Planning \(89 Ill. Adm. Code 315.20\)](#). [\(Permanency Planning\)](#).

"Permanency goal" means the desired outcome of intervention and service [that,](#) ~~which~~ is determined to be consistent with the health, safety, well-being, and best interests of the child. A permanent legal status is usually a component of the permanency goal.

["Relative", for purposes of placement of children for whom the Department is legally responsible, means any person, 21 years of age or over, other than the parent, who:](#)

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is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, first cousin once removed (children of one's first cousin to oneself), second cousin (children of first cousins are second cousins to each other), godparent, great-uncle or great-aunt;

is the spouse, or party to a civil union, of such a relative;

is the child's step-father, step-mother, or adult step-brother or step-sister;
or

is the partner, or adult child of a partner, in a civil union with the child's mother or father.

"Relative" also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. For children who have been in the guardianship of the Department, have been adopted, and are subsequently returned to the temporary custody or guardianship of the Department, a "relative" may also include any person who would have qualified as a relative under this definition prior to the adoption, but only if the Department determines that it would be in the best interests of the child to consider this person a relative.

"Service plan" means a written plan on a form prescribed by the Department that guides all participants in the plan toward the permanency goals for the children.

"Siblings" means children who have at least one parent in common. Children continue to be considered siblings after parental rights are terminated or after one or more of the children are adopted or placed in private guardianship, if they were in the custody or guardianship of the Department pursuant to Article II of the Juvenile Court Act of 1987 [705 ILCS 405] immediately prior to the adoption or guardianship. Step-siblings may be considered "siblings" when the children enter into substitute care together and have a positive relationship.

"Substitute care" means the care of children who require placement away from their families. Substitute care includes foster family care, care provided in a relative home placement as defined in 89 Ill. Adm. Code 301.80 (Relative Home Placement), care provided in a group home, ~~and~~ care provided in a maternity

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center or a child care, mental health or other institution, and care provided in an independent living arrangement.

"Visitation" means face-to-face contact:

between parents and their children who are in substitute care;

between siblings in substitute care who are placed apart from one another;
or

between siblings in substitute care with siblings who are not in substitute care (e.g., emancipated, adopted, placed in private guardianship, living in home of parent, etc.).

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 316.30 Administrative Case Review System

- a) The Department has an administrative case review system for all the children in placement and their families. Administrative case reviews are conducted for children living in foster family homes, relative homes, group homes, child care institutions, youth emergency shelters, or detention, correctional, mental or physical health related facilities. In addition, the Department may elect to conduct administrative case reviews on other groups of children as fiscal and staffing resources permit.
- b) Case reviews are conducted in order to:
 - 1) assure that parents and the children (if participating in the planning) are involved in and collaborating in development of the plan and understand and discuss the plan and know what is expected of them;
 - 2) ensure siblings are being placed together whenever possible; when sibling are placed apart, efforts continue to locate a placement that will accept all of the children; contact and visitation between siblings is encouraged and occurring in accordance with the Visitation and Contact Plan; efforts are made to support contact between siblings in substitute care with siblings who are not in substitute care (e.g., because of adoption, legal guardianship, emancipation or adulthood);

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- ~~32~~) review whether the Department's continuing intervention is necessary;
- ~~43~~) review whether services, including placement services, are necessary, relevant, coordinated, and appropriate and address the health and safety needs of the child;
- ~~54~~) identify services needed but that are not being provided to the child, family or foster parents and the reasons why they are not being provided;
- ~~65~~) review the disability status of a child to determine the need for and/or appropriateness of specialized services;
- ~~76~~) review the appropriateness of the child's educational placement and the child's educational progress and recommend changes to the caseworker;
- ~~87~~) review health information on the child and family;
- ~~98~~) review any special physical, psychological, educational, medical, emotional, or other needs of the minor or his or her family that are relevant to a permanency or placement determination;
- ~~109~~) review, for any minor age 16 or over, programs or services that will enable the minor to prepare for independent living;
- ~~1140~~) review whether the Department, the service providers, the family, the substitute care provider, if any, and the child are complying with the service plan and, if they are not complying, whether changes in the service plan or goals are needed;
- ~~1244~~) review whether there is progress to resolve the child's and family's problems and whether the progress is satisfactory and whether the child can safely return home;
- ~~1342~~) review whether the projected month for achieving the permanency goal should be changed;
- ~~1413~~) review the appropriateness of the permanency goal and recommend changes in the goal (if appropriate);

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- 1514) review and finalize the service plan for the next period, including an analysis of:
- A) the appropriateness of the services contained in the plan and whether those services have been provided and, if not, why not;
 - B) whether reasonable efforts by the Department, and reasonable progress by the family, have been made to achieve the goal;
 - C) whether the plan and goal have been achieved;
- 1615) refer the case for a family meeting as described in 89 Ill. Adm. Code 315.120 (Family Meetings) when one has not been conducted; and
- 1716) report findings and make recommendations.

- c) The Department shall provide training for all Administrative Case Reviewers, their supervisors and their managers regarding the importance of maintaining sibling relationships and the child's sense of attachment to his/her siblings, the importance of maintaining sibling relationships over the child's lifespan, and the impact on the child if those relationships are severed.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 316.40 Frequency of Administrative Case Reviews

- a) The first administrative case review shall be conducted within six months after the temporary custody hearing.
- b) Following the six month administrative case review, administrative case reviews shall be conducted every six months.
- c) Additional Administrative Case Reviews
 - 1) The Office Division of Administrative Case Review may schedule more frequent case reviews for the following reasons:
 - A) the case requires more than the scheduled six-month review. Such

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cases may be ones in which it is important that follow-up to the recommendations made at the last administrative case review is monitored. For example, cases for which concurrent planning, as described in 89 Ill. Adm. Code 315 (Permanency Planning), is being utilized;

- B) the biological family requests an administrative case review prior to the first six-month review; or
 - C) cases of workers, teams, offices, and purchase of service agencies are selected for special reviews because those workers, teams, offices, and agencies are shown to be in non-compliance with mandated requirements. Non-compliance of mandated requirements may include, but is not limited to:
 - i) failure to establish and implement procedures for assessment and service planning;
 - ii) failure to set and conduct family meetings; ~~and~~
 - iii) failure to establish or fully implement a Visitation and Contact Plan; and
 - iv)iii) failure to comply with current and ongoing consent decrees.
- 2) The caseworker and supervisor must attend all administrative case reviews scheduled by the Office Division of Administrative Case Review in accordance with this subsection (c).

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 316.80 Caseworker Responsibilities at the Administrative Case Review

The caseworker's responsibilities at the administrative case review will be to:

- a) present a completed service plan, based on the assessment and developed in collaboration with the family;

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- b) present a recommendation regarding the permanency goal;
- c) report on the placement, best interests, health, safety, and well-being of the child;
- d) present a copy of the Visitation and Contact Plan and report on the efforts made to encourage and maintain sibling relationships;
- e) present a copy of a Post-Permanency Sibling Contact Plan when one has been developed;
- f) report on the progress of the parent to date toward changing the behaviors and conditions that require the child to be in out-of-home care;
- ge) provide a statement as to whether the child can return home, and, if so, when and with what supports;
- hf) provide the casework rationale and supporting documentation for all decisions and recommendations.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 316.110 The Department's Role in the Juvenile Court

- a) The Department shall inform the Juvenile Court of the Department's planning for the children and families it serves and of their progress toward those goals.
- b) When in the Juvenile Court, the Department shall provide information and recommendations to the court and the parties and shall recommend that the court keep families together in all instances when it is consistent with the children's best interests, health, safety, and well-being. In those instances when children must be removed from their parent's care, the Department shall recommend that the court reunite children for whom the Department is legally responsible with their families as soon as returning home is consistent with their best interests, health, safety and well-being. Finally, when it is clear to the Department that the child's health and safety needs cannot be met by the parents and it is in the child's best interests, the Department will provide that information to the court and recommend that the court establish other permanency goals.
- c) When the guardian is appointed as the temporary custodian of a child whose

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siblings are in substitute care and the child and all of his/her siblings are not placed together, the Department shall file with the court and serve on the parties a Visitation and Contact Plan within 10 days, excluding weekends and holidays, after the appointment.

- de) When the Department has legal responsibility for a child, a representative of the Department or its provider agency shall attend all hearings required by the court. At each hearing the Department or its provider agency shall provide information relating to the child's placement, best interests, health, safety, and well-being, and make any appropriate recommendations. Such hearings include:
- 1) the temporary custody hearing;
 - 2) the adjudicatory hearing;
 - 3) the dispositional hearing;
 - 4) permanency hearings (as described in Section 316.120~~below~~); and
 - 5) all other hearings the court may require.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 316.120 Permanency Hearings

- a) The Department or its provider agency will participate in permanency hearings conducted by the court at 12 months following the temporary custody hearing and every six months thereafter in order to:
- 1) select the permanency goal;
 - 2) review the appropriateness of the services contained in the plan and whether those services, including sibling visitation and contact, have been provided as specified and, if not, why not;
 - 3) determine whether reasonable efforts have been made by all parties to the service plan to achieve the goal; and
 - 4) evaluate whether the plan and goal have been achieved.

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- b) The Department or its provider agency shall provide, no later than 14 days in advance of the hearing, a copy of the most recent service plan and Visitation and Contact Plan, prepared within the prior six months, to the court and all parties to the permanency hearings.
- c) If not contained in the plan, the Department or its provider agency shall also include a report setting forth:
 - 1) any special physical, psychological, educational, medical, emotional, or other needs of the minor or his or her family that are relevant to a permanency or placement determination; and
 - 2) for any minor age 16 or over, a written description of the programs or services that will enable the minor to prepare for independent living.
- d) The Department's or its provider agency's written report must explain why, if the goal is other than return home, continued involvement is appropriate and why termination of parental rights or private guardianship is not being sought.
- e) The Department's or its provider agency's written report must explain why, if the goal recommended is continuing foster care, all other goals have been ruled out based on the child's best interest and delineate the compelling reasons for selection of this goal.
- f) The Department's or its provider agency's caseworker is required to appear and testify at the hearing and prepare a written report for the court.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 316.130 Caseworker Responsibilities at the Permanency Hearing

- a) The caseworker's responsibilities at the permanency hearing will be to:
 - 1) present a recommendation regarding the permanency goal, time frame for achievement, clinical intervention, social services, and Visitation and Contact Plans~~visitation plan~~;
 - 2) report on the placement, best interests, health, safety, and well-being of

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the child;

- 3) report on the progress of the parent to date toward compliance with the service plan and progress toward correcting the conditions that require the child to be in care; and
 - 4) provide the basis for all decisions and recommendations.
- b) Within ~~10~~^{ten} working days after the permanency hearing, the worker will:
- 1) amend the service plan to conform to the court order, if necessary;
 - 2) attach a copy of the permanency order to the amended service plan (as well as ensuring that a copy of the order is in the case record);
 - 3) engage the family to ensure that the family understands the recommendations and decisions made at the permanency hearing and obtain the family's signature on the service plan;
 - 4) file six copies of the plan with the court; and
 - 5) send a copy of the plan to the Administrative Case Review Office Administrator/Scheduler in the region where the next administrative case review will be held.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Interstate Placement of Children
- 2) Code Citation: 89 Ill. Adm. Code 328
- 3) Section Number: 328.2 Proposed Action: Amendment
- 4) Statutory Authority: Implementing and authorized by the Interstate Compact on the Placement of Children Act [45 ILCS 15]; Sections 4 and 5 of the Children and Family Services Act [20 ILCS 505/4 and 5]; Section 16 of the Child Care Act of 1969 [225 ILCS 10/16], and the Interstate Compact on Adoption Act [45 ILCS 17/5-1]
- 5) A Complete Description of the Subjects and Issues Involved:

Section affected:

Rule 328.2 – Definition of "relative" is updated to add civil union language. Definitions quoted verbatim from statutes have been reviewed and updated.
- 6) Published studies and reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any proposed rulemakings to this Part pending? No
- 11) Statement of Statewide Policy Objectives: These rules do not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days after publication of this Notice. Comments should be submitted to:

Jeff E. Osowski
Department of Children and Family Services

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

406 East Monroe, Station # 65
Springfield IL 62701-1498

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The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

- 13) Initial Regulatory Flexibility Analysis: This amendment does not affect small businesses.
- 14) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: the revisions were not anticipated at the time the regulatory agenda was completed.

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

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NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER b: PROGRAM AND TECHNICAL SUPPORTPART 328
INTERSTATE PLACEMENT OF CHILDREN

SUBPART A: INTERSTATE COMPACT ON PLACEMENT OF CHILDREN

Section

328.1	Purpose
328.2	Definitions
328.3	Placement of Illinois Children
328.4	Placement of Children From Other States
328.5	Removal of Illinois Children

SUBPART B: INTERSTATE COMPACT ON ADOPTION AND MEDICAL ASSISTANCE

Section

328.100	Purpose
328.110	Interstate Compact
328.120	Definitions
328.130	Relocation of Adopted Children from Illinois to Other States
328.140	Relocation of Adopted Children from ICAMA Party State into Illinois

AUTHORITY: Implementing and authorized by the Interstate Compact on the Placement of Children Act [45 ILCS 15]; Sections 4 and 5 of the Children and Family Services Act [20 ILCS 505/4 and 5]; Section 16 of the Child Care Act of 1969 [225 ILCS 10/16] and the Interstate Compact on Adoption Act [45 ILCS 17/5-1].

SOURCE: Adopted and codified at 7 Ill. Reg. 9207, effective August 5, 1983; amended at 23 Ill. Reg. 5245, effective May 1, 1999; amended at 26 Ill. Reg. 11773, effective August 1, 2002; amended at 39 Ill. Reg. _____, effective _____.

SUBPART A: INTERSTATE COMPACT ON PLACEMENT OF CHILDREN

Section 328.2 Definitions

"Children for Whom the Department has Legal Responsibility" or "Department

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Wards", as used in this ~~Part~~Subpart means children for whom the Department of Children and Family Services has temporary protective custody, custody or guardianship via court order, ~~or as well as~~ children whose parents have signed an adoptive surrender or voluntary placement agreement with the Department.

"Facility" means a person, group of persons, or corporation caring for children licensed under applicable laws. Facility includes, but is not limited to, child care institution, related or non-related foster family home or group home.

"Godparent" is a person who sponsors a child at baptism or one in whom the parents have entrusted a special duty that includes assisting in raising the child if the parent cannot raise the child. The worker shall verify the godparent/godchild relationship by contacting the parents to confirm the fact that they did, in fact, designate the person as the godparent. If the parents are unavailable, the worker should contact other close family members to verify the relationship. If the person is considered to be the child's godparent, in order for placement to occur, the same placement selection criteria as contained in 89 Ill. Adm. Code ~~301.60~~302.60 (Placement Selection Criteria) must be met. If the godparent is not a licensed foster parent, all the conditions currently in effect for placement with relatives in 89 Ill. Adm. Code 301.80 (Relative Home Placement) must be met.

"Interstate Compact on the Placement of Children" is a law, enacted by all 50 states and the territories of Guam and the Virgin Islands, for the purpose of establishing uniform procedures for handling the interstate placement of children in foster homes, adoptive homes, or other child care facilities.

"Placement", as used in this ~~Part~~Subpart, means the arrangement for the continuing care of a child in a foster or adoptive family home, group home, child care institution, or other child care facility as defined by the Child Care Act of 1969 [225 ILCS 10]. Placements do not include care of a child in a medical facility, a mental health facility, a correctional facility or an educational facility.

"Relative", for purposes of placement of children for whom the Department is legally responsible, means any person, 21 years of age or over, other than the parent, who:

is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, first cousin once removed (children of one's first cousin

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to oneself), second cousin (children of first cousins are second cousins to each other), godparent (as defined in this Section), great-uncle, or great-aunt;

is the spouse, or party to a civil union, of such a relative;

is the child's step-father, step-mother, or adult step-brother or step-sister;
or

is the partner, or adult child of a partner, in a civil union with the child's mother or father.

"Relative" also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. For children who have been in the guardianship of the Department, have been adopted, and are subsequently returned to the temporary custody or guardianship of the Department, a "relative" may also include any person who would have qualified as a relative under this definition prior to the adoption, but only if the Department determines that it would be in the best interests of the child to consider this person a relative. [20 ILCS 505/7(b)]

"Relative", for purposes of placement of children for whom the Department is legally responsible, means any person, 21 years of age or over, other than the parent, who:

- is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, first cousin once removed (children of one's first cousin to oneself), second cousin (children of first cousins are second cousins to each other), godparent (as defined above), great-uncle, or great-aunt, or
- is the spouse of such a relative, or
- is the child's step-father, step-mother, or adult step-brother or step-sister.

Relative also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. [20 ILCS 505/7(b)]

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(Source: Amended at 39 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Service Appeal Process
- 2) Code Citation: 89 III. Adm. Code 337
- 3) Section Number: 337.20 Proposed Action:
Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 4 and 5 of the Children and Family Services Act [20 ILCS 505/4 and 5]
- 5) A Complete Description of the Subjects and Issues Involved:

Sections affected:
 - **Rule 337.20** – Definition of "relative" is updated to add civil union language. Definitions quoted verbatim from statutes have been reviewed and updated.
- 6) Published studies and reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand the State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. Comments should be submitted to:

Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

406 E. Monroe, Station #65
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The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

- 13) Initial Regulatory Flexibility Analysis: The Department has determined that the proposed amendment will not have an economic impact on small businesses.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2014

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER a: SERVICE DELIVERY

PART 337

SERVICE APPEAL PROCESS

Section

337.10	Purpose
337.20	Definitions
337.30	The Service Appeal Process
337.40	Department and Provider Agency Responsibilities on Appealable Issues
337.50	The Right to a Service Appeal
337.60	Who May Appeal
337.70	What May Be Appealed
337.80	What May Not Be Appealed
337.90	Notices of Department or Provider Agency Decisions
337.100	How to Request a Service Appeal
337.110	Grounds for Dismissal of a Service Appeal Request
337.120	Time Frames for the Service Appeal Process
337.130	Continuing Services During the Service Appeal Process
337.140	Confidentiality During the Service Appeal Process
337.150	Notice Concerning a Service Appeal
337.160	Abandonment of a Service Appeal
337.170	Fair Hearing Appeal Rights
337.180	The Administrative Law Judge
337.190	Record of a Fair Hearing
337.200	Combined Hearings
337.210	Continuances Requested in a Combined Hearing
337.220	The Final Administrative Decision
337.230	Who Receives a Copy of the Final Administrative Decision
337.240	Notice of the Availability of Judicial Review
337.250	Severability of This Part

AUTHORITY: Implementing and authorized by Sections 4 and 5 of the Children and Family Services Act [20 ILCS 505/4 and 5].

SOURCE: Adopted at 17 Ill. Reg. 1046, effective January 15, 1993; amended at 19 Ill. Reg. 7175, effective June 1, 1995; amended at 19 Ill. Reg. 10557, effective July 1, 1995; emergency

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

amendment at 25 Ill. Reg. 4283, effective March 19, 2001, for a maximum of 150 days; emergency amendment repealed in response to an Objection of the Joint Committee on Administrative Rules at 25 Ill. Reg. 6735, effective May 8, 2001; amended at 26 Ill. Reg. 6246, effective June 1, 2002; amended at 26 Ill. Reg. 11778, effective August 1, 2002; amended at 36 Ill. Reg. 4388, effective March 7, 2012; amended at 39 Ill. Reg. _____, effective _____.

Section 337.20 Definitions

"Adequate notice" means a notice that contains all of the elements identified in Section 337.90(c) of this Part.

"Administrative Hearings Unit" means the Department's unit responsible for receiving requests for and acting upon a service appeal and conducting fair hearings on appeal.

"Administrative law judge" means an attorney who is appointed by the Director of the Department and who is responsible for conducting the fair hearing.

"Administrator of the Administrative Hearings Unit" means the person who is responsible for receiving requests for a service appeal and for coordinating the fair hearings.

"Appellant" means the person who requests a service appeal or on whose behalf a service appeal is requested.

"Authorized representative" means a person authorized in writing by the appellant to assist the appellant in the appeal process. If the appellant is unable to reduce such authorization to writing, the Department shall assist the appellant in doing so. The representative may be legal counsel or other spokesperson.

"Clinical Intervention for Placement Preservation~~Child and Youth Investment Teams~~" or "CIPPCAYIT" means a regionally based, multidisciplinary team consisting of designated DCFS staff, the child (when age-appropriate), the child's family, extended family and others who have relevant and current information about the child, and professionals who are critical to achieve informed, sound decision-making.

"Clinical Intervention for Placement Preservation~~CAYIT~~ Action Plan" means a

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written document summarizing a clinical assessment of a child's or youth's service needs, identifying the resources required to meet those needs, and establishing time frames for their achievement.

"Child welfare services" means public social services that are directed toward the accomplishment of the following purposes:

protecting and promoting the health, safety and welfare of ~~all~~ children, including homeless, dependent, or neglected children;

preventing, ~~preventing or~~ remedying, or assisting in the solution of problems that may result in, the neglect, abuse, exploitation, or delinquency of children;

preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving their problems, and preventing breakup of the family where the prevention of child removal is desirable and possible when the child can be cared for at home without endangering the child's health and safety;

restoring to their families children who have been removed by the provision of services to the child and the families when the child can be cared for at home without endangering the child's health and safety;

placing children in suitable adoptive homes, in cases where restoration to the biological family is not possible or appropriate;

assuring safe and adequate care of children away from their homes, in cases where the child cannot be returned home or cannot be placed for adoption. At the time of placement, the Department shall consider concurrent planning so that permanency may occur at the earliest opportunity. Consideration should be given so that if reunification fails or is delayed, the placement made is the best available placement to provide permanency for the child;

providing supportive services and living maintenance that contributes to the physical, emotional and social well-being of children for whom the Department is legally responsible who are pregnant and unmarried;~~providing supportive services and living maintenance that~~

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~~contributes to the physical, emotional and social well-being of children who are pregnant and unmarried;~~

~~providing shelter and independent living services for homeless youth; and providing shelter and independent living services for homeless youth; and~~

~~placing and maintaining children in facilities that provide separate living quarters for children under the age of 18 and for children 18 years of age and older, unless a child 18 years of age is in the last year of high school education or vocational training, in an approved individual or group treatment program, or in a licensed shelter facility or secure child care facility. The Department is not required to place or maintain children:~~

~~who are in a foster home; or~~

~~who are persons with a developmental disability ~~developmentally disabled~~, as defined in the Mental Health and Developmental Disabilities Code [405 ILCS 5]; or~~

~~who are female children who are pregnant, pregnant and parenting or parenting; or~~

~~who are siblings;~~

~~in facilities that provide separate living quarters for children 18 years of age and older and for children under 18 years of age. [20 ILCS 505/5(a)(3)].~~

These services include but are not limited to: counseling, advocacy, day care, homemaker, emergency caretaker, family planning, adoption, visitation, placement, child protection and information and referral.

"Clinical placement review" means a process in which designated clinical Department staff will review a disputed decision by the Department or purchase of service agency to remove a child from the home of a foster family or relative caregiver, when the child will be placed in the home of another foster family or relative caregiver.

"Date of action" means the effective date of the action or proposed action by the

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Department or provider agency that resulted in the appeal.

"Date of appeal" means the postmark date or date of receipt of appellant's written request for an appeal, whichever is earlier, at the address specified in the notice.

"Date of notice" means the date on which the appellant receives written notice of the Department's intended action or decision or the date on which the appellant learns of the intended action or decision, if a written notice was not provided.

"Day care services" means care provided to children for less than 24 hours per day in facilities requiring licensure under the Child Care Act of 1969 [225 ILCS 10] in facilities exempt from licensure, in the homes of relatives, or in their own home.

"Department representative" means an attorney or designated individual responsible for presenting the Department's position in mediation, staffings and negotiations and at an emergency review and fair hearing.

"Emergency review" means a limited review of the actions or decisions of the Department or provider agency that may adversely affect an individual or individuals served by the Department. An emergency review provides for an interim decision pending a fair hearing.

"Fair hearing", as used in this Part, means a formal review of the action or decision of the Department or provider agency to determine whether that action or decision is in compliance with applicable laws and rules and will be in the best interests of the child.

"Family" means one or more adults and children, related by blood, marriage, civil union or adoption and residing in the same household~~the biological or adoptive parents (provided a court has not terminated parental rights), legal guardian, or any relative who has assumed custody and control of the child in the absence of the child's biological or adoptive parents.~~

"Final administrative decision" means the Department's final decision, order, or determination on an appealed issue rendered by the Director in a particular case that affects the legal rights, duties or privileges of appellants and that may be appealed in a circuit court under the Administrative Review Law [735 ILCS 5/Art. III].

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"Godparent" is a person who sponsors a child at baptism or one in whom the parents have entrusted a special duty that includes assisting in raising the child if the parent cannot raise the child. The worker shall verify the godparent/godchild relationship by contacting the parents to confirm the fact that they did, in fact, designate the person as the godparent. If the parents are unavailable, the worker should contact other close family members to verify the relationship. If the person is considered to be the child's godparent, in order for placement to occur, the same placement selection criteria as contained in 89 Ill. Adm. Code 301.60 (Placement Selection Criteria) must be met. If the godparent is not a licensed foster parent, all the conditions currently in effect for placement with relatives in 89 Ill. Adm. Code 301.80 ([Relative Home Placement](#)) must be met.

"Imminent risk of harm" means that individuals' actions, omissions or conditions endanger the life, or seriously jeopardize the physical or mental health or safety of themselves or others, if protective action would not be taken immediately.

"Individual legally acting on a person's behalf" means an individual who has been appointed by a court to act on behalf of a person when the person is incompetent, incapacitated, or otherwise unable to speak for himself or herself.

"Mediation" means a meeting open to all parties affected by the decision being appealed to attempt agreement on the issue in dispute with a mediator, who assists the parties in resolving issues and drawing up an agreement.

"Mediator" means a neutral third party appointed by the Director of the Department who conducts the mediation and assists the parties in resolving issues and drawing up an agreement.

"Parties" means the Department or its agents and those persons who have appealed the service decisions made by the Department or its agents.

"Preponderance of the evidence" means the greater weight of the evidence or evidence that renders a fact more likely than not.

"Provider agency" means an agency offering case management and/or casework services through a signed contract with the Department for paid services.

"Relative", for purposes of placement of children for whom the Department is

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legally responsible, means *any person, 21 years of age or over, other than the parent, who:*

•is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, first cousin once removed (children of one's first cousin to oneself), second cousin (children of first cousins are second cousins to each other), godparent (as defined in this Section), great-uncle, or great-aunt, or

•is the spouse, or party to a civil union, of such a relative; ~~or~~

•is the child's step-father, step-mother, or adult step-brother or step-sister;
or-

is the partner, or adult child of a partner, in a civil union with the child's mother or father.

"Relative" also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. For children who have been in the guardianship of the Department, have been adopted, and are subsequently returned to the temporary custody or guardianship of the Department, a "relative" may also include any person who would have qualified as a relative under this definition prior to the adoption, but only if the Department determines, and documents, that it would be in the child's best interests to consider this person a relative, based upon the factors for determining best interests set forth in Section 1-3(4.05) of the Juvenile Court Act of 1987 [705 ILCS 405/1-3(4.05)]. [20 ILCS 505/7(b)]

"Request for an appeal" means the written request by an appellant for a fair hearing to review an action taken or a decision made by the Department or a provider agency on behalf of the Department. If the appellant is unable to request an appeal in writing, the Department or provider agency shall help the appellant put the request in writing.

"Reviewer" means the person appointed by the Department to conduct an emergency review.

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"Service appeal process" means the appeal system offered by the Department to parents, children, guardians ad litem, foster parents and relative caregivers to challenge service decisions of the Department.

"Services" means child welfare or day care services, including placement services or benefits provided by the Department or its provider agencies under Titles IV and XX of the Social Security Act (42 USC 601 et seq. and 1397 et seq.) or the laws of the State of Illinois.

"Stay of action" means the action or decision made by the Department or its provider agency will not be implemented pending an emergency review or final administrative decision by the Department.

"Timely written notice" means a notice that complies with the requirements of Section 337.90(b).

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Appeal of Foster Family Home License Denials by Relative Caregivers
- 2) Code Citation: 89 Ill. Adm. Code 338
- 3) Section Number: 338.20 Proposed Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Section 5 of the Children and Family Services Act [20 ILCS 505/5]
- 5) A Complete Description of the Subjects and Issues Involved:

Sections affected:
 - **Rule 338.20** – Definition of "relative" is updated to add civil union language and to include additional statutory language in Section 7 of the C&FS Act. Definitions quoted verbatim from statutes have been reviewed and updated.
- 6) Published studies and reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any proposed rulemakings to this Part pending? No
- 11) Statement of Statewide Policy Objectives: These rules do not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. Comments should be submitted to:

Jeff E. Osowski

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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Department of Children and Family Services
406 East Monroe, Station # 65
Springfield IL 62701-1498

217/524-1983
TTY: 217/524-3715
E-mail: cfpolicy@idcfs.state.il.us

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

- 13) Initial Regulatory Flexibility Analysis: This amendment do not affect small businesses.
- 14) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because the revisions were not anticipated at the time the regulatory agenda was completed.

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

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NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER b: PROGRAM AND TECHNICAL SUPPORTPART 338
APPEAL OF FOSTER FAMILY HOME LICENSE DENIALS
BY RELATIVE CAREGIVERS

Section	
338.10	Purpose
338.20	Definitions
338.30	Who May Appeal
338.40	What May Be Appealed
338.50	What May Not Be Appealed
338.60	Concurrent Jurisdiction
338.70	Notices of Department Decisions
338.80	The Appeal Process
338.90	Internal Review
338.100	The Administrative Hearing
338.110	Rights and Responsibilities in Administrative Hearings
338.120	Rules of Evidence
338.130	The Administrative Law Judge
338.140	Combined or Separate Hearings
338.150	Final Administrative Decision
338.160	Records of Administrative Hearings
338.170	Severability of This Part
338.180	Transition Provisions

AUTHORITY: Implementing and authorized by Section 5 of the Children and Family Services Act [20 ILCS 505/5].

SOURCE: Emergency rules adopted at 19 Ill. Reg. 12305, effective August 11, 1995, for a maximum of 150 days; adopted at 20 Ill. Reg. 1574, effective January 10, 1996; amended at 26 Ill. Reg. 11786, effective August 1, 2002; amended at 39 Ill. Reg. _____, effective _____.

Section 338.20 Definitions

"Administrative hearing" in the context of this Part means a formal review of the

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Department's decision to deny a foster family home license to the relative who is serving as caregiver of children for whom the Department is legally responsible.

"Administrative law judge" means the person who is appointed by the Director of the Department and is responsible for conducting the fair hearing.

"Administrator of the Administrative Hearings Unit" means the person who is responsible for coordinating the administrative hearing appeal process.

"Appeal file" means the correspondence, statements, reports, investigative files, documents and other written material submitted to the Administrative Hearings Unit and the appellant after the commencement of the appeal. It does not include any documents or other material ~~that~~^{which} may be in the custody of any other unit of DCFS, unless the document or material has been submitted to both the appellant and the Administrative Hearings Unit.

"Appellant" means the person who requests a review or administrative hearing or in whose behalf a review and administrative hearing is requested.

"Children for whom the Department is legally responsible" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or children whose parents ~~have~~^{has} signed an adoptive surrender or voluntary placement agreement with the Department.

"Date of action" means the date on which any Department action becomes effective.

"Date of appeal" is the postmark date on the appellant's request to appeal the Department's decision to deny the application for a foster family home license.

"Date of notice" means the date of the written notice of the Department's decision.

"Department's representative" means an attorney or designated individual~~the person who is~~ responsible for presenting the Department's case.

"Final administrative decision" means the Department's final decision, order or determination on an appealed issue rendered by the Director in a particular case that affects the legal rights, duties or privileges of participants and that may be further appealed to the circuit court under the Administrative Review Law [735

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ILCS 5/Art. III].

"Full-time care" means the child is a resident of the household, whether on a temporary, emergency, or permanent basis, and is receiving family care usually provided by a parent or guardian.

"Godparent" is a person who sponsors a child at baptism or one in whom the parents have entrusted a special duty that includes assisting in raising the child if the parent cannot raise the child. The worker shall verify the godparent/godchild relationship by contacting the parents to confirm the fact that they did, in fact, designate the person as the godparent. If the parents are unavailable, the worker should contact other close family members to verify the relationship. If the person is considered to be the child's godparent, in order for placement to occur, the same placement selection criteria as contained in 89 Ill. Adm. Code ~~301.60302.60~~ (Placement Selection Criteria) must be met. If the godparent is not a licensed foster parent, all the conditions currently in effect for placement with relatives in 89 Ill. Adm. Code 301.80 (Relative Home Placement) must be met.

"License" means a document issued by the Department of Children and Family Services which authorizes a relative caregiver to operate a foster family home in accordance with 89 Ill. Adm. Code 402 (Licensing Standards for Foster Family Homes) and the provisions of the Child Care Act of 1969 [225 ILCS 10] and rules promulgated thereunder.

"Party" to any administrative hearing or other proceeding in the Department is the Department or the appellant, as the case may be.

"Relative", for purposes of placement of children for whom the Department is legally responsible, means any person, 21 years of age or over, other than the parent, who:

is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, first cousin once removed (children of one's first cousin to oneself), second cousin (children of first cousins are second cousins to each other), godparent (as defined in this Section), great-uncle, or great-aunt; or

is the spouse, or party to a civil union, of such a relative; or

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is the child's step-father, step-mother, or adult step-brother or step-sister;
or

is the partner, or adult child of a partner, in a civil union with the child's mother or father.

"Relative" also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. For children who have been in the guardianship of the Department, have been adopted, and are subsequently returned to the temporary custody or guardianship of the Department, a "relative" may also include any person who would have qualified as a relative under this definition prior to the adoption, but only if the Department determines that it would be in the best interests of the child to consider this person a relative. [20 ILCS 505/7(b)]

"Relative" for purposes of placement of children for whom the Department is legally responsible, means any person, 21 years of age or over, other than the parent, who:

- is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great grandparent, uncle, aunt, nephew, niece, first cousin, first cousin once removed (children of one's first cousin to oneself), second cousin (children of first cousins are second cousins to each other), godparent (as defined in this Section), great uncle, or great aunt, or
- is the spouse of such a relative, or
- is the child's step father, step mother, or adult step brother or step sister.

Relative also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. [20 ILCS 505/7(b)]

(Source: Amended at 39 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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- 1) Heading of the Part: Authorized Child Care Payments
- 2) Code Citation: 89 III. Adm. Code 359
- 3) Section Number: 359.2 Proposed Action:
Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 4 and 5 of the Children and Family Services Act [20 ILCS 505]
- 5) A Complete Description of the Subjects and Issues Involved: These changes implement Public Act 97-1076 concerning contact between siblings who are placed apart (foster care and post permanency).

Sections affected:
 - **Rule 359.2** – Definition of "sibling" is broadened to comport with sibling contact legislation. "Contact between siblings" and "visitation" are also defined. Definition of "relative" is expanded to include additional statutory language in Section 7 of the C&FS Act. Definitions quoted verbatim from statutes have been reviewed and updated.
- 6) Published studies and reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand the State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. Comments should be submitted to:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield IL 62701-1498

217/524-1983
TDD: 217/524-3715
Fax: 217/557-0692
E-Mail: CFPolicy@idcfs.state.il.us

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

- 13) Initial Regulatory Flexibility Analysis: The Department has determined that the proposed amendment will not have an economic impact on small businesses.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2014

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER c: FISCAL ADMINISTRATIONPART 359
AUTHORIZED CHILD CARE PAYMENTS

Section

359.1	Purpose
359.2	Definitions
359.3	Introduction
359.4	Payments for Substitute Care Services
359.5	Payments for Family Preservation and Auxiliary Services
359.6	Payments for Independent Living Arrangements
359.7	Payments for Children's Personal and Physical Maintenance
359.8	Payments for Unmarried Mothers (Repealed)
359.9	Payments for Medical Care
359.10	Overpayments and Repayments

AUTHORITY: Implementing and authorized by Section 5 of the Children and Family Services Act [20 ILCS 505/5].

SOURCE: Adopted and codified at 5 Ill. Reg. 13129, effective November 30, 1981; amended at 9 Ill. Reg. 19705, effective December 16, 1985; amended at 10 Ill. Reg. 15575, effective September 19, 1986; amended at 19 Ill. Reg. 10464, effective July 1, 1995; emergency amendment at 21 Ill. Reg. 3259, effective March 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 10904, effective July 29, 1997; amended at 26 Ill. Reg. 11791, effective August 1, 2002; amended at 39 Ill. Reg. _____, effective _____.

Section 359.2 Definitions

"Auxiliary services" means those services provided by the Department to children in their own homes as well as to children in placement which supplement or complement the primary service. For example, when advocacy services are provided to children in substitute care, this is an auxiliary service.

"Child only standard of need" means the assistance standard for cases in which no adult member is included, as determined by the Illinois Department of Human Services.

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"Children for whom the Department has legal responsibility" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or whose parents ~~have~~ signed an adoptive surrender or voluntary placement agreement with the Department.

"Contact between siblings" means contact between or among siblings who are placed apart from one another, and may include, but is not limited to: telephone calls; video conferencing; sending/receiving cards, letters, emails, text messages, gifts, etc.; sharing photographs or information; use of any approved social media (e.g., Facebook); and any other agreed upon forms of communication technology.

"Family preservation services" means those services provided to children and families who require social services to maintain the family unit intact.

"Foster care payment" means the amount paid by the Department for a child's room, board, clothing, and personal allowance in a licensed foster family home.

"Godparent" is a person who sponsors a child at baptism or one in whom the parents have entrusted a special duty that includes assisting in raising the child if the parent cannot raise the child. The worker shall verify the godparent/godchild relationship by contacting the parents to confirm the fact that they did, in fact, designate the person as the godparent. If the parents are unavailable, the worker should contact other close members to verify the relationship. If the person is considered to be the child's godparent, in order for placement to occur, the same placement selection criteria as contained in 89 Ill. Adm. Code ~~301.60302.60~~ (Placement Selection Criteria) must be met. If the godparent is not a licensed foster parent, all the conditions currently in effect for placement with relatives in 89 Ill. Adm. Code 301.80 (Relative Home Placement) must be met.

"Overpayment" means an amount paid for a service in excess of the actual incurred expenses or rate for that service or a payment for a service that is not rendered. This includes board payments for a child that continue after the child is no longer in the placement for which the payment is made.

"Relative", for purposes of placement of a child for whom the Department is legally responsible, means any person, 21 years of age or over, other than the parent, who:

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is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, first cousin once removed (children of one's first cousin to oneself), second cousin (children of first cousins are second cousins to each other), godparent (as defined in this Section), great-uncle or great-aunt; or

is the spouse, or party to a civil union, of such a relative; or

is the child's step-father, step-mother, or adult step-brother or step-sister;
or

is the partner, or adult child of a partner, in a civil union with the child's mother or father.

Relative also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. For children who have been in the guardianship of the Department, have been adopted, and are subsequently returned to the temporary custody or guardianship of the Department, a "relative" may also include any person who would have qualified as a relative under this definition prior to the adoption, but only if the Department determines that it would be in the best interests of the child to consider this person a relative. [20 ILCS 505/7(b)]

"Siblings" means children who have at least one parent in common. Step-siblings may be considered "siblings" when the children enter into substitute care together and have a positive relationship.

"Substitute care services" means those services provided to children who require placement away from their families or private guardians. Substitute care includes foster family care, care provided in a relative home placement as defined in 89 Ill. Adm. Code 301.80 (Relative Home Placement), care provided in a group home, care provided in a maternity center or a child care, mental health or other institution, and care provided in an independent living arrangement.

"Visitation" means face-to-face contact:

between parents and their children who are in substitute care;

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between siblings in substitute care who are placed apart from one another;
or

between siblings in substitute care with siblings who are not in substitute care (e.g., emancipated, adopted, placed in private guardianship, living in home of parent, etc.).

(Source: Amended at 39 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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- 1) Heading of the Part: Licensing Standards for Foster Family Homes
- 2) Code Citation: 89 III. Adm. Code 402
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
402.2	Amendment
402.12	Amendment
402.16	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 4 and 5 of the Child Care Act of 1969 [225 ILCS 10]
- 5) A Complete Description of the Subjects and Issues Involved: These changes implement PA 97-1076 concerning contact between siblings who are placed apart (foster care and post permanency).

Sections affected:

Rule 402.2 – Definition of "sibling" is broadened to comport with sibling contact legislation. "Contact between siblings" and "visitation" are also defined.

Definition of "relative" is expanded to include additional statutory language in Section 7 of the C&FS Act. Definitions that have been quoted verbatim from statute have been updated.

Rule 402.12 – Requires pre-licensure training for foster parents regarding the importance of maintaining sibling relationships over the child's lifespan. Requires assessment of their understanding of and willingness to support the child's family connections, and encourages them to transport and supervise family visits whenever possible to become better acquainted with the child's siblings and family members. A placement that can accept an entire sibling group shall be given priority to a placement option that will accept only some of the group.

Rule 402.16 – Requires foster parents to make every effort to preserve family ties, and help and support children in developing a relationship with their siblings.

- 6) Published studies and reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No

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- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand the State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. Comments should be submitted to:

Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield IL 62701-1498

217/524-1983
Fax: 217/557-0692
E-Mail: CFPolicy@idcfs.state.il.us

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

- 13) Initial Regulatory Flexibility Analysis: The Department has determined that the proposed amendments will not have an economic impact on small businesses.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2014

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 402

LICENSING STANDARDS FOR FOSTER FAMILY HOMES

Section

402.1	Purpose
402.2	Definitions
402.3	Effective Date of Standards (Repealed)
402.4	Application for License
402.5	Application for Renewal of License
402.6	Provisions Pertaining to Permits
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402.8	General Requirements for the Foster Home
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402.10	Nutrition and Meals
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402.12	Qualifications of Foster Family Parents
402.13	Background Inquiry
402.14	Health of Foster Family
402.15	Number and Ages of Children Served
402.16	Meeting Basic Needs of Children
402.17	Health Care of Children
402.18	Religion
402.19	Recreation and Leisure Time
402.20	Education
402.21	Discipline of Children
402.22	Emergency Care of Children
402.23	Release of Children
402.24	Confidentiality of Information
402.25	Required Written Consents
402.26	Records to be Maintained
402.27	Licensing Supervision
402.28	Adoptive Homes
402.29	Director's Waivers
402.30	Severability of This Part

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402.APPENDIX A	Criminal Convictions That Prevent Licensure
402.APPENDIX B	Number and Ages of Children in Foster Family Home: No Child Requires Specialized Care
402.APPENDIX C	Number and Ages of Children in Foster Family Home: Child Requires Specialized Care

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10].

SOURCE: Adopted and codified at 5 Ill. Reg. 9548, effective October 1, 1981; emergency amendment at 6 Ill. Reg. 15580, effective December 15, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 3439, effective April 4, 1983; amended at 7 Ill. Reg. 13858, effective November 1, 1983; amended at 8 Ill. Reg. 23197, effective December 3, 1984; amended at 11 Ill. Reg. 4292, effective March 1, 1987; emergency amendment at 16 Ill. Reg. 11879, effective July 13, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 267, effective December 21, 1992; emergency amendment at 18 Ill. Reg. 8481, effective May 20, 1994, for a maximum of 150 days; emergency expired on October 17, 1994; amended at 19 Ill. Reg. 1801, effective February 1, 1995; amended at 19 Ill. Reg. 9463, effective July 1, 1995; emergency amendment at 19 Ill. Reg. 10743, effective July 1, 1995, for a maximum of 150 days; emergency expired November 27, 1995; amended at 20 Ill. Reg. 1589, effective January 10, 1996; emergency amendment at 20 Ill. Reg. 3954, effective February 16, 1996, for a maximum of 150 days; emergency expired July 15, 1996; amended at 21 Ill. Reg. 4548, effective April 1, 1997; amended at 22 Ill. Reg. 205, effective December 19, 1997; amended at 23 Ill. Reg. 7877, effective July 15, 1999; emergency amendment at 24 Ill. Reg. 6417, effective March 27, 2000, for a maximum of 150 days; emergency expired August 23, 2000; amended at 24 Ill. Reg. 17052, effective November 1, 2000; amended at 26 Ill. Reg. 2624, effective February 11, 2002; amended at 26 Ill. Reg. 11796, effective August 1, 2002; amended at 30 Ill. Reg. 6321, effective March 31, 2006; amended at 33 Ill. Reg. 11441, effective August 1, 2009; amended at 36 Ill. Reg. 4086, effective March 5, 2012; amended at 39 Ill. Reg. _____, effective _____.

Section 402.2 Definitions

"Adoptive placement" means a living arrangement with a family that is directed toward establishing that family as the child's new legal parents. To be considered an adoptive placement, the child must be placed in a licensed foster family home or license exempt relative home for purposes of adoption and:

- be legally free (parental rights have been terminated or both parents have surrendered their parental rights); or

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•be placed in a legal risk adoptive placement that has passed legal screening as described in 89 Ill. Adm. Code 309 (Adoption Services for Children for Whom the Department of Children and Family Services is Legally Responsible).

"Approved smoke detector" or "detector" means a smoke detector of the ionization or photoelectric type that complies with all the requirements of the rules and regulations of the Illinois State Fire Marshal. (~~Section 2 of the Smoke Detector Act~~ [425 ILCS 60/2])

"Approved in-service training" means:

- Foster PRIDE module or other Department approved training;
- foster parent conferences sponsored by the Department;
- other conferences approved by the Department;
- training provided under the auspices of a licensed child welfare agency when the agency's foster care program has been accredited by the Council on Accreditation of Services for Families and Children, Inc., 520 Eighth Avenue, Suite 2202B, New York NY 10018;
- materials borrowed from the Department's Foster/Adoptive Parent Lending Libraries;
- training toward first-aid, Heimlich maneuver, and/or cardiopulmonary resuscitation (CPR) certification; or
- other training, substantially meeting the Department's Foster PRIDE/Adopt PRIDE training, approved in writing by the Department of Children and Family Services.

"Background check" means:

Individuals 17 years of age or older:

- a criminal history check via fingerprints that are submitted to the Illinois State Police and the Federal Bureau of Investigation (FBI)

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for comparison to their criminal history records, as appropriate;
and

Individuals 13 years of age or older:

- a check of the Statewide Automated Child Welfare Information System (SACWIS) and other state child protection systems, as appropriate, to determine whether an individual is currently alleged or has been indicated as a perpetrator of child abuse or neglect; and
- a check of the Statewide Child Sex Offender Registry.

"CANTS" means the Child Abuse and Neglect Tracking System ~~that, which~~ has been replaced by SACWIS .

"Child" means any person under 18 years of age. [225 ILCS 10/2.01]

"Child care assistant" means an adult, 18 years of age or older, (whether a volunteer or an employee) who assists a licensed foster parent in the care of children within the foster home.

"Child care facility" means any person, group of persons, agency, association, ~~or~~ organization, corporation, institution, center or group, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody in any facility as defined in the Child Care Act of 1969 [225 ILCS 10]~~the Child Care Act~~, established and maintained for the care of children. Child care facility includes a relative who is licensed as a foster family home under~~pursuant to~~ Section 4 of the Child Care Act. [225 ILCS 10/2.05]

"Classifiable fingerprints" means fingerprints obtained through an electronic or ink printing process that were determined to provide sufficiently clear impressions to identify the individual from whom the prints were obtained.

"Common parentage" means having the same biological or adoptive father, the same biological or adoptive mother, or the same biological or adoptive father and mother.

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"Complete application for foster family home license" means, at a minimum, a completed written application form; written authorization by the applicant and all adult members of the household to conduct a criminal background investigation; medical evidence in the form of a medical report, on forms prescribed by the Department, that the applicant and all members of the household are free from communicable diseases or physical and mental conditions that affect their ability to provide care for the child or children; the names and addresses of at least 3 persons not related to the applicant who can attest to the applicant's moral character; and fingerprints submitted by the applicant and all adult members of the applicant's household. [225 ILCS 10/4]

"Contact between siblings" means contact between or among siblings who are residing apart from one another, and may include, but is not limited to: telephone calls; video conferencing; sending/receiving cards, letters, emails, text messages, gifts, etc.; sharing photographs or information; use of any approved social media (e.g., Facebook) and any other agreed upon forms of communication technology.

"Corporal punishment" means hitting, spanking, beating, shaking, pinching, and other measures that produce physical pain.

"Department" means the Illinois Department of Children and Family Services.
[225 ILCS 10/2.02]

"Discipline" means the process of helping children to develop inner controls so that they can manage their own behavior in socially acceptable ways. Discipline does not include the use of corporal punishment as defined in this Part.

"Educational advocacy training" means the 6-hour training that prepares foster parents to effectively advocate for the special educational needs of the children in their care by providing information on children's educational rights and foster parents' responsibility to protect those rights.

"Expanded capacity license" means the foster family home has been issued a license from the Department authorizing the foster family to accept more than six children for care (including the family's own children under age 18 and all other children under age 18 receiving full-time care) as permitted in Section 402.15(c) (for foster care placements) or (e) (for adoptive placements).

"Foster family home" means a facility for child care in residences of families who

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receive no more than 8 children unrelated or related to them, unless all the children are of common parentage, or residences of relatives who receive no more than 8 related or unrelated children placed by the Department, unless the children are of common parentage, for the purpose of providing family care and training for the children on a full-time basis, except the Director of Children and Family Services, pursuant to Department regulations, may waive the limit of 8 children unrelated to an adoptive family for good cause to facilitate an adoptive placement. The family's or relative's own children, under 18 years of age, shall be included in determining the maximum number of children served. [225 ILCS 10/2.17] The Department requires foster family homes to receive an expanded capacity license allowing them to receive more than six children, including their own children under age 18 and all other children under the age of 18 receiving full-time care.

"Full-time care" means the child is a resident of the household, whether on a temporary, emergency, or permanent basis, and is receiving family care usually provided by a parent or guardian.

"Godparent" is a person who sponsors a child at baptism or one in whom the parents have entrusted a special duty that includes assisting in raising the child if the parent cannot raise the child. The worker shall verify the godparent/godchild relationship by contacting the parents to confirm the fact that they did, in fact, designate the person as the godparent. If the parents are unavailable, the worker should contact other close family members to verify the relationship. If the person is considered to be the child's godparent, in order for placement to occur, the same placement selection criteria as contained in 89 Ill. Adm. Code 301.60 (Placement Selection Criteria) must be met. If the godparent is not a licensed foster parent, all the conditions currently in effect for placement with relatives in 89 Ill. Adm. Code 301.80 ([Relative Home Placement](#)) must be met.

"In-service training" means approved training provided to currently licensed foster parents.

"License" means a document issued by the Department of Children and Family Services that authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Child Care Act.

"License applicant" means the operator or person with direct responsibility for daily operation of the facility to be licensed. [\[225 ILCS 10/4.4\]](#)~~(Section 4.4 of the~~

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~~Child Care Act)~~

"Licensed physician" means a person licensed to practice medicine in the State of Illinois.

"Licensee" means those individuals, agencies, or organizations who hold a license or permit issued by the Department of Children and Family Services.

"Licensing representative" means persons authorized by the Department under the Child Care Act to perform licensing activities.

"Licensing study" means a written review and assessment of an application for license, on-site visits, interviews, and the collection and review of supporting documents to determine compliance with the Child Care Act of 1969 and the standards prescribed by this Part.

"Member of the household" means a person who resides in a family home as evidenced by factors including, but not limited to, maintaining clothing and personal effects at the household address, or receiving mail at the household address, or using identification with the household address.

"Minor traffic violation" means a traffic violation, under the laws of the State of Illinois or any municipal authority in Illinois or another state or municipal authority, that is punishable solely by fines as a petty offense.~~"Minor traffic violation" means a traffic violation under the laws of the State of Illinois or any municipal authority in Illinois or another state or municipal authority which is punishable solely by fines as a petty offense. [625 ILCS 5/6-601]~~

"Multi-purpose room" means a room in the foster family home that has been designed for several purposes. A multi-purpose room that is temporarily converted into a bedroom may only be a pass through room in the home if the privacy of the children using the room for a bedroom can be ensured. Activities within the room shall be normal bedroom activities such as sleeping, dressing and playing while used as a bedroom.

"Non-active status" means a licensed foster home has no foster placements and maintains continuous compliance with this Part that, by mutual written agreement with the Department, does not receive regular licensing monitoring visits by the Department or supervising agency.

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"Permit" means a one-time only document issued by the Department of Children and Family Services for a two month period to allow the individuals to become eligible for an initial foster family home license.

"Petty offense" means any offense for which a fine only is provided, and a sentence of imprisonment is not an authorized disposition to a fine only is provided. [730 ILCS 5/5-1-17]

"Relative", for purposes of placement of children for whom the Department is legally responsible, means any person, 21 years of age or over, other than the parent, who:

- is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, first cousin once removed (children of one's first cousin to oneself), second cousin (children of first cousins are second cousins to each other), godparent (as defined in this Section), great-uncle or great-aunt, or*

- is the spouse, or party to a civil union, of such a relative, or*

- is the child's step-father, step-mother, or adult step-brother or step-sister, or*

- is the partner, or adult child of a partner, in a civil union with the child's mother or father.*

"Relative" also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. For children who have been in the guardianship of the Department, have been adopted, and are subsequently returned to the temporary custody or guardianship of the Department, a "relative" may also include any person who would have qualified as a relative under this definition prior to the adoption, but only if the Department determines that it would be in the best interests of the child to consider this person a relative. [20 ILCS 505/7(b)]

"Reputable character" means there is satisfactory evidence that the moral

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character of the applicant is trustworthy.

"Respite foster care" means temporary (not to exceed 30 days), full-time care in a licensed foster family home, group home, or child care institution, or in a license exempt relative home, when such temporary, full-time care is provided to foster children. Respite foster care is provided to foster children in order to give the full-time caregivers a rest from caregiving responsibilities.

"Responsible" means trustworthy performance of expected duties that serves the best interests of the foster children as evidenced by established child welfare standards, State and federal law, and the rules of the Department.

"SACWIS" means the Statewide Automated Child Welfare Information System operated by the Illinois Department of Children and Family Services that replaced the Child Abuse and Neglect Tracking System (CANTS).

"Siblings" means children who have at least one parent in common. Children continue to be considered siblings after parental rights are terminated or after one or more of the children are adopted or placed in private guardianship, if they were in the custody or guardianship of the Department pursuant to Article II of the Juvenile Court Act of 1987 [705 ILCS 405] immediately prior to the adoption or guardianship. Step-siblings may be considered "siblings" when the children enter into substitute care together and have a positive relationship.

"Specialized care" or specialized foster care services means care provided to a child in the custody or guardianship of the Department who requires such services due to emotional, behavioral, developmental or medical needs, or any combination thereof, or any other needs that require special intervention services, the primary goal being to maintain the child in foster care or in a permanency setting. [20 ILCS 505/5.30(a)] Specialized foster care services are further described in 89 Ill. Adm. Code 301.90 (Foster Family Home Care).~~a child who has developmental, emotional, behavioral, or medical needs and who has been determined to require specialized care. The need for specialized care shall be redetermined once every six months.~~

"Supervising agency", for the purpose of this Part, means a licensed child welfare agency, a license-exempt agency, or the Department of Children and Family Services.

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"Universal precautions" means an approach to infection control. According to the concept of universal precautions, all human blood and certain body fluids are treated as if known to be infectious for HIV, HBV, and other blood-borne pathogens.

"Visitation" means face-to-face contact:

between parents and their children who are in substitute care;

between siblings in substitute care who are placed apart from one another;
or

between siblings in substitute care with siblings who are not in substitute care (e.g., emancipated, adopted, placed in private guardianship, living in home of parent, etc.).

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 402.12 Qualifications of Foster Family

- a) The licensees shall be either a single person or two persons in a marriage or civil union with each other. Each foster parent shall be willing and able to assume appropriate responsibilities for the child or children received for care.
- b) An individual may be allowed to share the living arrangements only at the discretion of the supervising agency. The foster family is responsible for reporting to the supervising agency that an individual may be sharing the living arrangements prior to the individual moving into the home or prior to licensure. The individual will be subject to the same requirements as other members of the household, such as health certification and background checks as required in 89 Ill. Adm. Code 385 (Background Checks). The license capacity will be redetermined based on the new family composition.
- c) Foster parents shall be stable, law abiding, responsible, mature individuals, at least 21 years of age.
- d) The capability of the foster parents to provide care shall be considered prior to licensure of the foster family home. A decision to establish the age and number of children permitted in the home shall be based on an assessment of the foster

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family and shall consider at least the following:

- 1) the foster parents' capability to provide care including an evaluation of the caregivers' health, strength, and mobility;
 - 2) the number, chronological and functional age, and characteristics and needs of the children currently under the care of the foster parents. This shall include an assessment of the foster parent's own children under age 18, all other children under age 18 receiving full-time care, and children receiving day care services in the foster family home;
 - 3) the characteristics, limitations, and responsibilities of the caregivers. All members of the foster family shall be free from active alcohol or substance dependency;
 - 4) the caregivers' ability to appropriately care for and adequately supervise the children currently in the home, as well as their ability to care for and supervise the ages, needs, and behaviors of the children who may be placed in the foster family home; and
 - 5) the number of foster parents in the home and the availability and experience of child care assistants.
- e) All members of the household age 13 and older (except for foster children) shall have passed the background check required by 89 Ill. Adm. Code 385 (Background Checks).
 - f) Foster parents shall accept agency supervision.
 - g) Foster parents shall adequately supervise children in their care to assure compliance with laws including, but not limited to, criminal laws.
 - h) Foster home applicants shall provide the names and addresses of at least three persons who are not related to them who can attest that the applicants are of reputable and responsible moral character.
 - i) Unless parental rights have been terminated, foster parents shall respect and support a child's ties to his or her biological family and shall cooperate with the supervising agency and the service plan for the child and his/her family. [In an](#)

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effort to become better acquainted with the child's siblings and other family members, a foster parent shall transport children to and supervise family visitation whenever possible.

- j) The foster family shall have sufficient financial resources to provide basic necessities for themselves and their own children.
- k) As a condition of initial licensure, each foster parent shall complete Pre-licensure Foster PRIDE/Adopt PRIDE Training or an equivalent pre-licensure foster parent training that has been approved by the Department.
- l) As a condition of fostering unrelated children in a licensed foster home, each foster parent shall complete Pre-placement Foster PRIDE/Adopt PRIDE Training or an equivalent pre-placement foster parent training that has been approved by the Department.
- m) Promoting Joint Placement of Sibling Groups and Sibling Contact
 - 1) As part of pre-licensure training, each foster parent shall receive training regarding the importance of maintaining sibling relationships and the child's sense of attachment to his/her siblings, the importance of maintaining sibling relationships over the child's lifespan, and the impact on the child if those relationships are severed. Foster home applicants shall be asked to explore their willingness to help children maintain contact with their siblings and other significant relationships in the children's past, as well as significant relationships they develop in the future. Foster home applicants shall be told that they may be contacted in the future regarding placement of siblings of a child subsequently requiring placement, or visitation and contact with siblings in other living arrangements or living independently.
 - 2) The Department shall assess the prospective foster family's understanding of a foster child's family connections, their willingness to help and support children in maintaining or developing a relationship with their siblings, including siblings with whom the children do not yet have a relationship, and recognize the value of preserving family ties between siblings, including their need for stability and continuity of relationships, and the importance of sibling contact in the development of the each child's identity.

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- 3) The Department shall emphasize to foster parents that priority will be given to foster care placements that will accept an entire sibling group over a placement with relative caregivers or foster parents that will accept only one or some members of a sibling group requiring care. When it is not possible to place all of the children together, the Department shall encourage the prospective foster families to encourage and facilitate visitation and contact among the siblings.
- ~~n#~~) In addition, each foster parent shall complete, as a condition of license renewal, 16 clock hours of approved in-service training. The foster home license shall not be renewed until each single foster parent and at least one foster parent in a married couple, or couple in a civil union, has completed educational advocacy training by the Department or approved agency that, if completed in the most recent licensing cycle, may count toward the 16 clock hours of in-service training. Child welfare agencies may require foster families under their supervision to complete additional training as a condition of continued supervision by the agency.
- ~~o#~~) An expanded capacity license to allow foster homes to serve more than six children (including the foster parent's own children under age 18 and all other children under age 18 receiving full-time care) may be granted if the foster family home meets the requirements of Section 402.15(c). As a provision of retaining the expanded capacity license, foster parents shall complete a total of 9.0 clock hours of approved training each calendar year, beginning the calendar year the expanded capacity license is issued.
- ~~p#~~) A statement that describes how the foster family and the foster family's home comply with the requirements of this Part shall be placed in the permanent foster home record. If the foster family home is not in compliance with any of the licensing standards, these standards shall be specifically recorded and the plan for achieving compliance shall be outlined. The plan for achieving compliance shall indicate whether foster children can remain in the foster home and whether new placements may be made in the foster home while the foster home is achieving compliance with the licensing standards. The statement shall be updated to reflect any changes in the status of the foster family or the foster home. All such updates shall be entered within five working days after the change in status.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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Section 402.16 Meeting Basic Needs of Children

- a) All children in the foster family shall be treated equitably.
- b) Children shall receive supervision appropriate to their developmental age at all times. All children in the foster home shall be protected from exploitation, neglect, and abuse. Suspected child abuse or neglect shall be reported to the supervising agency and to the Department immediately.
- c) Foster parents shall provide the child with ongoing opportunities to explore a wide variety of interest areas to expand his or her knowledge of learning possibilities that may lead to the child's systematic and lifelong involvement in one or more interest areas.
- d) Foster parents shall make every effort to preserve family ties between siblings, recognizing their need for stability and continuity of relationships, and the importance of sibling contact in the development of each child's identity. Foster parents shall help and support children in developing a relationship with their siblings, including siblings with whom the children do not yet have a relationship, and encourage and facilitate contact between the siblings.
- ~~e~~) Each child shall be given the opportunity to develop social relationships through participation in schools, and other community and group activities. Each child shall have the opportunity to invite friends to the foster home and to visit in the home of friends.
- ~~f~~) Care shall be exercised in giving permission for the foster child to visit overnight with friends or relatives of the child or foster parents. Extended trips away from the foster home must be approved by the foster child's parent or guardian.
- ~~g~~) Personal allowance money shall be available to the children based upon the child's age and ability to manage the money. Adolescents may be allowed to earn additional spending money.
- ~~h~~) Foster parents shall assist the child in the proper handling of money.
- ~~i~~) Each child shall have the opportunity to learn to assume some responsibility for himself and for household duties in accordance with his age, health, and ability.

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No child shall be permitted to do tasks which are hazardous, dangerous or risk harm to the child.

- ii) The supervising agency shall immediately be notified of any situation that affects the care of the child, including but not limited to death, serious illness, incarceration, death of a child or any other significant occurrence.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Number: 140.412 Proposed Action: Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Complete Description of the Subjects and Issues Involved: This rulemaking is a technical correction of the coverage of medical or surgical transsexual treatment in the Illinois medical assistance program. At 38 Ill. Reg. 18022, on 8/29/14, the Department of Healthcare and Family Services (Department) published proposed rules on 89 Illinois Administrative Code 140.6 to cover medical or surgical transsexual treatment for dates of service on or after April 1, 2015 as necessary to come into compliance with nondiscrimination provisions applicable to transgender persons found in the Affordable Care Act, Illinois Human Rights Act and the Illinois Mental Health Parity Act. The Joint Committee on Administrative Rules considered these proposed rules at the November 6, 2014 hearing and issued a certificate of no objection. Pursuant to this certificate, the Department filed for the adoption of the proposed rules on December 2, 2014. The adoption published at 38 Ill. Reg. 23623, on December 19, 2014.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
140.413	Amendment	38 Ill. Reg. 16468; August 8, 2014
140.462	Amendment	38 Ill. Reg. 16468; August 8, 2014
140.418	Amendment	38 Ill. Reg. 17533; August 22, 2014
140.497	Amendment	38 Ill. Reg. 18308; September 5, 2014
140.462	Amendment	38 Ill. Reg. 19054; September 26, 2014

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- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Jeanette Badrov
General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/782-1233
HFS.Rules@illinois.gov

The Department requests the submission of written comments within 45 days after the publication of this Notice. 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:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2014

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER I: HEALTHCARE AND FAMILY SERVICES
SUBCHAPTER d: MEDICAL PROGRAMSPART 140
MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

- 140.1 Incorporation By Reference
- 140.2 Medical Assistance Programs
- 140.3 Covered Services Under Medical Assistance Programs
- 140.4 Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
- 140.5 Covered Medical Services Under General Assistance
- 140.6 Medical Services Not Covered
- 140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
- 140.8 Medical Assistance For Qualified Severely Impaired Individuals
- 140.9 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
- 140.10 Medical Assistance Provided to Persons Confined or Detained by the Criminal Justice System

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

- 140.11 Enrollment Conditions for Medical Providers
- 140.12 Participation Requirements for Medical Providers
- 140.13 Definitions
- 140.14 Denial of Application to Participate in the Medical Assistance Program
- 140.15 Suspension and Denial of Payment, Recovery of Money and Penalties
- 140.16 Termination, Suspension or Exclusion of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.18 Effect of Termination, Suspension, Exclusion or Revocation on Persons

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AUTHORITY: Implementing and authorized by Articles III, IV, V and VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13].

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective

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December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and 140.Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table

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B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366,

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effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill.

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Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at

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22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002; amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective

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October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513, effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005; emergency amendment at 29 Ill. Reg. 8509, effective June 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12534, effective August 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 14957, effective September 30, 2005; emergency amendment at 29 Ill. Reg. 15064, effective October 1, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 15985, effective October 5, 2005, for the remainder of the 150 days; emergency amendment at 29 Ill. Reg. 15610, effective October 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 16515, effective October 5, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 349, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 573, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 796, effective January 1, 2006; amended at 30 Ill. Reg. 2802, effective February 24, 2006; amended at 30 Ill. Reg. 10370, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 12376, effective July 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14280, effective August 18, 2006; expedited correction at 31 Ill. Reg. 1745, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18648, effective November 27, 2006; emergency amendment at 30 Ill. Reg. 19400, effective December 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 388, effective December 29, 2006; emergency amendment at 31 Ill. Reg. 1580, effective January 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 2413, effective January 19, 2007; amended at 31 Ill. Reg. 5561, effective March 30, 2007; amended at 31 Ill. Reg. 6930, effective April 29, 2007; amended at 31 Ill. Reg. 8485, effective May 30, 2007; emergency amendment at 31 Ill. Reg. 10115, effective June 30, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 14749, effective October 22, 2007; emergency amendment at 32 Ill. Reg. 383, effective January 1, 2008, for a maximum of 150 days; peremptory amendment at 32 Ill. Reg. 6743, effective April 1, 2008; peremptory amendment suspended at 32 Ill. Reg. 8449, effective May 21, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 32 Ill. Reg. 18323, effective November 12, 2008; peremptory amendment repealed by emergency

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rulemaking at 32 Ill. Reg. 18422, effective November 12, 2008, for a maximum of 150 days; emergency expired April 10, 2009; preemptory amendment repealed at 33 Ill. Reg. 6667, effective April 29, 2009; amended at 32 Ill. Reg. 7727, effective May 5, 2008; emergency amendment at 32 Ill. Reg. 10480, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 32 Ill. Reg. 17133, effective October 15, 2008; amended at 33 Ill. Reg. 209, effective December 29, 2008; amended at 33 Ill. Reg. 9048, effective June 15, 2009; emergency amendment at 33 Ill. Reg. 10800, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 11287, effective July 14, 2009; amended at 33 Ill. Reg. 11938, effective August 17, 2009; amended at 33 Ill. Reg. 12227, effective October 1, 2009; emergency amendment at 33 Ill. Reg. 14324, effective October 1, 2009, for a maximum of 150 days; emergency expired February 27, 2010; amended at 33 Ill. Reg. 16573, effective November 16, 2009; amended at 34 Ill. Reg. 516, effective January 1, 2010; amended at 34 Ill. Reg. 903, effective January 29, 2010; amended at 34 Ill. Reg. 3761, effective March 14, 2010; amended at 34 Ill. Reg. 5215, effective March 25, 2010; amended at 34 Ill. Reg. 19517, effective December 6, 2010; amended at 35 Ill. Reg. 394, effective December 27, 2010; amended at 35 Ill. Reg. 7648, effective May 1, 2011; amended at 35 Ill. Reg. 7962, effective May 1, 2011; amended at 35 Ill. Reg. 10000, effective June 15, 2011; amended at 35 Ill. Reg. 12909, effective July 25, 2011; amended at 36 Ill. Reg. 2271, effective February 1, 2012; amended at 36 Ill. Reg. 7010, effective April 27, 2012; amended at 36 Ill. Reg. 7545, effective May 7, 2012; amended at 36 Ill. Reg. 9113, effective June 11, 2012; emergency amendment at 36 Ill. Reg. 11329, effective July 1, 2012 through June 30, 2013; emergency amendment to Section 140.442(e)(4) suspended at 36 Ill. Reg. 13736, effective August 15, 2012; suspension withdrawn from Section 140.442(e)(4) at 36 Ill. Reg. 14529, September 11, 2012; emergency amendment in response to Joint Committee on Administrative Rules action on Section 140.442(e)(4) at 36 Ill. Reg. 14820, effective September 21, 2012 through June 30, 2013; emergency amendment to Section 140.491 suspended at 36 Ill. Reg. 13738, effective August 15, 2012; suspension withdrawn by the Joint Committee on Administrative Rules from Section 140.491 at 37 Ill. Reg. 890, January 8, 2013; emergency amendment in response to Joint Committee on Administrative Rules action on Section 140.491 at 37 Ill. Reg. 1330, effective January 15, 2013 through June 30, 2013; amended at 36 Ill. Reg. 15361, effective October 15, 2012; emergency amendment at 37 Ill. Reg. 253, effective January 1, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 846, effective January 9, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 1774, effective January 28, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 2348, effective February 1, 2013 through June 30, 2013; amended at 37 Ill. Reg. 3831, effective March 13, 2013; emergency amendment at 37 Ill. Reg. 5058, effective April 1, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 5170, effective April 8, 2013 through June 30, 2013; amended at 37 Ill. Reg. 6196, effective April 29, 2013; amended at 37 Ill. Reg. 7985, effective May 29, 2013; amended at 37 Ill. Reg. 10282, effective June 27, 2013; amended at 37 Ill. Reg. 12855, effective July 24, 2013; emergency amendment at 37 Ill. Reg. 14196, effective August

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20, 2013, for a maximum of 150 days; amended at 37 Ill. Reg. 17584, effective October 23, 2013; amended at 37 Ill. Reg. 18275, effective November 4, 2013; amended at 37 Ill. Reg. 20339, effective December 9, 2013; amended at 38 Ill. Reg. 859, effective December 23, 2013; emergency amendment at 38 Ill. Reg. 1174, effective January 1, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 4330, effective January 29, 2014; amended at 38 Ill. Reg. 7156, effective March 13, 2014; amended at 38 Ill. Reg. 12141, effective May 30, 2014; amended at 38 Ill. Reg. 15081, effective July 2, 2014; emergency amendment at 38 Ill. Reg. 15673, effective July 7, 2014, for a maximum of 150 days; emergency amendment at 38 Ill. Reg. 18216, effective August 18, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 18462, effective August 19, 2014; amended at 38 Ill. Reg. 23623, effective December 2, 2014; amended at 39 Ill. Reg. _____, effective _____.

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section 140.412 Services Not Covered By Physicians

Services for which medical necessity is not clearly established are not covered in the Medical Assistance Program. Additionally, the following services are specifically excluded from coverage and payment cannot be made by the Department for the provision of these services.

- a) Experimental medical or surgical services.
- b) Acupuncture.
- c) Investigational and research oriented procedures.
- d) Artificial insemination.
- e) Transsexual surgery, for dates of service prior to April 1, 2015.
- f) Services prohibited by Illinois or Federal statute.
- g) Services provided in Federal or State institutions.
- h) Medical care provided by mail or telephone.
- i) Unkept appointments.
- j) Autopsy examinations.

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- k) Preparation of routine records, forms and reports.
- l) Cosmetic procedures, medical or surgical, where projected results do not relieve a physical or functional handicap.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Single Family Mortgage Purchase Program
- 2) Code Citation: 47 Ill. Adm. Code 220
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
220.101	Repeal
220.102	Repeal
220.103	Repeal
220.104	Repeal
220.105	Repeal
220.106	Repeal
220.107	Repeal
220.108	Repeal
220.110	Repeal
220.111	Repeal
220.201	Repeal
220.202	Repeal
220.203	Repeal
220.204	Repeal
220.205	Repeal
220.301	Repeal
220.302	Repeal
220.303	Repeal
220.304	Repeal
220.305	Repeal
220.306	Repeal
220.307	Repeal
220.401	Repeal
220.402	Repeal
220.403	Repeal
220.404	Repeal
220.405	Repeal
- 4) Statutory Authority: Mortgage Subsidy Bond Tax Act of 1980 (26 U.S.C. 103A) and authorized by Sections 7.19 and 7.23 of the Illinois Housing Development Act [20 ILCS 3805/7.19 and 7.23]

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED REPEALER

- 5) A Complete Description of the Subjects and Issues Involved: This Rule is being repealed as such rule is no longer being used to run an active program at the Illinois Housing Development Authority and a similar program is being run by a subsequent rule.
- 6) Published Studies or reports, and sources of underlying data, used to compose the rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: Rulemaking does not create or expand any State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested parties may submit comments, data, views or arguments concerning this rulemaking in writing to:

Kristi S. Poskus, Esq.
Deputy General Counsel
Illinois Housing Development Authority
401 N. Michigan Avenue, Suite 700
Chicago IL 60611
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was included on the July 2014 Regulatory Agenda.

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

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The full Text of the Proposed Repealer begins on the next page:

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED REPEALER

TITLE 47: HOUSING AND COMMUNITY DEVELOPMENT
CHAPTER II: ILLINOIS HOUSING DEVELOPMENT AUTHORITYPART 220
SINGLE FAMILY MORTGAGE PURCHASE PROGRAM (REPEALED)

SUBPART A: GENERAL RULES

Section	
220.101	Authority
220.102	Purpose and Objectives
220.103	Definitions
220.104	Borrowing by the Authority
220.105	Compliance with Federal Law
220.106	Standards
220.107	Forms for the Program
220.108	Fees and Charges of the Authority
220.109	Waiver (Repealed)
220.110	Amendment
220.111	Severability

SUBPART B: APPLICATION PROCESS

Section	
220.201	Invitations to Sell Mortgage Loans
220.202	Applications to Sell Mortgage Loans
220.203	Allocation of Net Proceeds for Purchase of Mortgage Loans
220.204	Notice of Acceptance
220.205	Firm Commitments for Mortgage Loans

SUBPART C: PURCHASE OF MORTGAGE LOANS

Section	
220.301	Mortgage Loans
220.302	Yield on Mortgage Loans
220.303	Terms and Conditions of the Purchase of Mortgage Loans
220.304	Prepayment
220.305	Targeted Area Residences
220.306	Mortgage Pool Insurance

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

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220.307 Arbitrage and Investment Gains

SUBPART D: ADMINISTRATIVE RULES

Section

- 220.401 Restrictions on Return Realized by Lenders
220.402 Servicing of Mortgage Loans
220.403 Purchase of Authority Bonds
220.404 Equal Opportunity Lending
220.405 Inspection of Books and Records

AUTHORITY: Implementing the Mortgage Subsidy Bond Tax Act of 1980 (26 U.S.C. 103A) and authorized by Sections 7.19 and 7.23 of the Illinois Housing Development Act [20 ILCS 3805/7.19 and 7.23].

SOURCE: Adopted at 5 Ill. Reg. 9439, effective September 9, 1981; codified at 7 Ill. Reg. 2505; amended at 22 Ill. Reg. 3861, effective February 4, 1998; repealed at 39 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL RULES

Section 220.101 Authority

These Rules are authorized by and made pursuant to Section 7.19 and 7.23 of the Act and shall govern the Program.

Section 220.102 Purpose and Objectives

These Rules are established to accomplish the general purposes of the Act and in particular the purchasing and making of loans in accordance with the Program to achieve the following objectives: the provision of funds to finance, at interest rates below those otherwise available, residential mortgage loans for low and moderate income persons and families; the provision of housing to alleviate the shortage of adequate housing in the State for such persons and families; and the effective participation by lenders in the Program while restricting their financial return to what is necessary and reasonable to induce such participation.

Section 220.103 Definitions

As used in this Part, the following words or terms mean:

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

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"Act": The Illinois Housing Development Act (Ill. Rev. Stat. 1979, ch. 67½, pars. 301 et seq.) as amended from time to time.

"Application": A potential Lender's application to sell Mortgage Loans to the Authority pursuant to the terms of a Mortgage Purchase Agreement and the Procedural Guide.

"Authority": The Illinois Housing Development Authority.

"Bonds": The Authority's Single Family Housing Bonds issued from time to time to finance the Program.

"Chairman": The Chairman of the Authority.

"Commitment Fee": The fee which may be required to be paid to the Authority by a potential Lender at the time it files its Application to sell Mortgage Loans.

"Deputy Director": The Deputy Director of the Authority.

"Director": The Director of the Authority.

"Eligible Borrower": A person or persons who are residents of the State whose Household Income does not exceed the Maximum Income; who do or who will occupy as a single household the One-Unit Dwelling purchased or being purchased as a permanent residence; and who at no time during the 3-year period ending on the date the Mortgage is executed had a present ownership interest in a principal residence of such Eligible Borrower. The Eligible Borrower who purchases a Targeted Area Residence or a Qualified Rehabilitation Residence is exempt from the 3-year requirement of this subsection. For purposes of this subsection, the Eligible Borrower's interest in the One-Unit Dwelling financed under this Program shall not be taken into account.

"FHA": The Federal Housing Administration.

"FHLMC": The Federal Home Loan Mortgage Corporation.

"FmHA": The Farmers' Home Administration.

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"FNMA": The Federal National Mortgage Association.

"Household Income": The total annual gross income of all persons residing or intending to reside as a single household in a One-Unit Dwelling, from whatever source derived and before taxes or withholdings.

"Invitation": The Authority's invitation to potential Lenders for Applications to sell Mortgage Loans.

"Lender": A State-chartered bank, national banking association, or State or federal savings and loan association which is located in the State; which is qualified to sell mortgages to FNMA and/or FHLMC, unless such requirement is waived by the Director based upon a determination of financial suitability made by the Director after consideration of the net assets, lending capacity, and experience of the potential Lender over the past 12 months in residential mortgage lending; deposits in which are insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation; and whose Application has been accepted by the Director.

"Maximum Income": 160% of the median income in counties in the State having a population of 3 million or more for the most recent year for which such information is available, as published by the United States Department of Housing and Urban Development or by such other governmental entity as may be determined by the Director to publish substantially comparable information.

"Members": The Members of the Authority.

"Mortgage": A deed of trust, mortgage deed, mortgage, or other instrument creating a first mortgage lien on a fee interest in real property located within the State.

"Mortgage Loan": A loan made by a Lender to an Eligible Borrower for the purchase of an owner-occupied One-Unit Dwelling after the date of mailing of the Notice of Acceptance and secured by a Mortgage on such real property. No Mortgage Loan shall be a replacement or refinancing of an existing mortgage loan except in the case of a Qualified Rehabilitation Loan.

"Mortgage Purchase Agreement": An agreement between the Authority and a Lender pursuant to which the Authority agrees to purchase Mortgage Loans from

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the Lender on the terms and conditions set forth therein and which establishes the requirements for Mortgage Loans to be purchased by the Authority. The Mortgage Purchase Agreement incorporates the Procedural Guide.

"Net Proceeds": With respect to the proceeds of each series of Bonds, all monies made available by the Authority for the purchase of Mortgage Loans.

"Notice of Acceptance": The Authority's notice to the Lender of the acceptance of its Application.

"One-Unit Dwelling": Real estate or an interest in real estate upon which there is or shall be located a structure or structures designed for Residential Use and meeting the requirements of Sections 2(e) and 7.23 of the Act as amended from time to time. Such One-Unit Dwelling may be a single condominium unit but may not be a cooperative unit or a mobile home. The One-Unit Dwelling must be located in the State.

"Part": This Part 220.

"Prepayment": Any moneys, however derived, which are received or recovered by the Authority from any payment of, or with respect to, principal on any Mortgage Loan prior to scheduled payments of principal called for by such Mortgage Loan.

"Procedural Guide": The set of instructions, guidelines, terms, and conditions approved by the Chairman for the origination and sale of Mortgage Loans to the Authority and for the servicing of such Mortgage Loans. The Procedural Guide is incorporated into the Mortgage Purchase Agreement and the Servicing Agreement.

"Program": The Authority's single family mortgage purchase program.

"Property Value": The lesser of the purchase price or the appraised value of the One-Unit Dwelling at the time of origination of the Mortgage Loan secured by such One-Unit Dwelling.

"Qualified Rehabilitation Loan": A Mortgage Loan for the purchase of a Qualified Rehabilitation Residence. An Eligible Borrower for a Qualified Rehabilitation Loan must be the first resident of the Qualified Rehabilitation

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Residence after the completion of the rehabilitation.

"Qualified Rehabilitation Residence": A One-Unit Dwelling for which there has been a qualified rehabilitation as defined in Section 103A of the Internal Revenue Code of 1954 as amended from time to time and applicable regulations promulgated by the Treasury Department thereunder.

"Residential Use": Use as the principal residence of the occupant and not as a vacation or "second" home.

"Rules": The Rules and Regulations of the Authority as supplemented and amended from time to time.

"Servicer": A Lender, or its designated servicer, which has been approved by the Director as a Servicer and which has executed a Servicing Agreement with the Authority. A designated servicer must be a State-chartered bank, national banking association, or State or federal savings and loan association which is located in the State; which is qualified to sell mortgages to FNMA and/or FHLMC, unless such requirement is waived by the Director based upon a determination of financial suitability made by the Director after consideration of the net assets, servicing capacity, and experience of the potential Servicer over the past 12 months in residential mortgage servicing; and deposits in which are insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation.

"Servicing Agreement": An agreement between the Authority and a Servicer for the servicing of Mortgage Loans purchased by the Authority. The Servicing Agreement incorporates the Procedural Guide.

"Staff": The Director and Deputy Director and the employees of the Authority.

"State": The State of Illinois.

"Targeted Area": An area of the State which is either a qualified census tract or an area of economic distress as defined in Section 103A of the Internal Revenue Code of 1954 as amended from time to time and applicable regulations promulgated by the Treasury Department thereunder.

"Targeted Area Residence": A One-Unit Dwelling located in a Targeted Area.

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"VA": The Veterans' Administration.

Section 220.104 Borrowing by the Authority

To the extent allowed by applicable federal law and the Act, the Authority may borrow funds with which to purchase Mortgage Loans under the Program.

Section 220.105 Compliance with Federal Law

Notwithstanding anything herein to the contrary, this Part shall be construed in conformity and compliance with applicable federal law, including without limit Sections 103 and 103A of the Internal Revenue Code of 1954 as amended from time to time and applicable regulations promulgated by the Treasury Department thereunder.

Section 220.106 Standards

In administering the Program, the Authority, the Chairman, the Director, and the Staff shall in those instances permitting the exercise of discretion consider, in addition to the criteria specifically set forth in this Part, the following factors: The purposes of the Program, the requirements of applicable federal law, the financial condition and previous lending experience of potential and participating Lenders and Servicers, the Authority's ability to purchase or redeem the Bonds and to comply with the requirements of the resolutions authorizing its bonds, the financial integrity of the Program, the desirability of achieving a reasonable geographic distribution of Net Proceeds throughout the State, the standards of the prudent lender or investor, and specific standards set forth in the Procedural Guide.

Section 220.107 Forms for the Program

The Staff may prepare, use, supplement, and amend such forms, agreements, and other documents as may be necessary to implement the Program, including without limitation a Procedural Guide, an Application, a Notice of Acceptance, a Mortgage Purchase Agreement, and a Servicing Agreement, all as may be prescribed by the Director.

Section 220.108 Fees and Charges of the Authority

A Commitment Fee may be established and collected by the Authority from each potential Lender filing an Application in such amount or amounts as the Authority may deem appropriate. Commitment Fees applicable to offered sales of Mortgage Loans for which the Authority does

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not enter into a Mortgage Purchase Agreement shall be returned to the potential Lender. The Commitment Fee may be used by the Authority for its general corporate purposes, including costs of administering the Program. The Authority may establish such other charges, premiums, and penalties as it may deem necessary to administer the Program.

Section 220.109 Waiver (Repealed)**Section 220.110 Amendment**

This Part may be supplemented, amended, or repealed by the Members from time to time and in such manner as they may determine consistent with the Authority's Rules, the Act, and other applicable provisions of law. This Part shall not constitute or create any contractual rights.

Section 220.111 Severability

If any clause, sentence, paragraph, subsection, section, or subpart of this Part shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subsection, section, or subpart thereof as to which such judgment is rendered.

SUBPART B: APPLICATION PROCESS

Section 220.201 Invitations to Sell Mortgage Loans

The Authority from time to time may mail Invitations to potential Lenders to apply to sell Mortgage Loans to the Authority. Potential Lenders who receive Invitations may request Applications from the Authority. The Invitation shall contain, among other things, a description of Eligible Borrowers and a description of Mortgage Loans eligible to be purchased by the Authority under the Program.

Section 220.202 Applications to Sell Mortgage Loans

The Authority from time to time may mail Applications to potential Lenders to apply to sell Mortgage Loans to the Authority. Potential Lenders shall execute and return the Application, the Mortgage Purchase Agreement, and, if applicable, the Servicing Agreement to the Authority, together with any Commitment Fee. The Application shall contain, among other things, the following:

- a) Provision for the potential Lender to state the aggregate principal amount of

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Mortgage Loans it desires to sell to the Authority, which amount shall be at least \$200,000 and shall be an integral multiple of \$1,000, and to state the aggregate principal amount of Mortgage Loans which it intends to originate with respect to Targeted Area Residences;

- b) The unconditional agreement of the potential Lender, effective upon acceptance of the Application by the Authority, to sell to the Authority Mortgage Loans which comply with the terms of the Notice of Acceptance, Mortgage Purchase Agreement, and Procedural Guide;
- c) The date by which the Application must be submitted to the Authority in order to be considered for an allocation of Net Proceeds to purchase eligible Mortgage Loans and the date by which the Authority will return a Notice of Acceptance;
- d) Provision for the potential Lender to furnish such financial and other information as the Authority may reasonably require;
- e) The schedule of any Commitment Fees or charges levied by the Authority, with a requirement that such Commitment Fees or charges accompany the Application when it is submitted to the Authority; and
- f) A description of the fees and charges which may be imposed by a Lender with respect to a Mortgage Loan.

Section 220.203 Allocation of Net Proceeds for Purchase of Mortgage Loans

Net Proceeds shall be allocated by the Authority among potential Lenders from whom timely Applications and Commitment Fees have been received by the Authority. In making such allocations, the Authority shall consider with respect to each potential Lender, among other things, the financial condition of the potential Lender; the amount of residential mortgage loans made in the State by the potential Lender during the preceding 12-month period relative to the demand for such loans and to the funds available to the potential Lender to make such loans during such period; the terms and conditions of the Mortgage Loans offered for sale by the potential Lender; the respective aggregate principal amounts of Mortgage Loans offered for sale by all potential Lenders; the ability of the potential Lender to act as a Servicer of Mortgage Loans; previous participation by the potential Lender in the Authority's programs; the desirability of achieving a reasonable geographic distribution of Net Proceeds throughout the State; the existence of any local mortgage purchase program; and the amount of Mortgage Loans to be made in Targeted Areas. The Authority shall use its best efforts to allocate Net Proceeds to

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achieve the purposes set forth in Section 220.102 of this Part. Allocations of Net Proceeds by the Authority shall be conclusive. Prior to mailing Invitations to potential Lenders, the Authority may make such inquiries of potential Lenders and others as it considers useful in determining probable interest among potential Lenders in participating in the Program.

Section 220.204 Notice of Acceptance

The Authority may, by Notice of Acceptance, commit itself, subject to the conditions set forth in the Application, the Mortgage Purchase Agreement, and the Procedural Guide, to purchase Mortgage Loans offered by a potential Lender in its Application. Promptly following the issuance by the Authority of its Notice of Acceptance to the Lender, the Authority shall execute a Mortgage Purchase Agreement with such Lender. The aggregate principal amount of Mortgage Loans which the Authority agrees to purchase from any Lender shall not exceed the aggregate principal amount of Mortgage Loans offered for sale by the Lender and may be less than the amount requested by the Lender in its Application. Upon receipt of the Notice of Acceptance by the Lender, the Lender shall be obligated to sell such Mortgage Loans in accordance with the terms of the Application, the Notice of Acceptance, the Mortgage Purchase Agreement, and the Procedural Guide. The obligation of the Authority to purchase any Mortgage Loan shall be subject to the issuance and sale of Bonds within the period prescribed by the Application in an amount sufficient to permit such purchase.

Section 220.205 Firm Commitments for Mortgage Loans

Upon receipt of the Notice of Acceptance, the Lender shall issue firm commitments to Eligible Borrowers to make Mortgage Loans. Firm commitments must be issued within six months from the date of the Notice of Acceptance, and disbursements of such Mortgage Loans must be made by the Lender within three months of the date of the commitment or, in either case, within such shorter period as the Authority may require.

SUBPART C: PURCHASE OF MORTGAGE LOANS

Section 220.301 Mortgage Loans

Each Mortgage Loan to be purchased under the Program shall comply with the terms of the Application, Notice of Acceptance, Mortgage Purchase Agreement, and Procedural Guide and specifically shall comply with the following requirements, among others:

- a) Each Mortgage Loan to be purchased under the Program shall be insured by the FHA for the unpaid principal amount thereof, or be guaranteed by the VA or

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FmHA in an amount set forth in the Procedural Guide, or have a principal balance not exceeding 80% of the Property Value at the time of origination, or be covered by mortgage insurance policy issued by a private mortgage insurance company approved by the Director and in an amount set forth in the Procedural Guide. (All costs connected with the acquisition of such insurance shall be paid by the Eligible Borrower.)

- b) Each Mortgage Loan to be purchased by the Authority shall be secured by a Mortgage on a One-Unit Dwelling and must further meet the applicable terms and conditions set forth in the Authority's Rules, the Application, Notice of Acceptance, Mortgage Purchase Agreement, and Procedural Guide. Lenders shall sell and the Authority shall purchase only Mortgage Loans made to Eligible Borrowers.
- c) Each Mortgage securing a Mortgage Loan to be purchased by the Authority shall be executed on a form approved by the Authority. It shall be a valid first mortgage lien on a One-Unit Dwelling, be consistent with Illinois law, and conform with the standards prescribed by the Authority and any applicable insurer.
- d) Each Mortgage Loan to be purchased by the Authority shall be non-assumable and non-assignable, unless otherwise required by applicable federal law, and shall contain a provision giving the Authority the right to accelerate the maturity of the Mortgage Loan upon sale or lease of the One-Unit Dwelling.
- e) Each Mortgage securing a Mortgage Loan to be purchased by the Authority shall include provisions necessary to protect the interests of the Authority, such provisions being contained in the Mortgage Purchase Agreement, Servicing Agreement, Procedural Guide, and this Part.
- f) The purchase price of each One-Unit Dwelling which is the subject of a Mortgage Loan to be purchased by the Authority under the Program shall not exceed 90 percent of the average area purchase price applicable to such One-Unit Dwelling (except that in the case of Targeted Area Residences the purchase price shall not exceed 110% of the average area purchase price) or any other limitations imposed by the Authority in accordance with applicable law. "Average area purchase price" shall be computed by the Authority in accordance with applicable law, if any, and shall be set forth in the Procedural Guide.

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- g) Mortgages held as security for Mortgage Loans purchased under this Part which are in default may be foreclosed by the Authority according to their terms. The Authority is authorized to take title in its name upon foreclosure and to subsequently convey title to such property to any qualified insurer of the Mortgage or any bona fide purchaser thereof.

Section 220.302 Yield on Mortgage Loans

Mortgage Loans sold to the Authority shall bear interest at such rate or rates, be repayable in such principal amounts, and be sold to the Authority at such price or prices which in the aggregate shall produce revenues to the Authority with respect to such Mortgage Loans which shall at least be sufficient to enable the Authority to pay when due the principal of and interest on the Authority's Bonds issued to finance such Mortgage Loans, to pay costs related to the issuance of such Bonds, and to pay the Authority's expenses of administering the Program. In no event, however, shall the yield on such Mortgage Loans exceed the maximum permitted by application of the provisions of Sections 103(c) and 103A of the Internal Revenue Code of 1954 as amended from time to time and applicable regulations promulgated by the Treasury Department thereunder.

Section 220.303 Terms and Conditions of the Purchase of Mortgage Loans

- a) Mortgage Loans shall be purchased by the Authority on the terms and conditions and in the manner prescribed in the Mortgage Purchase Agreement and the Procedural Guide. The Mortgage Purchase Agreement shall contain such warranties of the Lenders with respect to the Mortgage Loans to be sold thereunder as the Authority may require, which may include the following, among others:
- 1) The mortgagor is an Eligible Borrower;
 - 2) The purchase price of the One-Unit Dwelling subject to the Mortgage Loan does not exceed any maximum purchase price limitations established by the Authority;
 - 3) The Mortgage Loan is evidenced by a properly executed promissory note made payable or assigned to the order of the Lender and endorsed by the Lender as follows:

"Payable to the order of the Illinois Housing Development

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Authority without recourse."

and is secured by a Mortgage on the One-Unit Dwelling, both of which are the legal, valid, and binding obligations of the makers thereof and are enforceable in accordance with their terms, except only as such enforcement may be limited by laws affecting the enforcement of creditors' rights generally, and all parties to each Mortgage Loan must have had full legal capacity to execute all Mortgage Loan documents at the time of execution;

- 4) The Mortgage, financing statement, if any, and any other document required to be filed in a public office to perfect the mortgage lien against third parties has been duly and timely filed, registered, or recorded by the Lender in the proper public office in order to give constructive notice thereof to all subsequent purchasers or encumbrancers;
- 5) The Lender, being the sole owner and holder of the Mortgage Loan, has full right to sell and assign the Mortgage Loan to the Authority and such assignment conveys a good and marketable mortgagee's title to the Authority free and clear of all liens and encumbrances and subject only to real property taxes and assessments not yet due and encumbrances customarily accepted in accordance with applicable title standards and disclosed to the Authority prior to purchase of the Mortgage Loan;
- 6) The Mortgage creates a valid and existing first mortgage lien on the real property owned by the mortgagor in fee simple and improvements therein described (and fixtures) to secure the Mortgage Loan, the term "first" mortgage lien" meaning such classes of first liens as are commonly given to secure loans on real estate under the laws of the State;
- 7) The Lender has not modified in any respect and has not satisfied, canceled, subordinated, or compromised in whole or in part the Mortgage Loan indebtedness and has not released the mortgaged property in whole or in part from the lien of the indebtedness evidenced by the note and secured by the Mortgage (or other instruments evidencing indebtedness and security), and the terms, covenants, and conditions of the note evidencing the Mortgage Loan and the Mortgage securing the same have not been waived, altered, or modified in any respect which would materially affect the validity or enforceability of the Mortgage Loan or the

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security of the lien of the Mortgage;

- 8) The real property securing the Mortgage Loan is a One-Unit Dwelling;
 - 9) The improvements upon the real property subject to the Mortgage Loan are covered by a valid and existing policy of hazard insurance meeting the requirements of the Authority;
 - 10) The Lender has complied as follows:
 - A) as to each FHA-insured Mortgage Loan, with the National Housing Act as amended and supplemented, all rules and regulations issued thereunder, and all administrative publications, such insurance being in full force and effect and, upon purchase by the Authority of the Mortgage Loan, insuring to the benefit of the Authority;
 - B) as to each Mortgage Loan guaranteed by the VA or FmHA, with the Servicemen's Readjustment Act, the Consolidated Farm and Rural Development Act, Title V of the Housing Act of 1949, or other applicable federal law as amended and supplemented, all rules and regulations issued thereunder, and all administrative publications, such guaranty being in full force and effect and, upon purchase by the Authority of the Mortgage Loan, insuring to the benefit of the Authority; and
 - C) as to each Mortgage Loan insured by a private mortgage insurance company, with all rules and requirements of such company, such insurance being in full force and effect and, upon purchase by the Authority of the Mortgage Loan, insuring to the benefit of the Authority; and
 - 11) The Mortgage Loan is covered by a paid-up mortgagee's title insurance policy in such form as the Authority may require.
- b) In the event that the Lender fails to deliver Mortgage Loans to the Authority in the amount, on the terms and conditions, and within the time period set forth in the Mortgage Purchase Agreement, the Authority may, if it so chooses and in its sole discretion, re-allocate all or part of the unused portion of the Lender's commitment to other Lenders in accordance with the provisions of Section

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220.202 of this Part; redeem all or part of the Bonds issued with respect to such unused portion of the commitment but only if permitted by the resolutions of the Authority authorizing issuance of the Bonds; or undertake any combination of the above. The Mortgage Purchase Agreement may provide for liquidated damages, extension fees, and forfeiture of commitment fees if the Authority makes any re-allocation pursuant to this subsection.

- c) If required by the Act, the Mortgage Purchase Agreement shall require that the Lender agree to furnish to the Authority the following:
 - 1) at the time the Authority purchases Mortgage Loans from the Lender, such evidence as the Director shall specify of the Lender's ability and intention to make new residential mortgages (as defined in Section 2(e) of the Act) in an aggregate amount equal to the aggregate amount of the Mortgage Loans then to be purchased by the Authority and
 - 2) within 120 days after the time specified by the Authority by which Mortgage Loans must be delivered to the Authority for purchase, such evidence as the Director may specify that the Lender has made such new residential mortgages.
- d) The Mortgage Purchase Agreement shall provide that the Authority shall have the right to require the Lender to repurchase Mortgage Loans sold to the Authority by the Lender if the Director determines that the Lender has failed to comply with the requirements of this Part or of its contracts and agreements with the Authority under the Program.

Section 220.304 Prepayment

The Authority may, at its option, apply any Prepayments it receives as follows:

- a) to the purchase of additional Mortgage Loans in accordance with the requirements of the Program;
- b) to the purchase from potential Lenders of mortgage loans previously made by such Lenders, on such terms and conditions as the Authority shall consider necessary, including requirements as to the making of additional mortgage loans with the proceeds of such purchase;

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- c) to the purchase or redemption of Bonds, subject in each case to the requirements of the Authority's resolutions relating to the issuance of its Bonds;
- d) for other corporate purposes of the Authority.

Section 220.305 Targeted Area Residences

The Authority shall comply with Section 103A of the Internal Revenue Code of 1954 as amended from time to time and applicable regulations promulgated by the Treasury Department thereunder or other applicable federal law regarding the purchase of Mortgage Loans on Targeted Area Residences.

Section 220.306 Mortgage Pool Insurance

The Authority may obtain one or more insurance policies covering all of the Mortgage Loans. The policy may insure the Authority against losses arising from an event of default under any Mortgage Loan covered by the policy in an amount equal to the unpaid principal balance of and accrued interest on the Mortgage Loan and customary fees and expenses paid by the Authority to preserve and protect the mortgaged premises and to foreclose or otherwise dispose of such premises, such as real estate taxes, hazard and private insurance premiums, and foreclosure expenses, less the amounts received by the Authority under any other insurance policy on the Mortgage Loan or from disposition of such premises or substantially similar benefits. The total amount of claims payable under the policy may be limited to an amount which is not less than 10% of the original aggregate principal amount of the Mortgage Loans covered thereby or such lower percentage as the Authority may from time to time deem appropriate.

Section 220.307 Arbitrage and Investment Gains

Arbitrage and investment gains, if any, shall be paid or expedited as required by Section 103A of the Internal Revenue Code of 1954 as amended from time to time and applicable regulations promulgated by the Treasury Department thereunder.

SUBPART D: ADMINISTRATIVE RULES

Section 220.401 Restrictions on Return Realized by Lenders

The Authority shall establish the maximum rate or rates of return which may be realized by any Lender and by any agent of any Lender from Mortgage Loans, including any commitment fees, premiums, bonuses, points, or other fees charged by the Lender or the Lender's agent in

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connection with the making of Mortgage Loans. Such maximum rates of return shall be set at such amounts as the Authority finds reasonably necessary to induce participation in the Program by Lenders in order to accomplish the purposes of the Act.

Section 220.402 Servicing of Mortgage Loans

Pursuant to a Servicing Agreement, the Authority shall cause all Mortgage Loans Purchased by the Authority to be serviced by a Servicer, which may be the Lender from which such Mortgage Loans are purchased. The Authority shall prepare and distribute the Procedural Guide to all Servicers of Mortgage Loans.

Section 220.403 Purchase of Authority Bonds

No Lender or Eligible Borrower, including any "related person," as defined in Section 103(b)(6)(C) of the Internal Revenue Code of 1954 as amended from time to time, shall pursuant to any arrangement, formal or informal, direct or indirect, agree to purchase the Bonds or other obligations of the Authority in an amount related to the aggregate principal amount of the Mortgage Loans to be sold by or made to such Lender, Eligible Borrower, or related person.

Section 220.404 Equal Opportunity Lending

In making Mortgage Loans, the Lender shall not deny such loans to any person or persons or discriminate against such person or persons in fixing the amount, interest rate, duration, or other terms and conditions of such loans on account of race, color, religion, age, sex, marital status, handicap, or national origin, and shall otherwise be subject to all State and federal requirements with respect to non-discrimination in lending including, without limitation, Title VI of the U.S. Civil Rights Act of 1964, Title VIII of the U.S. Civil Rights Act of 1968 as amended by the Housing and Community Development Act of 1974, the Equal Credit Opportunity Act, the Fair Credit Reporting Act, and Section 13 of the Act.

Section 220.405 Inspection of Books and Records

The Authority may inspect the books and records of each Lender for the purpose of determining compliance with the Authority's Rules, the Act, and all contracts and agreements between the Authority and such Lender relating to the Program.

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- 1) Heading of the Part: Single Family Mortgage Purchase Program II
- 2) Code Citation: 47 Ill. Adm. Code 250
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
250.101	Repeal
250.102	Repeal
250.103	Repeal
250.104	Repeal
250.105	Repeal
250.106	Repeal
250.107	Repeal
250.108	Repeal
250.110	Repeal
250.111	Repeal
250.112	Repeal
250.113	Repeal
250.114	Repeal
250.201	Repeal
250.202	Repeal
250.203	Repeal
250.204	Repeal
250.205	Repeal
250.206	Repeal
250.301	Repeal
250.302	Repeal
250.303	Repeal
250.304	Repeal
250.305	Repeal
250.306	Repeal
250.307	Repeal
250.401	Repeal
250.402	Repeal
250.403	Repeal
250.404	Repeal
250.405	Repeal
250.406	Repeal

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- 4) Statutory Authority: Authorized by Sections 7.19 and 7.23 of the Illinois Housing Development Act [20 ILCS 3805/7.19 and 723]
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being repealed as such rule is no longer being used to run an active program at the Illinois Housing Development Authority and a similar program is being run by a subsequent rule.
- 6) Published Studies or reports, and sources of underlying data, used to compose the rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: Rulemaking does not create or expand any State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested parties may submit comments, data, views or arguments concerning this rulemaking in writing to:

Kristi S. Poskus, Esq.
Deputy General Counsel
Illinois Housing Development Authority
401 N. Michigan Avenue, Suite 700
Chicago IL 60611
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None

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- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was included on the July 2014 Regulatory Agenda.

The full Text of the Proposed Repealer begins on the next page:

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TITLE 47: HOUSING AND COMMUNITY DEVELOPMENT
CHAPTER II: ILLINOIS HOUSING DEVELOPMENT AUTHORITYPART 250
SINGLE FAMILY MORTGAGE PURCHASE PROGRAM II (REPEALED)

SUBPART A: GENERAL RULES

Section	
250.101	Authority
250.102	Purpose and Objectives
250.103	Definitions
250.104	Borrowing by the Authority
250.105	Compliance with Federal Law
250.106	Standards
250.107	Forms for the Program
250.108	Fees and Charges of the Authority
250.109	Waiver (Repealed)
250.110	Amendment
250.111	Severability
250.112	Gender and Number
250.113	Titles and Captions
250.114	Calendar Days

SUBPART B: APPLICATION PROCESS

Section	
250.201	Invitations to Sell Mortgage Loans
250.202	Applications to Sell Mortgage Loans
250.203	Allocation of Net Proceeds for Purchase of Mortgage Loans
250.204	Notice of Acceptance
250.205	Commitments for Mortgage Loans
250.206	Reservation of Allocations by Lenders

SUBPART C: PURCHASE OF MORTGAGE LOANS

Section	
250.301	Mortgage Loans
250.302	Yield on Mortgage Loans

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Section

250.401	Restrictions on Return Realized by Lenders
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AUTHORITY: Implementing the Mortgage Subsidy Bond Tax Act of 1980 (26 U.S.C. Section 103A) and authorized by Sections 7.19 and 7.23 of the Illinois Housing Development Act [20 ILCS 3805/7.19 and 7.23].

SOURCE: Adopted at 7 Ill. Reg. 10818, effective August 19, 1983; emergency amendment at 8 Ill. Reg. 13880, effective July 25, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 24998, effective December 19, 1984; amended at 22 Ill. Reg. 3865, effective February 4, 1998; repealed at 39 Ill. Reg. _____, effective _____

SUBPART A: GENERAL RULES

Section 250.101 Authority

These Rules are authorized by and made pursuant to Sections 7.19 and 7.23 of the Illinois Housing Development Act (Ill. Rev. Stat. 1981, ch. 67½, pars. 307.19 and 307.23) and shall govern Programs funded by Bonds issued after December 31, 1982.

Section 250.102 Purpose and Objectives

These Rules are established to accomplish the general purposes of the Illinois Housing Development Act (Ill. Rev. Stat. 1981, ch. 67½, pars. 301 et seq.) and in particular the purchasing and making of loans in accordance with the Program to achieve the following objectives: the provision of funds to finance, at interest rates below those otherwise available,

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residential mortgage loans for low and moderate income persons and families; the provision of housing to alleviate the shortage of adequate housing in the State for such persons and families that are residents of the State; and the effective participation by lenders in the Program while restricting their financial return to what is necessary and reasonable to induce such participation.

Section 250.103 Definitions

As used in this Part, the following words or terms mean:

"Act": The Illinois Housing Development Act (Ill. Rev. Stat. 1983, ch. 67½, pars. 301 et seq.) as amended from time to time.

"Application": A potential Lender's application to sell Mortgage Loans to the Authority pursuant to the terms of a Mortgage Purchase Agreement and other Program requirements.

"Authority": The Illinois Housing Development Authority.

"Bonds": The Authority's Residential Mortgage Revenue Bonds issued from time to time to finance the Program.

"Commitment Fee": The fee which may be required to be paid to the Authority by a potential Lender at the time it files its Application to sell Mortgage Loans.

"Deputy Director": The Deputy Director of the Authority.

"Director": The Director of the Authority.

"Eligible Borrower": A person or persons who are residents of the State at the date of the closing of the Eligible Borrower's purchase of the Qualified Dwelling, or who will become residents of the State within sixty days of the closing, and whose Household Income does not exceed the Maximum Income; and who occupy or will occupy as a single household the Qualified Dwelling purchased or being purchased as a permanent residence; and who at no time during the 3-year period ending on the date the Mortgage is executed had a present ownership interest in a principal residence of such Eligible Borrower. The Eligible Borrower who purchases a Targeted Area Residence or a Qualified Rehabilitation Residence is exempt from the 3-year requirement of this subsection. For purposes of this subsection the Eligible Borrower's interest in the Qualified Dwelling

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financed under this Program shall not be taken into account.

"FHA": The Federal Housing Administration.

"FHLMC": The Federal Home Loan Mortgage Corporation.

"FmHA": The Farmer's Home Administration.

"FNMA": The Federal National Mortgage Association.

"Household Income": The total annual gross income of all persons residing or intending to reside as a single household in a Qualified Dwelling, from whatever source derived and before taxes or withholdings.

"Invitation": The Authority's invitation to potential Lenders for Applications to sell Mortgage Loans.

"Lender": A State-chartered bank, national banking association, mortgage banking association or institution, credit union, or State or federal savings and loan association; which is located and qualified to do business in the State; which is qualified to sell mortgages to FNMA and/or FHLMC; (this requirement will be waived by the Director after determination that the assets of the lender exceed \$500,000, that the percentage of mortgage delinquencies in the lender's single family portfolio do not exceed 2.15 times the Statewide average as determined by the last quarterly pronouncement by the United States Federal Home Loan Bank Board and that the lender has an asset-to-liability ratio of at least 1.01/1); deposits of which are insured by the Federal Deposit Insurance Corporation, or the Federal Savings and Loan Insurance Corporation, the National Credit Union Administration or which deposits its funds in Illinois financial institutions whose deposits are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation; and whose Application has been accepted by the Director based upon the satisfaction of the Program requirements and a determination of financial suitability after consideration of the net assets, lending capacity, and experience of the potential Lender over the past 12 months in residential mortgage lending.

"Maximum Income": 160% of the median income determined by the United States Census Bureau for the Standard Metropolitan Statistical Areas in the State having a population of 3 million or more for the most recent year for which such

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information is available, as published by the United States Department of Housing and Urban Development or by such other governmental entity as may be determined by the Director to publish substantially comparable information.

"Members": The Members of the Authority.

"Mortgage": A deed of trust, mortgage deed, mortgage, or other instrument creating a first mortgage lien on a fee interest in real property located within the State.

"Mortgage Loan": A loan made by a Lender to an Eligible Borrower for the purchase of a Qualified Dwelling after the date of mailing of the Notice of Acceptance and secured by a Mortgage on such real property. No Mortgage Loan shall be a replacement or refinancing of an existing mortgage loan except in the case of a Qualified Rehabilitation Loan or other temporary loans as permitted by Section 103A of the Internal Revenue Code of 1954, 26 U.S.C. Section 103A, as amended from time to time and applicable regulations promulgated by the Treasury Department thereunder.

"Mortgage Purchase Agreement": The agreement between the Authority and a Lender pursuant to which the Authority agrees to purchase Mortgage Loans from the Lender on the terms and conditions set forth therein and which establishes the requirements for Mortgage Loans to be purchased by the Authority.

"Net Proceeds": With respect to the proceeds of each series of Bonds, all moneys made available by the Authority for the purchase of Mortgage Loans.

"Notice of Acceptance": The Authority's notice to the Lender of the acceptance of the Lender's Application.

"Part": This Part 250.

"Prepayment": Any moneys, however derived, which are received or recovered by the Authority from any payment of, or with respect to, principal on any Mortgage Loan prior to scheduled payments of principal called for by such Mortgage Loan.

"Procedural Guide": The set of instructions, guidelines, terms, and conditions approved by the Director for the origination and sale of Mortgage Loans to the

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Authority and for the servicing of such Mortgage Loans. The Procedural Guide may, at the discretion of the Authority, exist as a separate and discrete document or may be incorporated into the Mortgage Purchase Agreement and the Servicing Agreement.

"Program": The Authority's single family mortgage purchase program funded by Bonds issued after December 31, 1982.

"Property Value": The lesser of the purchase price or the appraised value of the Qualified Dwelling at the time of origination of the Mortgage Loan secured by such Qualified Dwelling.

"Qualified Dwelling": Real estate or an interest in real estate upon which there is or shall be located a structure or structures designed for Residential Use and meeting the requirements of Sections 2(e) and 7.23 of the Act as amended from time to time. Such Qualified Dwelling may be a condominium unit or a one, two, three or four unit structure so long as it is located in the State and can reasonably be expected to become the principal residence of the Eligible Borrower within a reasonable time after financing is provided. For purposes of this subsection, a "reasonable time after financing is provided" shall be deemed to be a period within sixty (60) days of closing of the Mortgage Loan. This period may be extended if, at the discretion of the Authority, undue hardship to the Eligible Borrower or Lender or an unreasonable result will occur. Such Qualified Dwelling may include factory-made housing so long as such structure is permanently fixed to real property.

"Qualified Rehabilitation Loan": A Mortgage Loan for the purchase of a Qualified Rehabilitation Residence. An Eligible Borrower for a Qualified Rehabilitation Loan must be the first resident of the Qualified Rehabilitation Residence after the completion of the rehabilitation.

"Qualified Rehabilitation Residence": A Qualified Dwelling for which there has been a qualified rehabilitation as defined in Section 103A of the Internal Revenue Code of 1954, 26 U.S.C. Section 103A, as amended from time to time and applicable regulations promulgated by the Treasury Department thereunder.

"Residential Use": Use as the principal residence of the occupant and not as a vacation or "second" home, as provided in Section 103A of the Internal Revenue Code of 1954, 26. U.S.C. Section 103A.

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"Rules": The Rules and Regulations of the Authority as supplemented and amended from time to time.

"Servicer": A Lender, or its designated servicer, which has been approved by the Director as a Servicer and which has executed a Servicing Agreement with the Authority. The Authority may also be a Servicer. A designated servicer must be a State-chartered bank, national banking association, mortgage banking association or institution, credit union, or State or federal savings and loan association; which is located and qualified to do business in the State; which is qualified to sell mortgages to FNMA and/or FHLMC, unless such requirement is waived by the Director based upon a determination of financial suitability made by the Director after consideration of the net assets, servicing capacity, and experience of the potential Servicer over the past 12 months in residential mortgage servicing; and deposits of which are insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation, the National Credit Union Administration or which deposits its funds in Illinois financial institutions whose deposits are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

"Servicing Agreement": The agreement between the Authority and a Servicer for the servicing of Mortgage Loans purchased by the Authority. The Servicing Agreement may incorporate the Procedural Guide.

"Staff": The Director and Deputy Director and the employees of the Authority.

"State": The State of Illinois.

"Targeted Area": An area of the State which is either a qualified census tract or an area of economic distress as defined in Section 103A of the Internal Revenue Code of 1954, 26 U.S.C. Section 103A, as amended from time to time and applicable regulations promulgated by the Treasury Department thereunder. Boundaries of the Targeted Areas may be re-designated from time to time at the discretion of the Authority and in compliance with applicable federal regulations.

"Targeted Area Residence": A Qualified Dwelling located in a Targeted Area.

"VA": The United States Veterans' Administration.

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Section 250.104 Borrowing by the Authority

To the extent allowed by applicable federal law and the Act, the Authority may borrow funds with which to purchase Mortgage Loans under the Program.

Section 250.105 Compliance with Federal Law

Notwithstanding anything herein to the contrary, this Part shall be construed in conformity and compliance with applicable federal law, including without limit Sections 103 and 103A of the Internal Revenue Code of 1954, 26 U.S.C. Sections 103 and 103A, as amended from time to time and applicable regulations promulgated by the Treasury Department thereunder.

Section 250.106 Standards

In administering the Program, the Authority and the Staff, in those instances permitting the exercise of discretion, shall consider, in addition to the criteria specifically set forth in this Part, the following factors: the purpose of the Program, the requirements of applicable federal law, the financial condition and previous lending experience of potential and participating Lenders and Servicers, the Authority's ability to purchase or redeem the Bonds and to comply with the requirements of the resolutions authorizing its bonds, the financial integrity of the Program, the desirability of achieving a reasonable geographic distribution of Net Proceeds throughout the State, and the standards of the prudent lender or investor.

Section 250.107 Forms for the Program

The Staff may prepare, use, supplement, and amend such forms, agreements, and other documentation as may be necessary to implement the Program, including without limitation a Procedural Guide, an Application, a Notice of Acceptance, a Mortgage Purchase Agreement, and a Servicing Agreement, all as may be prescribed by the Director.

Section 250.108 Fees and Charges of the Authority

A Commitment Fee may be established and collected by the Authority from each potential Lender filing an Application in such amount or amounts as the Authority may deem appropriate. Commitment Fees applicable to offered sales of Mortgage Loans for which the Authority does not enter into a Mortgage Purchase Agreement shall be returned to the potential Lender. The Commitment Fee may be used by the Authority for any lawful purpose permitted by Section 103 of the Internal Revenue Code of 1954 (26 U.S.C. Section 103) as amended from time to time and applicable regulations promulgated by the Treasury Department thereunder so as to retain the

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tax-exempt status of the Bonds. The Authority may establish such other charges, premiums, and penalties as it may deem necessary to administer the Program, after the Authority's consideration of factors such as, including but not limited to, financing requirements of the Program, preferences of bond rating agencies, earnings and arbitrage limitations established by state or federal law and other financial factors relevant to the Program.

Section 250.109 Waiver (Repealed)**Section 250.110 Amendment**

This Part may be supplemented, amended, or repealed by the Members from time to time and in such manner as they may determine consistent with the Authority's Rules, the Act, the purpose of the Program, and other applicable provisions of law. This Part shall not constitute or create any contractual rights.

Section 250.111 Severability

If any clause, sentence, paragraph, subsection, section, or subpart of this Part shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subsection, section, or subpart thereof as to which such judgment is rendered.

Section 250.112 Gender and Number

All terms used in any one gender or number shall be construed to include any other gender or number as the context may require.

Section 250.113 Titles and Captions

Titles and captions of subparts, sections, and subsections are used for convenience and reference and are not a part of the text.

Section 250.114 Calendar Days

Days shall mean calendar days. Due dates falling on a Saturday, Sunday or legal State or federal holiday shall be deemed to fall on the next calendar day that is not Saturday, Sunday, or a legal State or federal holiday.

SUBPART B: APPLICATION PROCESS

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Section 250.201 Invitations to Sell Mortgage Loans

The Authority from time to time may mail Invitations to potential Lenders for applications to sell Mortgage Loans to the Authority. The Invitation shall contain, among other things, a description of the Program, Eligible Borrowers, and Mortgage Loans eligible to be purchased by the Authority under the Program. Prior to mailing Invitations to potential Lenders, the Authority may make such inquiries of potential Lenders and others as it considers useful in determining probable interest among potential Lenders in participating in the Program.

Section 250.202 Applications to Sell Mortgage Loans

The Authority from time to time may mail Applications to potential Lenders for applications to sell Mortgage Loans to the Authority. Potential Lenders shall execute and return the Application, the Mortgage Purchase Agreement, and, if applicable, the Servicing Agreement to the Authority, together with any Commitment Fee. The Application shall contain, among other things, the following:

- a) Provision for the potential Lender to state the aggregate principal amount of Mortgage Loans it desires to sell to the Authority, which amount shall be at least \$200,000 and shall be an integral multiple of \$1,000;
- b) The unconditional agreement of the potential Lender, effective upon acceptance of the Application by the Authority, to sell to the Authority Mortgage Loans which comply with the terms of the Notice of Acceptance, Mortgage Purchase Agreement, and Procedural Guide;
- c) The date by which the Application must be submitted to the Authority in order to be considered for an allocation of Net Proceeds to purchase eligible Mortgage Loans;
- d) Provision for the potential Lender to furnish such financial and other information as the Authority may reasonably require;
- e) The schedule of any Commitment Fees or charges levied or to be levied by the Authority, with a requirement that such Commitment Fees or charges accompany the Application when it is submitted to the Authority;
- f) A pro forma copy of any letter of credit that may be required by the Authority;

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and

- g) A description of the fees and charges which may be imposed by a Lender with respect to a Mortgage Loan.

Section 250.203 Allocation of Net Proceeds for Purchase of Mortgage Loans

Net Proceeds may be allocated by the Authority among potential Lenders from which timely, accepted Applications and Commitment Fees have been received by the Authority. In making such allocations, the Authority shall consider with respect to each potential Lender, among other things, the financial condition of the potential Lender; the amount of residential mortgage loans made in the State by the potential Lender during the preceding 12-month period relative to the demand for such loans and to the funds available to the potential Lender to make such loans during such period; the terms and conditions of any Mortgage Loans offered for sale by the potential Lender; the respective aggregate principal amounts of Mortgage Loans offered for sale by all potential Lenders; the ability of the potential Lender to act as a Servicer of Mortgage Loans; previous participation by the potential Lender in the Authority's programs; the desirability of achieving a reasonable geographic distribution of Net Proceeds throughout the State; the existence of any local governmental mortgage purchase program; and the amount of Mortgage Loans to be made in Targeted Areas. The Authority shall use its best efforts to allocate Net Proceeds to achieve the purpose set forth in Section 250.102 of this Part. Allocations of Net Proceeds by the Authority shall be conclusive, subject to adjustments as permitted in Section 250.303(b).

Section 250.204 Notice of Acceptance

The Authority, by Notice of Acceptance, may commit itself, subject to the conditions set forth in the Application, the Mortgage Purchase Agreement, and the Procedural Guide, to purchase Mortgage Loans offered by a potential Lender in its Application. Promptly following the issuance by the Authority of its Notice of Acceptance to the Lender, the Authority shall execute a Mortgage Purchase Agreement with such Lender. The aggregate principal amount of Mortgage Loans which the Authority agrees to purchase from any Lender shall not exceed the aggregate principal amount of Mortgage Loans offered for sale by the Lender and may be less than the amount requested by the Lender in its Application. Upon receipt of the Notice of Acceptance by the Lender, the Lender shall be obligated to sell such Mortgage Loans in accordance with the terms of the Application, the Notice of Acceptance, the Mortgage Purchase Agreement, and the Procedural Guide. The obligation of the Authority to purchase any Mortgage Loan shall be subject to the issuance and sale of Bonds within the period prescribed by the Application in an amount sufficient to permit such purchase.

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Section 250.205 Commitments for Mortgage Loans

Upon receipt of the Notice of Acceptance, the Lender shall issue commitments to Eligible Borrowers to make Mortgage Loans. The Authority may in its sole discretion, after consideration of such factors as, including but not limited to, financing requirements of the Program, preferences of bond rating agencies, financial risk to the Authority, and other financial factors relevant to the Program, require that commitments for non-Targeted Area Mortgage Loans be issued within six months from the date of the Notice of Acceptance, or within such shorter period as the Authority may require, and the Authority may require that disbursements of such Mortgage Loans be made by the Lender within three months of the date of the commitment, or within such shorter period as the Authority may require.

Section 250.206 Reservation of Allocations by Lenders

The Authority may permit Lenders to contract to reserve a portion of their allocations of Net Proceeds to a particular seller or licensed real estate broker of Qualified Dwellings in such amounts and for such time periods as deemed appropriate by the Authority in its sole discretion.

SUBPART C: PURCHASE OF MORTGAGE LOANS

Section 250.301 Mortgage Loans

Each Mortgage Loan to be purchased under the Program shall comply with the terms of the Application, Notice of Acceptance, Mortgage Purchase Agreement, and Procedural Guide and specifically shall comply with the following requirements, among others:

- a) Each Mortgage Loan to be purchased under the Program shall be insured by the FHA for the unpaid principal amount thereof; or be guaranteed by the VA or FmHA in an amount set forth in the Procedural Guide or Mortgage Purchase Agreement; or have a principal balance not exceeding 80% of the Property Value at the time of origination (or such other percentage as the Authority may determine after consideration of such factors as the financial integrity of the Program and the preferences of bond rating agencies, and as may be provided for in the Procedural Guide or Mortgage Purchase Agreement) and be covered by a mortgage insurance policy issued by a private mortgage insurance company approved by the Director after consideration of such factors as the insurer's rating among applicable rating companies, the potential acceptance of the insurers to Lenders and Eligible Borrowers, and the preferences of bond rating agencies, and

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in an amount as may be set forth in the Procedural Guide. (All costs connected with the acquisition of such insurance shall be paid by the Eligible Borrower.)

- b) Each Mortgage Loan to be purchased by the Authority shall be secured by a Mortgage on a Qualified Dwelling and must further meet the applicable terms and conditions set forth in the Authority's Rules, the Application, Notice of Acceptance, Mortgage Purchase Agreement, and Procedural Guide. Lenders shall sell and the Authority shall purchase only Mortgage Loans made to Eligible Borrowers.
- c) Each Mortgage securing a Mortgage Loan to be purchased by the Authority shall be executed on a form approved by the Authority. It shall be a valid first mortgage lien on a Qualified Dwelling, be consistent with Illinois law, and conform with the requirements prescribed by the Authority and any applicable insurer.
- d) Each Mortgage Loan to be purchased by the Authority shall be non-assumable and non-assignable, unless otherwise required by applicable federal law, and shall contain a provision giving the Authority the right to accelerate the maturity of the Mortgage Loan upon sale or lease of the Qualified Dwelling or other violations of the requirements of Section 103A of the Internal Revenue Code of 1954, 26 U.S.C. Section 103A, as amended from time to time and the regulations promulgated by the Treasury Department thereunder.
- e) Each Mortgage securing a Mortgage Loan to be purchased by the Authority shall include provisions necessary to protect the interests of the Authority, such provisions being contained in the Mortgage Purchase Agreement, Servicing Agreement, Procedural Guide, and this Part.
- f) The purchase of each Qualified Dwelling which is the subject of a Mortgage Loan to be purchased by the Authority under the Program shall not exceed 110% of the average area purchase price applicable to such Qualified Dwelling (except that in the case of Targeted Area Residences the purchase price shall not exceed 120% of the average area purchase price) or any other limitations imposed by the Authority in accordance with applicable law. "Average area purchase price" shall be established pursuant to procedures prescribed by Section 103A of the Internal Revenue Code of 1954 as amended (26 U.S.C. Section 103A) and shall be set forth in the Mortgage Purchase Agreement and the Procedural Guide.

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- g) Mortgages held as security for Mortgage Loans purchased under this Part which are in default may be foreclosed by the Authority according to their terms or reassigned to the Lender in accordance with the terms of the Mortgage Purchase Agreement. The Authority is authorized to take title in its name upon foreclosure and to subsequently convey title to such property to any qualified insurer of the Mortgage or any bona fide purchaser thereof.

Section 250.302 Yield on Mortgage Loans

In no event shall the yield on Mortgage Loans sold to the Authority exceed the maximum permitted by application of the provisions of Section 103(c) and 103A of the Internal Revenue Code of 1954, 26 U.S.C. Sections 103(c) and 103A, as amended from time to time and applicable regulations promulgated by the Treasury Department thereunder.

Section 250.303 Terms and Conditions of the Purchase of Mortgage Loans

- a) Mortgage Loans shall be purchased by the Authority on the terms and conditions and in the manner prescribed in the Mortgage Purchase Agreement and the Procedural Guide. The Mortgage Purchase Agreement shall contain such warranties of the Lenders with respect to the Mortgage Loans to be sold thereunder as the Authority shall require, which shall include among others the warranties listed below. In exceptional circumstances, however, the Authority may waive the requirement of any particular warranty if to require it would result in undue hardship to the Lender or an unreasonable result.
- 1) The mortgagor is an Eligible Borrower;
 - 2) The purchase price of the Qualified Dwelling subject to the Mortgage Loan does not exceed any maximum purchase price limitations established by the Authority;
 - 3) The Mortgage Loan is evidenced by a properly executed promissory note made payable or assigned to the order of the Lender and endorsed by the Lender as follows:

"Pay to the order of the Illinois Housing Development Authority without recourse except as provided in Section 12 of the Mortgage Purchase Agreement."

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and is secured by a Mortgage on the Qualified Dwelling, both of which are the legal, valid, and binding obligations of the makers and mortgagors thereof and are enforceable in accordance with their terms, except only as such enforcement may be limited by laws affecting the enforcement of creditors' rights generally, and all parties to each Mortgage Loan must have had full legal capacity to execute all Mortgage Loan documents at the time of execution;

- 4) The Mortgage, financing statement, if any, and any other document required to be filed in a public office to perfect the mortgage lien against third parties has been duly and timely filed, registered, or recorded by the Lender in the proper public office in order to give constructive notice thereof to all subsequent purchasers or encumbrancers;
- 5) The Lender, being the sole owner and holder of the Mortgage Loan, has full right to sell and assign the Mortgage Loan to the Authority and such assignment conveys a good and marketable mortgagee's title to the Authority free and clear of all liens and encumbrances and subject only to real property taxes and assessments not yet due and encumbrances customarily accepted in accordance with applicable title standards and disclosed to the Authority prior to purchase of the Mortgage Loan;
- 6) The Mortgage creates a valid and existing first mortgage lien on the real property owned by the mortgagor in fee simple and improvements therein described (and fixtures) to secure the Mortgage Loan, the terms "first mortgage lien" meaning such classes of first liens as are commonly given to secure loans on real estate under the laws of the State;
- 7) The Lender has not modified in any respect and has not satisfied, canceled, subordinated, or compromised in whole or in part the Mortgage Loan indebtedness and has not released the mortgaged property in whole or in part from the lien of the indebtedness evidenced by the note and secured by the Mortgage (or other instruments evidencing indebtedness and security), and the terms, covenants, and conditions of the note evidencing the Mortgage Loan and the Mortgage securing the same have not been waived, altered, or modified in any respect which would materially affect the validity or enforceability of the Mortgage Loan or the security of the lien of the Mortgage;

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- 8) The real property securing the Mortgage Loan is a Qualified Dwelling;
- 9) The improvements upon the real property subject to the Mortgage Loan are covered by a valid and existing policy of hazard insurance meeting the requirements of the Authority;
- 10) The Lender has complied as follows:
 - A) as to each FHA-insured Mortgage Loan, with the National Housing Act, 12 U.S.C. Section 1701 et seq., as amended and supplemented, all rules and regulations issued thereunder, and all administrative publications, such insurance being in full force and effect and, upon purchase by the Authority of the Mortgage Loan, inuring to the benefit of the Authority;
 - B) as to each Mortgage Loan guaranteed by the VA or FmHA, with the Servicemen's Readjustment Act, 38 U.S.C. Section 1803 et seq., the Consolidated Farm and Rural Development Act, 7 U.S.C. Section 1921 et seq., Title V of the Housing Act of 1949, 42 U.S.C. Sections 1471-1482, or other applicable federal law as amended and supplemented, all rules and regulations issued thereunder, and all administrative publications, such guaranty being in full force and effect and, upon purchase by the Authority of the Mortgage Loan, inuring to the benefit of the Authority; and
 - C) as to each Mortgage Loan insured by a private mortgage insurance company, with all rules and requirements of such company, such insurance being in full force and effect and, upon purchase by the Authority of the Mortgage Loan, inuring to the benefit of the Authority;
- 11) The Mortgage Loan is covered by a fully paid mortgagee's title insurance policy in such form as the Authority may require; and
- 12) To the best of Lender's information, knowledge and belief, no condition exists which would prohibit the purchase of the Mortgage Loan by the Authority under all applicable rules, regulations and contractual provisions.

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- b) In the event that the Lender fails to deliver Mortgage Loans to the Authority in the amount, on the terms and conditions, and within the time period set forth in the Mortgage Purchase Agreement, the Authority may, if it so chooses and in its sole discretion, reallocate all or part of the unused portion of the Lenders' commitment to other Lenders in accordance with the provisions of Section 250.203 of this Part; redeem all or part of the Bonds issued with respect to such unused portion of the commitment but only if permitted by the resolutions of the Authority authorizing issuance of the Bonds; or undertake any combination of the above. The Mortgage Purchase Agreement may provide for liquidated damages, extension fees, and forfeiture of commitment fees if the Authority makes any re-allocation pursuant to this subsection.
- c) The Mortgage Purchase Agreement shall provide that the Authority shall have the right to require the Lender to repurchase Mortgage Loans sold to the Authority by the Lender if the Director determines that the Lender has failed to comply with the requirements of this Part or of its contracts and agreements with the Authority under the Program.

Section 250.304 Prepayment

The Authority may, at its option, apply any Prepayment it receives as follows:

- a) to the purchase of additional Mortgage Loans in accordance with the requirements of the Program;
- b) to the purchase from potential Lenders of Mortgage Loans previously made by such Lenders, on such terms and conditions as the Authority shall consider necessary, including requirements as to the making of additional Mortgage Loans with the proceeds of such purchase;
- c) to the purchase or redemption of Bonds, subject in each case to the requirements of the Authority's resolutions relating to the issuance of its Bonds; or
- d) for other corporate purposes of the Authority.

Section 250.305 Targeted Area Residences

The Authority shall comply with Section 103A of the Internal Revenue Code of 1954, 26 U.S.C. Section 103A, as amended from time to time and applicable regulations promulgated by the

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Treasury Department thereunder or other applicable federal law regarding the purchase of Mortgage Loans on Targeted Area Residences.

Section 250.306 Mortgage Pool Insurance

The Authority may obtain one or more insurance policies covering all of the Mortgage Loans. The policy or policies may insure the Authority against losses arising from an event of default under any Mortgage Loan covered by the policy in an amount equal to the unpaid principal balance of and accrued interest on the Mortgage Loan and customary fees and expenses paid by the Authority to preserve and protect the mortgaged premises and to foreclose or otherwise dispose of such premises, such as real estate taxes, hazard and private insurance premiums, and foreclosure expenses, less the amounts received by the Authority under any other insurance policy on the Mortgage Loan or from disposition of such premises or substantially similar benefits. The total amount of claims payable under the policy may be limited to an amount which is not less than 10% of the original aggregate principal amount of the Mortgage Loan covered thereby or such other percentage as the Director may from time to time deem appropriate.

Section 250.307 Arbitrage and Investment Gains

Arbitrage and investment gains, if any, shall be paid, expedited, or accounted for as required by Section 103A of the Internal Revenue Code of 1954, 26 U.S.C. Section 103A, as amended from time to time and applicable regulations promulgated by the Treasury Department thereunder.

SUBPART D: ADMINISTRATIVE RULES

Section 250.401 Restrictions on Return Realized by Lenders

The Authority shall establish the maximum income which may be realized by any Lender and by any agent of any Lender from Mortgage Loans, including any commitment fees, premiums, bonuses, points, or other fees charged by the Lender or the Lender's agent in connection with the making of Mortgage Loans. Such maximum income shall be set at such amounts as the Authority finds reasonably necessary to induce participation in the Program by Lenders in order to accomplish the purposes of the Act, or to ensure compliance with arbitrage and income limitations of Section 103(b) of the Internal Revenue Code of 1954, 26 U.S.C. Section 103(b).

Section 250.402 Servicing of Mortgage Loans

Pursuant to a Servicing Agreement, the Authority shall cause all Mortgage Loans purchased by

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED REPEALER

the Authority to be serviced by a Servicer, which may be the Lender from which such Mortgage Loans are purchased.

Section 250.403 Purchase of Authority Bonds

No Lender or Eligible Borrower, including any "related person," as defined in Section 103(b)(6)(C) of the Internal Revenue Code of 1954, 26 U.S.C. Section 103(b)(6)(C), as amended from time to time, pursuant to any arrangement, formal or informal, direct or indirect, shall agree to purchase the Bonds or other obligations of the Authority in an amount related to the aggregate principal amount of the Mortgage Loans to be sold by or made to such Lender, Eligible Borrower, or related person.

Section 250.404 Equal Opportunity Lending

In making Mortgage Loans, the Lender shall not deny such loans to any person or persons or discriminate against such person or persons in fixing the amount, interest rate, duration, or other terms and conditions of such loans on account of race, color, religion, age, sex, marital status, handicap, or national origin, and shall otherwise be subject to all State and federal requirements with respect to non-discrimination in lending including, without limitation, Title VI of the U.S. Civil Rights Act of 1964 (42 U.S.C. Section 2000 et seq.), Title VIII of the U.S. Civil Rights Act of 1968, (42 U.S.C. Section 3604 et seq.), as amended by the Housing and Community Development Act of 1974 (42 U.S.C. Section 5301 et seq.), the Equal Credit Opportunity Act (15 U.S.C. Sections 1691-1691F), the Fair Credit Reporting Act (15 U.S.C. Sections 1681-1681t), and Section 13 of the Act.

Section 250.405 Inspection of Books and Records

Upon prior written notice, the Authority may inspect, examine, and copy the books and records of each Lender for the purpose of determining compliance with the Authority's Rules, the Act, and all contracts and agreements between the Authority and such Lender relating to the Program.

Section 250.406 Termination

The Authority shall retain the right to establish procedures for the termination of its obligation to purchase Mortgage Loans associated with any particular issue of Bonds under the Program, subject to applicable federal and State law and to its existing contractual obligations, including contractual obligations arising under an Application, a Notice of Acceptance, a Mortgage Purchase Agreement or a Servicing Agreement.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Compassionate Use of Medical Cannabis Patient Registry
- 2) Code Citation: 77 Ill. Adm. Code 946
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
946.10	Amendment
946.20	Amendment
946.30	Amendment
946.200	Amendment
946.201	New Section
946.205	Amendment
946.210	Amendment
946.220	Amendment
946.230	Amendment
946.260	Amendment
946.280	Amendment
946.310	Amendment
946.410	Amendment
- 4) Statutory Authority: Implementing and authorized by the Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking sets forth the requirements for qualifying patients under 18 years of age to participate in the Department's Compassionate Use of Medical Cannabis Patient Registry Program, which is designed to ensure access to medical cannabis to qualifying patients with specific debilitating medical conditions who apply for and are approved for a registry identification card. This rulemaking is identical to the emergency rulemaking filed to assist the Department in meeting the mandate to approve registration identification cards for qualifying patients under 18 years of age to access medical cannabis-infused food products for treating or alleviating symptoms associated with one or more debilitating conditions in accordance with amendments to the Act.

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

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? Yes
- 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 expand a State Mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after the publication of this issue of the *Illinois Register* to:

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

217/782-2043
e-mail: dph.rules@illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: A doctor of medicine or osteopathy who is licensed under the Medical Practice Act of 1987 and is in good standing to practice medicine and who has a controlled substances license under Article III of the Illinois Controlled Substances Act
 - B) Reporting, bookkeeping or other procedures required for compliance: A physician recommending the use of medical cannabis to a qualifying patient shall establish a medical record for the qualifying patient with regard to his or her medical condition and his or her continued treatment for the condition or

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

conditions under the physician's care. The physician shall maintain a record-keeping system for all patients for whom the physician has recommended the use of medical cannabis. These records shall be accessible to and subject to review by the Departments of Public Health and Financial and Professional Regulation upon request.

- C) Types of professional skills necessary for compliance: Understanding of HIPAA requirements, general recordkeeping and records retention.
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not contemplated by the Department at the time the Regulatory Agenda was prepared.

The full text of the Proposed Amendments for this Part is identical to that of the text of the Emergency Amendments and begins in this issue of the *Illinois Register* on page 444.

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) Section Number: 100.7300 Proposed Action: Amendment
- 4) Statutory Authority: 35 ILCS 5/704A
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking provides for an earlier due date than is provided in the current rule for electronic filing of Form W-2 information in order to allow the Department to verify withholding and other information reported on returns systemically as the returns are received and processed.
- 6) Published studies or reports and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
100.2197	Amendment	38 Ill. Reg. 19128 September 26, 2014
100.2470	Amendment	38 Ill. Reg. 21295, November 14, 2014
100.3450	New Section	38 Ill. Reg. 21758, November 21, 2014
- 11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 12) Time, Place and Manner in which interested persons may comment on this rulemaking: Persons who wish to submit comments on this rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

Paul Caselton
Deputy General Counsel – Income Tax

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield IL 62796

217/524-3951

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking applies to large employers who are required to file copies of their W-2s electronically with the federal government and the Department of Revenue.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2014

The full text of the Proposed Amendment is identical to that of the text of the Emergency Amendment for this Part and begins in this issue of the *Illinois Register* on page 483:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Retailers' Occupation Tax

2) Code Citation: 86 Ill. Adm. Code 130

3) <u>Section Numbers:</u>	<u>Proposed Action:</u>
130.605	Amendment
130.2055	Amendment

4) Statutory Authority: 20 ILCS 2505/2505-25

5) A Complete Description of the Subjects and Issues Involved:

Section 130.605: This rulemaking incorporates the change made in PA 96-1035, which amended the Illinois Vehicle Code [625 ILCS 5/3-603] to provide that a nonresident purchaser of a motor vehicle could operate the vehicle in Illinois without registration from the place of sale to the place of destination outside of the State for up to 30 days. This rulemaking provides that tax is not due if the purchaser certifies that it will not use the vehicle in Illinois for more than 30 days. With the proposed amendment, this regulation will be consistent with the changes imposed by PA 96-1035.

Section 130.2055: This rulemaking adds the new language enacted by PA 98-422. This rulemaking provides that beginning July 1, 2013, any local governments in Illinois or any agency or instrumentality of any such governmental body does not incur Retailers' Occupation Tax when it engages in the selling of fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight that is engaged in foreign trade or is engaged in trade between the United States and any of its possession and that transports at least one individual or package for hire from the city of origination to the city of final destination on the same aircraft, without regard to a change in the flight number of that aircraft.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

DEPARTMENT OF REVENUE

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- 10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
130.2080	Amendment	38 Ill Reg. 9171; May 2, 2014
130.ILLUSTRATION A	Amendment	38 Ill Reg. 9171; May 2, 2014

- 11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.

- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

Debra M. Boggess
Associate Counsel
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield IL 62794

217/782-2844

- 13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None; local governments in Illinois or any agency or instrumentality of any such governmental body typically are not in the business of selling fuel and petroleum products to air common carriers.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

- 14) Regulatory Agenda on which this rulemaking was summarized: July 2014

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

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 130
RETAILERS' OCCUPATION TAX

SUBPART A: NATURE OF TAX

Section	
130.101	Character and Rate of Tax
130.105	Responsibility of Trustees, Receivers, Executors or Administrators
130.110	Occasional Sales
130.111	Sale of Used Motor Vehicles, Aircraft, or Watercraft by Leasing or Rental Business
130.115	Habitual Sales
130.120	Nontaxable Transactions

SUBPART B: SALE AT RETAIL

Section	
130.201	The Test of a Sale at Retail
130.205	Sales for Transfer Incident to Service
130.210	Sales of Tangible Personal Property to Purchasers for Resale
130.215	Further Illustrations of Sales for Use or Consumption Versus Sales for Resale
130.220	Sales to Lessors of Tangible Personal Property
130.225	Drop Shipments

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section	
130.305	Farm Machinery and Equipment
130.310	Food, Soft Drinks and Candy
130.311	Drugs, Medicines, Medical Appliances and Grooming and Hygiene Products
130.315	Fuel Sold for Use in Vessels on Rivers Bordering Illinois
130.320	Gasohol, Majority Blended Ethanol, Biodiesel Blends, and 100% Biodiesel
130.321	Fuel Used by Air Common Carriers in Flights Engaged in Foreign Trade or Engaged in Trade Between the United States and any of its Possessions
130.325	Graphic Arts Machinery and Equipment Exemption
130.330	Manufacturing Machinery and Equipment
130.331	Manufacturer's Purchase Credit

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- 130.332 Automatic Vending Machines
- 130.335 Pollution Control Facilities and Low Sulfur Dioxide Emission Coal-Fueled Devices
- 130.340 Rolling Stock
- 130.341 Commercial Distribution Fee Sales Tax Exemption
- 130.345 Oil Field Exploration, Drilling and Production Equipment
- 130.350 Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment
- 130.351 Aggregate Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment

SUBPART D: GROSS RECEIPTS

Section

- 130.401 Meaning of Gross Receipts
- 130.405 How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser
- 130.410 Cost of Doing Business Not Deductible
- 130.415 Transportation and Delivery Charges
- 130.420 Finance or Interest Charges – Penalties – Discounts
- 130.425 Traded-In Property
- 130.430 Deposit or Prepayment on Purchase Price
- 130.435 State and Local Taxes Other Than Retailers' Occupation Tax
- 130.440 Penalties
- 130.445 Federal Taxes
- 130.450 Installation, Alteration and Special Service Charges
- 130.455 Motor Vehicle Leasing and Trade-In Allowances

SUBPART E: RETURNS

Section

- 130.501 Monthly Tax Returns – When Due – Contents
- 130.502 Quarterly Tax Returns
- 130.505 Returns and How to Prepare
- 130.510 Annual Tax Returns
- 130.515 First Return
- 130.520 Final Returns When Business is Discontinued
- 130.525 Who May Sign Returns
- 130.530 Returns Covering More Than One Location Under Same Registration – Separate Returns for Separately Registered Locations

DEPARTMENT OF REVENUE

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130.535	Payment of the Tax, Including Quarter Monthly Payments in Certain Instances
130.540	Returns on a Transaction by Transaction Basis
130.545	Registrants Must File a Return for Every Return Period
130.550	Filing of Returns for Retailers by Suppliers Under Certain Circumstances
130.551	Prepayment of Retailers' Occupation Tax on Motor Fuel
130.552	Alcoholic Liquor Reporting
130.555	Vending Machine Information Returns
130.560	Verification of Returns

SUBPART F: INTERSTATE COMMERCE

Section	
130.601	Preliminary Comments (Repealed)
130.605	Sales of Property Originating in Illinois; Questions of Interstate Commerce
130.610	Sales of Property Originating in Other States (Repealed)

SUBPART G: CERTIFICATE OF REGISTRATION

Section	
130.701	General Information on Obtaining a Certificate of Registration
130.705	Procedure in Disputed Cases Involving Financial Responsibility Requirements
130.710	Procedure When Security Must be Forfeited
130.715	Sub-Certificates of Registration
130.720	Separate Registrations for Different Places of Business of Same Taxpayer Under Some Circumstances
130.725	Display
130.730	Replacement of Certificate
130.735	Certificate Not Transferable
130.740	Certificate Required For Mobile Vending Units
130.745	Revocation of Certificate

SUBPART H: BOOKS AND RECORDS

Section	
130.801	General Requirements
130.805	What Records Constitute Minimum Requirement
130.810	Records Required to Support Deductions
130.815	Preservation and Retention of Records
130.820	Preservation of Books During Pendency of Assessment Proceedings

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130.825 Department Authorization to Destroy Records Sooner Than Would Otherwise be Permissible

SUBPART I: PENALTIES AND INTEREST

Section
130.901 Civil Penalties
130.905 Interest
130.910 Criminal Penalties

SUBPART J: BINDING OPINIONS

Section
130.1001 When Opinions from the Department are Binding

SUBPART K: SELLERS LOCATED ON, OR SHIPPING TO, FEDERAL AREAS

Section
130.1101 Definition of Federal Area
130.1105 When Deliveries on Federal Areas Are Taxable
130.1110 No Distinction Between Deliveries on Federal Areas and Illinois Deliveries Outside Federal Areas

SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

Section
130.1201 General Information
130.1205 Due Date that Falls on Saturday, Sunday or a Holiday

SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

Section
130.1301 When Lessee of Premises Must File Return for Leased Department
130.1305 When Lessor of Premises Should File Return for Business Operated on Leased Premises
130.1310 Meaning of "Lessor" and "Lessee" in this Regulation

SUBPART N: SALES FOR RESALE

DEPARTMENT OF REVENUE

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Section

- 130.1401 Seller's Responsibility to Determine the Character of the Sale at the Time of the Sale
- 130.1405 Seller's Responsibility to Obtain Certificates of Resale and Requirements for Certificates of Resale
- 130.1410 Requirements for Certificates of Resale (Repealed)
- 130.1415 Resale Number – When Required and How Obtained
- 130.1420 Blanket Certificate of Resale (Repealed)

SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section

- 130.1501 Claims for Credit – Limitations – Procedure
- 130.1505 Disposition of Credit Memoranda by Holders Thereof
- 130.1510 Refunds
- 130.1515 Interest

SUBPART P: PROCEDURE TO BE FOLLOWED UPON
SELLING OUT OR DISCONTINUING BUSINESS

Section

- 130.1601 When Returns are Required After a Business is Discontinued
- 130.1605 When Returns Are Not Required After Discontinuation of a Business
- 130.1610 Cross Reference to Bulk Sales Regulation

SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

Section

- 130.1701 Bulk Sales: Notices of Sales of Business Assets

SUBPART R: POWER OF ATTORNEY

Section

- 130.1801 When Powers of Attorney May be Given
- 130.1805 Filing of Power of Attorney With Department
- 130.1810 Filing of Papers by Agent Under Power of Attorney

SUBPART S: SPECIFIC APPLICATIONS

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

Section

130.1901	Addition Agents to Plating Baths
130.1905	Agricultural Producers
130.1910	Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage Stamps and Like Articles
130.1915	Auctioneers and Agents
130.1920	Barbers and Beauty Shop Operators
130.1925	Blacksmiths
130.1930	Chiropodists, Osteopaths and Chiropractors
130.1934	Community Water Supply
130.1935	Computer Software
130.1940	Construction Contractors and Real Estate Developers
130.1945	Co-operative Associations
130.1950	Dentists
130.1951	Enterprise Zones
130.1952	Sales of Building Materials to a High Impact Business
130.1953	Sales of Building Materials to be Incorporated into a Redevelopment Project Area within an Intermodal Terminal Facility Area
130.1954	River Edge Redevelopment Zones
130.1955	Farm Chemicals
130.1960	Finance Companies and Other Lending Agencies – Installment Contracts – Bad Debts
130.1965	Florists and Nurserymen
130.1970	Hatcheries
130.1971	Sellers of Pets and the Like
130.1975	Operators of Games of Chance and Their Suppliers
130.1980	Optometrists and Opticians
130.1985	Pawnbrokers
130.1990	Peddlers, Hawkers and Itinerant Vendors
130.1995	Personalizing Tangible Personal Property
130.2000	Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers
130.2004	Sales to Nonprofit Arts or Cultural Organizations
130.2005	Persons Engaged in Nonprofit Service Enterprises and in Similar Enterprises Operated As Businesses, and Suppliers of Such Persons
130.2006	Sales by Teacher-Sponsored Student Organizations
130.2007	Exemption Identification Numbers
130.2008	Sales by Nonprofit Service Enterprises
130.2009	Personal Property Purchased Through Certain Fundraising Events for the Benefit

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	of Certain Schools
130.2010	Persons Who Rent or Lease the Use of Tangible Personal Property to Others
130.2011	Sales to Persons Who Lease Tangible Personal Property to Exempt Hospitals
130.2012	Sales to Persons Who Lease Tangible Personal Property to Governmental Bodies
130.2013	Persons in the Business of Both Renting and Selling Tangible Personal Property – Tax Liabilities, Credit
130.2015	Persons Who Repair or Otherwise Service Tangible Personal Property
130.2020	Physicians and Surgeons
130.2025	Picture-Framers
130.2030	Public Amusement Places
130.2035	Registered Pharmacists and Druggists
130.2040	Retailers of Clothing
130.2045	Retailers on Premises of the Illinois State Fair, County Fairs, Art Shows, Flea Markets and the Like
130.2050	Sales and Gifts By Employers to Employees
130.2055	Sales by Governmental Bodies
130.2060	Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products
130.2065	Sales of Automobiles for Use In Demonstration (Repealed)
130.2070	Sales of Containers, Wrapping and Packing Materials and Related Products
130.2075	Sales To Construction Contractors, Real Estate Developers and Speculative Builders
130.2076	Sales to Purchasers Performing Contracts with Governmental Bodies
130.2080	Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel
130.2085	Sales to or by Banks, Savings and Loan Associations and Credit Unions
130.2090	Sales to Railroad Companies
130.2095	Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles
130.2100	Sellers of Feeds and Breeding Livestock
130.2101	Sellers of Floor Coverings
130.2105	Sellers of Newspapers, Magazines, Books, Sheet Music and Musical Recordings, and Their Suppliers; Transfer of Data Downloaded Electronically
130.2110	Sellers of Seeds and Fertilizer
130.2115	Sellers of Machinery, Tools and Special Order Items
130.2120	Suppliers of Persons Engaged in Service Occupations and Professions
130.2125	Trading Stamps, Discount Coupons, Automobile Rebates and Dealer Incentives
130.2130	Undertakers and Funeral Directors
130.2135	Vending Machines
130.2140	Vendors of Curtains, Slip Covers and Other Similar Items Made to Order
130.2145	Vendors of Meals
130.2150	Vendors of Memorial Stones and Monuments

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130.2155	Tax Liability of Sign Vendors
130.2156	Vendors of Steam
130.2160	Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.
130.2165	Veterinarians
130.2170	Warehousemen

SUBPART T: DIRECT PAYMENT PROGRAM

Section

130.2500	Direct Payment Program
130.2505	Qualifying Transactions, Non-transferability of Permit
130.2510	Permit Holder's Payment of Tax
130.2515	Application for Permit
130.2520	Qualification Process and Requirements
130.2525	Application Review
130.2530	Recordkeeping Requirements
130.2535	Revocation and Withdrawal
130.ILLUSTRATION A	Examples of Tax Exemption Card
130.ILLUSTRATION B	Example of Notice of Revocation of Certificate of Registration
130.ILLUSTRATION C	Food Flow Chart

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 2505-25 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-25].

SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg.

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1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 24 Ill. Reg. 18376, effective December 1, 2000; amended at 25 Ill. Reg. 941, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1792, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 4674, effective March 15, 2001; amended at 25 Ill. Reg. 4950, effective March 19, 2001; amended at 25 Ill. Reg. 5398, effective April 2, 2001; amended at 25 Ill. Reg. 6515, effective May 3, 2001; expedited correction at 25 Ill. Reg. 15681, effective May 3, 2001; amended at 25 Ill. Reg. 6713, effective May 9, 2001; amended at 25 Ill. Reg. 7264, effective May 25, 2001; amended at 25 Ill. Reg. 10917, effective August 13, 2001; amended at

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25 Ill. Reg. 12841, effective October 1, 2001; amended at 26 Ill. Reg. 958, effective January 15, 2002; amended at 26 Ill. Reg. 1303, effective January 17, 2002; amended at 26 Ill. Reg. 3196, effective February 13, 2002; amended at 26 Ill. Reg. 5369, effective April 1, 2002; amended at 26 Ill. Reg. 5946, effective April 15, 2002; amended at 26 Ill. Reg. 8423, effective May 24, 2002; amended at 26 Ill. Reg. 9885, effective June 24, 2002; amended at 27 Ill. Reg. 795, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 11099, effective July 7, 2003, for a maximum of 150 days; emergency expired December 3, 2003; amended at 27 Ill. Reg. 17216, effective November 3, 2003; emergency amendment at 27 Ill. Reg. 18911, effective November 26, 2003, for a maximum of 150 days; emergency expired April 23, 2004; amended at 28 Ill. Reg. 9121, effective June 18, 2004; amended at 28 Ill. Reg. 11268, effective July 21, 2004; emergency amendment at 28 Ill. Reg. 15193, effective November 3, 2004, for a maximum of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 7004, effective April 26, 2005; amended at 31 Ill. Reg. 3574, effective February 16, 2007; amended at 31 Ill. Reg. 5621, effective March 23, 2007; amended at 31 Ill. Reg. 13004, effective August 21, 2007; amended at 31 Ill. Reg. 14091, effective September 21, 2007; amended at 32 Ill. Reg. 4226, effective March 6, 2008; emergency amendment at 32 Ill. Reg. 8785, effective May 29, 2008, for a maximum of 150 days; emergency expired October 25, 2008; amended at 32 Ill. Reg. 10207, effective June 24, 2008; amended at 32 Ill. Reg. 17228, effective October 15, 2008; amended at 32 Ill. Reg. 17519, effective October 24, 2008; amended at 32 Ill. Reg. 19128, effective December 1, 2008; amended at 33 Ill. Reg. 1762, effective January 13, 2009; amended at 33 Ill. Reg. 2345, effective January 23, 2009; amended at 33 Ill. Reg. 3999, effective February 23, 2009; amended at 33 Ill. Reg. 15781, effective October 27, 2009; amended at 33 Ill. Reg. 16711, effective November 20, 2009; amended at 34 Ill. Reg. 9405, effective June 23, 2010; amended at 34 Ill. Reg. 12935, effective August 19, 2010; amended at 35 Ill. Reg. 2169, effective January 24, 2011; amended at 36 Ill. Reg. 6662, effective April 12, 2012; amended at 38 Ill. Reg. 12909, effective June 9, 2014; amended at 38 Ill. Reg. 17060, effective July 25, 2014; amended at 38 Ill. Reg. 17421, effective July 31, 2014; amended at 38 Ill. Reg. 17756, effective August 6, 2014; amended at 38 Ill. Reg. 19998, effective October 1, 2014; amended at 39 Ill. Reg. _____, effective _____.

SUBPART F: INTERSTATE COMMERCE

Section 130.605 Sales of Property Originating in Illinois; Questions of Interstate Commerce

- a) Where tangible personal property is located in this State at the time of its sale (or is subsequently produced in Illinois), and then delivered in Illinois to the purchaser, the seller is taxable if the sale is at retail.

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- 1) The sale is not deemed to be in interstate commerce if the purchaser or his representative receives the physical possession of the property in this State.
 - 2) This is so notwithstanding the fact that the purchaser may, after receiving physical possession of the property in this State, transport or send the property out of the State for use outside the State or for use in the conduct of interstate commerce.
 - 3) The place at which the contract of sale or contract to sell is negotiated and executed and the place at which title to the property passes to the purchaser are immaterial. The place at which the purchaser resides is also immaterial. It likewise makes no difference that the purchaser is a carrier when that happens to be the case.
- b) There are three exceptions to the rule that the sale is not deemed to be a sale in interstate commerce if the purchaser or his representative receives physical possession of the property in Illinois.
- 1) Except as otherwise provided in subsection (b)(1)(C), the tax is not imposed upon the sale of a motor vehicle in this State *even though the motor vehicle is delivered in this State*, if all of the following conditions are met: *the motor vehicle is sold to a nonresident; the motor vehicle is not to be titled in this State; and either a drive-away permit for purposes of transporting the motor vehicle to a destination outside of Illinois is issued to the motor vehicle as provided in Section 3-603 of the Illinois Vehicle Code [625 ILCS 5/3-603], or the nonresident purchaser has non-Illinois vehicle registration plates to transfer to the motor vehicle upon transporting the vehicle outside of Illinois. The issuance of the drive-away permit or having the out-of-state registration plates to be transferred is prima facie evidence that the motor vehicle will not be titled in this State. [35 ILCS 120/2-5(25)]*
 - A) Documentation of nonresidency. The exemption under subsection (b)(1) is available only to nonresidents. A vehicle purchased by an Illinois resident is not eligible for the exemption (even if the purchaser is only a part-time Illinois resident or has dual residency in both Illinois and another state, and, in the case of more than one purchaser, even if only one of the purchasers is an Illinois

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resident). Effective July 1, 2008, if a retailer claims the exemption under subsection (b)(1), the retailer must keep evidence that the purchaser is not a resident of Illinois, along with the records related to the sale (e.g., in the deal jacket).

- i) When the purchaser is a natural person, the best evidence of nonresidence is a non-Illinois driver's license. Retention of a copy of the purchaser's permanent non-Illinois driver's license in the records related to the sale is prima facie evidence that the purchaser is a nonresident eligible for the exemption under this subsection (b)(1). In addition, the retailer must also obtain and keep in the records related to the sale a certification from the purchaser in substantially the following form:

"I, (purchaser), under applicable penalties, including penalties for perjury and fraud, state that I am not an Illinois resident. I understand that if I am a resident of Illinois or use the motor vehicle in Illinois for ~~30 or more~~ than 30 days in a calendar year, I am also liable for tax, penalty and interest on this purchase."

- ii) When the purchaser is a natural person, failure to keep a copy of the purchaser's non-Illinois driver's license or the presence of a copy of the purchaser's Illinois driver's license in the records related to the sale creates a rebuttable presumption that the purchaser is an Illinois resident ineligible for the exemption under this subsection (b)(1). To rebut this presumption, the retailer must keep evidence of the nonresidency of the purchaser in the records related to the sale, such as a voter registration card listing a non-Illinois address, a copy of a purchase contract or lease agreement for a new residence outside of Illinois, a copy of a tax return from another state that declares residency in that other state, a credit report listing the primary address as out-of-state, property tax records claiming a homestead exemption for an out-of-state residence, or any other documentation that clearly shows that the purchaser is not an Illinois resident. In addition, the retailer must also

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obtain and keep in the records related to the sale a certification from the purchaser in substantially the following form:

"I, (purchaser), under applicable penalties, including penalties for perjury and fraud, state that I am not an Illinois resident. I understand that if I am a resident of Illinois or use the motor vehicle in Illinois for ~~30 or more~~ than 30 days in a calendar year, I am also liable for tax, penalty and interest on this purchase."

- iii) When the purchaser is not a natural person (e.g., corporation, partnership, limited liability company, trust, etc.), then the purchaser shall be deemed a resident of the state or foreign country under whose laws the purchaser was incorporated, created or organized, as well as the state or foreign country of the purchaser's commercial domicile, if different. When the purchaser is a grantor trust or other entity that claims it has no state or foreign country of incorporation, creation, organization and commercial domicile, then the purchaser's state or foreign country of residence shall be deemed to be the place of residency of the principal user of the vehicle and a copy of the user's non-Illinois driver's license or other evidence of non-Illinois residency must be kept by the retailer in the records related to the sale. When the purchaser is not a natural person, the retailer must obtain and keep in the records related to the sale a certificate from the purchaser that states substantially the following:

"(Purchaser) states, under applicable penalties, including penalties for perjury and fraud, that it is a (corporation, partnership, LLC, trust, etc.), incorporated, organized or created under the laws of (state or foreign country) and has its commercial domicile in (state or foreign country), or alternatively that it has no state or foreign country of incorporation, creation, organization and commercial domicile, but the principal user's state or foreign country of residence is (state). The undersigned has authority to sign

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this certification on behalf of the purchaser, and understands that in doing so, if the purchaser is a resident of Illinois or uses the motor vehicle in Illinois for ~~30 or~~ more than 30 days in a calendar year, it will be liable for tax, penalty and interest on this purchase."

- iv) If the retailer meets the requirements of subsection (b)(1)(A)(i), (ii) or (iii) to document the exemption, then, absent fraud, the Department shall pursue any claim that the exemption does not apply solely against the vehicle purchaser. If, however, the retailer does not meet the requirements of subsection (b)(1)(A)(i), (ii) or (iii) to document the exemption, then the exemption claimed by the retailer shall be disallowed subject to further review by the Department.
- B) When the motor vehicle is purchased for lease and delivery to a lessee, the provisions of subsection (b)(1) shall apply to the lessee as if the lessee is the purchaser of the motor vehicle.
- C) The exemption under this subsection (b)(1) does not apply if the state in which the motor vehicle will be titled does not allow a reciprocal exemption for a motor vehicle sold and delivered in that state to an Illinois resident but titled in Illinois. The tax collected under the Retailers' Occupation Tax Act on the sale of a motor vehicle in this State to a resident of another state that does not allow a reciprocal exemption shall be imposed at a rate equal to the state's rate of tax on taxable property in the state in which the purchaser is a resident, except that the tax shall not exceed the tax that would otherwise be imposed under the Retailers' Occupation Tax Act. (See 35 ILCS 120/2-5(25-5).)
- D) For purposes of this subsection (b)(1), the term "motor vehicle" does not include (list not exhaustive):
 - i) "watercraft" or "personal watercraft" as defined in the Boat Registration and Safety Act [625 ILCS 45] or any boat equipped with an inboard motor, regardless of whether the watercraft, personal watercraft or boat is sold individually

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or included with the sale of a trailer. If the watercraft, personal watercraft or boat is included with the sale of a trailer, the trailer may be an exempt "motor vehicle" under this subsection (b)(1), but the watercraft, personal watercraft or boat is not an exempt motor vehicle and tax is still owed on it. If the two items are sold together for one non-itemized price, and the trailer is exempt under this subsection (b)(1), only the gross receipts representing the selling price of the trailer are exempt. Please note that Section 130.540 requires separate transaction returns to be filed with the Department for each item of property sold by the retailer that is required to be titled or registered with an agency of Illinois government;

- ii) "all-terrain vehicles" as defined in Section 1-101.8 of the Illinois Vehicle Code;
 - iii) "motorcycles", as defined in Section 1-147 of the Illinois Vehicle Code, that are not eligible for vehicle registration because they are not properly manufactured or equipped for general highway use;
 - iv) "motor driven cycles", as defined in Section 1-145.001 of the Illinois Vehicle Code, that are not eligible for vehicle registration because they are not properly manufactured or equipped for general highway use;
 - v) "off-highway motorcycles" as defined in Section 1-153.1 of the Illinois Vehicle Code; or
 - vi) "snowmobiles" as defined in Section 1-2.15 of the Snowmobile Registration and Safety Act [625 ILCS 40/1-2.15].
- 2) *Beginning July 1, 2007, the Retailers' Occupation Tax is not imposed on the sale of an aircraft, as that term is defined in Section 3 of the Illinois Aeronautics Act [620 ILCS 5/3], if all of the following three conditions are met:*

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- A) *the aircraft leaves this State within 15 days after the later of either the issuance of the final billing for the sale of the aircraft, or the authorized approval for return to service, completion of the maintenance record entry, and completion of the test flight and ground test for inspection, as required by 14 CFR 91.407;*
- B) *the aircraft is not based or registered in this State after the sale of the aircraft; and*
- C) *the seller retains in his or her books and records and provides to the Department a signed and dated certification from the purchaser, on a form prescribed by the Department, certifying that the requirements of this subsection (b)(2) are met. The certificate must also include the name and address of the purchaser, the address of the location where the aircraft is to be titled or registered, the address of the primary physical location of the aircraft, and other information that the Department may reasonably require. [35 ILCS 120/2-5(25-7)] (See Section 130.120.)*
- D) For purposes of this subsection (b)(2):
- i) *"Based in this State" means hangared, stored, or otherwise used, excluding post-sale customizations, for 10 or more days in each 12-month period immediately following the date of the sale of the aircraft.*
- ii) *"Registered in this State" means an aircraft registered with the Department of Transportation, Aeronautics Division, or titled or registered with the Federal Aviation Administration to an address located in this State. [35 ILCS 120/2-5(25-7)]*
- 3) *The seller does not incur Retailers' Occupation Tax liability with respect to the proceeds from the sale of an item of tangible personal property to a common carrier by rail or motor that receives physical possession of property in Illinois and that transports the property, or shares with another common carrier in transporting the property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the*

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shipper or consignor of the property to a destination outside Illinois, for use outside Illinois. [35 ILCS 120/2-5(17)] The exception for sales to common carriers by rail or motor, which is described in subsection (b)(3), is also applicable to local occupation taxes administered by the Department.

- c) The tax does not extend to gross receipts from sales in which the seller is obligated, under the terms of his or her agreement with the purchaser, to make physical delivery of the goods from a point in this State to a point outside this State, not to be returned to a point within this State, provided that the delivery is actually made.
- d) Nor does the tax apply to gross receipts from sales in which the seller, by carrier (when the carrier is not also the purchaser) or by mail, under the terms of his or her agreement with the purchaser, delivers the goods from a point in this State to a point outside this State not to be returned to a point within this State. The fact that the purchaser actually arranges for the common carrier or pays the carrier that effects delivery does not destroy the exemption. However, it is critical that the seller is shown as the consignor or shipper on the bill of lading. If the purchaser is shown as either the consignor or the shipper, the exemption will not apply.
- e) Sales of the type described in subsections (c) and (d) are deemed to be within the protection of the Commerce Clause of the Constitution of the United States.
- f) To establish that the gross receipts from any given sale are exempt because the tangible personal property is delivered by the seller from a point within this State to a point outside this State under the terms of an agreement with the purchaser, the seller will be required to retain in his or her records, to support deductions taken on his or her tax returns proof that satisfies the Department that there was an agreement and a bona fide delivery outside this State of the property that is sold. The most acceptable proof of this fact will be:
 - 1) If shipped by common carrier, a waybill or bill of lading requiring delivery outside this State;
 - 2) if sent by mail, an authorized receipt from the United States Post Office department for articles sent by registered mail, parcel post, ordinary mail or otherwise, showing the name of the addressee, the point outside Illinois to which the property is mailed and the date of the mailing; if the receipt

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does not comply with these requirements, other supporting evidence will be required;

- 3) if sent by seller's own transportation equipment, a trip sheet signed by the person making delivery for the seller and showing the name, address and signature of the person to whom the goods were delivered outside this State; or, in lieu thereof, an affidavit signed by the purchaser or his or her representative, showing the name and address of the seller, the name and address of the purchaser and the time and place of the delivery outside Illinois by the seller; together with other supporting data as required by Section 130.810 of this Part and by Section 7 of the Act.
- g) Retailers who ship property to freight forwarders who take possession of the property in Illinois and ship the property to foreign countries, not to be returned to the United States, are making exempt sales in foreign commerce and do not incur Retailers' Occupation Tax liability on the gross receipts from those sales. However, there is no exemption for property delivered in Illinois to foreign vessels. If foreign vessels purchase items of tangible personal property from Illinois retailers and have those items delivered to the vessels in an Illinois port, the sale is made in Illinois, the purchaser takes possession of the items in Illinois, and therefore, the sale is taxable.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART S: SPECIFIC APPLICATIONS

Section 130.2055 Sales by Governmental Bodies

- a) Sales by the State of Illinois and by Local Governments in Illinois
Effective August 1, 1961, the State of Illinois or any local governments in Illinois, or any agency or instrumentality of any such governmental body, incurs Retailers' Occupation Tax liability when it engages in the selling of tangible personal property at retail to the public other than in the performance of a governmental function. This includes the selling of fuel to users by airport authorities or other governmental bodies, except that, until June 30, 2013, it does not include the proceeds from the sale of fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment or storage, in the conduct of its business or as an air common carrier, for a flight destined for or returning from a location or locations outside the United States

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without regard to previous or subsequent domestic stopovers. Beginning July 1, 2013, it does not include fuel and petroleum products sold to or used by an air carrier, certified by the carrier to be used for consumption, shipment or storage in the conduct of its business as an air common carrier, for a flight that is engaged in foreign trade or is engaged in trade between the United States and any of its possessions and that transports at least one individual or package for hire from the city of origination to the city of final destination on the same aircraft, without regard to a change in the flight number of that aircraft (see 86 Ill. Adm. Code 130.321). Also included is the operation of public stands by park districts or other governmental bodies, etc., but does not include the furnishing of utility services to the public, and does not include sales that may be made by such a governmental body to the public involving the performance of a governmental function (such as the sale of motor vehicle license plates by the State of Illinois).

- b) Sales by the United States Government and by Foreign Governments
Since a state may not place the legal incidence of its taxes directly on the United States Government or on a foreign government, sales by the United States Government and foreign governments, or any agency or instrumentality of any such government, are not subject to the Retailers' Occupation Tax even though such sales may be made in Illinois. For example, sales by the United States Postal Service are not subject to Retailers' Occupation Tax.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Use Tax
- 2) Code Citation: 86 Ill. Adm. Code 150
- 3) Section Number: 150.310 Proposed Action: Amendment
- 4) Statutory Authority: 20 ILCS 2505/2505-90
- 5) A Complete Description of the Subjects and Issues Involved: The current regulation provides, in relevant part, that a nonresident purchaser of a motor vehicle is not liable for use tax on the purchase of a motor vehicle delivered in this State unless the motor vehicle is used in this State for 30 or more days in a calendar year. PA 96-1035 amended the Illinois Vehicle Code [625 ILCS 5/3-603] to provide that a nonresident purchaser of a motor vehicle is not liable for use tax unless the motor vehicle is used in this State for more than 30 days. This rulemaking makes this regulation consistent with the Vehicle Code, which provides for a longer non-taxable use period.

This rulemaking also extends the sunset date until June 30, 2016 for the exemption for taxpayers engaged in centralized purchasing activities who temporarily store purchased property in Illinois.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect: No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

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- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: This proposed rulemaking will not impact or require any changes to the current requirements.
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2014

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

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

SUBPART A: NATURE OF THE TAX

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

SUBPART B: DEFINITIONS

Section	
150.201	General Definitions

SUBPART C: KINDS OF USES AND USERS NOT TAXED

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

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

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

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

SUBPART E: RECEIPT FOR THE TAX

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Section
150.601 Requirements

SUBPART F: SPECIAL INFORMATION FOR TAXABLE USERS

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

SUBPART G: REGISTRATION OF OUT-OF-STATE RETAILERS

Section
150.801 When Out-of-State Retailers Must Register and Collect Use Tax
150.805 Voluntary Registration by Certain Out-of-State Retailers
150.810 Incorporation by Reference

SUBPART H: RETAILERS' RETURNS

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

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

Section
150.1001 General Information

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SUBPART J: TRADED-IN PROPERTY

Section
150.1101 General Information

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

Section
150.1201 General Information

SUBPART L: BOOKS AND RECORDS

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

SUBPART M: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

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

150.TABLE A Tax Collection Brackets

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

SOURCE: Adopted August 1, 1955; amended at 4 Ill. Reg. 24, p. 553, effective June 1, 1980; amended at 5 Ill. Reg. 5351, effective April 30, 1981; amended at 5 Ill. Reg. 11072, effective October 6, 1981; codified at 6 Ill. Reg. 9326; amended at 8 Ill. Reg. 3704, effective March 12, 1984; amended at 8 Ill. Reg. 7278, effective May 11, 1984; amended at 8 Ill. Reg. 8623,

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

SUBPART C: KINDS OF USES AND USERS NOT TAXED

Section 150.310 Exemptions to Avoid Multi-State Taxation

- a) To prevent actual or likely multi-state taxation, the tax shall not apply to the use of tangible personal property in this State under the following circumstances:
 - 1) The use, in this State, of tangible personal property acquired outside this State by a nonresident individual and brought into this State by that individual for his or her own use while temporarily within this State or while passing through this State;
 - 2) the use, in this State, of tangible personal property by an interstate carrier for hire as rolling stock moving in interstate commerce; or by lessors under a lease of one year or longer executed or in effect at the time of purchase of tangible personal property to interstate carriers for hire for use as rolling stock moving in interstate commerce, as long as so used by the interstate carriers for hire. When tangible personal property is purchased

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by a lessor under a lease for one year or longer, executed or in effect at the time of purchase to an interstate carrier for hire who did not pay Use Tax to the retailer, the lessor (by the last day of the month following the calendar month in which the property reverts to the use of the lessor) shall file a return with the Department and pay the tax upon the fair market value of the property on the date of the reversion. For more details concerning this exemption, see 86 Ill. Adm. Code 130.340 of the Retailers' Occupation Tax regulations; the same principles apply for Use Tax purposes;

- 3) *the use, in this State, of tangible personal property that is acquired outside this State and caused to be brought into this State by a person who has already paid a tax in another state in respect to the sale, purchase or use of that property, to the extent of the amount of the tax properly due and paid in the other state; for this purpose, "state" includes the District of Columbia [35 ILCS 105/3-55(d)];*
- 4) the temporary storage, in this State, of tangible personal property acquired outside this State that, subsequent to being brought into this State and stored here temporarily, is used solely outside this State or is physically attached to or incorporated into other tangible personal property that is used solely outside this State, or is altered by converting, fabricating, manufacturing, printing, processing or shaping, and, as altered, is used solely outside this State;
- 5) the temporary storage in this State of building materials and fixtures acquired either in this State or outside this State by an Illinois registered combination retailer and construction contractor, and that the purchaser thereafter uses outside this State by incorporating the property into real estate located outside this State;
- 6) *beginning on January 1, 2002 and through June 30, ~~2016~~2011, the use of tangible personal property purchased from an Illinois retailer by a taxpayer engaged in centralized purchasing activities in Illinois who will, upon receipt of the property in Illinois, temporarily store the property in Illinois for the purpose of subsequently transporting it outside this State for use or consumption thereafter solely outside this State or for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property to be transported*

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outside this State and thereafter used or consumed solely outside this State. [35 ILCS 105/3-55(j)]

- A) "Centralized purchasing" means the procurement of tangible personal property by persons who purchase tangible personal property solely for use or consumption outside Illinois, who take delivery of that tangible personal property in Illinois and who temporarily store that tangible personal property in Illinois prior to transporting it outside the State for use or consumption solely outside Illinois.
- i) For example, a business that maintains offices in several states and maintains storage facilities in Illinois purchases office equipment from an Illinois retailer, takes delivery of those items in Illinois and then stores them at its Illinois warehouse until they are shipped to its offices outside Illinois for use there can qualify for the exemption.
 - ii) For example, a lessor that purchases an item from an Illinois retailer specifically to fulfill its obligations under an existing lease with a lessee located outside Illinois, takes delivery of that item in Illinois and then stores that item at an Illinois warehouse until it is shipped to its lessee's out-of-State location can qualify for the exemption so long as the item is used solely outside Illinois.
 - iii) However, a lessor who purchases an item that is not dedicated to an existing lease with an out-of-State lessee, takes delivery of that item in Illinois and then places it in an Illinois rental inventory cannot qualify for the exemption even if the item is subsequently leased to an out-of-State lessee. This is true because, in Illinois, lessors are deemed to be the users of items purchased for rental inventories and placing an item in a rental inventory does not constitute storage.
- B) "Good standing" means the taxpayer has no final liability that the taxpayer is failing to pay. For purposes of this Section, final liability includes a notice of tax liability that has become final, an

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admitted liability, or a math error.

- C) Persons who wish to take advantage of this expanded temporary storage exemption must apply in writing to the Department to obtain an Expanded Temporary Storage Permit. Expanded Temporary Storage Permits cannot be assigned or transferred except when the holder of the permit is purchasing from an unregistered de minimis serviceman providing services as described in 86 Ill. Adm. Code 140.108. Other than this, only the person to whom the Expanded Temporary Storage Permit was issued by the Department may use that permit as described in this Section.
- D) Persons holding a valid Expanded Temporary Storage Permit may claim the expanded temporary storage exemption by providing their Illinois suppliers with a certification that the tangible personal property received in Illinois will be temporarily stored in Illinois for the purpose of being subsequently transported outside this State for use or consumption thereafter solely outside this State or for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property to be transported outside this State and thereafter used or consumed solely outside this State. The certification must identify the seller, the purchaser, and the property, and include the purchaser's Expanded Temporary Storage Permit number and signature.
- i) If all of an Expanded Temporary Storage Permit holder's purchases qualify for the expanded temporary storage exemption, the Expanded Temporary Storage Permit holder may provide his or her supplier a blanket certificate of expanded temporary storage.
- ii) If an Expanded Temporary Storage Permit holder knows that a certain percentage of all his or her purchases from a given seller will qualify for the expanded temporary storage exemption, he or she may provide a blanket certificate of expanded temporary storage stating that a designated percentage of purchases qualify for the expanded temporary storage exemption.

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- E) In the event that tangible personal property for which the expanded temporary storage exemption has been claimed is taken out of storage and not transported outside this State for use or consumption, but is instead used or consumed in Illinois, the purchaser shall pay the tax that would have been due, in the same form that the retailer would have paid the tax (i.e., Retailers' Occupation Tax and local Retailers' Occupation Tax, if applicable), at the rate applicable at the location of the retailer from which the tangible personal property was purchased. For example, if tangible personal property purchased from a retailer in Naperville is temporarily stored in Illinois, then, instead of being transported outside the State for use or consumption, is removed from inventory and used in Illinois, tax will be due at the retailer's rate applicable in Naperville. The permit holder must pay the tax directly to the Department on forms prescribed by the Department, not later than the twentieth day of the month following the month in which the property was removed from inventory.
- F) In the event that tangible personal property for which the expanded temporary storage exemption has been claimed is temporarily stored in Illinois and transported outside this State for use or consumption, but subsequently returned to Illinois and used here, the purchaser shall pay the tax that would have been due, in the same form that the retailer would have paid the tax (i.e., Retailers' Occupation Tax and local Retailers' Occupation Tax, if applicable), at the rate applicable at the location of the retailer from which the tangible personal property was purchased. For example, if tangible personal property purchased from a retailer in Naperville is temporarily stored in Illinois and transported outside this State for use or consumption, but subsequently returned to Illinois and used here, tax will be due at the retailer's rate applicable in Naperville. Depreciation will be allowed as provided in Section 150.105(a). Also, credit shall be given for tax paid in another state in respect to the sale, purchase or use of the property, to the extent of the amount of the tax properly due and paid in the other state, as provided in subsection (a)(3) ~~of this Section~~.
- G) Permit holders who assume the liability for the Retailers'

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Occupation Tax and any applicable local Retailers' Occupation Tax are subject to the same rights, remedies, privileges, immunities, powers and duties, and are subject to the same conditions, restrictions, limitations, penalties, and definitions of terms and employ the same modes of procedures as are prescribed for retailers under the Retailers' Occupation Tax Act. For example, if a permit holder fails to timely file the proper return or make the proper payment of tax, that permit holder is not entitled to the 1.75% vendor discount applicable to the sales reported on that return and is subject to penalties and interest under the Uniform Penalty and Interest Act [35 ILCS 735].

- 7) the use, in this State, of a vehicle for which a drive-away decal has been issued under the provisions of 86 Ill. Adm. Code 130.605(b)(1). However, beginning July 1, 2008, if the purchaser of a motor vehicle claims the exemption provided in Section 130.605(b)(1) and the motor vehicle is then used in this State for ~~30 or more~~ than 30 days in a calendar year, the purchaser is liable for Use Tax on the purchase price of that motor vehicle, subject to credit for tax properly due and paid to any other state as provided in subsection (a)(3) ~~of this Section~~. The assessment of tax under this subsection (a)(7) by the Department is limited to the period for which it may issue a notice of tax liability under the Use Tax Act.
- 8) *beginning July 1, 2007, the use, in this State, of an aircraft described in subsection (a)(8)(A), (B) or (C), as defined in Section 3 of the Illinois Aeronautics Act.*
 - A) *If the aircraft is purchased in this State, all of the following three conditions must be met:*
 - i) *the aircraft leaves this State within 15 days after the later of either the issuance of the final billing for the purchase of the aircraft or the authorized approval for return to service, completion of the maintenance record entry, and completion of the test flight and ground test for inspection as required by 14 CFR 91.407;*
 - ii) *the aircraft is not based or registered in this State after the purchase of the aircraft; and*

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- iii) *the purchaser provides the Department with a signed and dated certification, on a form prescribed by the Department, certifying that the requirements of this subsection (a)(8)(A) are met. The certificate must also include the name and address of the purchaser, the address of the location where the aircraft is to be titled or registered, the address of the primary physical location of the aircraft, and other information that the Department may reasonably require.*
- B) *If the aircraft is temporarily located in this State for the purpose of a prepurchase evaluation, all of the following conditions must be met:*
- i) *the aircraft is not based or registered in this State after the prepurchase evaluation; and*
 - ii) *the purchaser provides the Department with a signed and dated certification, on a form prescribed by the Department, certifying that the requirements of this subsection (a)(8)(B) are met. The certificate must also include the name and address of the purchaser, the address of the location where the aircraft is to be titled or registered, the address of the primary physical location of the aircraft, and other information that the Department may reasonably require.*
- C) *If the aircraft is temporarily located in this State for the purpose of a post-sale customization, all of the following conditions must be met:*
- i) *the aircraft leaves this State within 15 days after the authorized approval for return to service, completion of the maintenance record entry, and completion of the test flight and ground test for inspection, as required by 14 CFR 91.407;*

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- ii) *the aircraft is not based or registered in this State either before or after the post-sale customization; and*
- iii) *the purchaser provides the Department with a signed and dated certification, on a form prescribed by the Department, certifying that the requirements of this subsection (a)(8)(C) are met. The certificate must also include the name and address of the purchaser, the address of the location where the aircraft is to be titled or registered, the address of the primary physical location of the aircraft, and other information that the Department may reasonably require. [35 ILCS 105/3-55(h-2)]*

D) The exemption provided under subsections (a)(8)(B) and (C) does not apply to tax incurred on any service transactions performed on the aircraft.

E) For purposes of subsection (a)(8):

"Based in this State" means hangared, stored, or otherwise used, excluding post-sale customizations as defined in this subsection (a)(8)(E), for 10 or more days in each 12-month period immediately following the date of the sale of the aircraft.

"Post-sale customization" means any improvement, maintenance, or repair that is performed on an aircraft following a transfer of ownership of the aircraft.

"Prepurchase evaluation" means an examination of an aircraft to provide a potential purchaser with information relevant to the potential purchase.

"Registered in this State" means an aircraft registered with the Department of Transportation, Aeronautics Division, or titled or registered with the Federal Aviation Administration to an address located in this State.

F) *If tax becomes due under this subsection (a)(8) because of the purchaser's use of the aircraft in this State, the purchaser shall file*

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a return with the Department and pay the tax on the fair market value of the aircraft. This return and payment of the tax must be made no later than 30 days after the aircraft is used in a taxable manner in this State. The tax is based on the fair market value of the aircraft on the date that it is first used in a taxable manner in this State. [35 ILCS 105/3-55(h-2)]

- b) Since exemptions described in subsections (a)(1), (3) and (4) do not exist as far as the Retailers' Occupation Tax is concerned, and since it would therefore serve no purpose to say that the exemptions exist for Use Tax purposes insofar as the seller is merely collecting Use Tax to reimburse himself or herself for Retailers' Occupation Tax on the same transaction, the Department believes that the legislative intention in these references to the acquisition of tangible personal property outside this State was to make the references apply to cases in which the only tax liability that could be involved is Use Tax liability.
- c) Therefore, exemptions described in subsections (a)(1), (3) and (4) would not apply except when the tangible personal property is acquired outside Illinois by the purchaser in such a way that there is no Retailers' Occupation Tax liability on the part of the seller in the same transaction.
- d) For information as to when sellers do or do not incur Retailers' Occupation Tax liability when shipping the tangible personal property from outside Illinois, see 86 Ill. Adm. Code 130.610 of the Retailers' Occupation Tax regulations.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Educator Licensure
- 2) Code Citation: 23 Ill. Adm. Code 25
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
25.70	Amendment
25.337	Amendment
25.355	Amendment
25.360	Amendment
- 4) Statutory Authority: 105 ILCS 5/2-3.6
- 5) A Complete Description of the Subjects and Issues Involved: The rulemaking is necessitated by three public acts enacted during the 2014 legislative session that pertain to requirements for qualifying for or renewing educator licenses; each of these is described below.

PA 98-751, effective January 1, 2015, amended Section 21B-20 of the School Code to remove the requirement for passage of the basic skills test before an individual can qualify for receipt of an educator license with stipulations endorsed for career and technical educator. Under the new law, individuals holding the educator license with stipulations endorsed for career and technical educator are now required to pass the basic skills test at the time they renew the credential.

PA 98-872, effective August 11, 2014, amended Section 21B-25 of the School Code, allowing experience serving in a general administrative position to qualify an individual for receipt of a superintendent endorsement on the professional educator license. The law previously limited qualifying experience to time spent as a principal, director of special education, or chief school business official.

PA 98-917, effective August 15, 2014, also amended Section 21B-25 of the School Code, specific to the principal endorsement, allowing until June 30, 2019 experience serving in a school support personnel position (previously, only teaching experience) as meeting qualifications for receipt of a principal endorsement on his or her professional educator license.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

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- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other 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 IL 62777-0001
- 217/782-5270
rules@isbe.net
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- 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 2 most recent agendas because: The legislation precipitating the regulatory changes was not yet enacted.

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER b: PERSONNEL

PART 25

EDUCATOR LICENSURE

SUBPART A: DEFINITIONS

Section

25.10 Accredited Institution

SUBPART B: LICENSES

Section

25.11 New Certificates (February 15, 2000) (Repealed)
25.15 Types of Licenses; Exchange
25.20 Requirements for the Elementary Certificate (Repealed)
25.22 Requirements for the Elementary Certificate (2004) (Repealed)
25.25 Requirements for the Professional Educator License
25.30 Endorsement in Teacher Leadership (Through December 31, 2012) (Repealed)
25.32 Teacher Leader Endorsement (Beginning September 1, 2012)
25.35 Acquisition of Subsequent Certificates; Removal of Deficiencies (Repealed)
25.37 Acquisition of Subsequent Teaching Endorsements on a Professional Educator License
25.40 Requirements for the Special Certificate (Repealed)
25.42 Requirements for the Special Certificate (2004) (Repealed)
25.43 Standards for Licensure of Special Education Teachers
25.45 Standards for the Initial Special Preschool-Age 12 Certificate – Speech and Language Impaired (Repealed)
25.46 Special Provisions for the Learning Behavior Specialist I Endorsement
25.47 Special Provisions for the Learning Behavior Specialist I Approval
25.48 Short-Term Emergency Approval in Special Education
25.50 General Certificate (Repealed)
25.60 Alternative Educator Licensure Program for Teachers (Beginning January 1, 2013)
25.65 Alternative Educator Licensure
25.67 Alternative Route to Teacher Licensure

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- 25.70 Endorsement for Career and Technical Educator
- 25.72 Endorsement for Provisional Career and Technical Educator
- 25.75 Part-time Provisional Certificates (Repealed)
- 25.80 Endorsement for Part-time Provisional Career and Technical Educator
- 25.82 Requirements for the Early Childhood Certificate (2004) (Repealed)
- 25.85 Special Provisions for Endorsement in Foreign Language for Individuals Currently Certified (Repealed)
- 25.86 Special Provisions for Endorsement in Foreign Language for Individuals Prepared as Teachers But Not Currently Certified (Repealed)
- 25.90 Endorsement for Transitional Bilingual Educator
- 25.92 Endorsement for Visiting International Educator
- 25.95 Language Endorsement for the Transitional Bilingual Educator
- 25.97 Endorsement for Elementary Education (Grades 1 through 6)
- 25.99 Endorsement for the Middle Grades (Grades 5 through 8)
- 25.100 Teaching Endorsements on the Professional Educator License
- 25.105 Temporary Substitute Teaching Permit (Repealed)

SUBPART C: APPROVING PROGRAMS THAT PREPARE PROFESSIONAL
EDUCATORS IN THE STATE OF ILLINOIS

- Section
- 25.110 System of Approval: Levels of Approval (Repealed)
- 25.115 Recognition of Institutions and Educational Units, and Approval of Programs
- 25.120 Standards and Criteria for Institutional Recognition and Program Approval (Repealed)
- 25.125 Accreditation Review of the Educational Unit (Repealed)
- 25.127 Review of Individual Programs (Repealed)
- 25.130 Interventions by the State Board of Education and State Educator Preparation and Licensure Board
- 25.135 Interim Provisions for Continuing Accreditation and Approval – July 1, 2000, through Fall Visits of 2001 (Repealed)
- 25.136 Interim Provisions for Continuing Accreditation – Institutions Visited from Spring of 2002 through Spring of 2003 (Repealed)
- 25.137 Interim Provisions for Continuing Accreditation and Approval – July 1, 1999, through June 30, 2000 (Repealed)
- 25.140 Requirements for the Institution's Educational Unit Assessment Systems
- 25.142 Assessment Requirements for Individual Programs
- 25.145 Approval of New Programs Within Recognized Institutions
- 25.147 Approval of Programs for Foreign Language Beginning July 1, 2003

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- 25.150 The Periodic Review Process (Repealed)
25.155 Procedures for the Initial Recognition of an Institution as an Educator Preparation Institution and Its Educational Unit
25.160 Notification of Recommendations; Decisions by State Board of Education
25.165 Discontinuation of Programs

SUBPART D: SCHOOL SUPPORT PERSONNEL

Section

- 25.200 Relationship Among Endorsements in Subpart D
25.210 Requirements for the Certification of School Social Workers (Repealed)
25.215 Endorsement for School Social Workers
25.220 Requirements for the Certification of Guidance Personnel (Repealed)
25.225 Endorsement for School Counselors
25.227 Interim Approval for School Counselor Interns
25.230 Requirements for the Certification of School Psychologists (Repealed)
25.235 Endorsement for School Psychologists
25.240 Standard for School Nurse Endorsement (Repealed)
25.245 Endorsement for School Nurses
25.250 Standards for Non-Teaching Speech-Language Pathologists
25.252 Endorsement for Non-Teaching Speech-Language Pathologists
25.255 Interim Approval for Speech-Language Pathologist Interns
25.275 Renewal of the Professional Educator License Endorsed for School Support Personnel (Repealed)

SUBPART E: REQUIREMENTS FOR THE LICENSURE OF
ADMINISTRATIVE AND SUPERVISORY STAFF

Section

- 25.300 Relationship Among Credentials in Subpart E
25.310 Definitions (Repealed)
25.311 Alternative Route to Superintendent Endorsement (Beginning January 1, 2013)
25.313 Alternative Route to Administrative Endorsement (Through August 31, 2013) (Repealed)
25.314 Alternative Route to Administrative Certification for Teacher Leaders (Repealed)
25.315 Renewal of Administrative Endorsement (Repealed)
25.320 Application for Approval of Program (Repealed)
25.322 General Supervisory Endorsement (Repealed)
25.330 Standards and Guide for Approved Programs (Repealed)

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- 25.333 General Administrative Endorsement (Repealed)
- 25.335 General Administrative Endorsement (Through August 31, 2014)
- 25.337 Principal Endorsement (2013)
- 25.338 Designation as Master Principal (Repealed)
- 25.344 Chief School Business Official Endorsement (Repealed)
- 25.345 Endorsement for Chief School Business Official
- 25.355 Endorsement for Superintendent (2019)
- 25.360 Endorsement for Superintendent (Through August 31, 2019)
- 25.365 Endorsement for Director of Special Education

SUBPART F: GENERAL PROVISIONS

- Section
- 25.400 Registration of Licenses; Fees
- 25.405 Military Service; Licensure
- 25.410 Reporting Requirements for Revoked or Suspended Licenses; License Application Denials
- 25.411 Voluntary Removal of Endorsements
- 25.415 Credit in Junior College (Repealed)
- 25.420 Psychology Accepted as Professional Education (Repealed)
- 25.425 Individuals Prepared in Out-of-State Institutions
- 25.427 One-Year Limitation
- 25.430 Institutional Approval (Repealed)
- 25.435 School Service Personnel Certificate – Waiver of Evaluations (Repealed)
- 25.437 Equivalency of General Education Requirements (Repealed)
- 25.440 Master of Arts NCATE (Repealed)
- 25.442 Illinois Teacher Corps Programs (Through August 31, 2013) (Repealed)
- 25.444 Illinois Teaching Excellence Program
- 25.445 College Credit for High School Mathematics and Language Courses (Repealed)
- 25.450 Lapsed Licenses
- 25.455 Substitute Certificates (Repealed)
- 25.460 Provisional Special and Provisional High School Certificates (Repealed)
- 25.464 Short-Term Authorization for Positions Otherwise Unfilled (Repealed)
- 25.465 Credit (Repealed)
- 25.470 Meaning of Experience on Administrative Certificates (Repealed)
- 25.475 Renewal Requirements for Holders of Multiple Types of Endorsements on a Professional Educator License (Repealed)
- 25.480 Supplemental Documentation and Review of Certain License Applications
- 25.485 Licensure of Persons with Prior Certificate or License Sanctions

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25.486	Licensure of Persons Who Are Delinquent in the Payment of Child Support
25.487	Licensure of Persons with Illinois Tax Noncompliance
25.488	Licensure of Persons Named in Reports of Child Abuse or Neglect
25.489	Licensure of Persons Who Are in Default on Student Loans
25.490	Licensure of Persons Who Have Been Convicted of a Crime
25.491	Licensure of Persons with Unsatisfactory Performance Evaluation Ratings
25.493	Part-Time Teaching Interns (Repealed)
25.495	Approval of Out-of-State Institutions and Programs (Repealed)
25.497	Supervisory Endorsements

SUBPART G: PARAPROFESSIONALS;
OTHER PERSONNEL

Section	
25.510	Endorsement for Paraprofessional Educators
25.520	Substitute Teaching License
25.530	Specialized Instruction by Noncertificated Personnel (Repealed)
25.540	Approved Teacher Aide Programs (Repealed)
25.550	Approval of Educational Interpreters

SUBPART H: CLINICAL EXPERIENCES

Section	
25.610	Definitions
25.620	Student Teaching
25.630	Pay for Student Teaching (Repealed)

SUBPART I: ILLINOIS LICENSURE TESTING SYSTEM

Section	
25.705	Purpose – Severability
25.710	Definitions
25.715	Test Validation
25.717	Test Equivalence
25.720	Applicability of Testing Requirement and Scores
25.725	Applicability of Scores (Repealed)
25.728	Use of Test Results by Institutions of Higher Education
25.730	Registration – Paper-and-Pencil Testing
25.731	Registration – Computer-Based Testing

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25.732	Late Registration
25.733	Emergency Registration
25.735	Frequency and Location of Tests
25.740	Accommodation of Persons with Special Needs
25.745	Special Test Dates
25.750	Conditions of Testing
25.755	Cancellation of Scores; Voiding of Scores
25.760	Passing Score
25.765	Individual Test Score Reports
25.770	Re-scoring
25.775	Institution Test Score Reports
25.780	Fees

SUBPART J: RENEWAL OF PROFESSIONAL EDUCATOR LICENSES

Section	
25.800	Professional Development Required (Beginning July 1, 2014)
25.805	Continuing Professional Development Options
25.807	Additional Specifications Related to Professional Development Activities of Special Education Teachers (Repealed)
25.810	State Priorities (Repealed)
25.815	Submission and Review of the Plan (Repealed)
25.820	Requirements for Coursework on the Assessment of One's Own Performance (Repealed)
25.825	Requirements for Coursework Related to the National Board for Professional Teaching Standards (NBPTS) (Repealed)
25.830	Verification of Completed Activities; Renewal Process
25.832	Validity and Renewal of NBPTS Master Teacher Designation
25.835	Request for Extension
25.840	Appeals to the State Educator Preparation and Licensure Board
25.845	Responsibilities of School Districts (Repealed)
25.848	General Responsibilities of LPDCs (Repealed)
25.850	General Responsibilities of Regional Superintendents (Repealed)
25.855	Approval of Professional Development Providers
25.860	Reporting by and Audits of Providers
25.865	Awarding of Credit for Activities with Providers
25.870	Continuing Education Units (CEUs) (Repealed)
25.872	Special Provisions for Interactive, Electronically Delivered Continuing Professional Development (Repealed)

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- 25.875 Continuing Professional Development Units (CPDUs) (Through June 30, 2014)
 25.880 "Valid and Exempt" Licenses; Proportionate Reduction; Part-Time Teaching
 25.885 Funding; Expenses (Repealed)

SUBPART K: REQUIREMENTS FOR RECEIPT OF
 THE STANDARD TEACHING CERTIFICATE

Section

- 25.900 Applicability of Requirements in this Subpart (Repealed)
 25.905 Choices Available to Holders of Initial Certificates (Repealed)
 25.910 Requirements for Induction and Mentoring (Repealed)
 25.915 Requirements for Coursework on the Assessment of One's Own Performance
 (Repealed)
 25.920 Requirements for Coursework Related to the National Board for Professional
 Teaching Standards (NBPTS) (Repealed)
 25.925 Requirements Related to Advanced Degrees and Related Coursework (Repealed)
 25.930 Requirements for Continuing Professional Development Units (CPDUs)
 (Repealed)
 25.935 Additional Activities for Which CPDUs May Be Earned (Repealed)
 25.940 Examination (Repealed)
 25.942 Requirements for Additional Options (Repealed)
 25.945 Procedural Requirements (Repealed)
- 25.APPENDIX A Statistical Test Equating – Licensure Testing System
 25.APPENDIX B Certificates Available Effective February 15, 2000 (Repealed)
 25.APPENDIX C Exchange of Certificates for Licenses (July 1, 2013)
 25.APPENDIX D Criteria for Identification of Teachers as "Highly Qualified" in Various
 Circumstances
 25.APPENDIX E Endorsement Structure Beginning July 1, 2013

AUTHORITY: Implementing Articles 21 and 21B and Section 14C-8 and authorized by Section 2-3.6 of the School Code [105 ILCS 5/Art. 21, Art. 21B, 14C-8, and 2-3.6].

SOURCE: Rules and Regulations to Govern the Certification of Teachers adopted September 15, 1977; amended at 4 Ill. Reg. 28, p. 336, effective July 16, 1982; amended at 7 Ill. Reg. 5429, effective April 11, 1983; codified at 8 Ill. Reg. 1441; amended at 9 Ill. Reg. 1046, effective January 16, 1985; amended at 10 Ill. Reg. 12578, effective July 8, 1986; amended at 10 Ill. Reg. 15044, effective August 28, 1986; amended at 11 Ill. Reg. 12670, effective July 15, 1987; amended at 12 Ill. Reg. 3709, effective February 1, 1988; amended at 12 Ill. Reg. 16022,

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effective September 23, 1988; amended at 14 Ill. Reg. 1243, effective January 8, 1990; amended at 14 Ill. Reg. 17936, effective October 18, 1990; amended at 15 Ill. Reg. 17048, effective November 13, 1991; amended at 16 Ill. Reg. 18789, effective November 23, 1992; amended at 19 Ill. Reg. 16826, effective December 11, 1995; amended at 21 Ill. Reg. 11536, effective August 1, 1997; emergency amendment at 22 Ill. Reg. 5097, effective February 27, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 11767, effective June 25, 1998; amended at 22 Ill. Reg. 19745, effective October 30, 1998; amended at 23 Ill. Reg. 2843, effective February 26, 1999; amended at 23 Ill. Reg. 7231, effective June 14, 1999; amended at 24 Ill. Reg. 7206, effective May 1, 2000; emergency amendments at 24 Ill. Reg. 9915, effective June 21, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 12930, effective August 14, 2000; preemptory amendment at 24 Ill. Reg. 16109, effective October 12, 2000; preemptory amendment suspended at 25 Ill. Reg. 3718, effective February 21, 2001; preemptory amendment repealed by joint resolution of the General Assembly, effective May 31, 2001; emergency amendments at 25 Ill. Reg. 9360, effective July 1, 2001, for a maximum of 150 days; emergency expired November 27, 2001; emergency amendments at 25 Ill. Reg. 11935, effective August 31, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 16031, effective November 28, 2001; amended at 26 Ill. Reg. 348, effective January 1, 2002; amended at 26 Ill. Reg. 11867, effective July 19, 2002; amended at 26 Ill. Reg. 16167, effective October 21, 2002; amended at 27 Ill. Reg. 5744, effective March 21, 2003; amended at 27 Ill. Reg. 8071, effective April 28, 2003; emergency amendments at 27 Ill. Reg. 10482, effective June 26, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 12523, effective July 21, 2003; amended at 27 Ill. Reg. 16412, effective October 20, 2003; emergency amendment at 28 Ill. Reg. 2451, effective January 23, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 8556, effective June 1, 2004; emergency amendments at 28 Ill. Reg. 12438, effective August 20, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 1212, effective January 4, 2005; amended at 29 Ill. Reg. 10068, effective June 30, 2005; amended at 29 Ill. Reg. 12374, effective July 28, 2005; emergency amendment at 29 Ill. Reg. 14547, effective September 16, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 15831, effective October 3, 2005; amended at 30 Ill. Reg. 1835, effective January 26, 2006; amended at 30 Ill. Reg. 2766, effective February 21, 2006; amended at 30 Ill. Reg. 8494, effective April 21, 2006; amended at 31 Ill. Reg. 10645, effective July 16, 2007; amended at 32 Ill. Reg. 3413, effective February 22, 2008; amended at 32 Ill. Reg. 13263, effective July 25, 2008; emergency amendment at 32 Ill. Reg. 18876, effective November 21, 2008, for a maximum of 150 days; amended at 33 Ill. Reg. 5462, effective March 24, 2009; amended at 34 Ill. Reg. 1582, effective January 12, 2010; amended at 34 Ill. Reg. 15357, effective September 21, 2010; amended at 35 Ill. Reg. 4315, effective February 23, 2011; preemptory amendment at 35 Ill. Reg. 14663, effective August 22, 2011; amended at 35 Ill. Reg. 16755, effective September 29, 2011; amended at 36 Ill. Reg. 2191, effective January 24, 2012; amended at 36 Ill. Reg. 12455, effective July 23, 2012; emergency amendment at 36 Ill. Reg. 12903, effective July 24, 2012, for a maximum of 150 days; amended at 37 Ill. Reg. 199, effective December 19,

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2012; amended at 37 Ill. Reg. 8379, effective June 12, 2013; amended at 37 Ill. Reg. 16729, effective October 2, 2013; amended at 38 Ill. Reg. 11261, effective May 6, 2014; amended at 38 Ill. Reg. 18933, effective September 8, 2014; amended at 38 Ill. Reg. 21788, effective November 3, 2014; amended at 39 Ill. Reg. _____, effective _____.

SUBPART B: LICENSES

Section 25.70 Endorsement for Career and Technical Educator

The requirements of this Section apply to individuals seeking an educator license with stipulations endorsed for career and technical educator pursuant to Section 21B-20(2)(E) of the School Code [105 ILCS 5/21B-20(2)(E)]. The requirements of this Section (except for those specific to license renewal) do not apply to provisional vocational certificates exchanged for an educator license with stipulations endorsed for career and technical educator under Section 25.15.

- a) Each applicant for an educator license with stipulations endorsed for career and technical educator shall present evidence of having completed 60 semester hours of college coursework from a regionally accredited institution, as well as evidence of having completed 2,000 hours of work experience outside the field of education in each area to be taught in the last 10 years immediately preceding application. The required evidence of this work experience shall be written statements from former supervisors who can be reached for verification or, in cases in which supervisors are no longer available to verify the individual's employment, affidavits by the applicant describing the work experience.
- b) ~~Each applicant also shall have passed the test of basic skills required under Section 21B-30 of the School Code [105 ILCS 5/21B-30] and Section 25.720 of this Part.~~
- ⇒ Each educator license with stipulations endorsed for career and technical educator issued on or after July 1, 2013 shall be valid until June 30 immediately following five years after the license is issued (see Section 21B-20(2)(E) of the School Code). Renewal of the license after that five-year period shall be contingent upon:
 - 1) passage of the test of basic skills required under Section 21B-30 of the School Code [105 ILCS 5/21B-30] and Section 25.720, except that individuals holding the educator license with stipulations endorsed for

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career and technical educator before January 1, 2015 shall be exempt from the provisions of this subsection (b)(1); and

- 2) the licensee's fulfillment of the applicable requirements of this Section.
- c)ⓓ For purposes of this subsection (c)ⓓ, coursework completed for license renewal purposes shall be considered "related to education" if it leads to a professional educator license or, for individuals holding a professional educator license, an endorsement on that license for the skill area of instruction, or if it relates to the field of an individual's current teaching assignment or any other field of teaching assignment. Beginning July 1, 2014, each affected licensee shall complete:
- 1) 120 hours of professional development activities in each 5-year renewal cycle that align to the criteria set forth in Section 25.805(a); or
 - 2) 60 hours of professional development activities in each 5-year renewal cycle that align to the criteria set forth in Section 25.805 for any licensee holding a current National Board for Professional Teaching Standards (NBPTS) master teacher designation.
- d)ⓔ Credit for CPDUs generated for completion of activities before June 30, 2014 shall be calculated on the basis of this subsection (d)ⓔ. Licensees shall be responsible for completing any additional professional development activities as may be needed to reach a total of 120 clock hours before the end of their 5-year renewal cycle, as applicable. (See Section 25.800(d) and (e).)
- 1) One CPDU shall be equivalent to 1 clock hour of credit under the system to be implemented July 1, 2014.
 - 2) One semester hour of college coursework from a regionally accredited institution of higher education shall be equivalent to 15 clock hours under the system to be implemented July 1, 2014.
 - 3) Completion of any of the activities listed in Section 25.800(e) shall fulfill all or a portion of the professional development required.
- e)ⓕ The provisions of Sections 25.855 and 25.865 shall apply to the awarding of credit for activities offered by approved providers, provided that:

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- 1) the references to Section 21B-45 of the School Code are not applicable to the educator license with stipulations endorsed for career and technical educator; and
- 2) references to Subpart J of this Part shall be understood as referring to this Section where necessary to the context.

~~f)g)~~ Each educator license with stipulations endorsed for career and technical educator shall be maintained as "valid and active" or "valid and exempt" for each school year of its validity. Periods of exemption shall be determined as discussed in Section 25.880. In addition, individuals holding the educator license with stipulations endorsed for career and technical educator who are working in a position for less than 50 percent of full-time equivalency in any particular school year *shall be considered to be exempt and shall be required to pay only the registration fee in order to renew and maintain the validity of the license* (Section 21B-45(e)(5) of the School Code).

~~g)h)~~ Each licensee shall:

- 1) enter into ELIS any credit earned on or after July 1, 2014, including the name of the activity completed, the date on which it occurred, the number of professional development hours received and the name of the provider not later than 60 days after the activity is completed; and
- 2) at the time of license renewal, electronically sign a statement in ELIS, assuring that he or she has completed the professional development required to renew the license or if required as part of an appeal under Section 25.840 ~~of this Part~~.

~~h)i)~~ Beginning July 1, 2015, a licensee who fails to enter into ELIS his or her completed professional development within the timeline set forth in subsection ~~(g)h)~~ shall be unable to include credit for those activities among the clock hours needed to satisfy renewal requirements.

~~i)j)~~ A licensee with respect to whom the State Superintendent of Education has recommended nonrenewal of the educator license with stipulations endorsed for career and technical educator due to failure to complete the professional development requirements set forth in this Section may appeal to the State Educator Preparation and Licensure Board (SEPLB) within 30 days after receipt

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of the notice of nonrenewal in accordance with the provisions of Section 25.840, except that references to the requirements of Section 21B-45(m) of the School Code shall not apply in the case of the educator license with stipulations endorsed for career and technical educator.

~~j)~~ Within 90 days after receiving the appeal, the SEPLB shall review the State Superintendent's recommendation regarding the renewal of the educator license with stipulations endorsed for career and technical educator and notify the affected licensee in writing as to whether his or her license has been renewed or not renewed. This notification shall be by certified mail, return receipt requested, and shall occur within 30 days after the SEPLB makes its determination, subject to the right of appeal set forth in this subsection ~~j)(4)~~.

- 1) Within 60 days after receipt of an appeal filed by a licensee challenging the State Superintendent's recommendation for nonrenewal, the SEPLB shall determine whether it will hold an appeal hearing or make a determination based on the information outlined in Section 21B-45(m)(2) of the School Code. If a hearing will be held, the Board shall notify the licensee of the date, time and place of the hearing.
- 2) The licensee shall submit to the SEPLB any additional information the Board determines is necessary to decide the appeal.
- 3) The SEPLB may request that the licensee appear before it. The licensee shall be given at least 10 days' notice of the date, time and place of the hearing.
- 4) In verifying whether the licensee has met the renewal criteria set forth in this Section, the SEPLB shall review the recommendation of the State Superintendent and all relevant documentation.

~~k)~~ The SEPLB shall notify the licensee in writing, within 30 days after reaching a decision, as to whether the educator license with stipulations endorsed for career and technical educator has been renewed. Upon receipt of notification of renewal, the licensee shall pay the applicable registration fee for the next 5-year renewal cycle using ELIS. If the decision is not to renew the license, the notice to the licensee shall be transmitted by certified mail, return receipt requested, and shall state the reason for the decision. The decision of the SEPLB is final and subject

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to administrative review as set forth in Section 21B-70 of the School Code [105 ILCS 5/21B-70].

- ~~l)~~ An individual whose educator license with stipulations endorsed for career and technical educator is not renewed because of his or her failure to meet the requirements of this Section may renew the license once it has lapsed (i.e., on September 1 of the calendar year in which the license expired) if he or she has paid all back fees, including registration fees, owed and:
- 1) either paid the penalty or completed the coursework required under Section 21B-45 of the School Code, the latter of which shall not be counted as both satisfying the penalty and meeting the professional development owed; and
 - 2) presented evidence of having completed the balance of the professional development activities that were required for renewal of the license previously held.
- ~~m)~~ The provisions of Section 25.840(e) shall apply to the renewal of the educator license with stipulations endorsed for career and technical educator.
- ~~n)~~ An individual who performs services on an educator license with stipulations endorsed for career and technical educator and concurrently also on a professional educator license that is subject to renewal requirements shall be subject to the provisions of Subpart J.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART E: REQUIREMENTS FOR THE LICENSURE OF
ADMINISTRATIVE AND SUPERVISORY STAFF

Section 25.337 Principal Endorsement (2013)

- a) This endorsement is required for principals and assistant principals.
- b) A principal endorsement shall be affixed to a professional educator license provided that the candidate successfully completes each of the requirements specified in 23 Ill. Adm. Code 30 (Programs for the Preparation of Principals in Illinois) or has completed a comparable approved program in another state or

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country or holds a comparable certificate or license issued by another state or country (see Section 25.425 ~~of this Part~~). For the purposes of this subsection (b), "comparable" means:

- 1) The out-of-state program is offered by an institution that has received approval under Subpart C ~~of this Part~~ to offer a principal preparation program (see 23 Ill. Adm. Code 30); or
 - 2) The individual seeking the endorsement has had his or her coursework and preparation program reviewed by an institution approved to offer a principal preparation program in Illinois; has successfully completed any deficiencies in that preparation that the institution has identified, as applicable; and has been recommended for entitlement by that institution.
- c) Each candidate shall have *four years of teaching or, until June 30, 2019, working in the capacity of school support personnel in a public school or nonpublic school recognized by the State Board of Education [105 ILCS 5/21B-25]* in accordance with 23 Ill. Adm. Code 425 (Voluntary Registration and Recognition of Nonpublic Schools), which must have been accrued while the individual held a valid ~~early childhood, elementary, secondary, special K-12, or special preschool-age 21 certificate or a~~ professional educator license endorsed in a teaching field (early childhood, elementary, secondary, special K-12 or special preschool-age 21) or for school support personnel.
- d) An individual holding a general administrative endorsement issued pursuant to Section 25.335 ~~of this Part~~ may have that endorsement converted to a principal endorsement in accordance with the process set forth in Section 21B-25 of the School Code [105 ILCS 5/21B-25].

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 25.355 Endorsement for Superintendent (2019)

- a) This endorsement is required for superintendents and assistant superintendents.
- b) A superintendent endorsement shall be affixed to a professional educator license provided that the candidate successfully completes each of the requirements specified in 23 Ill. Adm. Code 33 (Programs for the Preparation of Superintendents in Illinois) or has completed a comparable approved program in

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another state or country or holds a comparable certificate or license issued by another state or country (see Section 25.425 ~~of this Part~~). For the purposes of this subsection (b), "comparable" means:

- 1) The out-of-state program is offered by an institution that has received approval under Subpart C ~~of this Part~~ to offer a superintendent preparation program (see 23 Ill. Adm. Code 33); or
 - 2) The individual seeking the endorsement has had his or her coursework and preparation program reviewed by an institution approved to offer a superintendent preparation program in Illinois; has successfully completed any deficiencies in that preparation that the institution has identified, as applicable; and has been recommended for entitlement by that institution.
- c) In accordance with Section 21B-25(2)(D) of the School Code [105 ILCS 5/21B-25(2)(D)], ~~beginning July 1, 2013~~, each candidate shall hold an Illinois professional educator license and have two years of experience working full-time in a general administrative position or as a principal, director of special education or chief school business official either:
- 1) on the Illinois general administrative, principal, director of special education or chief school business officer endorsement in:
 - A) an Illinois public school; or
 - B) a nonpublic school recognized under 23 Ill. Adm. Code 425 (Voluntary Registration and Recognition of Nonpublic Schools) whose chief administrator is required to hold a professional educator license endorsed for general administrative or principal and when a majority of the teachers employed in the school are required to hold a professional educator license endorsed in the teaching field specific to each teacher's assignment; or
 - 2) while holding a credential required by the employing state in order to serve as principal, director of special education or chief school business official that is comparable *in validity and educational and experience requirements* (Section 21B-25(2)(D) of the School Code) to the applicable Illinois endorsement, if the candidate completed a comparable out-of-state

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program for the applicable credential held. (See also Section 25.425 of this Part.)

- d) Each candidate shall be required to pass the applicable content-area test (see Section 25.710 ~~of this Part~~), as well as the test of basic skills pursuant to Section 25.720 ~~of this Part~~.
- e) Nothing in this Section is intended to preclude the candidate from seeking the issuance of an educator license with stipulations endorsed for provisional educator under Section 21B-20 of the School Code in the event that he or she has failed to meet one or more of the requirements for a professional educator license endorsed for superintendent.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 25.360 Endorsement for Superintendent (Through August 31, 2019)

This endorsement, to be affixed to a professional educator license, is required of school district superintendents. (See also 23 Ill. Adm. Code 29.130.) No candidate shall be admitted to a superintendent endorsement program approved under this Section after August 31, 2016. Candidates who are enrolled shall complete the program and have the endorsement issued no later than September 1, 2019.

- a) Each candidate for the superintendent's endorsement shall hold a master's degree or equivalent awarded by a regionally accredited institution of higher education. For the purposes of this subsection (a), "equivalent" shall mean the completion of a degree beyond the bachelor's degree level (e.g., juris doctor (J.D.), doctor of philosophy (Ph.D.), doctor of education (Ed.D.)).
- b) Each candidate shall have completed an Illinois program approved for the preparation of superintendents pursuant to Subpart C ~~of this Part~~ or a comparable approved program in another state or country or hold a comparable certificate or license issued by another state or country (see Section 25.425 ~~of this Part~~).
- c) In accordance with Section 21B-25(2)(D) of the School Code, ~~beginning July 1, 2013~~, each candidate shall hold an Illinois professional educator license and have two years of experience working full-time in a general administrative position or as a principal, director of special education or chief school business official either:

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- 1) on the Illinois general administrative, principal, director of special education or chief school business officer endorsement in:
 - A) an Illinois public school; or
 - B) a nonpublic school recognized under 23 Ill. Adm. Code 425 (Voluntary Registration and Recognition of Nonpublic Schools) whose chief administrator is required to hold a professional educator license endorsed for general administrative or principal and when a majority of the teachers employed in the school are required to hold a professional educator license endorsed in the teaching field specific to each teacher's assignment; or
- 2) while holding a credential required by the employing state in order to serve as principal, director of special education or chief school business official that is comparable in validity and educational and experience requirements (Section 21B-25(2)(D) of the School Code) to the applicable Illinois endorsement, if the candidate completed a comparable out-of-state program for the applicable credential held. (See also Section 25.425 of this Part.)
- d) A candidate's experience serving in a position other than principal for which the general administrative endorsement is required shall be accepted as qualifying the individual to receive the superintendent's endorsement, provided the application for the endorsement is submitted on or before August 31, 2014.
- e) Each candidate shall be required to pass the applicable content-area test (see Section 25.710 ~~of this Part~~), as well as the test of basic skills pursuant to Section 25.720 ~~of this Part~~.
- f) Nothing in this Section is intended to preclude the candidate from seeking the issuance of an educator license with stipulations endorsed for provisional educator under Section 21B-20 of the School Code in the event that he or she has failed to meet one or more of the requirements for a professional educator license endorsed for superintendent.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Programs for the Preparation of Superintendents in Illinois
- 2) Code Citation: 23 Ill. Adm. Code 33
- 3) Section Number: 33.70 Proposed Action:
Amendment
- 4) Statutory Authority: 105 ILCS 5/2-3.6
- 5) A Complete Description of the Subjects and Issues Involved: Part 33, which became effective September 14, 2014, establishes requirements for superintendent preparation programs offered by institutions of higher education or approved not-for-profit entities (as defined in Section 33.10), in partnership with one or more school districts and in consultation with one or more professional organizations that represent school administrators, school boards, chief school business officials or regional superintendents of schools. Much of the substance of Part 33 relied heavily on the current rules governing principal preparation programs (23 Ill. Adm. Code 30). Consequently, a reference to principal preparation programs was inadvertently retained in Section 33.70(g) and is now being corrected to read "superintendent preparation program".
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other 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

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

217/782-5270
rules@isbe.net

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: The original rulemaking was not yet in effect and the error had not been noted.

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

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TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER b: PERSONNELPART 33
PROGRAMS FOR THE PREPARATION OF SUPERINTENDENTS IN ILLINOIS

Section

33.10	Definitions
33.20	Purpose and Applicability
33.30	General Program Requirements
33.40	Internship Requirements
33.45	Assessment of the Internship
33.50	Coursework Requirements
33.60	Candidate Selection
33.70	Program Approval and Review
33.APPENDIX A	Competencies for Superintendents
33.APPENDIX B	Standard 2: Required Assessments
33.APPENDIX C	Standard 2: Assessment Rubric

AUTHORITY: Implementing Section 21B-25 and authorized by Section 2-3.6 of the School Code [105 ILCS 5/21B-25 and 2-3.6].

SOURCE: Adopted at 38 Ill. Reg. 18948, effective September 8, 2014; amended at 39 Ill. Reg. _____, effective _____.

Section 33.70 Program Approval and Review

- a) A program seeking approval shall follow the procedures set forth in 23 Ill. Adm. Code 25.145 (Approval of New Programs within Recognized Institutions).
- b) In addition to meeting the requirements of 23 Ill. Adm. Code 25.145, the program proposal required to be submitted as part of the request for approval shall specify how the program will meet the requirements set forth in this Part, as well as address each of the following:

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- 1) The guidance to be developed to ensure that internship supervisors effectively assist candidates to optimize their experiences during the internship;
- 2) The roles and responsibilities of candidates and internship supervisors;
- 3) The process the institution or not-for-profit entity will use to communicate with the internship supervisor and candidate;
- 4) Any additional requirements for admission to the program that the institution or not-for-profit entity will impose;
- 5) A description of the rubric the program will use to assess and evaluate the quality of a candidate's portfolio required under Section 33.60;
- 6) The competencies, to include those specified in Appendix A, expected of candidates who complete the program and how those expectations will be communicated to the candidate upon his or her admittance to the program;
- 7) The activities to meet the expectations embedded in the competencies specified in Appendix A that will be required of candidates for completion of the program and how these activities and expectations will be communicated to the candidate upon his or her admittance to the program;
- 8) A copy of the partnership agreement or agreements and a description of the partners' involvement in the development of the program, a description of the roles each partner will have, and information about how the partnership will continue to operate and how it will be evaluated;
- 9) A copy of any agreements with school districts (other than those participating in the partnership) that will serve as sites for the internship or field experiences;
- 10) A description of each course proposed and the internship, to include:
 - A) a course syllabus;
 - B) how progress will be measured and successful completion will be determined;

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- C) a data table that demonstrates each course's, and the internship's, alignment to the ELCC standards (see Section 33.30(c)); and
 - D) for individual courses, a detailed description of any field experiences required for course completion;
- 11) Copies of assessments and rubrics to be used in the program, including but not limited to samples of scenarios to which a candidate must provide a written response and interview questions for selection in the program and any additional assessments to be used for the internship beyond what is required under Section 33.45;
 - 12) A description of the coursework for candidates and training to be provided for faculty members relative to the evaluation of licensed staff under Article 24A of the School Code [105 ILCS 5/Art. 24A]; and
 - 13) A complete description of how data about the program will be collected, analyzed and used for program improvement, and how these data will be shared with the educational unit or not-for-profit entity and the partnering school district.
- c) A request for program approval shall be submitted to the State Superintendent for consideration (see 23 Ill. Adm. Code 25.145(b)). The State Superintendent shall provide a complete request to the Superintendent Preparation Review Panel for its review and recommendation as to whether the program should be approved. The panel, to be appointed by the State Superintendent, shall consist of:
- 1) two individuals holding current and valid Illinois professional educator licenses endorsed in a teaching field and currently employed in Illinois public schools;
 - 2) four individuals holding current and valid professional educator licenses endorsed for superintendent, and currently employed as superintendents in Illinois public schools;
 - 3) two individuals holding current and valid professional educator licenses endorsed for principal or general administrative and currently employed as principals in Illinois public schools;

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- 4) two individuals from institutions of higher education in Illinois that have a recognized educational unit approved for the provision of educator preparation programs pursuant to 23 Ill. Adm. Code 25.Subpart C, one of whom shall be from a public institution and one of whom shall be from a nonpublic institution; and
 - 5) one licensed administrative staff member currently employed in a school district in any city in Illinois having a population exceeding 500,000.
- d) The Superintendent Preparation Review Panel shall acknowledge receipt of the request for approval within 30 days after receipt. Based upon its review, the Panel may:
- 1) issue a recommendation to the State Educator Preparation and Licensure Board (SEPLB) that the superintendent preparation program be approved; a copy of that recommendation and notification of the SEPLB's meeting to consider the Panel's recommendation shall be provided to the applicant; or
 - 2) issue a recommendation to the SEPLB that the superintendent preparation program be denied, including the reasons for the recommended denial; a copy of that recommendation and notification of the SEPLB's meeting to consider the Panel's recommendation shall be provided to the applicant.
- e) An institution or not-for-profit entity may withdraw its request for approval by notifying the State Superintendent of Education of its intent to withdraw no later than 15 days after it receives notification of the Superintendent Preparation Review Panel's recommendation.
- f) Actions following upon the recommendation of the SEPLB shall be as described in 23 Ill. Adm. Code 25.160 (Notification of Recommendations; Decisions by State Board of Education).
- g) An approved ~~superintendent~~ superintendent/principal preparation program shall be subject to the review process set forth in 23 Ill. Adm. Code 25.Subpart C.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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

<u>Section Numbers:</u>	<u>Proposed Action:</u>
235.20	Amendment
235.30	Amendment
235.40	Amendment
235.50	Amendment
235.60	Amendment
235.65	New Section
235.67	New Section
235.70	Amendment
235.Appendix C	New Section
- 4) Statutory Authority: 105 ILCS 5/1C-2
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking results from the State Board of Education's receipt of funding under the Race to the Top – Early Learning Challenge Phase II (RTT-ELC) grant. The purpose of the initiative is to design and implement early learning and development systems that are comprehensive in scope and coordinated among the various state agencies charged with administering the programs.

Efforts are under way to coordinate the State Board's Preschool for All Children (PFA) and Prevention Initiative (PI) grant programs with those early learning programs offered through or licensed by Department of Human Services (DHS) or Department of Children and Family Services (DCFS). To this end, the proposed amendments require PFA grantees to align to DHS' quality rating and improvement system, which is called ExceleRate Illinois (see new Section 235.65). Early learning programs enrolled in ExceleRate Illinois are able to achieve a designation of "Licensed", "Bronze", "Silver" or "Gold" based on an assessment of teaching and learning; family and community engagement; leadership and management; and staff qualifications and continuing education.

ExceleRate Illinois considers the stringent statutory and regulatory requirements for receipt of funding under the Early Childhood Block Grant. As such, PFA grantees will receive a "Circle of Quality" designation, which will be determined through on-site monitoring visits conducted to assess the quality of the program offered, as well as serve as a check of the grantee's compliance with all statutory and regulatory requirements.

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Based on the availability of funds, monitoring visits will be conducted every four years (see new Section 235.67). As each monitoring visit is concluded, the PFA or PI program will receive a monitoring report listing any deficiencies found. Based on the report, a program will be required to prepare a continuous quality improvement plan that will propose actions to remedy the deficiencies and set forth the timelines for completion. If the program fails to correct the deficiencies within the timelines proposed, then its request for continuation funding may be removed. Additionally, a program's progress in making improvement will contribute to consideration of renewal applications and requests for additional funding to expand currently approved programs.

The agency also is proposing developmental standards for birth to age 3 programs. These standards, as well as the learning standards for age-3-to-5 programs, are incorporated into the ExceleRate Illinois system. Alignment to the standards is required for an early learning program to achieve a designation of "Bronze" or above.

Other changes proposed in Part 235 include the following:

- incorporation of the most recent edition of standards for early language development for English learners (Section 235.20(c)(3)(C));
- requirement for directors of preschool programs to hold professional educator licenses endorsed for either principal or general administrative, starting July 1, 2017 (Section 235.20(c)(9)(E));
- requirement that any snack or meal served by a program meet certain food and beverage standards (235.20(c)(14)); and
- other technical changes to more fully flesh out the parameters for program funding.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes, see Section 235.20(c)(3)(C).
- 10) Are there any other proposed rulemakings pending on this Part? No

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- 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 IL 62777-0001

217/782-5270
rules@isbe.net
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2015

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

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TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER 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
- 235.55 Proposal Review Process and Additional Funding Priorities for Preschool Education Programs
- 235.60 Application Content and Approval for Continuation Programs
- [235.65 ExceleRate Illinois: Quality Rating and Improvement System](#)
- [235.67 Program Monitoring](#)
- 235.70 Terms of the Grant

SUBPART B: PRESCHOOL FOR ALL CHILDREN PROGRAM

Section

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

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

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- 235.APPENDIX A Illinois Early Learning and Development Standards – Children Age 3 to Kindergarten Enrollment Age
- 235.APPENDIX B Illinois Birth to Five Program Standards
- 235.APPENDIX C Illinois Early Learning Guidelines – Children from Birth to Age 3

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; amended at 36 Ill. Reg. 6827, effective April 18, 2012; amended at 39 Ill. Reg. _____, effective _____.

SUBPART A: PRESCHOOL EDUCATION AND
PREVENTION INITIATIVE PROGRAMS

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

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specified in the RFP. The RFP shall provide at least 45 calendar days in which to submit proposals.

- 1) Proposals for preschool education programs shall be submitted electronically through the State Board of Education's grant management system (see <http://www.isbe.net/egms/>).
 - 2) Proposals for prevention initiative programs shall be submitted in a format specified by the State Board of Education.
- 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;
 - 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, which may include, as applicable, the most current designation the applicant has received through the ExceleRate Illinois: Quality Rating and Improvement System (<http://www.excelerateillinoisproviders.com/>); 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 how the comprehensive services to be provided are aligned with:

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- A) ~~asthe~~ applicable to the program being proposed, the Illinois Early Learning and Development Standards, as set forth in Appendix A or, beginning July 1, 2015, the Illinois Early Learning Guidelines, as set forth in Appendix C of this Part;
- B) the Illinois Birth to Five Program Standards as set forth in Appendix B ~~of this Part;~~ and
- C) for proposed preschool education programs that will serve English language-learners, the "Early English Language Development Standards Ages 2.5-5.5 2013 Edition" (2013)"English Language Proficiency Standards for English Language Learners in PreKindergarten through Grade 12" (2007), published by the Board of Regents of the University of Wisconsin System on behalf of the WIDA Consortium, Wisconsin Center for Education Research (WCER), University of Wisconsin-Madison, 1025 West Johnson Street, MD#23, Madison WI 53706 and posted at <http://www.wida.us/standards/elp.aspx>. No later amendments to or editions of these standards are incorporated ~~by this Section.~~
- 4) 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; this description must list, to the extent known, the other services offered and an estimate of the number of children being served.
- 5) 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

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- C) the estimated number of children and/or families to be enrolled.
- 6) 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) research-based 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;
- B) screening instruments/activities that are:
- i) 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; and
- ii) formally validated with evidence that the instruments/activities reliably and accurately detect children who are at risk for developmental delays and do not incorrectly identify children disproportionately as being at risk of academic failure;
- 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; ~~and or~~
- ii) ~~for prevention initiative programs,~~ information about the parents, such as age, educational achievement and employment history;

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- 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.
- 7) A description of the parent education and involvement component that will be provided, which shall include activities in each of the following areas:
- 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;
 - 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.
- 8) 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 ([see http://www.acf.hhs.gov/programs/ohs](http://www.acf.hhs.gov/programs/ohs)) 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 ~~at~~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.
- 9) 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.

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- A) Teachers of children ages 3 to 5 years must hold a professional educator license endorsed in early childhood education or an educator license with stipulations endorsed in early childhood and one of the following endorsements: an initial, initial alternative, standard, master, provisional educator, alternative provisional educator, alternative, resident teacher, or visiting international educator~~teacher early childhood certificate~~. (See Section 2-3.71(a)(3) of the School Code and 23 Ill. Adm. Code 1. Appendix A.)
- B) Paraprofessional~~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(b) (Endorsement for Paraprofessional Educator) or hold an approval for paraprofessional educator received in accordance with Section 25.15(a)(2)(J) (Types of Licenses: Exchange)~~25.510(e)~~.
- 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.
- D) By July 1, 2017, directors of child care centers offering preschool programs funded under Section 2-3.71 of the School Code and this Part shall have a minimum of a baccalaureate degree in child development or early childhood education or the equivalent and a Gateways to Opportunity Level II or III Illinois Director Credential issued pursuant to Section 10-70 of the Department of Human Services Act [20 ILCS 1305/10-70] (see <http://ilgateways.com/en/illinois-director-credential>). As used in this subsection (c)(9)(D), equivalent to baccalaureate degree in child development or early childhood education is defined as a baccalaureate in any discipline with a minimum of 24 semester hours of credit in child development, early childhood education, or early childhood special education, including relevant field experience.
- E) By July 1, 2017, directors of preschool programs funded under Section 2-3.71 of the School Code and this Part and administered

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by school districts shall hold a professional educator license endorsed for principal or general administrative issued under 23 Ill. Adm. Code 25.337 (Principal (2013)) or 25.335 (General Administrative (Through August 31, 2014)), respectively.

- F) Beginning September 1, ~~2015~~²⁰¹², an applicant must submit an assurance that each staff member who will provide services to children enrolled in an early childhood classroom funded under this Part and who does not hold a professional educator license certificate or approval issued by the State Board of Education pursuant to Article 21B of the School Code [105 ILCS 5/Art.~~21B-21~~] and 23 Ill. Adm. Code 25 (Educator License Certification) has registered in the Illinois Department of Human Services' "Gateways to Opportunity" registry (see <http://registry.ilgateways.com>).
- 10) A description of staff development assessment procedures and ongoing professional development activities to be conducted, to include a description of how the results of the assessment will be used to inform the program's staff development and, for proposals for expanded programs, the continuous quality improvement plan required under Section 235.67.
- 11) A description of how developmental and/or educational progress will be assessed and documented to ensure that the program meets the needs of the child and provides a system whereby that child's parents are routinely advised of their child's progress.
- A) The procedures to assess progress shall be formally validated with evidence that the procedures reliably and accurately assess a child's progress relative to his or her individual needs and the standards set forth in Section 235.Appendix A or 235.Appendix C, as applicable.
- B) The procedures shall address each of the domains of development specified in Section 235.20(c)(6).
- ~~12)~~¹¹⁾ A description of the required program components, as set forth in either Section 235.30 or 235.40 ~~of this Part.~~

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- ~~13)~~¹²⁾ 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, which must provide for at least 12.5 hours a week), an annual calendar of at least 165 days, 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.
- ~~14)~~¹³⁾ 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.
- A) Food and beverages provided in programs located in a school district attendance center shall meet the U.S. Department of Agriculture's competitive food standards set forth at 7 CFR 210.11 (2013).
- B) Food and beverages provided in programs located in a licensed child care center or other community setting shall meet DCFS' standards set forth at 89 Ill. Adm. Code 407.330 (Nutrition and Meal Service).
- ~~15)~~¹⁴⁾ A budget summary and payment schedule, as well as a budget breakdown, i.e., a detailed explanation of each line item of expenditure. 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.
- ~~16)~~¹⁵⁾ 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.
- ~~17)~~¹⁶⁾ 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.
- ~~18)~~¹⁷⁾ Such certifications, assurances and program-specific terms of the grant as the State Superintendent of Education may require, to be signed by each

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applicant that is a party to the application and submitted with the proposal.
(Also see Section 235.70 ~~of this Part.~~)

- 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 39 Ill. Reg. _____, effective _____)

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 description of how the proposed educational program is developmentally appropriate for each child, which shall:
 - A) 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; and
 - B) address the domains of development specified in Section 235.20(c)(6) and how a language and literacy development program shall be implemented for each child based on that child's individual assessment; and
 - ~~C) 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; beginning July 1, 2013, the procedures to assess student progress shall be formally validated with evidence that the procedures reliably and accurately assess a child's progress relative to his or her individual needs and the standards set forth in Section 235. Appendix A of this Part.~~

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- 2) the maximum number of children to be screened for program eligibility and, for those children ~~who~~ that are screened, the maximum to be served by the 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;
 - 3) a description of how the risk factors to determine eligibility reflect the community to be served and will be weighted to ensure that the children most at risk of academic failure are enrolled;
 - 4)3) 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)4) a description of the written transition plan to~~how the program will~~ ensure that those children who are age-eligible for kindergarten are enrolled in school upon leaving the preschool education program;
 - 6)5) 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)6) a description of the provisions to be made to allow for the participation of children with disabilities in the program; and-
 - 8) a description of the steps to be taken to ensure that a child who is not yet toilet trained is not excluded from 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)(6)~~of this Part~~);

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- 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.
- 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 39 Ill. Reg. _____, effective _____)

Section 235.40 Additional Program Components for Prevention Initiative Proposals

In addition to the requirements set forth in Section 235.20, applications for funding for prevention initiative programs and activities, as defined in Section 235.10(a)(2) ~~of this Part~~, must provide:

- a) evidence that the program is derived from research on successful prevention services for at-risk families, including specific references to research that discusses the types of services and strategies to be offered by the program as

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effective in addressing the needs of the families to be served, to include the identification of the program model and research-based curriculum to be implemented;

- b) the steps to be taken to ensure that the program will serve those children and families most in need of prevention initiative activities and services;
- c) a description of the steps to be taken to coordinate services in the area, including a description of how the community will be involved in the development of a system for making referrals and providing follow up, and how case management services will be used;
- d) a description of how services will be targeted to family needs, to include how a research-based family needs assessment will be conducted and used to implement an individual family service plan for each family served in the program;
- e) a description of the intensity of services that will be offered (e.g., the number of hours that are available for families to participate in activities and services);
- f) the steps to be taken to encourage families to attend regularly and remain in the program a sufficient time to make sustainable changes; and
- g) a referral system that ensures that 3-year-old children are placed into other early childhood education programs that meet their specific developmental needs and the services to be provided to ensure a successful transition into those other programs.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 235.50 Proposal Review and Approval for New or Expanding Programs

- a) Proposals submitted for funding to establish a new program or expand an existing program shall be evaluated in accordance with the following criteria.
 - 1) Population to be Served (30 points)
 - A) The proposal clearly indicates that the area to be served has a high number of children and families determined to be the most in need of the services provided by the Early Childhood Block Grant program, as indicated by high levels of poverty, illiteracy,

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unemployment, limited-English proficiency, or other need-related indicators, such as the school district's rate of dropouts, retention, truancy, teenage pregnancies and homeless students, high rates of infant mortality, birth trauma, low birth weight or prematurity, and high rates of child abuse and neglect, and that there exists in the area to be served an insufficient number of other programs and services to fully serve all children and families who potentially could be at risk.

- B) Criteria and indicators for identifying children and families who are eligible for the program are clearly established and likely to target those children and families most in need of services.
 - C) Effective recruitment strategies are proposed that are likely to ensure that the maximum number of eligible children and families are enrolled in the program.
- 2) Quality of Proposed Program (40 points)
- A) The proposed program and activities will sufficiently meet the identified needs of the population to be served and include child and parent activities designed to enhance child development and parent effectiveness and, ultimately, school readiness.
 - B) The program proposal provides for effective linkages among parents, education, health and social service agencies, and child care providers and includes a plan for coordination of services with other educational programs serving young children and their families.
 - C) The proposed program is built upon effective research about early childhood education and aligned to the applicable Illinois early learning standards (see Appendices A [or C and B of this Part](#)).
 - D) The evaluation strategies include measurable outcomes for children and families that are designed to effectively gauge the success of the program and yield sufficient data that can be used to improve the program.
- 3) Experience and Qualifications (20 points)

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- A) Proposed staff hold the appropriate [educatoreertifications](#) and/or [professional](#) licenses for their positions and have the qualifications and experience necessary to successfully implement a high-quality early childhood program.
- B) The staff development plan adequately addresses the needs of the project staff, offers a varied and full range of staff development experiences and provides sufficient opportunities for learning so as to allow staff to incorporate the training into program delivery activities.
- C) In addition, an eligible applicant other than a school district has presented evidence that it:
 - i) holds the appropriate licensure to operate as a day care facility;
 - ii) holds early childhood accreditations or has other relevant experience that demonstrates success in implementing and administering programs similar to the ones funded under the Early Childhood Block Grant Program; and
 - iii) has a successful track record with similar grants or contracts.
- 4) The program 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. (10 points)
- b) The selection of proposals for funding may be based in part on geographic distribution and/or the need to provide resources to school districts and communities with varying demographic characteristics.
- c) Priority consideration may be given to proposals with specific areas of emphasis, as identified by the State Superintendent of Education in a particular RFP.
- d) [For a previously funded applicant, progress toward correcting any deficiencies contained in an unfavorable monitoring report issued under Section 235.67 shall be considered in the review process.](#)

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- ~~e)4)~~ 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 Early Childhood Block Grant; and
 - 2) the resources requested in the top-ranked proposals, as identified pursuant to subsections (a) ~~through (d), (b) and (c) of this Section.~~

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 235.60 Application Content and Approval for Continuation Programs

The requirements of this Section shall apply to those applicants seeking funding to continue preschool education and prevention initiative programs beyond the initial grant period.

- 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 the program components outlined in Section 235.20 ~~of this Part~~ and either Section 235.30 or Section 235.40 ~~of this Part~~, as applicable for preschool education or prevention initiative programs;
 - 2) if applicable, a description of progress the applicant has made in remedying any deficiencies identified pursuant to Section 235.67 within the timelines specified for compliance;
 - ~~3)2)~~ budget summary and payment schedule as well as a budget breakdown, i.e., a detailed explanation of each line item of expenditure; and
 - ~~4)3)~~ the certifications and assurances referred to in Section 235.20(c)(18)235.20(e)(17) of this Part applicable to the renewal period.
- b) An Early Childhood Education Block Grant Program shall be approved for continuation provided that:

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- 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) deficiencies identified pursuant to Section 235.67 have been corrected and/or significant progress is being made within the timelines specified in the continuous quality improvement plan;
- 4)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
- 5)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 39 Ill. Reg. _____, effective _____)

Section 235.65 ExceleRate Illinois: Quality Rating and Improvement System

Beginning in the 2014-15 school year, each grantee that operates a preschool education program funded under this Part shall participate in ExceleRate Illinois (see <http://www.excelerateillinois.com> and click on "Information for Providers"). ExceleRate Illinois is the State's quality rating and improvement system that emphasizes continuous quality improvement for early learning and development programs and uses a consistent set of standards organized into four domains of teaching and learning; family and community engagement; leadership and management; and qualifications and continuing education.

- a) Based on the results of monitoring conducted pursuant to Section 235.67, grantees shall achieve an ExceleRate Illinois designation based on evidence of meeting the standards for that designation (see <http://www.excelerateillinoisproviders.com/resources/standard-and-evidence-requirements> for further information).
- b) The physical location of the preschool education program shall inform the designation to be assigned under subsection (a).
 - 1) If the grantee is a school district and administers the preschool education program in multiple attendance centers:

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- A) the individual attendance center in which a program is located shall achieve a designation separate from the school district in situations when the attendance center has three or more preschool classrooms; or
- B) the individual attendance center in which a program is located shall achieve the designation of the school district in situations when the attendance center has fewer than three classrooms.
- 2) If the grantee is a community-based child care center, the designation achieved by the community-based child care center will be assigned to the preschool classrooms housed at that facility. The requirements of this subsection (b)(2) shall apply to any school district that operates a preschool education program in a community-based child care center.
- 3) If the grantee is a public or private not-for-profit or for-profit entity other than a school district or a community-based child care center, the designation achieved by the public or private not-for-profit or for-profit entity shall be assigned to the preschool classrooms administered by the grantee regardless of the number of preschool classrooms.
- c) The designation achieved by a program shall not be changed unless the results of ongoing monitoring authorized under Section 235.67 indicate that the program has either:
- 1) met the standards for receipt of a higher designation; or
- 2) failed to maintain a level of quality necessary to retain the designation currently achieved.
- d) A program that fails to achieve a "Gold Circle of Quality" or "Silver Circle of Quality" designation shall be subject to actions detailed in Section 235.67.

(Source: Added at 39 Ill. Reg. _____, effective _____)

Section 235.67 Program Monitoring

- a) Each program shall be monitored on site at least once every four years to determine to the extent to which it is complying with all operational requirements

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and to assess the quality of the developmental and/or educational components offered.

- b) By no later than September 1 of each year, the State Board of Education shall post at <http://www.isbe.net/earlychi/default.htm> the operational compliance checklist and the name of the research-based assessment tool to be used in the monitoring process.
- c) Each program shall receive a monitoring report with the results of the operational compliance checklist and the quality assessment. Using those results, the program shall complete a continuous quality improvement plan addressing operational compliance and a continuous quality improvement plan addressing the quality assessment.
- 1) Each continuous quality improvement plan shall, at a minimum, address:
- A) the specific issue or indicator for which a deficiency was noted;
- B) the actions to be taken to remedy the deficiencies and, as applicable, the resources and professional development that will be targeted towards improvement efforts; and
- C) The person responsible and the timelines in which the deficiencies are expected to be corrected, provided that no continuous quality improvement plan shall be in effect for more than two school years.
- 2) The continuous quality improvement plan shall be signed by the person legally authorized to submit the plan and bind the applicant to its contents and electronically submitted to the State Board of Education not later than 30 days from program's receipt of the monitoring report.
- 3) By September 1 of each year, the State Board of Education shall post at <http://www.isbe.net/earlychi/default.htm> the templates to be used to develop the continuous quality improvement plan.
- d) For each year in which the continuous quality improvement plan is in effect, the program shall submit a progress report to the State Board of Education that describes the progress the program has made relative to remedying the

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deficiencies identified. The progress report shall be submitted electronically no later than June 1 of each year.

- e) A program that fails to reach the goals of the continuous quality improvement plan within the timelines specified in the plan shall be subject to additional sanctions, including, but not limited, to removal of grant approval.

(Source: Added at 39 Ill. Reg. _____, effective _____)

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.~~
- a)b) Each grantee shall submit evaluation information and other reports containing program-related data in a format specified by the State Board of Education, providing:
- 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.
- b)e) At least once every four years, a~~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.
- c)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.

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- ~~d)e)~~ A time distribution worksheet shall be kept for any staff member in a part-time position.
- ~~e)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)
- ~~f)g)~~ Grant funds may not be used to provide religious instruction, conduct worship services, or engage in any form of proselytization.
- ~~g)h)~~ Prior to final funding approval, each grantee shall:
- 1) present evidence that staff meet the requirements of Section 235.20(c)(9) ~~of this Part~~, as applicable; and
 - 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)~~ ~~All preschool education program grantees must report the following to the Illinois State Board of Education no later than October 15 of each year.~~
- ~~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.~~
- ~~h)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).
- ~~i)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-

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risk status or income levels) shall result in the amount of [the](#) grant award being reduced proportionate to the decrease in percentage of children enrolled.

- ~~j)h~~ 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.
- ~~k)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).
- ~~l)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 [who is holding an educator license pursuant to Article 21B and](#) 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 39 Ill. Reg. _____, effective _____)

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Section 235.APPENDIX C: Illinois Early Learning Guidelines – Children from Birth to Age 3

The Illinois Early Learning Guidelines – Children from Birth to Age 3 are broad statements that provide parents, teachers and caregivers useful information about a child's growth and development.

Self-Regulation: Foundation of Development

Physiological Regulation: Children demonstrate the emerging ability to regulate their physical processes in order to meet both their internal needs and external demands in accordance with social and cultural contexts.

Emotional Regulation: Children demonstrate the emerging ability to identify and manage the expression of emotion in accordance with social and cultural contexts.

Attention Regulation: Children demonstrate the emerging ability to process stimuli, focus and sustain attention, and maintain engagement in accordance with social and cultural contexts.

Behavior Regulation: Children demonstrate the emerging ability to manage and adjust behaviors in accordance with social and cultural contexts.

Social and Emotional Development

Attachment Relationships: Children form secure attachment relationships with caregivers who are emotionally available, responsive and consistent in meeting the children's needs.

Emotional Expression: Children demonstrate an awareness of and the ability to identify and express emotions.

Relationship with Adults: Children demonstrate the desire and develop the ability to engage, interact and build relationships with familiar adults.

Self-Concept: Children develop identity of self.

Relationship with Peers: Children demonstrate the desire and develop the ability to engage and interact with other children.

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Empathy: Children demonstrate an emerging ability to understand someone else's feelings and to share in the emotional experiences of others.

Physical Development and Health

Gross Motor: Children demonstrate strength, coordination and controlled use of large muscles.

Fine Motor: Children demonstrate the ability to coordinate their small muscles in order to move and control objects.

Perceptual: Children demonstrate the ability to distinguish, process and respond to sensory stimuli in their environment.

Self-Care: Children demonstrate the desire and ability to participate in and practice self-care routines.

Language Development, Communication and Literacy

Social Communication: Children demonstrate the ability to engage and maintain communication with others.

Receptive Communication: Children demonstrate the ability to comprehend both verbal and nonverbal communication.

Expressive Communication: Children demonstrate the ability to understand and convey thoughts through both nonverbal and verbal expression.

Early Literacy: Children demonstrate interest in and comprehension of printed materials.

Cognitive Development

Concept Development: Children demonstrate the ability to connect pieces of information in understanding objects, ideas and relationships.

Memory: Children demonstrate the ability to acquire, store, recall and apply past experiences.

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Spatial Relationships: Children demonstrate an awareness of how objects and people move and fit in space.

Symbolic Thought: Children demonstrate the understanding of concepts, experiences and ideas through symbolic representation.

Creative Expression: Children demonstrate the ability to convey ideas and emotions through creative expression.

Logic and Reasoning: Children demonstrate the ability to use knowledge, previous experiences, and trial and error to make sense of and have an impact on their world.

Quantity and Numbers: Children demonstrate awareness of quantity, counting and numeric competencies.

Science Concepts and Exploration: Children demonstrate a basic awareness of and use scientific concepts.

Safety and Well-Being: Children demonstrate the emerging ability to recognize risky situations and respond accordingly.

Approaches to Learning

Curiosity and Initiative: Children demonstrate interest and eagerness in learning about their world.

Problem-Solving: Children attempt a variety of strategies to accomplish tasks, overcome obstacles, and find solutions to tasks, questions and challenges.

Confidence and Risk-Taking: Children demonstrate a willingness to participate in new experiences and confidently engage in risk-taking.

Persistence, Effort and Attentiveness: Children demonstrate the ability to remain engaged in experiences and develop a sense of purpose and the ability to follow through.

Creativity, Inventiveness and Imagination: Children demonstrate the ability to use creativity, inventiveness and imagination to increase their understanding and knowledge of the world.

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(Source: Added at 39 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Driver Education
- 2) Code Citation: 23 Ill. Adm. Code 252
- 3) Section Number: 252.20 Proposed Action:
Amendment
- 4) Statutory Authority: 105 ILCS 5/27-24 through 27-24.10
- 5) A Complete Description of the Subjects and Issues Involved: Section 20(c) of this Part governing Driver Education sets forth the standards for individuals who provide instruction to public school students "who have physical limitations that would require the use of a specially equipped car or for students who require other specialized instruction (e.g., vision or hearing impairments, cognitive disabilities)". The rules require that these instructors be certified as driver rehabilitation specialists by the ADED – Association for Driver Rehabilitation Specialists. In communicating the criteria for that certification, the rules relied upon a specific web address of the association that is no longer valid. A link to the association's home page will be provided instead.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other 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

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Illinois State Board of Education
100 North First Street, S-493
Springfield IL 62777-0001

217/782-5270
rules@isbe.net

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2014

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

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TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER g: SPECIAL COURSES OF STUDYPART 252
DRIVER EDUCATION

Section	
252.10	Definitions
252.20	Administration and Procedures
252.25	Eligibility of Students
252.30	The Terms of Reimbursement for Public School Participation in the Course
252.40	Driver Education Personnel Requirements
252.50	Commercial Schools (Transferred)

AUTHORITY: Implementing and authorized by the Driver Education Act [105 ILCS 5/27-24 through 27-24.10].

SOURCE: Adopted September 4, 1975; codified at 8 Ill. Reg. 1585; emergency amendment at 9 Ill. Reg. 15558, effective October 1, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 12922, effective July 22, 1986; Section 252.50 transferred to 92 Ill. Adm. Code 1060.240 (Secretary of State) pursuant to Section 5-80(d) of the Illinois Administrative Procedure Act [5 ILCS 100/5-80(d)] and Section 6-411 of the Illinois Driver License Law [625 ILCS 5/6-411] at 11 Ill. Reg. 1631; amended at 18 Ill. Reg. 16307, effective October 25, 1994; amended at 22 Ill. Reg. 7577, effective April 17, 1998; amended at 26 Ill. Reg. 10476, effective July 1, 2002; amended at 28 Ill. Reg. 15481, effective November 22, 2004; amended at 29 Ill. Reg. 15936, effective October 3, 2005; amended at 32 Ill. Reg. 10922, effective July 7, 2008; amended at 33 Ill. Reg. 15273, effective October 20, 2009; amended at 34 Ill. Reg. 3018, effective February 18, 2010; amended at 37 Ill. Reg. 6639, effective May 2, 2013; amended at 39 Ill. Reg. _____, effective _____.

Section 252.20 Administration and Procedures

- a) Availability of the Course – Any public school district maintaining grades 9 through 12 must provide the driver education course for any legal resident of the district between the ages of 15 and 21 years who requests the course, provided the resident is eligible as set forth in Section 27-24.2 of the School Code. All eligible students who reside in a school district must be provided an equal opportunity to

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enroll in driver education, and school districts are obligated to make the driver education course available within a reasonable length of time after each individual's declaration of intent is made. A "reasonable length of time" shall be determined based on the student's individual needs and the school district's ability to meet those needs, provided that the course must be offered within 12 months after the declaration of intent.

- 1) Public school districts that include high schools must provide the driver education course for all eligible students of the district who attend a nonpublic school that does not offer the course.
 - 2) Nonpublic schools may offer a driver education course at their own expense.
 - 3) Public school districts that include high schools must provide the driver education course for all eligible Illinois students, regardless of the district of their residence, who attend a nonpublic school located within that school district's boundaries when application is made by the administrators of the nonpublic school. The application shall constitute a declaration of intent by the affected student or students. *By April 1 the nonpublic school shall notify the district offering the course of the names and district numbers of the nonresident students desiring to take such ~~a~~ course the next school year. The district offering such ~~the~~ course shall notify the district of residence of those students affected by April 15.* [105 ILCS 5/27-24.4]
 - 4) An eligible student may elect to enroll in a driver education course at a commercial driver training school at his or her expense.
- b) When to Offer the Course – The classroom portion of the course shall be during the school day and may be offered at other times (i.e., before or after school, in the evenings or on weekends). The school district shall determine when to offer the behind-the-wheel portion of the course during the regular school year, which may be during the school day, at times other than during the school day, or through a combination of both options; however, this subsection (b) shall not authorize a school district to offer behind-the-wheel instruction only during the summer. (Also see subsection (c)(2).)
- 1) Enrollment in a driver education course must be closed at the inception of

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the course, except as provided in subsection (b)(2) ~~of this Section~~.
Another course may be started when enrollment warrants.

- 2) A student who transfers to a new school after the inception of the driver education course at that school may be allowed to enroll in the course under the following conditions.
 - A) The driver education course in which the student was enrolled at the previous school offered 30 clock hours of classroom instruction and 6 clock hours of behind-the-wheel instruction.
 - B) The length of time the student previously participated in the driver education course (prior to his or her transfer) is sufficient to allow the student to complete the course at the new school within the time during which it is offered.
 - C) The new school has received verification, either by mail or in an electronic format, of the student's previous participation in the driver education course (i.e., length of time in the course, grades received). The verification shall be placed in the student's temporary school record as defined in 23 Ill. Adm. Code 375.10.
- 3) *A high school student may be allowed to commence the classroom instruction part of the driver education course prior to reaching age 15 if the student will be eligible to complete the entire course within 12 months after being allowed to commence classroom instruction. (See Section 27-24.2 of the School Code.)*
- c) Course Organization – Driver education courses must be organized according to the standards established in the Driver Education Act [105 ILCS 5/27-24 through 27-24.10] and this Part.
 - 1) The classroom and the behind-the-wheel instruction shall be aligned to the course content standards set forth at 92 Ill. Adm. Code 1060.181 (Teen Accreditation Classroom and Behind-the-Wheel Requirements).
 - 2) The classroom and the behind-the-wheel instruction each must be scheduled regularly throughout a period of not less than six complete weeks (four weeks allowable in summer courses and for schools using

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block scheduling).

- 3) Behind-the-wheel instruction shall not begin until the student has started classroom instruction; however, a student may be enrolled in both portions of the course on a concurrent basis.
 - 4) At least one but not more than three student observers must be in the car during behind-the-wheel instruction. At least one hour of observation time is required for each hour of behind-the-wheel instruction. This subsection (c)(4) does not apply when a student's Individualized Education Program stipulates that the student receive behind-the-wheel instruction separately.
- d) Dual-Control Cars – The instructor shall occupy the front passenger seat. The driver education car is to be used for instructional purposes. A school district may not use the driver education car for purposes other than those designated by agreement or contract.
 - e) Contracting – In fulfilling the requirements of the Driver Education Act, a public school district must either offer the course in its own school or must provide the course for its students, and any other legal residents of the school district who request the course, through a joint agreement with another public school district or through the provisions of cooperative school district programs. Schools offering a driver education course shall not contract for the course from any individual or commercial driver training school, except as provided in subsection (e)(1) ~~of this Section~~ or through a waiver approved pursuant to Section 2-3.25g of the School Code [105 ILCS 5/2-3.25g].
 - 1) A public school district may contract for the provision of the behind-the-wheel portion of the course for students who have physical limitations that would require the use of a specially equipped car or for students who require other specialized instruction (e.g., vision or hearing impairments, cognitive disabilities) provided that:
 - A) the facility is approved by the Illinois Secretary of State (SOS) as meeting all of the requirements of Chapter 6, Article IV of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Art. IV] and of rules promulgated by SOS (see 92 Ill. Adm. Code 1030 (Issuance of Licenses));

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- B) each instructor providing instruction to the public school district's students is certified as a Driver Rehabilitation Specialist by the ADED – the Association for Driver Rehabilitation Specialists (see <http://www.driver-ed.org/> <http://www.driver-ed.org/i4a/pages/index.cfm?pageid=1>), 200 First Avenue NW, Suite 505, Hickory ~~NC, North Carolina~~ 28601); and
 - C) the facility conducts an evaluation of the student's physical and cognitive abilities to determine the individualized course of instruction.
- 2) Subject to the limitations set forth in Section 2-3.25g(d) of the School Code, a district that provides driver education through a contract with a commercial driver training school pursuant to an approved waiver shall:
- A) post the contract with the commercial driver training school on its website or, if it does not maintain a website, make the contract available upon request;
 - B) notify the State Board of Education within 15 calendar days of an instructor leaving the program or a new instructor being assigned. The notice shall include the instructor's name, birth date and driver's license number, and the personal identification number assigned by the State Board; and
 - C) maintain a record, for the term of the waiver's approval, of all materials related to the application for the waiver, which shall be made available to parents and guardians upon request.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Department of Children and Family Services Scholarship Program
- 2) Code Citation: 89 Ill. Adm. Code 312
- 3) Section Number: 312.60 Proposed Action:
Amendment
- 4) Statutory Authority: Implementing and authorized by Section 8 of the Children and Family Services Act [20 ILCS 505/8]
- 5) Effective Date of Rulemaking: December 31, 2014
- 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 Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 38 Ill. Reg. 13564; July 7, 2014
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Other than technical changes suggested by the Joint Committee on Administrative Rules, no other changes were made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The adopted amendments clarify the scoring process of the applications for the Department Scholarship Awards Selection Committee.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Jeff Osowski

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield IL 62701-1498

217/524-1983
E-Mail: cfpolicy@idcfs.state.il.us

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER a: SERVICE DELIVERYPART 312
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES SCHOLARSHIP PROGRAM

Section	
312.10	Purpose
312.20	Definitions
312.30	Description
312.40	Eligibility Requirements
312.50	Application
312.60	Selection
312.70	Service Planning and Living Arrangements
312.80	Ongoing Eligibility Requirements
312.90	Benefits
312.100	Discharge from the Scholarship Program

AUTHORITY: Implementing and authorized by Section 8 of the Children and Family Services Act [20 ILCS 505/8].

SOURCE: Adopted by emergency rulemaking at 20 Ill. Reg. 924, effective December 29, 1995, for a maximum of 150 days; emergency expired May 27, 1996; new Part adopted at 23 Ill. Reg. 6784, effective June 1, 1999; amended at 28 Ill. Reg. 8456, effective June 4, 2004; amended at 32 Ill. Reg. 1144, effective January 30, 2008; amended at 33 Ill. Reg. 7880, effective June 15, 2009; amended at 38 Ill. Reg. 1988, effective December 31, 2013; amended at 39 Ill. Reg. 349, effective December 31, 2014.

Section 312.60 Selection

- a) The Office of Education and Transition Services shall coordinate the Scholarship Awards Selection Committee (SASC). SASC shall include senior leadership of the Department, including, but not limited to, persons who oversee the offices of guardian, legal services, clinical and operations, and key representatives from Department advisory groups, including the Child Welfare Advisory Committee, Child Care Association of Illinois, Illinois Foster Parent Association, Statewide Foster Care Advisory Council and Council on Adoptable Children.

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- b) The SASC shall meet in April to evaluate the applications. ~~each applicant's scholastic record, including grade point average and college entrance test scores; community and extracurricular activities; letters of recommendation; and a personal statement expressing the applicant's interest in higher education. Each application will be reviewed by three SASC members who shall assign an assessed value to each area of consideration. To assure fairness, grade point average and test score each have an assigned point value. The other areas of consideration are assigned a range of points. Each reviewer must assign a value within the prescribed range.~~
- 1) Each application will be reviewed by 3 randomly selected SASC members, who will rate it according to the criteria in this subsection (b)(1). The reviewers will receive detailed scoring rubrics regarding subsections (b)(1)(B) through (D) to maximize consistency among reviewers.
- A) Test Scores/GPA (40 points total)
The highest two scores of the following shall be counted at 20 points each:
- i) High School GPA, on a 4-point scale (weighted if possible; otherwise unweighted is acceptable):
- GPA x 5 ≡ _____ (20 points possible)
- ii) College GPA (if applicable), on a 4-point scale (weighted if possible; otherwise unweighted is acceptable):
- GPA x 5 ≡ _____ (20 points possible)
- iii) ACT Score (if the applicant is submitting an SAT Score instead, it is converted to the corresponding ACT Score using the ACT-SAT Concordance available at <http://www.act.org/aap/concordance>):
- ACT Score x 20/36 ≡ _____ (20 points possible)
- iv) GED Test Score (if applicable):

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GED - 200 x 20/600 = _____ (20 points possible)

- B) Activities/Jobs/Awards/Other (10 points total)
Applicants will be awarded the sum of the following scores. No applicant may receive more than 10 points total:
- i) Interests/Activities: (8 points possible)
Interests and activities may include, but are not limited to, participation in athletics or clubs through school or in the community, personal interests such as reading or swimming, etc.
 - ii) Employment Experience: (8 points possible)
 - iii) Volunteer Experience: (8 points possible)
Volunteer experience may include, but is not limited to, Boys and Girls Club, community food drives, church daycare, assisting the elderly with daily tasks, etc.
 - iv) Leadership Experience: (8 points possible)
Leadership experience may include, but is not limited to, organizing/leading a community event, serving as an officer for a school class or organization, speaking at a local event or school assembly, captain/co-captain of an athletic team, etc.
 - v) Awards/Honors/Recognition: (8 points possible)
This category may include, but is not limited to, earning Honor or High Honor Roll status, membership in various academic honor societies, recognition for athletics, Dean's list recognition, etc.
- C) Letters of Recommendation (10 points total)
Each of the 3 required letters will be scored on a 10 point scale. The score for this category is the average of the 3.
- i) How well does the writer know the applicant? (3 points possible)

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- ii) How objective is the reference? (3 points possible)
 - iii) How strong is the recommendation? (4 points possible)
- D) Student Statement (40 points total)
Student statements will be evaluated according to the following framework (childhood trauma, multiple moves in foster care, academic challenges):
- i) Grammar, Organization, Clarity: (15 points possible)
 - ii) College Plan: (5 points possible)
 - iii) Sincerity of Desire to Attend College: (10 points possible)
 - iv) Circumstances the Applicant has Overcome (examples may include but are not limited to, multiple foster care moves, extreme childhood trauma, education deficiencies, etc.): (10 points possible)
- 2) Score sheets are collected and tabulated. Each application will be assigned a final score, which is the average of the three scores received from the SASC reviewers. The applicants with the highest composite scores shall be awarded a Department Scholarship. Applicants will be notified no later than May 1 of their award status.
- 3) In case of a tie for the lowest-placed scholarship recipient, two reviewers will be randomly selected to score both of the tied applications. The additional scores will be included in each tied applicant's average, and the applicant with the higher average will be awarded the scholarship. If the scores are still tied, the process is repeated until a recipient can be selected.

(Source: Amended at 39 Ill. Reg. 349, effective December 31, 2014)

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NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Standards of Service for Local Exchange Telecommunications Carriers
- 2) Code Citation: 83 Ill. Adm. Code 730
- 3) Section Number: 730.100 Adopted Action: Amendment
- 4) Statutory Authority: Implementing Sections 8-301, 8-505 and 13-712 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/8-301, 8-505, 13-712 and 10-101]
- 5) Effective Date of Rule: December 22, 2014
- 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 Commission's Springfield office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: December 27, 2013; 37 Ill. Reg. 20562
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: No substantive changes have been made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes were required.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: PA 98-45 added subsections (c)(5) and (c)(6) to Section 13-506.2 of the Public Utilities Act. The new provisions require that, for service-quality purposes, retail telecommunications services provided by competitive local exchange carriers (CLECs) be regulated in the same manner and to the same extent as

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competitive retail telecom services provided by Electing Providers. Part 730 contains service quality standards applicable to local exchange carriers other than Electing Providers. To make Part 730 consistent with the new legislation, it is therefore necessary to remove competitive retail telecom services from the scope of the Part. In a separate rulemaking, the service quality standards for Electing Providers, which are found in Part 737, are being amended to apply as well to the competitive retail telecommunications services offered by CLECs.

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

Brian W. Allen
Office of General Counsel
Illinois Commerce Commission
527 East Capitol Avenue
Springfield IL 62701

217/558-2387

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

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NOTICE OF ADOPTED AMENDMENT

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER f: TELEPHONE UTILITIES

PART 730
STANDARDS OF SERVICE FOR LOCAL EXCHANGE
TELECOMMUNICATIONS CARRIERS

SUBPART A: GENERAL

Section	
730.100	Application of Part
730.105	Definitions
730.110	Waiver
730.115	Reporting
730.120	Penalties

SUBPART B: RECORDS AND REPORTS

Section	
730.200	Preservation of Records

SUBPART C: ENGINEERING

Section	
730.300	Construction
730.305	Maintenance of Plant and Equipment
730.310	Grade of Service
730.315	Interoffice Trunks (Repealed)
730.320	Network Service
730.325	Emergency Operation
730.330	Construction Work Near Utility Facilities
730.335	Network Interface
730.340	Incorporation of National Codes and Standards

SUBPART D: CALL DATA, INSPECTIONS, AND TESTS

Section	
730.400	Provisions for Testing

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730.405	Call Data Records
730.410	Call Data Reading Interval
730.415	Call Data Recording Equipment and Test Facilities
730.420	Call Data Recording Equipment Requirements
730.425	Initial Test
730.430	As-Found Tests
730.435	Routine Tests
730.440	Request Tests
730.445	Referee Tests
730.450	Test Records

SUBPART E: STANDARDS OF QUALITY OF SERVICE

Section	
730.500	Adequacy of Service
730.505	Operator Handled Calls
730.510	Answering Time
730.515	Central Office Administrative Requirements
730.520	Interoffice Trunks
730.525	Transmission Requirements
730.530	Coin Telephone Service (Repealed)
730.535	Interruptions of Service
730.540	Installation Requests
730.545	Trouble Reports
730.550	Network Outages and Notification

SUBPART F: SAFETY

Section	
730.600	Safety Program
730.605	Accident Reports (Repealed)

SUBPART G: BOUNDARIES

Section	
730.700	Map Requirements
730.705	Map Specifications
730.710	Application for Certificate (Repealed)
730.711	Changes to Existing Boundaries

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730.715	Service Outside Exchange Boundaries
730.720	Map Maintenance
730.725	District Boundaries (Repealed)

AUTHORITY: Implementing Sections 8-301, 8-505 and 13-712 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/8-301, 8-505, 13-712 and 10-101].

SOURCE: Filed November 6, 1970; amended at 7 Ill. Reg. 2147, effective February 4, 1983; codified at 8 Ill. Reg. 12191; Part repealed and new Part adopted at 15 Ill. Reg. 16060, effective November 1, 1991; amended at 24 Ill. Reg. 13861, effective September 1, 2000; amended at 27 Ill. Reg. 17997, effective December 1, 2003; amended at 35 Ill. Reg. 8808, effective June 1, 2011; amended at 36 Ill. Reg. 14990, effective October 1, 2012; amended at 39 Ill. Reg. 355, effective December 22, 2014.

SUBPART A: GENERAL

Section 730.100 Application of Part

- a) This Part shall apply to all local exchange carriers offering or providing ~~either competitive or~~ noncompetitive telecommunications services as defined in ~~Section~~~~Sections 13-209 and~~ 13-210 of the Universal Telephone Service Protection Law of 1985 (Law) [220 ILCS 5], except this Part does not apply to Electing Providers as defined in Section 13-506.2(a)(1) of the Public Utilities Act [220 ILCS 5/13-506.2(a)(1)], and except that Sections 730.115(b), 730.535(c), 730.540(d) and (e), and 730.545(h) and (i) are not applicable to telephone cooperatives as defined in Section 13-212 of the Law pursuant to Section 13-701 of the Law. This Part shall only apply to the relationship between a serving local exchange carrier and its end user. This Part shall not apply to the relationship between a serving local exchange carrier that provides wholesale facilities or services to another serving local exchange carrier for provisioning of services to its retail end user customers.
- b) This Part does not supersede the authority of, nor prohibit, the Commission from imposing different, additional, or more stringent service quality standards, reporting requirements or penalties upon a carrier pursuant to Section 13-506.1 of the Public Utilities Act (Alternative forms of regulation for noncompetitive services).

(Source: Amended at 39 Ill. Reg. 355, effective December 22, 2014)

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- 1) Heading of the Part: Customer Credits
- 2) Code Citation: 83 Ill. Adm. Code 732
- 3) Section Number: 732.5 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing and authorized by Section 13-712 of the Public Utilities Act [220 ILCS 5/13-712]
- 5) Effective Date of Rule: December 22, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Commission's Springfield office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: December 27, 2013; 37 Ill. Reg. 20567
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: No substantive changes have been made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes were required.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: PA 98-45 added subsections (c)(5) and (c)(6) to Section 13-506.2 of the Public Utilities Act. The new provisions require that, for service-quality purposes, retail telecommunications services provided by competitive local exchange carriers (CLECs) be regulated in the same manner and to the same extent as competitive retail telecom services provided by Electing Providers. Credits are given to

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telecom customers for certain violations of service quality standards. Currently, Part 732 applies to customer credits given by local exchange providers other than Electing Providers. To make the scope of Part 732 consistent with the new legislation, it is necessary to remove from the rule competitive retail telecom carriers that are not Electing Providers. Their addition to Part 737, "Standards of Service and Customers Credits for Electing Providers," is the subject of a separate rulemaking.

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

Brian W. Allen
Office of General Counsel
Illinois Commerce Commission
527 East Capitol Avenue
Springfield IL 62701

217/558-2387

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

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENT

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER f: TELEPHONE UTILITIESPART 732
CUSTOMER CREDITS

Section

732.5	Application of Part
732.10	Definitions
732.20	Local Exchange Service Obligations
732.30	Customer Credits
732.35	ILEC-CLEC Reimbursement Mechanism
732.40	Filing of Tariffs
732.50	Customer Education
732.60	Reporting

AUTHORITY: Implementing and authorized by Section 13-712 of the Public Utilities Act [220 ILCS 5/13-712].

SOURCE: Emergency rule adopted at 25 Ill. Reg. 10219, effective August 1, 2001, for a maximum of 150 days; adopted at 26 Ill. Reg. 334, effective December 28, 2001; amended at 26 Ill. Reg. 10465, effective July 1, 2002; amended at 27 Ill. Reg. 18405, effective December 1, 2003; amended at 35 Ill. Reg. 6334, effective April 1, 2011; amended at 36 Ill. Reg. 15013, effective October 1, 2012; amended at 39 Ill. Reg. 360, effective December 22, 2014.

Section 732.5 Application of Part

This Part shall apply to all telecommunications carriers providing basic local exchange service as defined in Section 13-712 of the Public Utilities Act, except that this Part is not applicable to:

- a) telephone cooperatives as defined in Section 13-212 of the Act, pursuant to Section 13-701 of the Act; ~~and is not applicable to~~
- b) Electing Providers as defined in Section 13-506.2(a)(1) of the Act; and
- c) local exchange telecommunications service as defined in Section 13-204 of the Act, and classified as competitive pursuant to either Section 13-502 or Section 13-506.2(c)(5) of the Act.

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(Source: Amended at 39 Ill. Reg. 360, effective December 22, 2014)

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- 1) Heading of the Part: Standards of Service and Customer Credits for Electing Providers and Competitive Non-Electing Providers
- 2) Code Citation: 83 Ill. Adm. Code 737
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
737.100	Amendment
737.110	Amendment
737.120	Amendment
737.130	Amendment
737.200	Amendment
737.220	Amendment
737.230	Amendment
737.240	Amendment
737.250	Amendment
737.300	Amendment
737.400	Amendment
737.410	Amendment
737.430	Amendment
737.500	Amendment
737.510	Amendment
737.520	Amendment
737.530	Amendment
737.540	Amendment
737.600	Amendment
737.610	Amendment
737.620	Amendment
737.630	Amendment
- 4) Statutory Authority: Implementing Section 13-506.2 and authorized by Section 10-101.1 of the Public Utilities Act [220 ILCS 5/13-506.2, 10-101.1]
- 5) Effective Date of Rule: December 22, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No

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- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Commission's Springfield office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: February 28, 2014; 38 Ill. Reg. 5475
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: In Section 737.430(a), the threshold of more than 100 access lines was added to the criteria for a reportable outage.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes were required.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: PA 98-45 made a number of revisions to telecommunications provisions in the Public Utilities Act. With regard to service quality, retail telecommunications services provided by competitive local exchange carriers (CLECs) are now to be regulated in the same manner and to the same extent as the competitive retail telecommunications services of Electing Providers. Prior to this rulemaking, Part 737 set forth service quality and customer bill credit requirements applicable to the competitive retail services of Electing Providers; the present rulemaking expands the scope of Part 737 so that it also applies to the competitive retail telecommunications services offered by CLECs. Reflecting the broader scope of the amended rules, the reference to Competitive Non-Electing Providers is being added to the title of the part. In addition, the rulemaking makes a number of miscellaneous changes to Part 737 to include other revisions effected by PA 98-45.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Brian W. Allen
Office of General Counsel
Illinois Commerce Commission
527 East Capitol Avenue
Springfield IL 62701

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

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TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER f: TELEPHONE UTILITIES

PART 737

STANDARDS OF SERVICE AND CUSTOMER CREDITS FOR ELECTING PROVIDERS
AND COMPETITIVE NON-ELECTING PROVIDERS

SUBPART A: GENERAL

Section

- 737.100 Application of Part
- 737.110 Definitions
- 737.120 Waiver
- 737.130 Reporting

SUBPART B: STANDARDS OF QUALITY OF SERVICE

Section

- 737.200 Service Quality for Basic Local Exchange Service
- 737.220 Calculation of Performance Data for Installation
- 737.230 Calculation of Performance Data for Out-of-Service Conditions
- 737.240 Calculation of Performance Data for Missed Installation or Repair Appointments
- 737.250 Calculation of Performance Data for Trouble Reports

SUBPART C: CUSTOMER CREDITS

Section

- 737.300 Customer Credits for Basic Local Exchange Service Violations

SUBPART D: SAFETY OF SERVICE EQUIPMENT AND FACILITIES

Section

- 737.400 Safety
- 737.410 Emergency Operations
- 737.420 Incorporation of National Codes and Standards
- 737.430 Network Outages and Notification
- 737.440 Interoffice Trunks
- 737.450 Central Office Administrative Requirements

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SUBPART E: BOUNDARIES

Section	
737.500	Map Requirements
737.510	Map Specifications
737.520	Changes to Existing Boundaries
737.530	Service Outside Exchange Boundaries
737.540	Map Maintenance

SUBPART F: CONSTRUCTION AND MAINTENANCE

Section	
737.600	Construction and Maintenance
737.610	Maintenance of Plant and Equipment
737.620	Network Interface
737.630	Transmission Requirements

AUTHORITY: Implementing Section 13-506.2 and authorized by Section 10-101.1 of the Public Utilities Act [220 ILCS 5/13-506.2 and 10-101.1].

SOURCE: Adopted at 36 Ill. Reg. 15022, effective October 1, 2012; amended at 39 Ill. Reg. 364, effective December 22, 2014.

SUBPART A: GENERAL

Section 737.100 Application of Part

This Part shall apply to the provision of competitive retail telecommunications service by Electing Providers, as that term is defined in Section 13-506.2(a)(1) of the Public Utilities Act [220 ILCS 5/13-506.2(a)(1)], and to the provision of retail telecommunications service classified as competitive pursuant to Section 13-502 or 13-506.2(c)(5) of the Act.

(Source: Amended at 39 Ill. Reg. 364, effective December 22, 2014)

Section 737.110 Definitions

As used in this Part, the following terms shall have these definitions:

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"Access line" means the connecting facility between a customer's premises network interface device and the Local Electing Provider's facility that provides access to the switching network for local exchange and interexchange telecommunications service. This includes the network interface or equivalent, the outside plant facilities, the office frame and frame wiring and the office line termination.

"Act" means the Public Utilities Act [220 ILCS 5].

"Analog" means a continuous electrical signal that carries information by means of variations in its amplitude or frequency. The electrical signal being transmitted varies in direct relation to the signal generated by the source.

"Application" means a verbal or written request for a telecommunications service.

"Appointment" means an arrangement made by a telecommunications carrier to meet a customer to address an installation or repair situation. The appointment window shall be either a specific time or, at a maximum, a 4-hour time block during evening, weekend and normal business hours. (See 220 ILCS 5/13-506.2(e)(1)(C).)

"Basic local exchange service" means *either a stand-alone residence network access line and per-call usage or, for any geographic area which such stand-alone service is not offered, a stand-alone flat rate residence network access line for which local calls are not charged for frequency or duration. Extended Area Service shall be included in basic local exchange service.* [220 ILCS 5/13-506.2(a)(2)] Pursuant to Section 13-506.2(e)(1) of the Act, as used in this Part, "basic local exchange service" also includes the consumer choice safe harbor options that Electing Providers are required to offer to residential customers under Section 13-506.2(d) of the Act.

"Basic local exchange service installation" means the installation of basic local exchange service in which the physical connecting and diagnostic testing of a local loop results in the provisioning of dial tone to the requesting customer's network interface device. It includes move orders and orders for additional lines.

"Busy hour" means the 2 consecutive half-hours each day during which the greatest volume of traffic is handled.

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"Calls" means customers' messages attempted.

"Central office" means the site at which switching equipment is located. A local central office, also called an end office, is the switching office where an individual subscriber's access lines appear. It houses the equipment that receives calls transmitted on the local loop and routes the call over the switched network either directly to the person called, if the call is placed to a location served by the same local central office, or to another central office, if the call is placed to a customer served by a different central office. Each central office serves local loops in an exclusive geographical area.

"Certificate of service authority" means the authorization by the Illinois Commerce Commission (Commission) granting [a telecommunications carrier](#) the right to provide telecommunications services within a specified geographical area.

"Channel" means a single path between 2 or more points provided for transport of user information and/or signaling for a communications service.

["Competitive Non-Electing Provider" means a provider, other than an Electing Provider, of telecommunications services classified as competitive pursuant to Section 13-502 or 13-506.2\(c\)\(5\) of the Act.](#)

"Customer" or "end user" means a residential retail customer purchasing basic local exchange service.

"Customer premises equipment" or "CPE" means equipment employed on the premises of a person (other than a carrier) to originate, route or terminate telecommunications. Customer premises equipment includes customer premises wire.

"Customer premises wire" or "inside wire" means any wire, including interface equipment, on the customer side of the network interface or equivalent.

"Customer trouble report" means any verbal or written report relating to difficulty or dissatisfaction with the operation of regulated telecommunications services. One report shall be counted for a verbal or written report received. When several items are reported by one customer at the same time, and the group of troubles so reported is clearly related to a common cause, they are counted as one report.

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"dBrnc" means a measure of the interfering effect of noise.

"Decibel" or "dB" means a standard unit used for expressing a transmission signal gain or loss.

"Dial tone" means an audible tone sent from an automatic switching system to a customer to indicate the equipment is ready to receive dial signals.

"Digital" means a signal that carries information by discrete changes in its parameters. For digital transmission of analog information, the incoming voice, data or video signals are sampled periodically and digitally coded for transport through the network.

"Electing Provider" has the same meaning as "Electing Provider" defined in Section 13-506.2(a)(1) of the Act.

"Emergency situation" means an emergency situation as that term is defined in 83 Ill. Adm. Code 732.10.

"Exchange area" means a unit established by ~~a Local~~ an Electing Provider and approved by the Commission for the administration of telecommunications service in a specified geographical area. It may consist of one or more central offices together with associated plant used in furnishing telecommunications services in that area. Exchange areas are identified on exchange boundary maps on file with the Commission.

"Installation trouble report" means any network trouble report filed within 7 days after the completion of a basic local exchange service installation on the same line.

"Interoffice trunk" means a communication path between 2 central offices.

"Line" means the conductor or conductors, supporting circuit equipment, and structures extending between customer network interfaces and central offices, or between central offices, whether they be in the same or different communities.

"Local exchange carrier" means a telecommunications carrier certificated by the Commission to provide intra-exchange and/or inter-exchange service within the same market service area.

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"Local exchange service" means the same as "local exchange telecommunications service" as defined in Section 13-204 of the Act.

"Local exchange service area" means the area in which telecommunications service is furnished to customers under a specific schedule of rates and without toll charges. A local exchange service area may include one or more exchange areas or portions of exchange areas.

"Local loop" means a channel between a customer's network interface and its serving central office.

"Local Provider" means an Electing Provider or Competitive Non-Electing Provider.

"Map" means a drawing showing a geographical area in which ~~a Local~~ an Electing Provider furnishes telecommunications services.

"Message" means a completed customer call.

"Network" means the aggregate of transmission systems and switching systems. It is an arrangement of channels, such as loops, trunks and associated switching facilities.

"Network interface" means the point of termination on the customer premises at which the Local~~Electing~~ Provider's responsibility for the provision and maintenance of network channel or line service ends. The network interface is part of the network and the order of appearance of central office lines on it is determined solely by the Local~~Electing~~ Provider.

"Noise to Ground" or "Ng" means the noise measured between ground and the tip and ring conductors. The customer does not hear the noise to ground, but the amount of noise to ground affects the amount of noise metallic that a customer hears.

"Noise metallic" or "Nm" means the noise measured across the tip and ring of a circuit and is the noise that the customer hears.

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"Out of Service > 30 Hours" means that 30 hours after reporting an out-of-service condition to the [LocalEelecting](#) Provider, the customer still has no dial tone, or cannot be called, or cannot call out. This term excludes call blocking or any other intentional alteration to an end user's calling or call receiving ability.

"Outside plant" means the telecommunications equipment and facilities installed on, along, over, or under streets, alleys, highways, or on private rights-of-way between the central office and customer locations or between central offices.

"Premises" means the space occupied in a single local exchange area by a customer in a building or in adjoining buildings not separated by a public thoroughfare or in a public office building in which the customer's office space is all contiguous.

"Simplex Condition" – Equipment that is deployed in a two-sided, redundant configuration and that has both sides running normally is considered to be in duplex mode. When one side is down and the redundancy is lost, it is considered to be in a simplex condition.

"Telecommunications service" has the same meaning ascribed to that term in Section 13-203 of Act.

"Traffic" means call volume based on number and duration of messages.

"Transmission" means the process of sending information from one point to another.

"Trouble report" means any customer complaint to the [LocalEelecting](#) Provider regarding the operation of the network affecting its basic local exchange service, including both service-affecting conditions or out-of-service conditions.

"Trunk" means a transmission path between switching units, switching centers and/or toll centers.

"Working line" means an active access line or channel.

(Source: Amended at 39 Ill. Reg. 364, effective December 22, 2014)

Section 737.120 Waiver

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The Commission, on application of a Local-an-Electing Provider, customer, applicant or end user or on its own motion, may grant a temporary or permanent waiver from this Part, or any individual requirements contained in this Part, in individual cases where the Commission finds that:

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

(Source: Amended at 39 Ill. Reg. 364, effective December 22, 2014)

Section 737.130 Reporting

- a) The requirements of Section 737.130(c) and (d) shall not apply to Competitive Non-Electing Providers.
- b) The requirements of Section 737.130(c) and (d) shall apply to an Electing Provider for a period of three years after its notice of election becomes effective pursuant to Section 13-506.2(b) of the Act. After the three year period, the requirements of Section 737.130(c) and (d) shall not apply to the Electing Provider.
- c)a) Each Electing Provider subject to this subsection (c) shall provide to the Commission on a quarterly basis, and in a form suitable for posting on the Commission's website, a public report that includes the following data for basic local exchange service quality of service, shown for each of the 3 months of the quarter for which the report is filed. The report shall be provided to the Commission within 30 days after the end of each calendar quarter.
 - 1) With regard to credits due to out-of-service conditions lasting more than 30 hours:
 - A) the total dollar amount of any customer credits paid;
 - B) the number of credits issued for repairs between 30 and 48 hours;

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- C) the number of credits issued for repairs between 49 and 72 hours;
 - D) the number of credits issued for repairs between 73 and 96 hours;
 - E) the number of credits issued for repairs between 97 and 120 hours;
 - F) the number of credits issued for repairs greater than 120 hours; and
 - G) the number of exemptions claimed for each of the categories identified in Section 737.300(b)(a)(4).
- 2) With regard to credits due to failure to install basic local exchange service within 5 business days:
- A) the total dollar amount of any customer credits paid;
 - B) the number of installations after 5 business days;
 - C) the number of installations after 10 business days;
 - D) the number of installations after 11 business days; and
 - E) the number of exemptions claimed for each of the categories identified in Section 737.300(b)(a)(4).
- 3) With regard to credits due to missed appointments:
- A) the total dollar amount of any customer credits paid;
 - B) the number of any customers receiving credits; and
 - C) the number of exemptions claimed for each of the categories identified in Section 737.300(b)(a)(4).

~~d)b)~~ EachThe Electing Provider subject to this subsection (d) shall, on an annual basis, submit to the Commission a report that includes, for informational

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reporting, the performance data described in Section 737.200(a), ~~(b) and (c)(1), (2) and (3)~~, and trouble reports per 100 access lines, calculated in accordance with Sections 737.220, 737.230, 737.240 and 737.250, respectively. The annual report shall be filed within 90 days after the end of each calendar year. ~~The first annual report filed pursuant to this subsection shall include performance data for each of the months of July through December of 2010.~~ Each Annual Report shall include performance data for each of the 12 months of the calendar year subject to the Report.

- e) Upon request by the Commission, a Competitive Non-Electing Provider or an Electing Provider that is not subject to the requirements of subsections (c) and (d) shall provide a report showing the number of credits and exemptions, as specified in Section 737.300, for the requested time period.
- e) ~~Electing Providers are responsible for maintaining records that verify the accuracy of the information reported pursuant to this Section for a period of no less than one year.~~

(Source: Amended at 39 Ill. Reg. 364, effective December 22, 2014)

SUBPART B: STANDARDS OF QUALITY OF SERVICE

Section 737.200 Service Quality for Basic Local Exchange Service

~~A Local~~An Electing Provider shall meet the following service quality standards in providing basic local exchange service.

- a) Install basic local exchange service within 5 business days after receipt of an order from the customer unless the customer requests an installation date that is beyond 5 business days after placing the order for basic service and to inform the customer of the ~~Local~~Electing Provider's duty to install service within this timeframe. If installation of service is requested on or by a date more than 5 business days in the future, the ~~Local~~Electing Provider shall install service by the date requested.
- b) Restore basic local exchange service for the customer within 30 hours after receiving notice that the customer is out of service.

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- c) Keep all repair and installation appointments for basic local exchange service if a customer premises visit requires a customer to be present. The appointment window shall be either a specific time or, at a maximum, a 4-hour time block during evening, weekend and normal business hours.
- d) Inform a customer when a repair or installation appointment requires the customer to be present.
- e) A Local Provider offering basic local exchange service utilizing the network or network elements of another carrier shall install new lines for basic local exchange service within 3 business days after provisioning of the line or lines has been completed by the carrier whose network or network elements are being utilized.

(Source: Amended at 39 Ill. Reg. 364, effective December 22, 2014)

Section 737.220 Calculation of Performance Data for Installation

- a) For purposes of the annual informational reporting requirement of Section 737.130(~~db~~), each Electing Provider subject to that subsection shall report the monthly percentage of its basic local exchange service installations completed within 5 business days after the customer requests installation or by a later date as requested by the applicant, as subject to the exclusions set forth in Section 737.300(~~b~~)(~~a~~)(~~4~~)(~~A~~). For purposes of calculating this percentage, the time it takes to complete a basic local exchange service installation shall be measured from the date the customer makes that application or request to the date the installation order is completed and signed off by the carrier as completed.
- b) This Section does not apply to the migration of a customer between telecommunications carriers, so long as the customer maintains dial tone.
- e) ~~An Electing Provider offering basic local exchange service utilizing the network or network elements of another carrier shall install new lines for basic local exchange service within 3 business days after provisioning of the line or lines has been completed by the carrier whose network or network elements are being utilized.~~

(Source: Amended at 39 Ill. Reg. 364, effective December 22, 2014)

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Section 737.230 Calculation of Performance Data for Out-of-Service Conditions

- a) For purposes of the annual informational reporting requirement of Section 737.130(~~db~~), each Electing Provider subject to that subsection shall report the monthly percentage of basic local exchange service out-of-service conditions up to the customer network interface cleared within 30 hours after outages are reported by the customer.
- b) The percentage required to be reported pursuant to subsection (a) shall be calculated as follows: each occurrence shall be measured from the "create date and time" to the "cleared date and time".
- c) The requirement set forth in subsection (a) shall be calculated as follows:

$$1) \quad a - (c + d + e + f + g + h + i) = o$$

or

the "adjusted number of out-of-service conditions
not repaired within 30 hours"

$$2) \quad b - (c + d + e + f + g + h + i) = p$$

or

the "adjusted number of out-of-service calls"

$$3) \quad \frac{o}{p + w} \times 100 = x$$

$$4) \quad (100 - x) = \textit{percent repaired within 30 hours}$$

- 5) Variables used in the formulas in subsections (c)(1) through (4) are defined as follows:

a = Total number of out-of-service conditions not repaired within 30 hours

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- b = Total number of out-of-service calls received by the Electing Provider
 - c = Subsequent reports for the same out of service condition
 - d = Condition caused by payphone equipment
 - e = Condition caused by customer premises equipment (CPE) or inside wire
 - f = Exclusion due to no access to the property (when access is required)
 - g = Exclusion due to customer requested later appointment
 - h = Exclusion due to emergency situations
 - i = Exclusion due to negligent or willful act on part of customer
 - o = Adjusted number of out-of-service conditions not repaired within 30 hours
 - p = Adjusted number of out-of-service calls received by the Electing Provider
 - w = Out-of-service conditions due to a severe storm, tornado, earthquake, flood or fire, including any severe storm, tornado, earthquake, flood or fire that prevents the Electing Provider from restoring service due to impassable roads, downed power lines or the closing off of affected areas by public safety officials
- d) The information to be reported pursuant to this Section shall include out-of-service conditions occurring on holidays or weekends.

(Source: Amended at 39 Ill. Reg. 364, effective December 22, 2014)

Section 737.240 Calculation of Performance Data for Missed Installation or Repair Appointments

- a) For purposes of the annual reporting requirement of Section 737.130(~~db~~), each Electing Provider subject to that subsection shall report the monthly number of

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missed installation and repair appointments for customers of basic local exchange service made in accordance with the requirement of Section 737.200(c)(a)(3).

- b) The total number of missed appointments reported pursuant to this Section shall not include:
- 1) those appointments missed due to customer-caused delays;
 - 2) customer-missed appointments; or
 - 3) delayed appointments with respect to which the Electing Provider notified the customer of the delay and the reason for that delay no later than 8:00 pm of the day prior to the scheduled date of the appointment.

(Source: Amended at 39 Ill. Reg. 364, effective December 22, 2014)

Section 737.250 Calculation of Performance Data for Trouble Reports

For purposes of the annual reporting requirement of Section 737.130(d**b**), each Electing Provider subject to that subsection shall report the monthly number of trouble reports per 100 access lines, to be calculated by dividing the number of customer-initiated network trouble reports in any given month that are cleared to network dispositions, less customer premises equipment (CPE), inside wire, or emergency situations, by the total number of access lines in service. The rate shall be reported on a per 100 access line basis.

(Source: Amended at 39 Ill. Reg. 364, effective December 22, 2014)

SUBPART C: CUSTOMER CREDITS

Section 737.300 Customer Credits for Basic Local Exchange Service Violations

- a) Customers shall be credited by the LocalElecting Provider for violations of basic local exchange service quality standards described in Section 737.200. The credits shall be applied automatically on the statement issued to the customer for the next monthly billing cycle following the violation or following the discovery of the violation. The next monthly billing cycle following the violation or the discovery of the violation means the billing cycle immediately following the billing cycle in process at the time of the violation or discovery of the violation, provided the total time between the violation or discovery of the violation and the

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issuance of the credit shall not exceed 60 calendar days. The LocalEelecting Provider is responsible for providing the credits and the customer is under no obligation to request those credits and the credits shall be identified as Service Quality or SQ credits. The following credits shall apply:

- 1) If a Local a-Electing Provider fails to repair an out-of-service condition for basic local exchange service within 30 hours as required under Section 737.200(b)(a)(2), the LocalEelecting Provider shall provide a credit to the customer. If the service disruption is for more than 30 hours, but not more than 48 hours, the credit must be equal to a pro-rata portion of the monthly recurring charges for all basic local exchange services disrupted. If the service disruption is for more than 48 hours, but not more than 72 hours, the credit must be equal to at least 33% of one month's recurring charges for all local services disrupted. If the service disruption is for more than 72 hours, but not more than 96 hours, the credit must be equal to at least 67% of one month's recurring charges for all basic local exchange services disrupted. If the service disruption is for more than 96 hours, but not more than 120 hours, the credit must be equal to one month's recurring charges for all basic local exchange services disrupted. For each day or portion of that day that the service disruption continues beyond the initial 120-hour period, the LocalEelecting Provider shall also provide an additional credit of \$20 per calendar day.
- 2) If a Local-anEelecting Provider fails to install basic local exchange service as required under Section 737.200(a)(1), the LocalEelecting Provider shall waive 50% of any installation charges, or in the absence of an installation charge or when installation is pursuant to the Link Up program, the LocalEelecting Provider shall provide a credit of \$25. If a Local-an Eelecting Provider fails to install service within 10 business days after the service application is placed, or fails to install service within 5 business days after the customer's requested installation date, if the requested date was more than 5 business days after the date of the order, the LocalEelecting Provider shall waive 100% of the installation charge, or in the absence of an installation charge or where installation is provided pursuant to the Link Up program, the LocalEelecting Provider shall provide a credit of \$50. For each day that the failure to install service continues beyond the initial 10 business days, or beyond 5 business days after the customer's requested installation date, if the requested date was more than 5 business days after the date of the order, the LocalEelecting Provider

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shall also provide an additional credit of \$20 per calendar day until the basic local exchange service is installed.

- 3) If a ~~Local-an-Electing~~ Provider fails to keep a scheduled repair or installation appointment when a customer premises visit requires a customer to be present as required under Section 737.200(c)(a)(3), the ~~LocalElecting~~ Provider shall credit the customer \$25 per missed appointment. A credit required by this subsection does not apply when the ~~LocalElecting~~ Provider provides the customer notice of its inability to keep the appointment no later than 8:00 pm of the day prior to the scheduled date of the appointment.
- b) Credits required by this Section do not apply if the violation of a service quality standard:
- 1) occurs as a result of a negligent or willful act on the part of the customer;
 - 2) occurs as a result of a malfunction of customer-owned telephone equipment or inside wiring;
 - 3) occurs as a result of, or is extended by, an emergency situation as defined in 83 Ill. Adm. Code 732.10;
 - 4) is extended by the ~~LocalElecting~~ Provider's inability to gain access to the customer's premises due to the customer missing an appointment, provided that the violation is not further extended by the ~~LocalElecting~~ Provider;
 - 5) occurs as a result of a customer request to change the scheduled appointment, provided that the violation is not further extended by the ~~LocalElecting~~ Provider;
 - 6) occurs as a result of a ~~Local-an-Electing~~ Provider's right to refuse service to a customer as provided in Commission rules; or
 - 7) occurs as a result of a lack of facilities when a customer requests service at a geographically remote location, where a customer requests service in a geographic area where the ~~LocalElecting~~ Provider is not currently offering service, or when there are insufficient facilities to meet the

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customer's request for service, subject to ~~a Local-an-Electing~~ Provider's obligation for reasonable facilities planning.

(Source: Amended at 39 Ill. Reg. 364, effective December 22, 2014)

SUBPART D: SAFETY OF SERVICE EQUIPMENT AND FACILITIES

Section 737.400 Safety

~~A Local-An-Electing~~ Provider shall furnish, provide and maintain service instrumentalities, equipment and facilities as shall promote the safety, health, comfort and convenience of its patrons, employees and public and as shall be in all respects adequate, reliable and efficient without discrimination or delay. Every ~~LocalElecting~~ Provider shall provide service and facilities that are in all respects environmentally safe.

(Source: Amended at 39 Ill. Reg. 364, effective December 22, 2014)

Section 737.410 Emergency Operation

- a) Each ~~LocalElecting~~ Provider shall make provisions to meet emergencies resulting from failures of commercial or power service, sudden and prolonged increases in traffic, illness of personnel, fire, storm, or other natural disasters. Each ~~Local Electing~~ Provider shall inform employees of the procedures to be followed in the event of an emergency in order to prevent or minimize interruption or impairment of telecommunications service.
- b) Each existing central office will contain a reserve battery supply of 5 hours when emergency power generators are not installed and 3 hours when they are in place. Central office batteries shall be maintained in accordance with Institute of Electrical and Electronic Engineers (IEEE) standards as adopted in Section 737.420, and records verifying maintenance shall be kept on site. New central offices or central offices being replaced shall contain a reserve battery supply of 8 hours when emergency power generators are not installed and 5 hours when they are in place. In central offices without installed emergency power generators, a mobile power unit shall be available that can be delivered and connected within 5 hours.
- c) In new central offices exceeding 3,000 working lines, a permanent power generator shall be installed. For existing central offices having over 3,000 lines,

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permanent power generators shall be installed at the time of office replacement or battery replacement.

- d) Emergency generator units shall have available at least a 12 hour fuel supply.
- e) Emergency generator units shall be tested under load once a month. A record of the test results shall be maintained.
- f) The requirements of subsections (b) through (e) apply to a Local Provider only to the extent that it owns and/or operates central offices.

(Source: Amended at 39 Ill. Reg. 364, effective December 22, 2014)

Section 737.430 Network Outages and Notification

- a) Each ~~Local~~Electing Provider shall inform the Commission verbally or via e-mail of any service interruption exceeding ~~30~~15 minutes duration caused by a complete or partial central office failure or complete or partial isolation of an exchange due to toll circuit failure, including cut cables. A reportable outage is any one of the following occurrences with duration, unless otherwise specified, of at least 30 minutes affecting more than 50% of the customers and affecting more than 100 access lines in the affected exchange:
 - 1) Toll isolation;
 - 2) Loss of dial tone;
 - 3) One or more end offices or MSC switches or host/remote clusters is isolated from 9-1-1 service;
 - 4) There is loss of ANI/ALI processing; or
 - 5) Simplex conditions exceed 5 days.
- b) The notification shall be made via telephone call to (217)558-6166 or via e-mail at the outage notification e-mail address posted on the Commission's website and shall consist of the following information:
 - 1) Affected Area Code/Prefix

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- 2) Exchange name
 - 3) LocalELECTING Provider name
 - 4) Cause of interruption
 - 5) Outage date and time
 - 6) Restoral date and time
 - 7) Effect on 9-1-1 service
 - 8) Name and number of persons reporting the service interruption.
- ~~c)b)~~ A follow-up written report shall be filed within 30 days, either via U.S. Postal Service, facsimile or e-mail.
- e) ~~Minor outages shall be reported within 24 hours or during the next normal business day when more than 100 access lines experience an outage. Minor outages consist of loss of local or toll service affecting less than 50% of the customers and affecting more than 100 access lines in the affected exchange for a period of time not to exceed 12 hours.~~
- d) ~~Major outages shall be reported immediately via telephone call to (217)558-6166.~~
- e) ~~Major outages consist of complete loss of local or toll service affecting equal to or more than 50% of the customers in the affected exchange or when any outage is expected to exceed 12 hours.~~
- ~~d)f)~~ All outages affecting 9-1-1 services shall be reported in accordance with 83 Ill. Adm. Code 725, Standards Applicable to 9-1-1 Emergency Systems. In particular, any cut cables or loss of host-remote links that result in the physical staffing of 9-1-1 call boxes are to be reported as soon as possible.
- ~~e)g)~~ Whenever it is necessary to interrupt customer service for the purpose of working on the distribution system or central office equipment, the work should be completed with minimal customer impact. The LocalELECTING Provider shall use reasonable efforts to notify in advance public service customers (e.g., 9-1-1

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entities, police, fire, hospitals) it reasonably believes may be most seriously affected by the interruption. Any customer credits for interrupted service shall be made pursuant to Section 737.300.

- f) The requirements of this Section apply to a Local Provider only to the extent that it owns and/or operates the network facilities and/or equipment that results in an interruption or outage.

(Source: Amended at 39 Ill. Reg. 364, effective December 22, 2014)

SUBPART E: BOUNDARIES

Section 737.500 Map Requirements

Each LocalElecting Provider shall have on file with the Commission an exchange area boundary map for each of its exchanges within the State of Illinois. Competitive Non-Electing Providers may satisfy the requirements of all Sections of this Subpart by filing information with the Commission, upon request, identifying the exchanges in which they offer telecommunications services.

(Source: Amended at 39 Ill. Reg. 364, effective December 22, 2014)

Section 737.510 Map Specifications

- a) A Localan Electing Provider boundary map filed after the effective date of this Part shall be in accordance with an already-existing certificate of service authority, a Petition for a new Certificate of Service Authority, or a notice submitted pursuant to 83 Ill. Adm. Code Section 730.711.
- b) Each map shall show the boundary lines of the area the LocalElecting Provider holds itself out to serve in connection with the exchange. Exchange boundary lines shall be located by appropriate measurement to an identifiable location if that portion of the boundary line is not otherwise located on section lines, waterways, railroads, or roads.
- c) The name of the LocalElecting Provider filing the map shall be placed at the left side of the top of the map and the name of the exchange followed by the words "(Name of carrier) Exchange Area Boundary Map" shall be placed at the right side of the top of the map. The first filing of a map shall be designated by the

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word "Original" placed just below the words "(Name of carrier) Exchange Area Boundary Map". If the map is subsequently refiled, the words "First Revisions" shall be substituted for the word "Original", and on each subsequent refiling the next higher number shall be substituted for the number preceding the word "Revision" on the last map filed. The date of the issuance of the new boundary map shall be placed under the word "Original" or "Revision."

(Source: Amended at 39 Ill. Reg. 364, effective December 22, 2014)

Section 737.520 Changes to Existing Boundaries

No telecommunications carrier shall make a change to any of its exchange area boundaries, except upon 3045 days notice to any affected customers and 6090 days notice to the Commission. These notices shall meet the following requirements:

- a) Notice to the Commission shall be filed with the Chief Clerk's Office with a copy to the Chief Telephone Engineer. The Chief Telephone Engineer will have the notice posted to the ICC's web site within 7 calendar days after receipt. This notice shall be accompanied by a new exchange area boundary map for any exchange area affected by the revision, with the new maps conforming to the provisions of 83 Ill. Adm. Code 737.510. If there are any customers whose local exchange service will be affected by the proposal, then the Commission Notice shall also be accompanied by a copy of the customer notice as well as the names, addresses and telephone numbers of each customer being sent a copy of the notice. If the proposed revision affects the boundary line of more than one carrier, the notice shall also be accompanied by a verified statement that the revised boundary lines have been agreed to by the other local exchange carriers or other Electing Providers adjoining the boundary lines to be changed.
- b) Notice to customers. The carrier shall provide notice to those customers located within the area being changed, and the notice shall be dated and sent by mail to the affected customers. The notice shall provide specific details as to the carrier's proposal, including what impact it will have on the customer's telephone number, calling areas and rates. The notice shall also specifically inform the customer that it has 3045 days after the mailing of the dated notice to express opposition to or support for the proposed boundary change by calling the Commission's Chief Telephone Engineer at (217) 524-5072.

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- c) Proposed boundary changes shall go into effect after the stated ~~6090~~ days notice, unless the Commission, upon its own motion or upon complaint, initiates an investigation of the proposed exchange area boundary. In these cases, the Commission may, after notice and hearing, prohibit the proposed exchange area boundary change if the Commission finds that the change would be contrary to the public interest.
- d) For any boundary change that will result in the elimination of an exchange in its entirety, the carrier shall file a petition with the Commission seeking the issuance of a new Certificate of Service Authority.

(Source: Amended at 39 Ill. Reg. 364, effective December 22, 2014)

Section 737.530 Service Outside Exchange Boundaries

- a) No local exchange telecommunications service will be established outside the exchange boundary of the exchange that normally would provide service except on an emergency temporary basis or after the serving LocalElection Provider has filed a notice of proposed boundary change with the Commission.
- b) In cases where local exchange telecommunications service is provided outside the exchange boundary of the normal serving exchange without authorization of the Commission (other than foreign exchange service) and the location of the service is in the exchange of another local exchange carrier certificated by the Commission, the service shall be discontinued as soon as facilities are made available from the exchange in which the service is located. The customer whose service is affected by this Section shall be given at least 90 days notice prior to the time service can be provided from the proper telephone exchange.

(Source: Amended at 39 Ill. Reg. 364, effective December 22, 2014)

Section 737.540 Map Maintenance

Each LocalElection Provider shall maintain and make available for public inspection a map of each exchange served.

(Source: Amended at 39 Ill. Reg. 364, effective December 22, 2014)

SUBPART F: CONSTRUCTION AND MAINTENANCE

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Section 737.600 Construction and Maintenance

- a) Each [LocalEelecting](#) Provider shall place a minimum of 80% of all newly constructed outside cable plant facilities (measured in sheath miles) underground.
- b) The telecommunications outside plant shall be designed, constructed, maintained and operated in accordance with the provisions of 83 Ill. Adm. Code 305 and 83 Ill. Adm. Code 265.

(Source: Amended at 39 Ill. Reg. 364, effective December 22, 2014)

Section 737.610 Maintenance of Plant and Equipment

Each [LocalEelecting](#) Provider shall:

- a) Adopt a maintenance program for its equipment based on the minimum standards set forth in this Part. The program shall be updated regularly, but not less than every 2 years, unless an earlier update is requested by the Commission.
- b) Inspect every 2 years, in accordance with the NESC standards identified in 83 Ill. Adm. Code 305, its electrical grounding equipment owned by the carrier for each central office, including, without limitation, the component of the system commonly known as the master ground bar, to ascertain the integrity of the central office ground field. The [LocalEelecting](#) Provider shall maintain a copy of the test results in its office and make that copy available for inspection. The inspection shall be performed annually if one of the following events occurs: an office conversion (replacement of the current switching equipment), a building addition to a central office, or renovations to the building facilities and grounds, such as water, sewer, gas, electric facilities or parking lot.
- c) Make a copy, on a monthly basis, of its database for switching equipment applicable to each central office and store the copy off-site or in a fireproof on-site storage for use in emergency restoration purposes (any copying and storage must be performed in accordance with current software backup procedures).
- d) Make a copy, on a monthly basis, of its digital access and cross-connect system (DACS) database for each central office, if technically feasible, and store the copy off-site or in a fireproof on-site storage for use in emergency restoration purposes

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(any copying and storage must be performed in accordance with current software backup procedures).

- e) Make a copy, on a monthly basis, of its fiber optic terminal database for each central office, if technically feasible, and store the copy off site or in a fireproof on-site storage for emergency restoration purposes (the copying and storage must be performed in accordance with current software backup procedures).

(Source: Amended at 39 Ill. Reg. 364, effective December 22, 2014)

Section 737.620 Network Interface

- a) Telecommunications carriers shall have in place, no later than December 31, 2003, external combination protector/demarcation interfaces for all one- and two-line customers in single tenant residences and commercial buildings.
- b) The network interface for a residential customer shall be located on a structure owned, rented or leased by the customer, in which the customer resides.
- c) The network interface for business customers shall be located outside structures owned, rented or leased by the customer, in which the customer is conducting business. The demarcation point shall be located at the minimum point of penetration of the network cable to the building, normally within 25 feet. Deviation from this location must be mutually agreeable to the building owner and the telecommunications provider.
- d) Network interfaces shall not be located on fence posts, utility poles or cable pedestals.
- e) Network interfaces for temporary services or serving trailers, boats or customer-owned pay telephones shall be located on structures provided by the customer or on a utility pole.
- f) The requirements of this Section apply to a Local Provider only to the extent that it owns and/or maintains network interfaces.

(Source: Amended at 39 Ill. Reg. 364, effective December 22, 2014)

Section 737.630 Transmission Requirements

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LocalElecting Providers shall furnish and maintain plant, equipment and facilities to meet the following minimum transmission standards. The transmission standards set forth in this Section are based upon measurements from the network interface at the customer premises through the local loop to a nominal 48-volt central office and measured at a frequency of 1004 hertz.

- a) Local line analog loops shall have a loop resistance not exceeding the operating design of the associated central office equipment. Longer loops may be used by deployment of loop range extenders.
- b) All analog loops are to be maintained to a minimum of 40,000 ohms insulation resistance.
- c) Transmission loss of analog local loop shall be engineered not to exceed 10.0 dB when measured in accordance with subsection (a). The local loop transmission loss shall be adjusted to 10.0 dB or less if it exceeds 10.0 dB.
- d) Transmission loss in analog interoffice trunks shall be engineered not to exceed 7 dB. If the loss exceeds expected design loss by + or - 3.5 dB, it shall be corrected to within 1 dB of the design loss.
- e) Transmission loss on analog toll terminating trunks shall be engineered not to exceed 4 dB. If the loss exceeds expected design loss by + or - 3.5 dB, it shall be corrected to within 1 dB of the design loss.
- f) Transmission loss on all digital interoffice trunks shall be engineered and maintained not to exceed 6 dB.
- g) Loop current shall be maintained at 20 milliamperes or greater.
- h) Power influence (Ng) shall not exceed 90 dBrc.
- i) Circuit noise (Nm) shall not exceed 30 dBrc.

(Source: Amended at 39 Ill. Reg. 364, effective December 22, 2014)

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- 1) Heading of the Part: Medical Liability Insurance Rules and Rate Filings
- 2) Code Citation: 50 Ill. Adm. Code 929
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
929.10	Amendment
929.15	Amendment
929.30	Amendment
929.50	New Section
929.200	Repealed
929.210	Repealed
929.220	Repealed
929.230	Repealed
929.240	Repealed
929.250	Repealed
929.260	Repealed
929.270	Repealed
929.280	Repealed
929.290	Repealed
929.300	Repealed
929.310	Repealed
- 4) Statutory Authority: Implementing Section 155.18 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/155.18 and 401]
- 5) Effective Date of Rule: December 19, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: January 1, 2014; 38 Ill. Reg. 3281
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version:

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- a. In the Table of Contents, added "Section" two lines under the SUBPART B header.
 - b. Section 929.15, after the definition of "Director": added ""SERFF" means the National Association of Insurance Commissioners' web based System for Electronic Rate and Form Filing and required by Section 143(2) of the Code that enables insurers and other companies to streamline their rate and form filing process by filing the same electronically at <http://www.serff.com/> ."
 - c. Section 929.30(b)(2)(B): deleted apostrophe in "coverage's".
 - d. Section 929.30(b)(2)(e) and (f): deleted all text.
 - e. Section 929.30(g), first line: changed "g)" to "e)"; added "using SERFF" after "All filings must be received"; second line, added "320 W. Washington" after "Unit" and added "62767" after "Illinois".
 - f. Section 929.30, changed "h)" to "f)" and change "i" to "g)".
- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
 - 13) Will this rulemaking replace an emergency rule currently in effect? Yes
 - 14) Are there any rulemakings pending on this Part? No
 - 15) Summary and Purpose of Rulemaking: On February 4, 2010, the Illinois Supreme Court held the limitation on non-economic damages in medical malpractice actions unconstitutional. Due to an inseverability provision in the Act in which the limitations (or "caps") were enacted (PA 94-677), the Supreme Court also held invalid the medical malpractice regulatory reforms contained in the Act. However, in its decision, the Supreme Court emphasized that other sections of PA 94-677 "are deemed invalid solely on inseverability grounds, the legislature remains free to reenact any provisions it deems appropriate."

As a result of the ruling, the Department is revising 50 Ill. Adm. Code 929 to comply with the law currently in effect. The Department, as anticipated, used the current rule on file with the Secretary of State as the starting point for these proposed amendments

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submitted for First Notice. One requirement that the Department proposes is that the rate and rule filings be submitted electronically. This electronic filing will be similar to other filings that the Department currently receives electronically.

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

Joseph Clennon
Assistant General Counsel
Department of Insurance
320 West Washington, 4th Floor
Springfield IL 62767-0001

217/557-1396
217/524-9033 (fax)

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

DEPARTMENT OF INSURANCE

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TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER I: PROVISIONS APPLICABLE TO ALL COMPANIESPART 929
MEDICAL LIABILITY INSURANCE RULES AND RATE FILINGS

SUBPART A: GENERAL PROVISIONS AND REPORTING REQUIREMENTS

Section	
929.10	Authority
929.15	Definitions
929.20	Purpose and Scope
929.30	Filing Requirements
929.40	Severability Provision (Repealed)
929.50	Exemption from Filings

SUBPART B: ADMINISTRATIVE HEARING PROVISIONS

Section	
929.200	Applicability (Repealed)
929.210	Form of Documents (Repealed)
929.220	Filing (Repealed)
929.230	Computation of Time (Repealed)
929.240	Appearances (Repealed)
929.250	Notice of Hearing (Repealed)
929.260	Publication of the Notice of Hearing (Repealed)
929.270	Bias or Disqualification of Hearing Officer (Repealed)
929.280	Pre-hearing Conferences (Repealed)
929.290	Conduct of the Hearing (Repealed)
929.300	Hearing Officer's Findings, Conclusions and Recommendations (Repealed)
929.310	Order of the Secretary or Director (Repealed)

AUTHORITY: Implementing Section 155.18 of, and authorized by Section 401 of, the Illinois Insurance Code [215 ILCS 5/155.18 and 401].

SOURCE: Adopted at 3 Ill. Reg. 20, p. 47, effective May 13, 1979; codified at 7 Ill. Reg. 2363; amended at 30 Ill. Reg. 19530, effective December 11, 2006; recodified from the Department

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Financial and Professional Regulation to the Department of Insurance at 38 Ill. Reg. 24067; amended at 39 Ill. Reg. 392, effective December 19, 2014.

SUBPART A: GENERAL PROVISIONS AND REPORTING REQUIREMENTS

Section 929.10 Authority

This Part is promulgated by the Director of the Department of ~~Financial and Professional Regulation Division of~~ Insurance under Section 401 of the Illinois Insurance Code [215 ILCS 5/401] that empowers the Director *to make reasonable rules and regulations as may be necessary for making effective* the insurance laws of this State. This Part implements Section 155.18 of the Illinois Insurance Code [215 ILCS 5/155.18].

(Source: Amended at 39 Ill. Reg. 392, effective December 19, 2014)

Section 929.15 Definitions

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

"Department" means the Illinois Department of ~~Insurance~~~~Financial and Professional Regulation~~.

"Director" means the Director of the Illinois Department of ~~Financial and Professional Regulation Division of~~ Insurance.

"SERFF" means the National Association of Insurance Commissioners' web based System for Electronic Rate and Form Filing and required by Section 143(2) of the Code that enables insurers and other companies to streamline their rate and form filing process by filing the same electronically at <http://www.serff.com/>.

~~Division means the Illinois Department of Financial and Professional Regulation-Division of Insurance.~~

~~Secretary means the Secretary of the Illinois Department of Financial and Professional Regulation.~~

(Source: Amended at 39 Ill. Reg. 392, effective December 19, 2014)

Section 929.30 Filing Requirements

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- a) All companies writing medical liability insurance are subject to this Section. Each company must file with the ~~Secretary or~~ Director, in a manner prescribed in this Section, under its own name. ~~Combined group filings for companies subject to common management or ownership are not acceptable.~~
- b) Rates – A company must file on its own behalf all rates for medical liability insurance, and:
- 1) File ~~duplicate~~ copies of a Rate Submission Letter using System for Electronic Rate and Form Filing (SERFF) or in another electronic format approved by the Director. This filing~~that~~ must include:
 - A) The name of the company making the filing;
 - B) FEIN of the company making the filing;
 - C) Identification of the classes of medical liability insurance to which the filing applies;
 - D) Notification of whether the filing is new or supersedes a present filing. Identification of all changes in superseding filings, as well as identification of all superseded filings is required;
 - E) The effective date of use; and
 - F) Certification by an officer of the company and a qualified actuary that the company's rates are based on sound actuarial principles and are not inconsistent with the company's experience.
 - 2) Company Rate Information shall be completed for each company when a filing is being submitted that includes:~~File duplicate copies of FORM (RF-3), which provides information on changes in rate level based on the company's premium volume, rating system, and distribution of business with respect to the classes of medical liability insurance to which the rate revision applies. Insurers shall report the rate level change information and premium volume on the "Other" line and indicate "Medical Liability" on the "Other" descriptive line.~~

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- A) Overall % Indicated Change.
 - B) Overall % Rate Impact – This is the statewide average percentage change to the accepted rates for the coverages included for each company.
 - C) Written premium change for this program – This is the statewide change in written premium based on the proposed overall percentage rate impact for each company.
 - D) Number of policyholders affected for this program – This is the number of policyholders affected by the overall percentage rate impact for each company.
 - E) Written premium for this program – This is the statewide written premium for each company.
 - F) Maximum % Change.
 - G) Minimum % Change.
- 3) Maintain documentary data on rate development and changes in order that it be available for review by the ~~Secretary or~~ Director.
- c) Rules – A company must file with the ~~Secretary or~~ Director, in a manner prescribed in this subsection (c), all underwriting rule manuals that contain rules for applying rates or rating plans, plans for the gathering of statistics or the reporting of statistics to statistical agencies, classifications, or other such schedules used in writing medical liability insurance. A company may file directly or in conjunction with an advisory organization.
- 1) A company filing directly must file using SERFF. The filings, in addition to all rate rules themselves, duplicate copies of a Rule Submission Letter that must include:
- A) The name of the company making the filing;
 - B) The FEIN of the company making the filing;

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- C) Identification of the classes of medical liability insurance to which the filing applies;
 - D) Notification as to whether the filing is new or supersedes a present filing. Identification of all changes in all superseding filings, ~~as well as identification of all superseded filings~~ is required. The preferred format for identifying changes is to underline the new wording and overstrike the deleted or changed language and give an explanation for the changes being made;
 - E) The effective date of use; and
 - F) Certification by an officer of the company and a qualified actuary that the company's rate rules are based on sound actuarial principles and are not inconsistent with the company's experience.
- 2) A company filing in conjunction with an advisory organization must file in accord with this subsection (c)(2).
- A) A company, ~~that~~ has authorized an advisory organization to file required materials on the company's behalf must have on file a Rule Authorization Letter, which must include:
 - i) The name of the company's authorized advisory organization.
 - ii) The kinds of insurance for which the filing is being made.
 - iii) Authorization clause or language.
 - iv) Effective date of authorization.
 - B) A company deviating from the advisory organization's rules as they have been filed on behalf of the company by the advisory organization under Section 929.30(c)(2)(A) must file with the ~~Secretary or~~ Director:
 - i) ~~Manual size exception pages to the rule manual in duplicate.~~

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- 3) ~~Non-mandatory Quarterly Payment Option~~
- A) ~~For medical liability insureds whose annual premiums are less than \$500, insurers may, but are not required to, offer quarterly installment premium payment plans.~~
 - B) ~~For insureds who pay a premium for any extension of a reporting period, insurers may, but are not required to, offer quarterly installment, premium payment plans.~~
 - C) ~~If an insurer offers any quarterly payments under this subsection (e)(3), they must be offered to all medical liability insureds.~~
- 4) ~~Quarterly installment premium payment plans subject to this Section shall be included in the initial offer of the policy, or in the first policy renewal occurring after January 1, 2006. Thereafter, the insurer may, but need not, re-offer the payment plan, but if an insured requests the payment plan at a later date, the insurer must make it available. All quarterly installment premium payment plan provisions shall be contained in the filed rate and/or rule manual in a section entitled "Quarterly Installment Option" or a substantially similar title. If the company uses a substantially similar title, the Rule Submission Letter must indicate the name of the section that complies with this requirement. All quarterly installment premium payment plans shall include the minimum standards listed below. Insurers may provide for quarterly installment premium payment plans that differ from these minimum standards, as long as the plans have terms that are at least as favorable or more favorable than those listed below.~~
- A) ~~An initial payment of no more than 40% of the estimated total premium due at policy inception;~~
 - B) ~~The remaining premium spread equally among the second, third, and fourth installments, with the maximum for such installments set at 30% of the estimated total premium, and due 3, 6, and 9 months from policy inception, respectively;~~

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- ~~C)~~ ~~No interest charges;~~
- ~~D)~~ ~~Installment charges or fees of no more than the lesser of 1% of the total premium or \$25, whichever is less; and~~
- ~~E)~~ ~~a provision stating that additional premium resulting from changes to the policy shall be spread equally over the remaining installments, if any. If there are no remaining installments, additional premium resulting from changes to a policy may be billed immediately as a separate transaction.~~
- ~~f)~~ ~~Any company writing medical liability insurance shall file with the Secretary or Director any plan to offer deductibles to its insureds. These provisions shall be contained in the filed rate and/or rule manual in a section entitled "Deductibles Offered" or a substantially similar title. If the company uses a substantially similar title, the Rule Submission Letter must indicate the name of the section that complies with this requirement.~~
- ~~g)~~ ~~All companies writing medical liability insurance shall file with the Secretary or Director any plan to offer insureds premium discounts for participation in risk management activities. These provisions shall be contained in the filed rate and/or rule manual in a section entitled "Risk Management Activities Discounts" or a substantially similar title. If the company uses a substantially similar title, the Rule Submission Letter must indicate the name of the section that complies with this requirement.~~
- ~~e)h)~~ ~~All filings must be received using SERFF by the Illinois Department~~Division~~ of Insurance, Property and Casualty Compliance Unit, 320 W. Washington~~Section~~, Springfield, Illinois 62767 no later than 30 days after their effective date. Filings will be considered received during the regular business hours from 8:00 am through 5:00 pm Central Standard Time (CST), Monday through Friday, excluding holidays, and no filing is deemed to be received until it is received in the Property and Casualty Compliance Section.~~
- ~~i)~~ ~~In addition to the filings required in this Section, the Secretary or Director may require the filing of statistical data and any other pertinent information necessary to determine the manner the company used to set the filed rates and the reasonableness of those rates, as well as the manner of promulgation and the acceptability or unacceptability of a filing for rules, minimum premiums, rates,~~

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forms or any combination of those items. An insurer shall provide the data or information within 14 calendar days after the ~~Secretary's or~~ Director's request.

- j) ~~In order to determine when 1% of Illinois insureds within a specialty have requested a hearing, the Secretary or Director may contact an insurer for the total number of Illinois insureds within the insurer's specialties, and the insurer shall provide that information within 14 calendar days.~~
- gk) Groups, associations, organizations or companies authorized to engage in joint underwriting and joint reinsurance activities are prohibited from establishing underwriting rules with respect to rates that in any way inhibit a company from individually underwriting any risks.
- l) ~~No company authorized to write medical liability insurance in Illinois may discontinue writing medical liability insurance without notifying the Secretary or Director of the action, as well as reasons for the action, 180 days before the termination of any policy is effective. The notice must include the reasons for the action, all data relied upon by the company as the basis for the action, and whether the company offers and will continue to offer medical liability insurance in any other state. For purposes of this requirement, discontinuance of the writing of medical liability insurance shall mean cancellation or nonrenewal of greater than 50% of the company's medical liability insurance policies within any 12 month period.~~

(Source: Amended at 39 Ill. Reg. 392, effective December 19, 2014)

Section 929.50 Exemption from Filings

- a) A company is not required to file under this Part for individual risks in this State that cannot be rated in the normal course of business because of special or unusual characteristics, as provided in Section 456(1)(c) of the Code and that must be rated on the basis of underwriting judgment.
- b) A company must maintain documentary information regarding rates determined under subsection (a) for review by the Director.

(Source: Added at 39 Ill. Reg. 392, effective December 19, 2014)

SUBPART B: ADMINISTRATIVE HEARING PROVISIONS

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Section 929.200 Applicability (Repealed)

~~This Part shall apply to all hearings conducted pursuant to the Secretary's or Director's authority in Section 155.18 of the Code.~~

(Source: Repealed at 39 Ill. Reg. 392, effective December 19, 2014)

Section 929.210 Form of Documents (Repealed)

- a) ~~Documents shall clearly show the file Hearing Number and the title of the proceedings in connection with which they are filed.~~
- b) ~~Except as otherwise provided, 2 copies of all documents, including notices, motions, and petitions, shall be filed with the Division.~~
- c) ~~Documents shall be typewritten or reproduced from typewritten copy on letter or legal size white paper.~~
- d) ~~One copy of each document filed shall be signed by the party or by an authorized representative or attorney.~~

(Source: Repealed at 39 Ill. Reg. 392, effective December 19, 2014)

Section 929.220 Filing (Repealed)

~~Documents and requests permitted or required to be filed with the Division in connection with a hearing shall be addressed to and mailed to or filed with the Division, Springfield, Illinois 62767, in duplicate. The offices of the Division are open for filing, inspection and copying of public documents from 8:30 A.M. to 5:00 P.M., Monday through Friday, except on National and State legal holidays.~~

(Source: Repealed at 39 Ill. Reg. 392, effective December 19, 2014)

Section 929.230 Computation of Time (Repealed)

- a) ~~Computation of any period of time prescribed by this Part shall begin with the first business day following the day on which the act, event or development initiating the period of time occurs, and shall run until the end of the last day, or~~

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~~the next following business day if the last day is a Saturday, Sunday, or legal holiday. Where the period of time is five days or less, Saturdays, Sundays and legal holidays shall be excluded in the computation of time.~~

- b) ~~Notice requirements shall be construed to mean notice received, but proof that notice was dispatched by means reasonably calculated to be received by the prescribed date shall be prima facie proof that notice was timely received.~~

(Source: Repealed at 39 Ill. Reg. 392, effective December 19, 2014)

Section 929.240 Appearances (Repealed)

- a) ~~Any person entitled to participate in the proceeding may appear as follows:~~
- 1) ~~A natural person may appear in his or her own behalf or by an attorney at law licensed to practice in the State of Illinois, or both.~~
 - 2) ~~A business, nonprofit, or government organization may appear by any bona fide officer, employee or representative, or may be represented by an attorney licensed to practice in the State of Illinois, or both.~~
- b) ~~Attorneys not licensed to practice in the State of Illinois may appear on motion.~~
- e) ~~An attorney appearing in a representative capacity shall file a written notice of appearance.~~

(Source: Repealed at 39 Ill. Reg. 392, effective December 19, 2014)

Section 929.250 Notice of Hearing (Repealed)

~~All administrative hearings under this Part shall be initiated by the issuance of a Notice of Hearing from the Division. The Notice of Hearing shall clearly state the time, date, place, and purpose of the hearing.~~

(Source: Repealed at 39 Ill. Reg. 392, effective December 19, 2014)

Section 929.260 Publication of the Notice of Hearing (Repealed)

- a) ~~The Notice of Hearing shall be made public by the Division by all the following:~~

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- 1) ~~Publication on the Illinois Department of Financial and Professional Regulation website; and~~
 - 2) ~~Publication of the Notice in at least three newspapers designed to provide wide geographical distribution of the Notice of Hearing in the State of Illinois; and~~
 - 3) ~~Service of the Notice of Hearing via registered or certified mail to the party making the filing that is the subject of the Notice of Hearing.~~
- b) ~~The Hearing Officer has the authority to conduct a hearing, take all necessary action to avoid delay, maintain order, and insure the development of a clear and complete record. The Hearing Officer shall have all powers necessary to conduct a hearing, including the power to:~~
- 1) ~~Administer oaths and affirmations;~~
 - 2) ~~Regulate the course of hearings, set the time and place for continued hearings, fix time for filing of documents, provide for the taking of testimony by deposition if necessary, and generally conduct the proceeding according to Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10], case law and this Subpart;~~
 - 3) ~~Examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitious or cumulative testimony, and set reasonable limits on the amount of time each witness may testify;~~
 - 4) ~~Rule upon offers of proof and receive relevant evidence;~~
 - 5) ~~Sign and issue subpoenas that require attendance, giving testimony and producing books, papers and other documentary evidence;~~
 - 6) ~~Dispose of procedural requests or similar matters;~~
 - 7) ~~Render Findings of Fact, Opinions and Recommendations for an Order of the Director; and~~
 - 8) ~~Enter any Order that further carries out the purpose of this Subpart.~~

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(Source: Repealed at 39 Ill. Reg. 392, effective December 19, 2014)

Section 929.270 Bias or Disqualification of Hearing Officer (Repealed)

- a) ~~Any interested participant may file a timely and sufficient affidavit setting forth allegations of personal bias, prejudice, or disqualification of a presiding Hearing Officer. The Secretary or Director shall determine this issue as part of the record of the case. When a Hearing Officer is disqualified, or it becomes impractical for him to continue, another presiding officer may be assigned unless it is further shown that substantial bias or prejudice will result from the assignment.~~
- b) ~~The Hearing Officer may at any time voluntarily disqualify himself.~~

(Source: Repealed at 39 Ill. Reg. 392, effective December 19, 2014)

Section 929.280 Pre-hearing Conferences (Repealed)

- a) ~~Upon written notice by the Hearing Officer in any proceeding, the Hearing Officer may direct a participant or his or her attorney to appear at a specified time and place for a conference, prior to or during the course of the hearing, for the purpose of formulating issues and considering:~~
 - 1) ~~The simplification of issues;~~
 - 2) ~~The necessity or desirability of amending the pleadings for the purpose of clarification, amplification or limitation;~~
 - 3) ~~The possibility of making admissions of certain averments of facts or stipulations;~~
 - 4) ~~The limitation of the number of witnesses;~~
 - 5) ~~Such other matters as may aid in the simplification of the evidence and disposition of the proceeding.~~
- b) ~~Opportunity shall be afforded all participants to be represented by legal counsel.~~

(Source: Repealed at 39 Ill. Reg. 392, effective December 19, 2014)

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Section 929.290 Conduct of the Hearing (Repealed)

- a) ~~All hearings shall be public unless required by statute to be otherwise and all hearings conducted under this Subpart shall be recorded.~~
- b) ~~All participating parties may present evidence by oral testimonies or by written submission or both; the burden of proof for justifying the rate or proposed rate is on the company making the filing.~~
- c) ~~The Hearing Officer will determine the order in which parties wishing to make oral presentations shall testify.~~
- d) ~~The Hearing shall be completed within 90 days after the request, decision, or increase that gave issue to the hearing.~~

(Source: Repealed at 39 Ill. Reg. 392, effective December 19, 2014)

Section 929.300 Hearing Officer's Findings, Conclusions and Recommendations (Repealed)

- a) ~~The Hearing Officer's Findings of Fact, Conclusions of Law and Recommendations shall be in writing and shall include Findings of Fact and Conclusions of Law, or Recommendations separately stated.~~
- b) ~~The Hearing Officer shall then submit his Findings, Conclusions and Recommendations to the Secretary or Director.~~

(Source: Repealed at 39 Ill. Reg. 392, effective December 19, 2014)

Section 929.310 Order of the Secretary or Director (Repealed)

~~If, after a public hearing, the Secretary or Director finds that any rate, rating plan or rating system violates Section 155.18 of the Code, the Secretary or Director shall issue an Order to the company that has been the subject of the hearing specifying in what respect the violation exists and may adjust the rate.~~

(Source: Repealed at 39 Ill. Reg. 392, effective December 19, 2014)

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- 1) Heading of the Part: Unfair Discrimination Based on Sex, Sexual Orientation, Gender Identity or Marital Status
- 2) Code Citation: 50 Ill. Adm. Code 2603
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
2603.10	Amendment
2603.20	Amendment
2603.25	New Section
2603.30	Amendment
2603.35	New Section
2603.40	Amendment
2603.60	Repeal
- 4) Statutory Authority: Implementing Sections 236, 355, 355a, 364, 367 and 424(1) and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/236, 355, 355a, 364, 367 and 424(1)]
- 5) Effective Date of Rule: July 1, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: August 15, 2014; 38 Ill. Reg. 17185
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version:
 - a. In the main source note and all Section source notes, added "July 1, 2015" after "effective".
 - b. Section 2603.10, deleted the ellipses in the second and third lines.

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- c. Section 2603.25, before the definition of "Code" added "'ACA" means the Patient Protection and Affordable Care Act (42 USC 18001 et seq.).".
 - d. Section 2603.25, in the third line of the definition of "Excepted Benefits", add "under this Part" after "requirements";
 - e. Section 2603.30(a)(3), add a comma after "terms";
 - f. Section 2603.35(a)(2) and (5), add "for" after "rate";
 - g. Section 2603.35(b): Capitalize all of the initial letters except for "for" in the first sentence; in the second line, delete the comma after "members"; third line, delete the comma after "2015".
 - h. Section 2603.40, first line, delete "a)"; third line, change "such" to "that"; 6th line, strike "Three" through "Part" and insert "After July 1, 1979,"; 7th line, change "subsection" to "Section"; 9th line, strike "the preceding sentence" and insert "this subsection".
 - i. Section 2603.40(b), delete all text.
- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendments update the Department's rules prohibiting unfair discrimination based on sex, sexual preference, or marital status to also prohibit unfair discrimination against transgender persons. In addition, the amendments will update the rule's terminology by replacing the references to "sexual preference" with "sexual orientation."
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Jim Rundblom, Deputy General Counsel
Department of Insurance
320 West Washington, 4th Floor

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Springfield IL 62767-0001

217/785-8559

217/524-9033 (fax)

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

DEPARTMENT OF INSURANCE

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TITLE 50: INSURANCE
 CHAPTER I: DEPARTMENT OF INSURANCE
 SUBCHAPTER ff: UNFAIR METHODS OF COMPETITION

PART 2603
 UNFAIR DISCRIMINATION BASED ON SEX, SEXUAL ORIENTATION,
GENDER IDENTITY PREFERENCE OR MARITAL STATUS

Section	
2603.10	Authority
2603.20	Purpose and Scope
<u>2603.25</u>	<u>Definitions</u>
2603.30	Prohibited Practices
<u>2603.35</u>	<u>Prohibited Gender Identity Discrimination</u>
2603.40	Rates
2603.50	Severability Provision
2603.60	Effective Date (<u>Repealed</u>)

AUTHORITY: Implementing Sections 236, 355, 355a, 364, 367 and 424(1) and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/236, 355, 355a, 364, 367 and 424(1)].

SOURCE: Filed May 26, 1976, effective July 1, 1976; codified at 7 Ill. Reg. 896; amended at 39 Ill. Reg. 409, effective July 1, 2015.

Section 2603.10 Authority

This Part is promulgated by the Director of Insurance pursuant to Section 401 of the Illinois Insurance Code (~~Code~~)(~~Ill. Rev. Stat., 1981, ch. 73, Section 1013~~), which empowers the Director "~~...to make reasonable rules and regulations as may be necessary for making effective...~~" the insurance laws of this State. This Part implements Sections 236, 355, 355a, 364, 367 and 424(1) of the ~~Illinois Insurance Code~~ (~~Ill. Rev. Stat., 1981, ch. 73, pars. 848, 967a, 976, 1031(1)~~). Failure to adhere to the standards in this Part~~herein set forth~~ shall subject the offender, in addition to any other penalties provided by law, to proceedings under Article XXVI of the ~~Illinois Insurance Code~~.

(Source: Amended at 39 Ill. Reg. 409, effective July 1, 2015)

Section 2603.20 Purpose and Scope

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The purpose of this Part is to eliminate unfair discrimination based upon sex, gender identity, sexual orientation preference or marital status in the terms and conditions of insurance contracts and in the underwriting criteria of insurance carriers. This Part shall apply to all companies authorized to do an insurance business in this State of the kind or kinds of business described in Class 1(a), 1(b) or Class 2(a) of Section 4 of the ~~Illinois Insurance Code (Ill. Rev. Stat. 1981, ch. 73, par. 616)~~, all companies licensed in accordance with ~~the Non-Profit Health Care Service Plan Act (Ill. Rev. Stat., 1981, ch. 32, par. 551, et seq)~~, the Voluntary Health Services Plans Act [215 ILCS 165](~~Ill. Rev. Stat., 1981, ch. 32, par. 595, et seq~~), the Medical Service Plan Act (~~Ill. Rev. Stat., 1981, ch. 32, par. 563, et seq~~), the Health Maintenance Organization Act [215 ILCS 125](~~Ill. Rev. Stat., 1981, ch. 111 1/2, par. 1401, et seq~~) and to all Fraternal Benefit Societies licensed in accordance with article XVII of the ~~Illinois Insurance Code [215 ILCS Art. XVII] (Ill. Rev. Stat., 1981, ch. 73, par. 894, et seq)~~. This Part regulation shall not affect the rights of fraternal benefit societies as specified in Sections 283 and 296(6) of the ~~Illinois Insurance Code (Ill. Rev. Stat., 1981, ch. 73, pars. 895 and 908(6))~~.

(Source: Amended at 39 Ill. Reg. 409, effective July 1, 2015)

Section 2603.25 Definitions

"ACA" means the Patient Protection and Affordable Care Act (42 USC 18001 et seq.).

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

"Director" means the Director of the Illinois Department of Insurance.

"Department" means the Illinois Department of Insurance.

"Excepted Benefits", for purposes of this Part, means benefits under one or more (or any combination) of the following:

Benefits not subject to requirements under this Part:

Coverage only for accident or disability income insurance, or any combination of that insurance;

Coverage issued as a supplement to liability insurance;

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Liability insurance, including general liability insurance and automobile liability insurance;

Workers' compensation or similar insurance;

Automobile medical payment insurance;

Credit-only insurance;

Coverage for on-site medical clinics; or

Other similar insurance coverage under which benefits for medical care are secondary or incidental to other insurance benefits.

Benefits not subject to requirements if offered separately:

Limited scope dental or vision benefits; and

Benefits for long-term care, nursing home care, home health care, community-based care, or any combination of these benefits.

Benefits not subject to requirements if offered as independent, noncoordinated benefits:

Coverage only for a specified disease or illness; or

Hospital indemnity or other fixed indemnity insurance paid as a fixed dollar amount per day or other period, or per event or upon benefits paid upon a basis other than period of time, regardless of the amount of expenses incurred.

Benefits not subject to requirements if offered as a separate insurance policy:

Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act (42 USC 1395ss(g)(1))), coverage supplemental to the coverage provided under 10 USC 55, and similar supplemental coverage provided to coverage under a group health plan. (See 26 USC 9832.)

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"Gender Transition" means the process of changing one's outward appearance, including physical sex characteristics, to accord with his or her actual gender identity.

"Grandfathered Health Plan" means any group health plan or health insurance coverage in which an individual was enrolled on the date of the enactment of the ACA and shall have the same meaning as set forth in section 18011 of the Public Health and Welfare Act (42 USC 18011).

"Perceived Gender Identity" means an observer's impression of another's internal sense of being: male, female, a gender different from the gender assigned at birth, a transgender person, or neither male nor female. The term also includes an observer's impression that another is: male, female, a gender different from the gender assigned at birth, a transgender person, or neither male nor female.

"Transgender Person" means a person who has, or has been diagnosed with, gender identity disorder or gender dysphoria; who has received health care services, including counseling, related to gender transition; who adopts the dress, appearance, or behavior of the opposite sex; or who otherwise identifies himself or herself as a gender different from the gender assigned to that person at birth.

(Source: Added at 39 Ill. Reg. 409, effective July 1, 2015)

Section 2603.30 Prohibited Practices

No company shall refuse to issue any contract of insurance, certificate of insurance, notices of proposed insurance, policies, endorsements or riders or decline to renew ~~asuch~~ contract, certificate, notice, policy, endorsement or rider because of the sex, sexual ~~orientation~~preference or marital status of the insured or prospective insured. The amount of benefits payable or any term, condition or type of coverage shall not be restricted, modified, excluded or reduced on the basis of the sex, sexual ~~orientation~~preference or marital status of the insured or prospective insured. All underwriting criteria shall be applied in all instances of similar circumstances without regard to the sex, sexual ~~orientation~~preference or marital status of the insured or prospective insured. ~~When~~Where benefits for elective procedures are offered, they must be offered equally.

- a) Examples of the practices prohibited by this Section include, but are not limited to:

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- 1) Offering coverage to males gainfully employed at home, employed part-time or employed by relatives, while denying or offering reduced coverage to females similarly employed;
- 2) Denying policy riders because of an individual's sex, sexual ~~orientation~~preference or marital status;
- 3) Denying, cancelling or refusing to renew coverage, or providing coverage on different terms, because the insured or prospective insured is residing with another person or persons of either sex not related by blood or marriage;
- 4) Reducing disability benefits for women who become disabled while not gainfully employed full-time ~~outside~~out-side the home when a similar reduction is not applied to men;
- 5) Restricting availability of maternity coverages or benefits based upon marital status;
- 6) Offering dependent coverage to wives of male employees while denying dependent coverage to husbands of female employees;
- 7) Establishment of different conditions or benefit options based on an individual's sex, sexual ~~orientation~~preference or marital status. This includes more restrictive benefit periods and more restrictive definitions of disability to women than to men, except as permitted by this Part;
- 8) Requiring an applicant to submit to a medical examination because of the applicant's sex, sexual ~~orientation~~preference or marital status;
- 9) Denying to divorced or single persons coverage available to married persons;
- 10) Denying disability income contracts of insurance, certificates of insurance, notices, policies, riders or endorsements to those in similar occupational classifications because of an individual's sex, sexual ~~orientation~~preference or marital status;

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- 11) Considering that portion of treatment attributed to complications of pregnancy in a manner different than any other illness or sickness covered by the contract, certificate, notice, policy, endorsement or rider;
 - 12) Limiting the amount of coverage an insured or prospective insured may purchase based upon the sex, sexual ~~orientation~~~~preference~~ or marital status of the insured or prospective insured;
 - 13) Denying maternity ~~coverage~~~~coverages~~ to an individual who has not purchased dependent or family coverage when maternity ~~coverage~~~~is~~~~coverages~~~~are~~ otherwise available.
- b) Examples of practices not prohibited by this Section include, but are not limited to:
- 1) Offering annuity benefit amounts ~~that~~~~which~~ differ (such as through the election of a settlement option in a ~~life insurance policy~~~~Life Insurance Policy~~) based upon the individual's sex;
 - 2) Taking marital status into account for the purpose of determining a spouse eligible for dependent benefits under a group or family policy; marital status of the named insured or certificate holder shall not be taken into account for the purpose of determining eligibility for dependent benefits with regard to natural or adopted children and to obligations as required by the courts. When maternity benefits are provided, ~~those~~~~such~~ benefits shall be applied to natural or adopted children who are covered as dependents.

(Source: Amended at 39 Ill. Reg. 409, effective July 1, 2015)

Section 2603.35 Prohibited Gender Identity Discrimination

- a) A group health insurance plan that is neither a grandfathered plan nor a plan offering excepted benefits shall not discriminate on the basis of an insured's or prospective insured's actual or perceived gender identity, or on the basis that the insured or prospective insured is a transgender person. The discrimination prohibited by this Section includes any of the following:
- 1) discriminatory exclusionary clauses;

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- 2) provisions that exclude from, limit, charge a higher rate for, or deny a claim for coverage of hospital and medical benefits for gender dysphoria if benefits covered by the policy are provided for other medical conditions;
 - 3) cancelling, limiting or refusing to issue or renew an insurance policy on the basis of an insured's or prospective insured's actual or perceived gender identity, or for the reason that the insured or prospective insured is a transgender person;
 - 4) designating an insured's or prospective insured's actual or perceived gender identity, or the fact that an insured or prospective insured is a transgender person, as a preexisting condition for which coverage will be denied or limited;
 - 5) provisions that exclude from, limit, charge a higher rate for, or deny a claim for coverage for the surgical treatments for gender dysphoria; or
 - 6) denying or limiting coverage, or denying a claim, for services due to an insured's actual or perceived gender identity or for the reason that the insured is a transgender person, including, but not limited to, health care services that are ordinarily or exclusively available to individuals of one sex when the denial or limitation is due only to the fact that the insured is enrolled as belonging to the other sex or has undergone, or is in the process of undergoing, gender transition.
- b) Temporary Exemption for Transitional Small Group Plans. A group plan having fewer than 51 members that was sold before January 1, 2014 and renewed between January 1, 2015 and October 1, 2015 will not be required to comply with the requirements of this Section until after the expiration of the 2015 plan year.

(Source: Added at 39 Ill. Reg. 409, effective July 1, 2015)

Section 2603.40 Rates

a) No insurance company shall place a risk in a rating classification on the basis of sex, sexual ~~orientation preference~~ or marital status or otherwise differentiate in rates on the basis of sex, sexual ~~orientation preference~~ or marital status unless ~~that such~~ classification or differentiation is based upon expected claim costs and expenses derived by applying sound actuarial principles to relevant and reasonably current company or intercompany studies, claim costs and expense

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experience. ~~After July 1, 1979, Three years after the effective date of this Part~~ no company shall charge a differential by sex, sexual ~~orientation~~preference or marital status larger than the differential indicated by the criterion stated in ~~this Section~~the preceding sentence. An insurer shall, upon request of the Director ~~of Insurance~~, justify ~~to the Director~~ that ~~thesuch~~ classification or differentiation equitably and reasonably reflects differences in expected claim costs and expenses.

b) ~~Effective July 1, 1976, unless otherwise specified, this Section shall apply to all previously issued contracts, notices, policies, endorsements or riders, which do not contain provisions for guaranteed rates, at the time of any future rate change.~~

(Source: Amended at 39 Ill. Reg. 409, effective July 1, 2015)

Section 2603.60 Effective Date (Repealed)

~~This Part shall become effective July 1, 1976, and will apply to all contracts, endorsements or riders issued on or after that date.~~

(Source: Repealed at 39 Ill. Reg. 409, effective July 1, 2015)

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- 1) Heading of the Part: Grade A Pasteurized Milk and Milk Products
- 2) Code Citation: 77 Ill. Adm. Code 775
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
775.10	Amendment
775.20	Amendment
775.50	Amendment
775.115	New Section
- 4) Statutory Authority: Authorized by the Grade A Pasteurized Milk and Milk Products Act [410 ILCS 635] and the Illinois Food, Drug and Cosmetic Act [410 ILCS 620]
- 5) Effective Date of Rulemaking: December 19, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposed Amendments published in the *Illinois Register*: 38 Ill. Reg. 10853; May 23, 2014
- 10) Has JCAR issued a State of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version:

No comments were received during the First Notice period. Changes were made to the rules to reflect amendments to Part 775 that were adopted effective May 21, 2014.

During the Second Notice period, the following changes were made in response to comments and suggestions of JCAR:

1. In the third line of the opening paragraph of Section 775.115, "2-" was changed to "2.".

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2. In Section 775.115(a), "(i.e., the appropriate Regional Office)" was added after "employed".
3. In Section 775.115(b)(3)(A) and (C), "Department Regional Office responsible for the oversight of the milk plant where the applicant is employed" was changed to "appropriate Regional Office".
4. In Section 775.115(b)(4)(A), "Department Regional Office responsible for the oversight of the milk plant where the applicant is employed to schedule the practical evaluation" was changed to "appropriate Regional Office, with which the applicant shall schedule the practical evaluation".
5. In Section 775.115(b)(4)(G), "Department Regional Office responsible for oversight of the milk plant where the applicant is employed to re-schedule a" was changed to "appropriate Regional Office to re-schedule a". In the second sentence, "Department" was changed to "appropriate".
6. In Section 775.115(c)(5), "A renewal permit" was changed to "The initial permit and subsequent renewal permits".

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

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

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
775.10	Amendment	38 Ill. Reg. 18346; Sept. 5, 2014
775.20	Amendment	38 Ill. Reg. 18346; Sept. 5, 2014
775.30	Amendment	38 Ill. Reg. 18346; Sept. 5, 2014
775.50	Amendment	38 Ill. Reg. 18346; Sept. 5, 2014
775.55	New Section	38 Ill. Reg. 18346; Sept. 5, 2014
775.57	New Section	38 Ill. Reg. 18346; Sept. 5, 2014

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- 15) Summary and Purpose of Rulemaking: This rulemaking will incorporate administrative procedures for the certified pasteurizer sealer program and the issuance of the certified pasteurizer sealer permit.

The certified pasteurizer sealer program allows the Department to authorize a permitted certified sealer, or an employee of the milk plant, to test and temporarily seal pasteurization equipment. The Department will then re-test and re-seal within 10 days.

The industry acknowledges that product produced could be recalled if the product was not pasteurized correctly during the time period from when the certified sealer tests and seals the pasteurization equipment to when the Department re-checks the equipment.

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

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

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

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

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER m: FOOD, DRUGS AND COSMETICSPART 775
GRADE A PASTEURIZED MILK AND MILK PRODUCTS

Section

775.1	Minimum Regulations (Renumbered)
775.10	Definitions
775.20	Incorporated and Referenced Materials
775.30	Minimum Requirements
775.40	Local Government Implementation
775.50	Permits
775.60	Suspension of Permits
775.70	Inspections and Investigations
775.80	Approval of Construction Plans
775.90	Administrative Hearings
775.100	Milk Hauler-Samplers Examination
775.110	Milk Tank Trucks
775.115	Certified Pasteurizer Sealer Program
775.120	Cleaning and Sanitizing Procedures
775.130	Action Levels for Added Water in Milk
775.140	Pesticide, Herbicide and Mycotoxin Residue Control Program (Repealed)
775.150	Drug Residue Control Program

AUTHORITY: Authorized by and implementing the Grade A Pasteurized Milk and Milk Products Act [410 ILCS 635] and the Illinois Food, Drug and Cosmetic Act [410 ILCS 620].

SOURCE: Adopted and codified at 8 Ill. Reg. 4190, effective March 16, 1984; amended at 11 Ill. Reg. 1464, effective February 1, 1987; amended at 12 Ill. Reg. 17925, effective December 1, 1988; amended at 17 Ill. Reg. 14015, effective August 15, 1993; amended at 19 Ill. Reg. 12271, effective August 10, 1995; amended at 22 Ill. Reg. 20633, effective November 10, 1998; amended at 25 Ill. Reg. 11904, effective September 1, 2001; amended at 25 Ill. Reg. 12629, effective September 25, 2001; amended at 27 Ill. Reg. 15979, effective October 1, 2003; amended at 32 Ill. Reg. 8432, effective May 21, 2008; amended at 35 Ill. Reg. 14193, effective August 2, 2011; amended at 37 Ill. Reg. 7166, effective May 13, 2013; amended at 38 Ill. Reg. 11796, effective May 21, 2014; amended at 39 Ill. Reg. 420, effective December 19, 2014.

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Section 775.10 Definitions

In addition to the definitions contained in Section 1 of the Grade A Pasteurized Milk Ordinance (PMO), the following definitions shall apply:

"Act" means the Grade A Pasteurized Milk and Milk Products Act [410 ILCS 635].

"Applicant" means a person who formally applies to be a certified pasteurizer sealer or bulk milk hauler/sampler.

"Bulk milk pickup tank" means the tank, and those appurtenances necessary for its use, used by a milk hauler-sampler to transport bulk raw milk for pasteurization from a dairy farm to a milk plant, receiving station, or transfer station. (Section 3(b)(16) of the Act)

"Certified pasteurizer sealer" means a person who has satisfactorily completed a course of instruction and has demonstrated the ability to satisfactorily conduct all pasteurization control tests, as required by this Part. (Section 3(b)(17) of the Act and Section 2.39 of the Illinois Food, Drug and Cosmetic Act)

"Clarification" means an operational procedure that removes sediment from milk.

"Cleaning and sanitizing facility" means any place, premise or establishment where milk tank trucks are cleaned and sanitized. (Section 3(b)(15) of the Act)

"Cultured dairy products" means milk and milk products that have been soured after pasteurization using harmless lactic-acid-producing bacteria, food grade phosphoric acid, lactic acid, citric acid or hydrochloric acid, with or without rennet and/or other safe, suitable milk-clotting enzymes.

"Dairy farm" means any place or premise where one or more cows or goats are kept, and from which a part or all of the milk or milk products are provided, sold or offered for sale to a milk plant, transfer station, or receiving station. (Section 3(b)(1) of the Act)

"Department" means the Illinois Department of Public Health. (Section 3(b)(7) of the Act)

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"Director" means the Director of the Illinois Department of Public Health. (Section 3(b)(8) of the Act)

"Downstream " means located after the automatic milk flow safety device in a high temperature short time (HTST) flow-diversion device.

"Embargo or hold for investigation" means a detention or seizure designed to deny the use of milk or milk products which may be unwholesome or to prohibit the use of equipment which may result in contaminated or unwholesome milk or dairy products. (Section 3(b)(9) of the Act)

"Enforcing agency" means the Illinois Department of Public Health or a unit of local government electing to administer and enforce the Act as provided for in the Act. (Section 3(b)(12) of the Act)

"Field representative" means a person qualified and trained in the sanitary methods of production and handling of milk as set forth in this Part, and generally employed by a processing or manufacturing plant for the purpose of doing quality control work.

"Grade A" means that milk and milk products are produced and processed in accordance with the current Grade A Pasteurized Milk Ordinance as adopted by the National Conference on Interstate Milk Shipments and the United States Public Health Service – Food and Drug Administration. The term Grade A is applicable to "dairy farm", "milk hauler-sampler", "milk plant", "milk product", "receiving station", "transfer station", "bulk milk pickup tank", and "certified pasteurizer sealer" whenever used in the Act. (Section 3(a) of the Act)

"High temperature short time flow-diversion device" or "HTST flow-diversion device" means an automatic milk-flow safety device that controls the flow of milk in relation to the temperature of the milk or heating medium and/or pressure, vacuum, or other auxiliary equipment.

"Imminent hazard to the public health" means any hazard to the public health when the evidence is sufficient to show that a product or practice, posing or contributing to a significant threat of danger to health, creates or may create a public health situation that should be corrected immediately to prevent injury and that should not be permitted to continue while a hearing or other formal proceeding is being held. (Section 3(b)(10) of the Act)

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"Milk" means the milk of cows or goats and includes skim milk and cream.
(Section 3(b)(2) of the Act)

"Milkfat and Nonfat Solid Content Standards" means the standards set forth in 21 CFR 131.110. (See Section 775.20.)

"Milk hauler-sampler" means a person who is qualified and trained for the grading and sampling of raw milk in accordance with federal and State quality standards and procedures (Section 3(b)(14) of the Act) *and transports bulk raw milk for pasteurization from a dairy farm to a receiving station, transfer station, or milk plant.* (Section 3(b)(16)(A) of the Act)

"Milk plant" means any place, premise, or establishment where milk or milk products are collected, handled, processed, stored, pasteurized, ultra-pasteurized, aseptically processed and packaged, condensed, dried, or prepared for distribution. (Section 3(b)(3) of the Act)

"Milk product" means any product including cream, light cream, light whipping cream, heavy cream, heavy whipping cream, whipped cream, whipped light cream, sour cream, acidified sour cream, cultured sour cream, half-and-half, sour half-and-half, acidified sour half-and-half, cultured half-and-half, reconstituted or recombined milk and milk products, concentrated milk, concentrated milk products, nonfat (skim) milk, reduced fat or lowfat milk, frozen milk concentrate, eggnog, buttermilk, cultured milk, cultured reduced fat or lowfat milk or nonfat (skim) milk, cottage cheese (including dry curd, reduced fat, lowfat, and nonfat), yogurt, lowfat yogurt, nonfat yogurt, acidified milk, acidified reduced fat or lowfat milk, or nonfat (skim) milk, low-sodium milk, low-sodium reduced fat lowfat milk, low-sodium nonfat (skim) milk, lactose-reduced milk, lactose-reduced reduced fat or lowfat milk, lactose-reduced nonfat (skim) milk, aseptically processed and packaged milk and milk products, and milk, reduced fat, lowfat milk or nonfat (skim) milk with added safe and suitable microbial organisms and any other milk product made by the addition or subtraction of milkfat or addition of safe and suitable optional ingredients for protein, vitamin or mineral fortification of milk products defined in this Section. (Section 3(b)(4) of the Act)

"Milk tank truck" is the term used to describe both a bulk or milk pickup tanker and a milk transport tank.

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"Milk transport tank" means a vehicle, including the truck and tank used to transport bulk shipments of milk from a transfer station, receiving station or milk plant to another transfer station, receiving station or milk plant.

"Permit" means a document awarded to a person for compliance with the provisions of and under conditions set forth in the Act and this Part. (Section 3(b)(13) of the Act)

"Person" means any individual, group of individuals, association, trust, partnership, corporation, person doing business under an assumed name, the State of Illinois, or any political subdivision or Department thereof, or any other entity. (Section 3(b)(11) of the Act)

"Quality assurance program" means the Milk and Dairy Beef Quality Assurance Program, Boeckman, Steve and Carlson, Keith R., Agri-Education Inc., Stratford, Iowa 50249 or equivalent program as determined by the Department.

"Receiving station" means any place, premise, or establishment where raw milk is received, collected, handled, stored or cooled and prepared for further transporting. (Section 3(b)(5) of the Act)

"Separation" means an operational procedure that removes butterfat from milk.

"Transfer station" means any place, premise, or establishment where milk or milk products are transferred directly from one milk tank truck to another. (Section 3(b)(6) of the Act)

"Violative drug residue" means a drug residue at or above the tolerance and/or safe levels as set forth in 21 CFR 556 and Appendix N of the PMO.

(Source: Amended at 39 Ill. Reg. 420, effective December 19, 2014)

Section 775.20 Incorporated and Referenced Materials

- a) The following regulations, guidelines and standards are incorporated in this Part:
 - 1) Federal government guidelines:
 - A) The Grade A Pasteurized Milk Ordinance (PMO), and Appendices

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A through R (except Sections 16 and 17) Recommendations of the United States Public Health Service/Food and Drug Administration, ~~2013~~2014 Revision (Publication 229). U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, Milk Safety Branch (HFS-316), 5100 Paint Branch Parkway, College Park MD 20740-3835. In addition, the jurisdiction name, left blank in Sections 1, 2, 3, 5, and 11 of the PMO, for the purposes of this Part, shall mean the State of Illinois; and the regulatory agency referred to in Section 1 shall mean the Illinois Department of Public Health. (See Section 775.30(a).)

- B) Evaluation of Milk Laboratories (2013 Revision), U.S. Department of Health and Human Services, Public Health Service/Food and Drug Administration, Milk Safety Branch (HFS-316), 5100 Paint Branch Parkway, College Park MD 20740-3835.
 - C) Methods of Making Sanitation Ratings of Milk Supplies (2013 Revision), U.S. Department of Health and Human Services, Public Health Service/Food and Drug Administration, Milk Safety Branch (HFS-316), 5100 Paint Branch Parkway, College Park MD 20740-3835.
 - D) Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments (2013 Revision), U.S. Department of Health and Human Services, Public Health Service/Food and Drug Administration, Milk Safety Branch (HFS-316), 5100 Paint Branch Parkway, College Park MD 20740-3835.
- 2) Private and professional standards:
- A) Standard Methods for the Examination of Dairy Products (17th Edition, 2004, American Public Health Association, 1015 – 18th Street, N.W., Washington, D.C. 20036). (See Section 775.70(b).)
 - B) Official Methods of Analysis of the Association of Official Analytical Chemists (18th Edition, 2010, Association of Official Analytical Chemists, P.O. Box 540, Ben Franklin Station,

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Washington, D.C. 20044). (See Section 775.70(b).)

- 3) Federal regulations:
 - A) 21 CFR 131.110, Milk (2013). (See Section 775.10, the definition of "milkfat and nonfat solid content standards".)
 - B) 21 CFR 556, Tolerances for Residues or New Animal Drugs in Food (2013). (See Section 775.10, the definition of "violative drug residue".)
 - C) 40 CFR 180, Tolerances and Exemptions from Tolerances for Pesticide Chemicals in Food (2013). (See Section 775.140(a)(1).)
- b) The following rules and statutes are referenced in this Part:
 - 1) Illinois Plumbing Code (77 Ill. Adm. Code 890), Illinois Department of Public Health. (See Section 775.30(c)(4).)
 - 2) Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100), Illinois Department of Public Health. (See Section 775.90.)
 - 3) The Veterinary Medicine and Surgery Practice Act of 2004 [225 ILCS 115].
 - 4) Illinois Administrative Procedure Act [5 ILCS 100].
- c) All incorporations by reference of federal guidelines and regulations and the standards of professional organizations refer to the materials on the date specified and do not include any amendments or editions subsequent to the date specified.
- d) All citations to federal regulations in this Part concern the specified regulation in the 2013 Code of Federal Regulations, unless another date is specified.
- e) Copies of all incorporated materials are available for inspection and copying by the public at the Department's Central Office, Division of Food, Drugs, and Dairies, 525 West Jefferson Street, Springfield, Illinois 62761.

(Source: Amended at 39 Ill. Reg. 420, effective December 19, 2014)

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Section 775.50 Permits

It shall be unlawful for any person to establish, maintain, conduct, or operate a dairy farm, milk plant, receiving station, or transfer station processing milk or milk products, to establish and operate a cleaning and sanitizing facility or milk tank truck, to haul or sample milk, or to act as a certified pasteurizer sealer within this State, or to bring in and distribute from out-of-state milk and milk products without first obtaining a permit from the Department. (Section 5 of the Act)

- a) The Department will grant and renew a permit for persons who maintain, conduct, or operate a milk plant, receiving station, transfer station, or cleaning and sanitizing facilities within the State of Illinois upon completion of an inspection that establishes compliance with the Act and this Part and upon payment of the fee required by Section 5.1 of the Act. Milk plants that maintain cleaning and sanitizing facilities on the same site as the plant do not have to obtain a separate permit for those facilities.
- b) The Department will grant and renew a permit for persons who bring into and distribute pasteurized milk or milk products from another state that has administrative rules or requirements that provide for clean, sanitary and safe handling and processing of pasteurized milk and milk products to ensure protection equivalent to that provided by this Part upon receipt of an inspection report that establishes compliance with that state's administrative rules or requirements and upon payment of the fee required by Section 5.1 of the Act.
- c) A permit will be granted to a milk hauler-sampler when the following conditions are met:
 - 1) An inspection establishes that the milk hauler-sampler's equipment is in compliance with the provisions of the Act and this Part;
 - 2) The milk hauler-sampler has successfully completed ~~an~~ examination administered by the Department; and
 - 3) The milk hauler-sampler has paid the fee required by Section 5.1 of the Act.
- d) A renewal permit will be granted to a milk hauler-sampler when an inspection establishes that the milk hauler-sampler's equipment and sampling procedures are

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in compliance with the provisions of the Act and this Part and upon payment of the fee required by Section 5.1 of the Act.

- e) Dairy Farm Permits
 - 1) A dairy farm permit is necessary when a farm does not presently hold a permit, when a change of ownership occurs and only the farm owner's name was on the permit, or when a change of tenant occurs and only the former tenant's name was on the permit.
 - 2) A dairy farm permit will be granted to a dairy farm upon the completion of an inspection that establishes compliance with the Act and this Part. The inspection includes procedures for the establishment of a quality record. The quality record is established by the results of four samples taken at a rate of not more than two per week and on separate days within a three-week period.
- f) Certified Pasteurizer Sealer Permits will be issued in accordance with Section 775.115.

(Source: Amended at 39 Ill. Reg. 420, effective December 19, 2014)

Section 775.115 Certified Pasteurizer Sealer Program

The Department will authorize milk plant personnel to test and temporarily seal pasteurization equipment, provided that the conditions in Item 16p.(D), Pasteurization Records, Equipment Tests and Examinations, 2. Equipment Tests and Examinations, of the Pasteurized Milk Ordinance (PMO) and the provisions of this Section are met. All milk plants with pasteurization equipment shall have one certified pasteurizer sealer by July 1, 2015.

- a) The applicant shall contact the Department Regional Office responsible for the oversight of the milk plant where the applicant is employed (i.e., the appropriate Regional Office). The application for a certified pasteurizer sealer permit shall consist of the following:
 - 1) The name and address of the applicant;
 - 2) The location of the milk plant where the applicant is employed; and

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- 3) The type of pasteurization equipment that the applicant is applying to be certified to test and seal, in accordance with PMO Item 16p.(D).
- b) Training, Examination and Evaluation Procedures
- 1) The certified pasteurizer sealer examination and evaluation shall consist of a training course and both a written examination and practical evaluation of testing and sealing pasteurization equipment as referenced in Appendix I of the PMO.
 - 2) Training
 - A) Prior to taking the certified pasteurizer sealer written examination, the applicant shall attend a certified pasteurizer sealer training course approved and conducted by the Department.
 - B) The training shall be a minimum of eight hours in length, including an examination.
 - C) The Department will approve the training course based on the following criteria for course content:
 - i) Instruction on purpose and methodology for pasteurization equipment testing;
 - ii) Review of pasteurization and PMO Appendix I;
 - iii) Overview of requirements for testing of pasteurization equipment;
 - iv) Evaluation of definitions of processes used in pasteurization and explanation of components and instrumentation;
 - v) Analysis of flow diagrams and discussion of safe systems operation guidelines and importance; and
 - vi) Assessment of adjustments of each access point on the pasteurization equipment.

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3) Written Examination

- A) The written examination shall be administered at the appropriate Regional Office or at a location designated by the Department.
- B) The minimum passing score for the written examination shall be 80%. If the applicant passes the examination, the Department will issue a training and examination certificate enabling the applicant to then complete the practical exam.
- C) If the applicant fails the written examination, the Department will send a letter of failure. Once the applicant receives the letter of failure, the applicant shall contact the appropriate Regional Office to schedule to retake the examination.
- D) The applicant shall be allowed to retake the examination twice in a six month time period from the date of the applicant's receipt of the letter of failure. The applicant shall not be allowed to retake the examination on the same day that the applicant fails the examination.

4) Practical Evaluation

- A) The practical evaluation will be administered after the applicant has completed the Department-approved training course and passed the written examination. The Department will provide a copy of the certified pasteurizer sealer training course certificate and written examination to the appropriate Regional Office, with which the applicant shall schedule the practical evaluation.
- B) The practical evaluation will be administered on the pasteurization equipment at the milk plant where the applicant is employed and will be evaluated by the Department.
- C) The practical evaluation will take place when the Department performs the quarterly pasteurizer equipment checks on each pasteurization system at the milk plant or plants where the applicant is employed.

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- D) The applicant shall demonstrate proficiency in all pasteurization control test procedures.
 - E) If the applicant passes the practical evaluation, the Department will issue a certified pasteurizer sealer permit.
 - F) If the applicant fails the practical evaluation, the Department will issue a letter of failure.
 - G) Once the applicant receives the letter of failure, the applicant shall contact the appropriate Regional Office to re-schedule a practical evaluation. The Department shall present the letter of failure to the appropriate Regional Office sanitarian in order to retake the practical evaluation.
 - H) The applicant shall be allowed to retake the practical evaluation twice in a six month time period from the date of the applicant's receipt of the letter of failure.
 - D) If the milk plant where the certified pasteurizer sealer is employed obtains a new pasteurizer, the certified pasteurizer sealer must pass a practical test on that new equipment to be approved to seal. Upon successful completion of the practical, the new equipment will be added to the certified pasteurizer sealer's permit.
 - J) The applicant shall be required to take the practical evaluation every 12 months to receive a renewed certified pasteurizer sealer permit.
- c) Issuance of a Certified Pasteurizer Sealer Permit
- 1) The permit shall be valid only to the person to whom it is issued and shall not be subject to transfer.
 - 2) The permit shall be issued to an applicant who has attended a minimum eight hour training course, passed the written examination and demonstrated proficiency in all pasteurization control test procedures.

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- 3) The permit will list all of the pasteurization equipment that the applicant was certified to test and reseal.
- 4) The permit will expire on December 31 of each year. For applicants who receive their permits after September 1, the permit will expire on December 31 of the following year.
- 5) The initial permit and subsequent renewal permits will be issued upon completion of an annual practical and payment of a \$100 fee.

(Source: Added at 39 Ill. Reg. 420, effective December 19, 2014)

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- 1) Heading of the Part: Merit Commission
- 2) Code Citation: 80 Ill. Adm. Code 50
- 3) Section Number: 50.110 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 8-9a of the Secretary of State Merit Employment Code [15 ILCS 310], as amended by PA 98-810
- 5) Effective Date of Rule: December 18, 2014
- 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 Proposed published in the *Illinois Register*: September 19, 2014; 38 Ill. Reg. 18851.
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: No substantive changes were made during the First Notice period. All technical changes recommended by JCAR were made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Updates the time period in which the Commission shall grant a hearing from 30 to 45 calendar days, pursuant to a change in statute.
- 16) Information and questions regarding this adopted rule shall be directed to:

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Amy N. Williams
Office of the General Counsel
298 Howlett Building
Springfield IL 62756

awilliams3@ilsos.net

- 17) Does this amendment require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code? [30 ILCS 500/5-25] No

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

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TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE A: MERIT EMPLOYMENT SYSTEMS
CHAPTER II: SECRETARY OF STATE MERIT COMMISSIONPART 50
MERIT COMMISSION

Section

50.10	Meetings of the Merit Commission
50.20	Classification Plan
50.30	Personnel Rules
50.40	Jurisdiction B Exemptions
50.50	Orders of Compliance
50.60	Disciplinary Hearings and Demotions
50.70	Geographical Transfers
50.80	Allocation Appeals
50.90	Layoff Appeals
50.100	Personnel Code and Personnel Rule Violations
50.110	Record of Hearings and General Procedural Rules
50.120	Authority of the Hearing Officer
50.130	Authority of the Commission Over Hearing Officer
50.140	Administrative Review

AUTHORITY: Implementing and authorized by Sections 8-9a of the Secretary of State Merit Employment Code [15 ILCS 310].

SOURCE: Filed September 15, 1977; amended at 7 Ill. Reg. 17496, effective January 1, 1984; amended at 8 Ill. Reg. 1988, effective February 10, 1984; codified at 8 Ill. Reg. 15000; amended at 11 Ill. Reg. 6285, effective April 15, 1987; amended at 35 Ill. Reg. 12801, effective July 14, 2011; amended at 39 Ill. Reg. 436, effective December 18, 2014.

Section 50.110 Record of Hearings and General Procedural Rules

- a) Filing and Form of Papers
 - 1) The original copy of any complaint, appeal, pleading, written motion, notice or other documents shall be on 8½ x 11 paper and shall be filed in the Office of the Commission. Documents shall be signed in ink by the party filing them or by his representative and contain the address and

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telephone number of the party, or, if represented, the name, business address and telephone number of such representative.

- 2) Copies of all filed documents shall be served on all known parties to proceedings, and notice of such service shall be given to the Commission.
 - 3) For the purpose of determining the timeliness of filing only, "receipt" is herein defined to mean either personal delivery or date of postmark when deposited in the U.S. mail, in a sealed envelope, with postage prepaid, and properly addressed. If the last date for filing falls upon a weekend or legal holiday, the last date for filing is the first business day following such weekend or legal holiday.
- b) Notice
- Notice to a designated representative is notice to his/her client. Notice to an employee who is not represented shall be served at the address specified in the employee's appeal or, in the absence of such specification, to the last address shown in the employee's personal file. Notice shall be served at the General Law Division of the Attorney General's Office with a copy sent to the Division or Department Head, and to the Director of Personnel.
- c) Time of Hearing
- The Commission shall grant the parties a hearing within ~~45~~30 calendar days following actual, in hand receipt of a written request for hearing, except for cases involving position allocation, geographical transfer, and violation appeals. Geographical transfer, violation, and allocation appeal hearings shall be granted within 60 calendar days after receipt of a request for hearings.
- d) Conduct of Hearings
- All disciplinary hearings shall be public, but individuals displaying disruptive behavior may be barred. Each party may call witnesses to testify in his/her own behalf and to have the aid of counsel at his/her own expense. The respective parties may cross-examine opposing witnesses and present documentary and demonstrative evidence. The hearing need not be conducted according to the technical rules relating to evidence and witnesses. ([See Section 10-40 of the Illinois Administrative Procedure Act](#); [5 ILCS 100/10-40].)
- e) Motions

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- 1) If any party objects to the written charges, or other matters, the Commission favors the practice of submitting motions outlining such objections prior to the date of the hearing.
 - 2) The motion shall point out specifically the defects complained of, and shall ask for appropriate relief, such as: that the action be dismissed, or that a charge be made more definite and certain in a specified particular, or that designated immaterial matter be stricken, and so forth. The Hearing Officer shall rule and enter an appropriate order either to permit or require pleading over or amending or terminating the matter in the whole or in part.
- f) Continuances and Extensions
- 1) The Commission or a Hearing Officer appointed by it to conduct a hearing may, at its discretion, for good cause shown, on timely motion, after notice to the opposite party, extend the time for filing any pleading or documents or may continue the date of a scheduled hearing for a limited period.
 - 2) Motions for extensions or continuances are not timely unless asserted at least 48 hours prior to the time scheduled for filing or hearing except for emergencies.
 - 3) The granting of a request for continuance by the employee in a discharge appeal will constitute a voluntary waiver by him/her of any claim to compensation for the period of such continuance if he/she is ordered retained in his/her position.
- g) Request for List of Witnesses
- Upon timely request made, either party must furnish to the other party a list of the names and addresses of prospective witnesses.
- h) Right to Inspect and Interview
- Any party or their representative shall have the right, upon timely motion, to inspect any relevant documents in the possession of or under the control of any other party and to interview employees having knowledge of relevant facts. Interviews of employees and inspection of documents shall be at times and places reasonable for the employee and for the employer.

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- i) Appearances of Witnesses
 - 1) The Commission Chairman and Commissioners are authorized to issue subpoenas for those witnesses or documents as may be required by any party. Subpoenas duces tecum shall specify the books, papers, and accounts or documents desired to be produced. The appearance of a party or agent and/or employee of a party, may be secured by merely serving the party with written notice designating the persons required to appear. For good cause shown the Hearing Officer on motion may quash or modify any subpoena or notice.
 - 2) The Code provides that *any person who shall fail to appear in response to a subpoena or to answer any question or produce any books or papers pertinent to any such investigation or hearing or who shall knowingly give false testimony in relation to any investigation or hearing under the Code ~~herein~~, shall be guilty of a misdemeanor. (Section 15 of the Code)*
- j) Pre-Hearing Conference
 - 1) In any action, the Hearing Officer may hold a pre-hearing conference. At the conference, the parties, or their representatives, shall appear as the Hearing Officer directs to consider:
 - A) The simplification of the issue;
 - B) Amendment to the charges;
 - C) The possibility of obtaining admissions and stipulations of fact and of documents to avoid unnecessary proof;
 - D) The limitation of the number of expert witnesses;
 - E) Any other matters that may aid in the disposition of the action.
 - 2) The Hearing Officer shall make an order reciting any action taken, any agreement made by the parties as to any of the matters considered, and the issues to be heard.
- k) Written Interrogatories

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- 1) Any party may direct written interrogatories to any other party. Interrogatories shall be restricted to the subject matter of the particular case.
 - 2) Within a reasonable time period after the service of the interrogatories an answer or objection shall be made to each interrogatory. If an answer may be obtained from a document in the possession or control of a party, it shall be sufficient to specify that document as an answer.
 - 3) Answers to interrogatories may be used in the same manner in Commission proceedings as depositions.
- l) **Depositions**
Upon order of the Hearing Officer, the Commission, its Hearing Officer, or any party may cause a deposition of any witness to be taken for use in a Commission proceeding as evidence. The deposition shall be taken in the manner provided by law for depositions in civil actions in the courts of this state.
 - m) **Written Admissions**
A party may serve on any other party a written request for the admission by the latter of the truth of any specified relevant fact set forth in the request, or for the admission of genuineness of any relevant documents described in the request. Copies of the documents shall be served with the request unless copies have already been furnished. Failure to answer such request within a reasonable time shall be deemed as an admission of all items contained in the request.
 - n) **Opening and Closing Statements**
Upon the opening of the hearing, the Hearing Officer may allow the Petitioner and the Respondent to make opening statements. Upon the close of the hearing, each side may make a closing statement orally and/or by written brief incorporating arguments of fact and law. The form of the closing statement shall be at the discretion of the Hearing Officer.
 - o) **Examination of Adverse Party or Agent**
In the hearing of any case, any party or his agent may be called and examined as if under cross-examination at the instance of any adverse party. The party calling for the examination is not concluded thereby, but may rebut the testimony thus given and may impeach the witness by proof of prior inconsistent statement.

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- p) **Hostile Witness**
If the Hearing Officer determines that a witness is hostile or unwilling, the witness may be examined by the party calling him/her as if under cross-examination. The party calling an occurrence witness may, upon showing that he/she called the witness in good faith but is surprised by his/her testimony, impeach the witness by proof of prior inconsistent statements.
- q) **Failure to Comply with Orders or Rules**
If a party, or any person at the instance of or in collusion with a party, unreasonably refuses or fails to comply with this Part, or with any order of the Merit Commission or its Hearing Officer, the hearing authority may enter such adverse finding, order, or decision as may be necessary to insure just disposition of the matter.
- r) **Record of Proceedings**
In all hearings, other than informal allocation conferences, held before the Commission or a Hearing Officer duly appointed by the Commission to conduct those hearings, the Department or Division that is a party thereto shall arrange for a record of the proceedings to be made, transcribed, and filed in the Office of the Commission.
- s) **Proposed Decision and Responses**
- 1) In every contested case, the Hearing Officer shall prepare a proposal for decision that shall be forwarded to the parties at least 10 calendar days prior to the Commission meeting to allow the filing of written exceptions and legal arguments prior to the Commission rendering a final decision.
 - 2) Five copies of any such response must be received by the Commission at least 72 hours prior to the meeting at which a decision is scheduled to be rendered. For purposes of this subsection only "receipt" is defined as "actual, in-hand receipt-".

(Source: Amended at 39 Ill. Reg. 436, effective December 18, 2014)

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NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Compassionate Use of Medical Cannabis Patient Registry
- 2) Code Citation: 77 Ill. Adm. Code 946
- 3)

<u>Section Numbers:</u>	<u>Emergency Action:</u>
946.10	Amendment
946.20	Amendment
946.30	Amendment
946.200	Amendment
946.201	New Section
946.205	Amendment
946.210	Amendment
946.220	Amendment
946.230	Amendment
946.260	Amendment
946.280	Amendment
946.310	Amendment
946.410	Amendment
- 4) Statutory Authority: Implementing and authorized by the Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130]
- 5) Effective Date of Rule: December 22, 2014
- 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 not expire before the end of the 150-day period.
- 7) Date filed with the Index Department: December 22, 2014
- 8) A copy of the emergency rule, 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: The Department is adopting these emergency amendments to expand and clarify the eligibility of persons under 18 years of age for participation in the Compassionate Use of Medical Cannabis Pilot Program. The amendments are necessary to aid the Department in approving registration identification cards for qualifying patients under 18 years of age to access medical cannabis-infused food products for treating or

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alleviating symptoms associated with one or more debilitating conditions in accordance with amendments to the Act.

Section 5-45 of the Illinois Administrative Procedure Act (IAPA) defines "emergency" as "the existence of any situation that any agency finds reasonably constitutes a threat to the public interest, safety, or welfare." The situation that requires this emergency rulemaking constitutes an "emergency" because without this rulemaking, persons under age 18 years of age will not be able to apply for a Medical Cannabis Registration Card, which will provide them access to potentially lifesaving therapy through the use of medical cannabis-infused food products. Immediate adoption of these emergency rules will ensure that the Department is able to approve medical cannabis registration cards for persons under age 18 with debilitating conditions, such as seizure disorders, and provide access to these products. Medical cannabis can be used to treat debilitating epilepsy and other seizure disorders by dramatically reducing seizure activity in children. It is the intent of the Compassionate Use of Medical Cannabis Program to ensure access for persons with debilitating conditions to products that allow them to manage the suffering caused by their condition.

- 10) A Complete Description of the Subjects and Issues Involved: This rulemaking sets forth the requirements for qualifying patients under 18 years of age to participate in the Department's Compassionate Use of Medical Cannabis Patient Registry Program, which is designed to ensure access to medical cannabis to qualifying patients with specific debilitating medical conditions who apply for and are approved for a registry identification card.
- 11) Are there any proposed rulemakings to this Part pending? No
- 12) Statement of Statewide Policy Objectives: This rulemaking will not create or expand a State Mandate.
- 13) Information and questions regarding this emergency rule shall be directed to:

Susan Meister
Administrative Rules Coordinator
Division of Legal Services
Department of Public Health
535 W. Jefferson St., 5th Floor
Springfield IL 62761

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217/782-2043

dph.rules@illinois.gov

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

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER u: MISCELLANEOUS PROGRAMS AND SERVICESPART 946
COMPASSIONATE USE OF MEDICAL CANNABIS PATIENT REGISTRY

SUBPART A: GENERAL PROVISIONS

Section

- 946.10 Definitions
[EMERGENCY](#)
- 946.15 Referenced Materials
- 946.20 Debilitating Medical Conditions
[EMERGENCY](#)
- 946.30 Addition of Debilitating Medical Conditions
[EMERGENCY](#)
- 946.40 Limitations and Penalties
- 946.50 Notifications to the Department
- 946.60 Confidentiality
- 946.70 Applicability to the Smoke Free Illinois Act

SUBPART B: QUALIFYING PATIENTS AND DESIGNATED CAREGIVERS

Section

- 946.200 Application for Registry Identification Card for Qualifying Patients and Designated Caregivers
[EMERGENCY](#)
- [946.201](#) [Application for Registry Identification Card for Qualifying Patients under 18 Years of Age](#)
[EMERGENCY](#)
- 946.205 Deadlines for Submission of Application for Registry Identification Card
[EMERGENCY](#)
- 946.210 Fees
[EMERGENCY](#)
- 946.220 Fingerprint-Based Criminal History Records Check
[EMERGENCY](#)
- 946.230 General Provisions
[EMERGENCY](#)

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- 946.240 Persons Receiving Medical Care at U.S. Department of Veterans Affairs Facilities
946.250 Disposal of Medical Cannabis by Qualifying Patients
946.260 Responsibilities of Designated Caregivers

EMERGENCY

- 946.270 Revocation of a Registry Identification Card
946.275 Suspension of a Registry Identification Card
946.280 Medical Cannabis Obtained from a Medical Cannabis Dispensing Organization

EMERGENCY

- 946.290 Renewal of Registry Identification Cards

SUBPART C: PHYSICIAN REQUIREMENTS

Section

- 946.300 Qualifications of the Certifying Physician
946.310 Physician Written Certification

EMERGENCY

- 946.320 Records Maintained by the Physician and Department

SUBPART D: CANNABIS-INFUSED PRODUCTS

Section

- 946.400 Manufacture of Cannabis-Infused Products
946.410 Sale and Distribution of Cannabis-Infused Products

EMERGENCY

- 946.420 Preparation
946.430 Health Hazards

SUBPART E: ENFORCEMENT

Section

- 946.500 Circuit Court Review

AUTHORITY: Implementing and authorized by the Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130].

SOURCE: Adopted at 38 Ill. Reg. 17367, effective July 29, 2014; emergency amendment at 39 Ill. Reg. 444, effective December 22, 2014, for a maximum of 150 days.

SUBPART A: GENERAL PROVISIONS

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Section 946.10 Definitions**EMERGENCY**

"Act" means the Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130].

"Adequate supply" means 2.5 ounces of usable cannabis during a period of 14 days and that is derived solely from an intrastate source. (Section 10(a)(1) of the Act)

"Administer" or "Administration" means the direct introduction of medical cannabis into the body of a person, whether by inhalation, ingestion, or any other means.

"Bona-fide physician-patient relationship" means a relationship in which the physician has ongoing responsibility for the assessment, care and treatment of a patient's debilitating medical condition, or a symptom of the patient's debilitating medical condition, for which the physician has certified to the Department that the qualifying patient would receive therapeutic or palliative benefit from the medical use of cannabis.

"Cannabis" means *marihuana, hashish and other substances which are identified as including any parts of the plant Cannabis sativa and including any and all derivatives or subspecies, such as Indica, of all strains of cannabis, whether growing or not; the seeds thereof, the resin extracted from any part of such plant; and any compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other cannabinol derivatives, including its naturally occurring or synthetically produced ingredients, whether produced directly or indirectly by extraction, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination.* (Section 3(a) of the Cannabis Control Act)

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"Caregiver" or "designated caregiver" means a person who is designated by a qualifying patient as the person authorized, on the qualifying patient's behalf, to possess, obtain from a certified medical cannabis dispensary, dispense and assist in the administration of medical cannabis.

"Cultivation center" means a facility operated by an organization or business that is registered by the Department of Agriculture to perform necessary activities to provide only registered medical cannabis dispensing organizations with usable medical cannabis. (Section 10(e) of the Act)

"DD214" means a certified DD214 Certificate of Release or Discharge from Active Duty Member Copy 4 or State Director of Veteran Affairs Copy 6; a certified DD214 Report of Separation from Active Duty Copy 2; or equivalent certified document indicating character of service and dates of service. A DD214 can be certified by the State Department of Veterans' Affairs, county veteran's officials, and the federal Department of Veterans Affairs.

"DEA Registration Certificate" means a certificate to prescribe controlled substances issued by the U.S. Department of Justice's Drug Enforcement Administration.

"Debilitating medical condition" means cancer, glaucoma, positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), hepatitis C, amyotrophic lateral sclerosis (ALS), Crohn's disease, agitation of Alzheimer's disease, cachexia/wasting syndrome, muscular dystrophy, severe fibromyalgia, spinal cord disease, including but not limited to arachnoiditis, Tarlov cysts, hydromyelia, syringomyelia, Rheumatoid arthritis (RA), fibrous dysplasia, spinal cord injury, traumatic brain injury (TBI) and post-concussion syndrome, Multiple Sclerosis, Arnold-Chiari malformation and Syringomyelia, Spinocerebellar Ataxia (SCA), Parkinson's disease, Tourette's syndrome, Myoclonus, Dystonia, Reflex Sympathetic Dystrophy, RSD (Complex Regional Pain Syndromes Type I), Causalgia, CRPS (Complex Regional Pain Syndromes Type II), Neurofibromatosis, Chronic Inflammatory Demyelinating Polyneuropathy, Sjogren's syndrome, Lupus, Interstitial Cystitis, Myasthenia Gravis, Hydrocephalus, nail-patella syndrome, residual limb pain, [seizures \(including those characteristic of epilepsy\)](#) or the treatment of these conditions; or any other debilitating medical condition that is added pursuant to the statute or by the Department by rule as provided in Section 946.30. (Section 10(h) of the Act)

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"Department" means the Illinois Department of Public Health.

"Director" means the Director of the Illinois Department of Public Health or his or her designee.

"Dispensing organization district" or "District" means one of the 43 geographically dispersed areas identified in the Act and by the Department of Financial and Professional Regulation where one or more dispensing organizations may be located.

"Evidence-based medical research" means documentation of published, peer-reviewed best evidence on research related to the use of medical cannabis, which includes up-to-date information from relevant, valid research about the effects of medical cannabis on different forms of diseases and conditions, its use in health care, the potential for harm from exposure, and other relevant medical information.

"Excluded offense" means:

a violent crime defined in Section 3 of the Rights of Crime Victims and Witnesses Act or a substantially similar offense that was classified as a felony in the jurisdiction where the person was convicted; or

a violation of a state or federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted, except that the Department may waive this restriction if the person demonstrates to the Department's satisfaction that his or her conviction was for the possession, cultivation, transfer, or delivery of a reasonable amount of cannabis intended for medical use.

This exception does not apply if the conviction was under state law and involved a violation of an existing medical cannabis law. (Section 10(1) of the Act)

"Fingerprint-based criminal history records check" means a fingerprint-based criminal history records check conducted by the Illinois State Police in accordance with the Uniform Conviction Information Act (UCIA).

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"Health care facility" means any and all facilities and agencies licensed by the Illinois Department of Public Health, including, but not limited to, those registered under the Hospital Licensing Act, Nursing Home Care Act, Ambulatory Surgical Treatment Center Act, Alternative Health Care Delivery Act, Hospice Program Licensing Act, Specialized Mental Health Rehabilitation Act of 2013 and any nursing facility operated by the Illinois Department of Veterans' Affairs.

"ISP" means the Illinois State Police.

"Livescan" means an inkless electronic system designed to capture an individual's fingerprint images and demographic data in a digitized format that can be transmitted to ISP for processing. The data is forwarded to the ISP Bureau of Identification (BOI) over a virtual private network (VPN) and then processed by ISP's Automated Fingerprint Identification System (AFIS). Once received at the BOI for processing, the inquiry may be forwarded electronically to the Federal Bureau of Investigation (FBI) for processing.

"Livescan vendor" means an entity licensed by the Department of Financial and Professional Regulation to provide commercial fingerprinting services under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004.

"Medical cannabis" means cannabis and its constituent cannabinoids, such as tetrahydrocannabinol (THC) and cannabidiol (CBD), used as an herbal remedy or therapy to treat disease or alleviate symptoms. Medical cannabis can be administered in a variety of ways, including, but not limited to: vaporizing or smoking dried buds; using concentrates; administering tinctures or tonics; applying topicals such as ointments or balms; or consuming medical cannabis-infused food products.

"Medical cannabis container" means a sealed, traceable, food compliant, tamper resistant, tamper evident container or package used for the purpose of containment of medical cannabis. (Section 10(n) of the Act)

"Medical cannabis dispensing organization" or "Dispensing organization" means a facility operated by an organization or business that is registered by the Department of Financial and Professional Regulation to acquire medical cannabis from a registered cultivation center for the purpose of dispensing

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medical cannabis, paraphernalia, or related supplies and educational materials to registered qualifying patients. (Section 10(o) of the Act)

"Medical cannabis-infused product" means food, oils, ointments, sodas or teas, capsules or other products containing usable cannabis that are not smoked. (Section 10(q) of the Act)

"Petitioner" means an applicant who seeks to add debilitating medical conditions to those listed in Section 10(h) of the Act as allowed under Section 946.30.

"Private residence" means the part of a structure used as a dwelling, including, without limitation: a private home, townhouse, condominium, apartment, mobile home, vacation home, cabin or cottage. For the purposes of this definition, a hotel, motel, inn, resort, lodge, bed and breakfast or other similar public accommodation, hospital, nursing home or assisted living facility shall not be considered a private residence.

"Promptly" means as soon as reasonably practicable, but not later than five days.

"Public place" means any place where an individual could reasonably be expected to be observed by others, including all parts of buildings owned in whole or in part or leased by the State or a unit of local government. A "public place" does not include health care facilities, as defined in this Part, or private residences unless the private residence is used to provide child care, foster care or other similar social service care on the premises.

"Qualifying patient" means a person who has been diagnosed by a physician as having a debilitating medical condition. (Section 10(t) of the Act)

"Quorum" means a majority of the appointed members of the advisory committee being present in person or participating through video conference or by telephonic means.

"Registered qualifying patient" means a qualifying patient who has been approved by the Department and has been issued a registry identification card.

"Registry identification card" or "medical cannabis patient registry card" means a document issued by the Department that identifies a person as a current

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registered qualifying patient or registered designated caregiver. (Section 10(v) of the Act)

"Reviewing physician" means a physician currently licensed under the Medical Practice Act of 1987 or who possesses a current, active medical license issued by another state, who has conducted a review of the medical records from other physicians treating a qualifying patient who is under 18 years of age for the purposes of attesting that the qualifying patient is likely to receive therapeutic or palliative benefit from the medical use of cannabis to treat or alleviate the qualifying patient's debilitating medical condition.

"Spinal cord injury" means damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity.

"Tincture" means cannabis flowered tops and leaves that are soaked in liquid, usually an alcohol solution, transferring the THC and other cannabinoids to the liquid. The tincture may be added to foods and liquids, applied to the skin, or consumed directly by drinking a small quantity or placing a few drops under the tongue.

"Tetrahydrocannabinol" or "THC" means the primary active ingredient in cannabis.

"VA" means federal Department of Veterans Affairs.

"Veteran" means person who served in one of the five active-duty Armed Services or their respective Guard or Reserve units, and who was discharged or released from service under conditions other than dishonorable.

"VA hospital" means a health care facility operated by the federal Department of Veterans Affairs-Veterans Health Administration providing hospital and outpatient health care services to U.S. military service veterans.

"VA official hospital medical records" means records from the VA documenting medical conditions and dates of treatment in the VA healthcare system.

"Violent crime" means any felony in which force or threat of force was used against the victim, or any offense involving sexual exploitation, sexual conduct or sexual penetration, or a violation of Section 11-20.1, 11-20.1B, or 11-20.3 of the

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Criminal Code of 1961 or the Criminal Code of 2012, domestic battery, violation of an order of protection, stalking, or any misdemeanor which results in death or great bodily harm to the victim or any violation of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012, or Section 11-501 of the Illinois Vehicle Code, or a similar provision of a local ordinance, if the violation resulted in personal injury or death, and includes any action committed by a juvenile that would be a violent crime if committed by an adult. For the purposes of this definition, "personal injury" shall include any Type A injury as indicated on the traffic accident report completed by a law enforcement officer that requires immediate professional attention in either a doctor's office or medical facility. A Type A injury shall include severely bleeding wounds, distorted extremities, and injuries that require the injured party to be carried from the scene; or a substantially similar offense that was tried and convicted as a felony in the jurisdiction where the qualifying patient or designated caregiver was convicted. (Section 3(c) of the Rights of Crime Victims and Witnesses Act and Section 10(1)(1) of the Act)

"Waiver" means a waiver of an excluded offense granted by the Department solely based upon the results of a fingerprint-based criminal history records check *if the person demonstrates to the Department's satisfaction that his or her conviction was for the possession, cultivation, transfer, or delivery of a reasonable amount of cannabis intended for medical use.* (Section 10(1)(2) of the Act)

"Written certification" means a document dated and signed by a physician, stating that in the physician's professional opinion, the patient is likely to receive therapeutic or palliative benefit from the medical use of cannabis to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition; that the qualifying patient has a debilitating medical condition and specifying the debilitating medical condition the qualifying patient has; and that the patient is under the physician's care for the debilitating medical condition. A written certification shall be made only in the course of a bona-fide physician-patient relationship, after the physician has completed an assessment of the qualifying patient's medical history, reviewed relevant records related to the patient's debilitating condition, and conducted a physical examination. (Section 10(y) of the Act)

(Source: Amended by emergency rulemaking at 39 Ill. Reg. 444, effective December 22, 2014, for a maximum of 150 days)

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Section 946.20 Debilitating Medical Conditions**EMERGENCY**

A qualifying patient shall be eligible to apply for a Medical Cannabis Patient Registry Identification Card for the use of medical cannabis for treating or alleviating the symptoms associated with~~if diagnosed as~~ having one or more debilitating medical conditions (see Section 946.10).

(Source: Amended by emergency rulemaking at 39 Ill. Reg. 444, effective December 22, 2014, for a maximum of 150 days)

Section 946.30 Addition of Debilitating Medical Conditions**EMERGENCY**

Residents may petition the Department to add debilitating medical conditions to those listed in Section 10(h) of the Act and Section 946.20. The Department will accept petitions twice annually. The open period for accepting petitions will be for a one-month period from January 1 through January 31 and again from July 1 through July 31 each year. Petitions received outside of the open periods specified in this Section will not be reviewed and will be returned to the resident submitting the petition.

- a) The Department will convene a Medical Cannabis Advisory Board (Advisory Board) composed of ~~1645~~ members, including:
 - 1) One medical cannabis patient advocate or designated caregiver;
 - 2) One parent or designated caregiver of a person under age 18 who is a qualified medical cannabis patient;
 - 3) Two registered nurses or nurse practitioners ~~who work with medical cannabis patients;~~
 - 4) Three registered qualifying patients, including one veteran; and
 - 5) Nine healthcare practitioners with current professional licensure in their field. The Advisory Board shall be composed of~~There shall be one~~ healthcare practitioner with expertise in and representing each ~~of the following areas,~~ and At~~at~~ least one~~two of the~~ appointed healthcare

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~~practitioner~~practitioners shall have direct experience ~~related to~~with the health care needs of veterans and at least one individual shall have pediatric experience:

- A) Neurology;
 - B) Pain management;
 - C) Medical oncology;
 - D) Psychiatry or mental health;
 - E) Infectious disease;
 - F) Family medicine;
 - G) General primary care;
 - H) Medical ethics; ~~and~~
 - I) Pharmacy;:-
 - J) Pediatrics; or
 - K) Psychiatry or mental health for children or adolescents.
- b) The Advisory Board shall review petitions and recommend to the Department additional debilitating conditions or diseases that would benefit from the medical use of cannabis.
- c) Members of the Advisory Board will be appointed by the Governor.
- 1) Members shall serve a term of four years or until a successor is appointed and qualified. If a vacancy occurs, the Governor will appoint a replacement to complete the original term created by the vacancy.
 - 2) Members shall select a chairperson.
 - 3) Members may serve multiple terms.

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- 4) Members shall not have an affiliation with, serve on the board of, or have a business relationship with a registered cultivation center or a registered medical cannabis dispensary.
 - 5) Members shall disclose any real or apparent conflicts of interest that may have a direct bearing of the subject matter, such as relationships with pharmaceutical companies, biomedical device manufacturers, or corporations whose products or services are related to the medical condition or disease to be reviewed.
 - 6) Members will not be paid but will be reimbursed for travel expenses incurred while fulfilling the responsibilities of the Advisory Board.
- d) The Advisory Board shall convene at least twice per year to:
- 1) Review petitions received from residents of Illinois for the addition of debilitating medical conditions or diseases that would benefit from the medical use of cannabis.
 - 2) Conduct a public hearing to review the petitions received.
 - 3) Review conditions previously reviewed by the Advisory Board and accepted by the Department for the purposes of determining whether to recommend the revision of the list of debilitating medical conditions or to review new medical and scientific evidence pertaining to currently approved conditions.
 - 4) Recommend the approval or denial of each petitioner's request by submitting a written report to the Department within 60 days after conducting the public hearing. The written report shall include a medical justification for the recommendation based upon the individual or collective expertise of the members of the advisory board. The medical justification shall delineate between the findings of fact made by the Advisory Board and the scientific conclusions of evidence-based medical research.
- e) During the open period, the Department will accept petitions from any resident requesting the addition of a new debilitating medical condition or disease to the

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list of approved debilitating medical conditions for which the use of cannabis has been shown to have a therapeutic or palliative effect. The Department will provide public notice 30 days before the open period for accepting petitions, describing the time period for submission, the required format of the submission, and the submission address, which is set forth in Section 946.205.

- f) Each petition shall be limited to one proposed debilitating medical condition or disease.
- g) A petitioner shall file one original petition in the format provided by the Department and two paper copies, along with a CD/DVD or flash drive containing the petition and all associated documents in electronic form, with the Department by certified U.S. mail. For a petition to be processed and submitted to the Advisory Board, the following information shall be included:
 - 1) The petition, prepared on forms provided by the Department.
 - 2) A specific description of the medical condition or disease that is the subject of the petition. The petitioner shall not submit broad categories, e.g., all mental illnesses. Each petition shall be limited to a single condition or disease. Information about the proposed condition or disease shall include:
 - A) The extent to which the condition or disease itself and/or the treatments cause severe suffering, such as severe and/or chronic pain, severe nausea and/or vomiting, or otherwise severely impair a person's ability to carry on with activities of daily living;
 - B) Information about why conventional medical therapies are not sufficient to alleviate the suffering caused by the disease or condition and its treatment;
 - C) The proposed benefits from the medical use of cannabis specific to the medical condition or disease;
 - D) Evidence from the medical community and other experts supporting the use of medical cannabis to alleviate suffering caused by the condition or disease and/or treatment;

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- E) Letters of support from physicians or other licensed health care providers knowledgeable about the condition or disease, including, if feasible, a letter from a physician with whom the petitioner has a bona-fide physician-patient relationship;
 - F) Any additional medical, testimonial or scientific documentation; and
 - G) An electronic copy of all materials submitted.
- 3) Upon review of materials submitted pursuant to subsection (g)(2), the Department will determine whether:
- A) The petition meets the standards for submission and, if so, will accept the petition for further review; or
 - B) The petition does not meet the standards for submission and, if so, will deny the petition without further review.
- 4) If the petition does not fulfill the standards for submission, the petition will be considered deficient. The Department will notify the petitioner, who may correct any deficiencies and resubmit the petition during the next open period.
- 5) If the petition is accepted, the Department will refer the petition documents to the Advisory Board for review.
- h) The petitioner may withdraw his or her petition by submitting a written statement to the Department indicating withdrawal.
 - i) The Advisory Board shall have a minimum of 30 days to review the petitions before convening a public hearing.
 - j) The Advisory Board shall convene a public hearing to review all petitions accepted by the Department pursuant to Section f(4)(B) requesting the addition of medical conditions or diseases to the list of debilitating medical conditions that would benefit from the medical use of cannabis.

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- 1) The Department will provide a notice of public hearing setting forth the date, time and location of the hearing, a brief description of the petitions received, and information on the requirements for public comment or statement of intent to present technical evidence, as required by the Open Meetings Act. The Department will publish a notice of the hearing on its website to provide notice to the public.
 - 2) Meetings of the Advisory Board shall be in accordance with the Open Meetings Act.
 - 3) Any meeting consisting of a quorum of the Advisory Board members held for the purpose of evaluating, discussing or otherwise formulating specific opinions concerning the recommendation of a petition filed pursuant to this Part shall be declared a public hearing open to the public at all times, unless a portion of the hearing is closed to protect information made confidential by applicable State or federal laws.
 - 4) A petitioner may request to close a portion of the hearing to protect the disclosure of confidential information. The request for closure of the hearing shall be submitted to the same address as the initial submission set forth in Section 946.205. The request must be received by the Department at least 48 hours prior to the hearing.
- k) Any individual or an association of individuals who wishes to present technical evidence at the hearing shall file a statement of intent, no later than 15 days prior to the date of the hearing. The statement of intent to present technical evidence shall include:
- 1) Name of the person filing the statement;
 - 2) Indication of whether the person filing the statement supports or opposes the petition at issue;
 - 3) Name of each witness;
 - 4) Estimate of the length of the direct testimony of each witness;
 - 5) List of exhibits, if any, to be offered into evidence at the hearing; and

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- 6) Summary or outline of the anticipated direct testimony of each witness.
- l) Upon final determination, the Advisory Board shall provide the Director a written report of findings recommending either the approval or denial of the petitioner's request. The written report of findings shall include a medical justification for the recommendation based upon the individual or collective expertise of the Advisory Board membership. The medical justification shall delineate between the findings of fact made by the Advisory Board and scientific conclusions of evidence-based medical research. The written report of findings shall protect information by applicable State or federal laws (e.g., FOIA or HIPAA).
- m) Upon review of the Advisory Board's recommendations, the Director will render a final decision regarding the acceptance or denial of the proposed debilitating medical conditions or diseases.
- n) *The Department will approve or deny a petition within 180 days after its submission during the biannual petition period. (Section 45 of the Act)*

(Source: Amended by emergency rulemaking at 39 Ill. Reg. 444, effective December 22, 2014, for a maximum of 150 days)

SUBPART B: QUALIFYING PATIENTS AND DESIGNATED CAREGIVERS

Section 946.200 Application for Registry Identification Card for Qualifying Patients and Designated Caregivers**EMERGENCY**

- a) A qualifying patient who has been issued a written certification who seeks to use medical cannabis for palliative or therapeutic benefit to treat or alleviate the symptoms associated with~~for~~ the patient's debilitating condition, and the qualifying patient's designated caregiver, when applicable, shall register with the Department on forms and in a manner prescribed by the Department.
- b) To qualify for a registry identification card, a qualifying patient shall:
 - 1) Be a resident of the State of Illinois, as defined in subsection (c), at the time of application and remain a resident during participation in the program;

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- 2) Have a qualifying medical condition for which the use of medical cannabis will provide help with treating or alleviating the pain, nausea, and other symptoms associated with the condition;
 - 3) Have a signed, written certification for the use of medical cannabis meeting the requirements of this Part;
 - 4) Complete the fingerprint-based background check and not have been convicted of an ~~excluded~~ offense as specified under Section ~~65(b)25(b)~~ of the Act; and
 - 5) ~~Be least 18 years of age unless otherwise authorized by statute or rule.~~
- c) Residency. For purposes of this Part, the qualifying patient and designated caregiver, if any, shall be a resident of the State of Illinois if the individual:
- 1) Physically resides in the State of Illinois, or has taken verifiable actions to make Illinois his or her home indefinitely with no present intent to reside in another state.
 - 2) Provides proof of Illinois residency by submitting at least two of the following items with the application for a registry identification card; persons who are homeless shall only be required to submit a Notarized Homeless Status Certification (available at https://www.cyberdriveillinois.com/publications/pdf_publications/dsd_a230.pdf):
 - A) Pay stub or electronic deposit receipt, issued less than 60 days prior to the application date, that shows evidence of the applicant's withholding for State income tax;
 - B) Valid voter registration card with an address in Illinois;
 - C) Valid, unexpired Illinois driver's license or other State identification card issued by the Illinois Secretary of State in the name of the applicant in accordance with the Illinois Identification Card Act;
 - D) Bank statement (dated less than 60 days prior to application);

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- E) Deed/title, mortgage or rental/lease agreement;
 - F) Insurance policy (homeowner's or renter's);
 - G) Medical claim or statement of benefits (from private insurance company or public (government) agency, dated less than 90 days prior to application) or Social Security Disability Insurance Statement or Supplemental Security Income Benefits Statement;
 - H) Tuition invoice/official mail from college or university, dated less than the 12 months prior to application; or
 - I) Utility bill, including, but not limited to, those for electric, water, refuse, telephone land-line, cable or gas, issued less than 60 days prior to application.
- d) To apply for a registry identification card, a qualifying patient shall submit a completed application to the Department on the required forms, which shall include, at a minimum, the following items:
- 1) Written certification for the use of medical cannabis meeting the requirements of this Part issued by a physician who meets the requirements set forth in the Act and the Medical Practice Act of 1987 and dated less than 90 days prior to the application;
 - 2) Proof of Illinois residency of the qualifying patient, as specified in subsection (c);
 - 3) Proof of identity of the qualifying patient;
 - 4) Proof of the qualifying patient's age;
 - 5) Photograph of the qualifying patient and designated caregiver, if applicable, as follows:
 - A) Current digital passport-size image, taken no more than 30 calendar days before the submission of the application;
 - B) Taken against a plain background or backdrop;

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- C) At least 2 inches by 2 inches in size;
- D) In natural color; and
- E) That provides an unobstructed front view of the full face. A full-faced photograph must be taken without any obstruction of the applicant's facial features or any items covering any portion of the face. Prescription glasses and religious head coverings not covering any areas of the open face will be allowed.
 - i) A qualifying patient or designated caregiver will not be required to submit to a photograph if sufficient justification is provided by the qualifying patient or caregiver to establish that a photograph would be in violation of or contradictory to the qualifying patient's or designated caregiver's religious convictions. If a qualifying patient or designated caregiver declares that the use of a photograph is against his/her religious convictions, the qualifying patient or designated caregiver will be given an [affidavit](#)~~Affidavit~~ to be completed. This [affidavit](#)~~Affidavit~~ contains designated areas for a detailed written explanation of the reasons why a photograph is against the qualifying patient's or designated caregiver's religious convictions, a place for the qualifying patient's or designated caregiver's signature and date, the designation of the religious sect or denomination involved, space for a minister or other religious leader to apply his/her signature attesting to the explanation the qualifying patient or designated caregiver has offered, along with the date and official title of the minister or religious leader.
 - ii) The Affidavit shall be submitted to the Department. The Director will appoint a committee of three Department employees to review each affidavit. The committee shall submit a recommendation to the Director for his or her final decision.

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- iii) If the qualifying patient or designated caregiver meets all other application requirements of this Part, the Department will issue a non-photo temporary registry identification card, not to exceed 90 days in duration, to allow for medical cannabis use privileges during the determination
 - iv) Upon approval by the Department, a valid registry identification card without a photograph will be issued and can be renewed. The card will be mailed to the qualifying patient's home address.
- 6) Designation of the medical cannabis dispensing organization where the qualifying patient will receive his or her medical cannabis. During 2014, and later if the Department so elects, a qualifying patient may designate the dispensing organization district in which he or she expects to obtain his or her medical cannabis.
 - 7) Completion of the designated caregiver application if applicable.
 - 8) Payment of the applicable application fee (see Section 946.210) by check or money order. If the qualifying patient or caregiver is applying on-line, the Department will accept credit card payments.

(Source: Amended by emergency rulemaking at 39 Ill. Reg. 444, effective December 22, 2014, for a maximum of 150 days)

Section 946.201 Application for Registry Identification Card for Qualifying Patients under 18 Years of Age
EMERGENCY

- a) A qualifying patient under 18 years of age shall register with the Department on forms and in a manner prescribed by the Department. The designated caregiver shall complete the application for registry identification card for a qualifying patient under 18 years of age. Once the qualifying patient becomes 18 years of age, he or she must submit a full application for a registry identification card as specified in Section 946.200. Qualifying patients who become 18 years of age during the time period in which their registration identification card is valid, may apply for a registration identification card either immediately or during the normal

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renewal period. Until such time, the registry identification card shall be subject to the conditions applicable to the registered qualifying patient under age 18.

- b) To qualify for a registry identification card, a qualifying patient under 18 years of age shall:
- 1) Be a resident of the State of Illinois, as defined in subsection (c), at the time of application and remain a resident during participation in the program;
 - 2) Be diagnosed with any debilitating medical condition listed in Section 946.310 for which medical cannabis may be used to treat or alleviate the pain, nausea or other symptoms associated with the condition.
- c) The application for a Registry Identification Card for a qualifying patient under 18 years of age shall include the following:
- 1) Two signed written certifications for the use of medical cannabis:
 - A) A signed written certification as specified in Section 946.310; and
 - B) A signed written certification from a reviewing physician indicating that a comprehensive review of the qualifying patient's medical records from other physicians treating the qualifying patient has been conducted.
 - 2) Identify a designated caregiver (custodial parent or legal guardian) who shall complete an application for a caregiver registry identification card as specified in Section 946.200;
 - 3) A completed, signed Medical Cannabis Custodial Parent and Legal Guardian Attestation form. This form can be downloaded from the Illinois Department of Public Health website at <http://idph.state.il.us/>; and
 - 4) If applicable, provide proof of guardianship documentation.
- d) Residency. For purposes of this Part, the qualifying patient and custodial parent or legal guardian shall be residents of the State of Illinois.

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- e) The designated caregiver shall provide proof of Illinois residency by submitting the following items with the application for a registry identification card; persons who are homeless shall be required to submit only a Notarized Homeless Status Certification (available at https://www.cyberdriveillinois.com/publications/pdf_publications/dsd_a230.pdf):
- 1) A copy of the caregiver's unexpired Illinois driver's license; or
 - 2) A copy of the caregiver's unexpired Illinois identification card; or
 - 3) A copy of the caregiver's unexpired U.S. passport.
- f) To apply for a registry identification card for a qualifying patient under 18 years old, the designated caregiver shall submit a completed application to the Department on the required forms, which shall include, at a minimum, the following items:
- 1) A written certification for the use of medical cannabis meeting the requirements of this Part issued by a physician who meets the requirements set forth in the Act and the Medical Practice Act of 1987 and dated less than 90 days prior to the application;
 - 2) A signed written certification from a reviewing physician indicating a comprehensive review of the qualifying patient's medical records from other physicians treating the qualifying patient has been conducted. This physician shall meet the requirements set forth in the Medical Practice Act of 1987 or shall provide proof of a current, active medical license issued by another state.
 - 3) Proof of Illinois residency of the qualifying patient, as specified in subsection (c);
 - 4) Proof of identity of the qualifying patient (copy of the qualifying patient's birth certificate);
 - 5) Proof of the qualifying patient's age. A copy of the qualifying patient's birth certificate shall fulfill this requirement;

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- 6) Current digital passport-size photograph of the designated caregiver, as follows:
- A) Taken no more than 30 calendar days before the submission of the application;
 - B) Taken against a plain background or backdrop;
 - C) At least 2 inches by 2 inches in size;
 - D) In natural color; and
 - E) That provides an unobstructed front view of the full face. A full-faced photograph must be taken without any obstruction of the applicant's facial features or any items covering any portion of the face. Prescription glasses and religious head coverings not covering any areas of the open face will be allowed.
- i) A designated caregiver for a qualifying patient under 18 years old will not be required to submit a photograph if sufficient justification is provided by the caregiver to establish that a photograph would be in violation of or contradictory to the designated caregiver's religious convictions. If a designated caregiver declares that the use of a photograph is against his/her religious convictions, the designated caregiver will complete an affidavit on a form provided by the Department. The affidavit contains designated areas for a detailed written explanation of the reasons why a photograph is against the designated caregiver's religious convictions; a place for the designated caregiver's signature and date, the designation of the religious sect or denomination involved; space for a minister or other religious leader to apply his/her signature attesting to the explanation the designated caregiver has offered; and the date and official title of the minister or religious leader.
 - ii) The affidavit shall be submitted to the Department. The Director will appoint a committee of three Department

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employees to review each affidavit. The committee shall submit a recommendation to the Director for his or her final decision.

- iii) If the designated caregiver meets all other application requirements of this Part, the Department will issue a non-photo temporary registry identification card, not to exceed 90 days in duration, to allow for medical cannabis use privileges during the determination.
 - iv) Upon approval by the Department, a valid registry identification card without a photograph will be issued and can be renewed. The card will be mailed to the designated caregiver's home address.
- 7) Designation of the medical cannabis dispensing organization where the designated caregiver will obtain medical cannabis on behalf of the qualifying patient under 18 years of age.
 - 8) Completion of the Medical Cannabis Parent and Legal Guardian Attestation form.
 - 9) If applicable, submission of proof of guardianship documentation.
 - 10) Payment of the applicable application fee (see Section 946.210) by check or money order. If the patient or caregiver is applying on-line, the Department will accept credit card payments.

(Source: Added by emergency rulemaking at 39 Ill. Reg. 444, effective December 22, 2014, for a maximum of 150 days)

Section 946.205 Deadlines for Submission of Application for Registry Identification Card
EMERGENCY

A qualifying patient who has been issued a physician written certification who seeks to use medical cannabis for palliative or therapeutic benefit for the patient's debilitating condition, and the qualifying patient's designated caregiver when applicable, shall register with the Department on forms and in a manner prescribed in this Part.

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- a) ~~During 2014, qualifying patients whose last names begin with the letters A through L, and their designated caregivers, if applicable, regardless of the caregiver's last name, shall submit an application for a registry identification card from September 1, 2014 through October 31, 2014.~~
- b) ~~During 2014, qualifying patients whose last names begin with the letters M through Z, and their designated caregivers, if applicable, regardless of the caregiver's last name, shall submit an application for a registry identification card from November 1, 2014 through December 31, 2014.~~
- ae) Beginning January 1, 2015, applications for registry identification cards will be accepted year round.
- bd) Application Submission
- 1) Applications for registry identification cards shall be submitted electronically through the Department's website (www.idph.state.il.us) or shall be sent via U.S. mail to the following address:
- Division of Medical Cannabis
Illinois Department of Public Health
535 West Jefferson Street
Springfield IL 62761-0001
- 2) Applications for registry identification cards not submitted electronically or to the above address shall be considered deficient.
- c) *The Department of Public Health shall send a notification to a registered qualifying patient or designated caregiver 90 days prior to the expiration date on the registry identification card. (Section 70 of the Act)*
- d) *To maintain a valid registry identification card, a registered qualifying patient and designated caregiver must annually resubmit, at least 45 days prior to the expiration date stated on the registry identification card, a completed renewal application (see Section 946.200), renewal fee (see Section 946.210) and accompanying documentation (see Section 946.200). (Section 70 of the Act)*
- e) ~~To maintain a valid registry identification card, a registered qualifying patient and designated caregiver must annually resubmit, at least 45 days prior to the~~

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~~expiration date stated on the registry identification card, a completed renewal application (see Section 946.200), renewal fee (see Section 946.210) and accompanying documentation (see Section 946.200). (Section 70 of the Act)~~

- ~~f) The Department of Public Health shall send a notification to a registered qualifying patient or designated caregiver 90 days prior to the expiration date on the registry identification card. (Section 70 of the Act)~~

(Source: Amended by emergency rulemaking at 39 Ill. Reg. 444, effective December 22, 2014, for a maximum of 150 days)

Section 946.210 Fees**EMERGENCY**

- a) Except as set forth in subsection (b), the registration, renewal and replacement card fees are as specified in this subsection (a). All fees submitted to the Department shall be non-refundable. Annually, the Department may revise these fees:
- | | | |
|-----------------|---|--------------|
| 1) | Annual qualifying patient application fee | \$100 |
| 2) | <u>Annual application fee for a qualifying patient under 18 years of age (includes caregiver application fee)</u> | <u>\$100</u> |
| 3 2) | Annual caregiver application fee | \$25 |
| 4 3) | Replacement card fee | \$25 |
| 5 4) | Returned check fee | \$35 |
- b) The Department may reduce registration and renewal card fees for a qualifying patient enrolled in the federal Social Security Disability Income (SSDI) or the Supplemental Security Income (SSI) disability programs, with submission of proof as described in subsection (b)(2), and for veterans with proof of service as described in subsection (b)(3).
- | | | |
|----|---|------|
| 1) | Annual reduced qualifying patient application fee | \$50 |
|----|---|------|

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- 2) The applicant shall submit a copy of a letter or other documentation from the Social Security Administration identifying the qualifying patient and showing the amount of monthly SSDI and SSI benefits to be received by the qualifying patient during the current year of application.
- 3) Veterans shall provide a copy of their DD214.

(Source: Amended by emergency rulemaking at 39 Ill. Reg. 444, effective December 22, 2014, for a maximum of 150 days)

Section 946.220 Fingerprint-Based Criminal History Records Check**EMERGENCY**

No person who has been convicted of a felony under the Illinois Controlled Substances Act, Cannabis Control Act, or Methamphetamine Control and Community Protection Act, or similar provisions in a local ordinance or other jurisdiction is eligible to receive a registry identification card. (Section 65(b) of the Act)

- a) The Illinois State Police (ISP) will act as the Department's agent for purposes of receiving electronic fingerprints and conducting background checks of each qualifying patient and designated caregiver, if applicable, applying for a registry identification card.
 - 1) The ISP will conduct background checks for conviction information contained within ISP and Federal Bureau of Investigation (FBI) criminal history databases to the extent allowed by law.
 - 2) For verification of any statutorily imposed duty to conduct background checks pursuant to the Act, ISP will transmit the results of the background check to the Department.
 - 3) The electronic background checks will be submitted as outlined in the Illinois Uniform Conviction Information Act or ISP rules at 20 Ill. Adm. Code 1265.30 (Electronic Transmission of Fingerprints).
- b) Each qualifying patient and designated caregiver, if applicable, applying for a registry identification card shall have his or her fingerprints collected electronically by a livescan vendor licensed by the Illinois Department of Financial and Professional Regulation, and transmitted to ISP for processing no

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more than 30 days prior to the date of application or renewal for a registry identification card. If the qualifying patient is under age 18 at the time of application, no fingerprint collection shall be necessary for the qualifying patient; however, the designated caregiver shall comply with the requirements of this Section.

- 1) The qualifying patient or designated caregiver shall submit to the Department, with the registry card application or renewal, a copy of the livescan request form and the receipt provided by the livescan fingerprint vendor containing the Transaction Control Number (TCN) as proof that fingerprints have been collected.
 - 2) Registry card applications submitted without a copy of the livescan request form and receipt will be considered incomplete and will not be processed until fingerprinting is completed.
 - 3) Any fees associated with the livescan fingerprint-based criminal history records check shall be the responsibility of the individual seeking a registry identification card and will be collected by the livescan vendor at the time of fingerprinting.
 - 4) If the fingerprints are rejected by ISP, the qualifying patient or designated caregiver shall have his or her fingerprints collected electronically by a licensed livescan vendor a second time.
 - 5) If equipment malfunction or other special circumstances make electronic transmission of fingerprint data impractical, the Department will allow use of paper fingerprint records.
- c) The Department will obtain from ISP a State and federal criminal records check for each qualifying patient applying for a registry identification card and for each designated caregiver identified on a qualifying patient registry application.
 - d) The Department will maintain the results of the criminal history records check for the time period associated with the registry identification card or the registered qualifying patient and designated caregiver, if any, and in accordance with the State Records Act, after which the documentation shall be destroyed.
 - e) Denial of Application or Renewal

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- 1) The Department may deny an application or renewal for a qualifying patient or a designated caregiver who has been convicted of an excluded offense in accordance with this subsection (e).
 - A) Denial of a designated caregiver will not automatically result in the denial of a qualifying patient application.
 - B) The qualifying patient shall identify a new designated caregiver within 15 days after receiving notice of the denial of his or her designated caregiver application or shall indicate that a designated caregiver is not required.
 - C) The Department will not deny an application for a registry identification card based solely on the qualifying patient's or designated caregiver's conviction for an excluded offense for a violation of a State or federal controlled substance law that was classified as a felony if his or her conviction was for the possession, cultivation, transfer or delivery of a reasonable amount of cannabis intended for medical use and the termination of the last sentence was 10 or more years prior to application.

- 2) Exception
If the qualifying patient or designated caregiver has been convicted of any excluded offenses, the Department may approve a registry identification card pursuant to this Part *if the person demonstrates that his or her conviction was for the possession, cultivation, transfer, or delivery of a reasonable amount of cannabis intended for medical use.* (Section 10(1)(2) of the Act) In determining whether to waive a conviction for excluded offenses, the Department will:
 - A) Review the criminal records and the qualifying patient's medical history to determine whether the patient had been diagnosed with the debilitating medical condition at the time of the offense; and
 - B) Determine whether the offense consisted of conduct for which, had it occurred on or after January 1, 2014, would likely have been protected by the Act and would likely not have resulted in a conviction.

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3) Qualifying Patients Under 18 Years of Age

A) Denial of a designated caregiver (custodial parent or legal guardian) because of an excluded offense will not automatically result in the denial of an application for a qualifying patient under 18 years of age.

B) The custodial parent or legal guardian shall identify a new designated caregiver within 15 days after receiving notice of the denial of his or her designated caregiver application. The custodial parent or legal guardian shall execute an "Authorization and Consent" form designating a person over 21 years of age to act as the designated caregiver for the qualifying patient under 18 years of age.

f) The Department will not waive convictions for violations of the medical cannabis laws of Illinois or any other State or jurisdiction.

(Source: Amended by emergency rulemaking at 39 Ill. Reg. 444, effective December 22, 2014, for a maximum of 150 days)

Section 946.230 General Provisions**EMERGENCY**

- a) A registry identification card shall not be transferable.
- b) A registry identification card issued under this Section is the property of the State of Illinois and shall be surrendered upon demand of the Director, or the Director's designee.
- c) The qualifying patient and the designated caregiver, if applicable, shall sign and date the application for a registry identification card. If the qualifying patient is under 18 years of age at the time of application, only the designated caregiver shall be required to sign and date the application for a registry identification card.
- d) The Department will require each applicant for a registry identification card to include a signed statement that specifies that the applicant attests that all information submitted as part of the application is true and accurate to the best of

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the applicant's knowledge and, at minimum, certifies that the applicant has actual notice that, notwithstanding any State law:

- 1) Cannabis is a prohibited Schedule I controlled substance under federal law;
 - 2) Participation in the program is permitted only to the extent provided by the strict requirements of the Act and this Part;
 - 3) Any activity not sanctioned by the Act or this Part may be in violation of State law;
 - 4) Growing, distributing or possessing cannabis in any capacity, except through a federally approved research program, is a violation of federal law;
 - 5) Use of medical cannabis may affect an individual's ability to receive federal or state licensure in other areas;
 - 6) Use of medical cannabis, in tandem with other conduct, may be in violation of State or federal law;
 - 7) Participation in the program does not authorize any person to violate federal or State law and, other than as specified in Section 25 of the Act, does not provide any immunity from or affirmative defense to arrest or prosecution under federal or State law; and
 - 8) Applicants shall indemnify, hold harmless, and defend the State of Illinois for any and all civil or criminal penalties resulting from participation in the program.
- e) Once the qualifying reaches 18 years of age, he or she must submit a full application for a registry identification card as specified in Section 946.200. Qualifying patients who become 18 years of age during the time period in which their registration identification card is valid, may apply for a registration identification card either immediately or during the normal renewal period. Until a full application is submitted and approved, the Registry Identification Card shall be subject to the conditions applicable to the registered qualifying patient under age 18.

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(Source: Amended by emergency rulemaking at 39 Ill. Reg. 444, effective December 22, 2014, for a maximum of 150 days)

Section 946.260 Responsibilities of Designated Caregivers**EMERGENCY**

- a) A designated caregiver shall not receive payment or other compensation for services provided as a designated caregiver other than reimbursement for reasonable expenses incurred in the provision of services as a designated caregiver. In the case of an employee of a hospice provider, nursing facility or medical facility, or a visiting nurse, personal care attendant, or home health aide serving as a designated caregiver, the individual shall not receive payment or compensation above or beyond his or her regular wages.
- b) A designated caregiver is responsible for notifying the Department within 10 business days after any change to the information that his or her registered qualifying patient was previously required to submit to the Department, or after the designated caregiver discovers that his or her registry identification card has been lost or stolen.
- c) A designated caregiver shall carry his or her registry identification card at all times while in possession of medical cannabis.
- d) A designated caregiver may:
 - 1) Transport a registered qualifying patient to and from a licensed medical cannabis dispensary;
 - 2) Obtain and transport an adequate supply of medical cannabis from a licensed medical cannabis dispensary on behalf of a registered qualifying patient;
 - 3) Prepare medical cannabis for consumption by a registered qualifying patient; ~~and~~
 - 4) Administer medical cannabis to a registered qualifying patient; ~~and~~.

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- 5) [Purchase only medical cannabis-infused products for use by registered qualifying patients under age 18.](#)
- e) A designated caregiver shall not:
- 1) Consume, by any means, medical cannabis that has been dispensed on behalf of a registered qualifying patient;
 - 2) Sell, provide or otherwise divert medical cannabis that has been dispensed to a registered qualifying patient; or
 - 3) Grow or cultivate medical cannabis on behalf of a registered qualifying patient.
- f) The designated caregiver shall notify the Department promptly by phone and in writing within 10 calendar days following the death of the designated caregiver's registered qualifying patient.

(Source: Amended by emergency rulemaking at 39 Ill. Reg. 444, effective December 22, 2014, for a maximum of 150 days)

Section 946.280 Medical Cannabis Obtained from a Medical Cannabis Dispensing Organization
EMERGENCY

A registered qualifying patient or designated caregiver shall obtain medical cannabis only from the medical cannabis dispensing organization designated on his or her registry identification application and shall not:

- a) Grow or cultivate medical cannabis;
- b) Purchase medical cannabis from non-authorized sources; or
- c) Obtain medical cannabis from other registered qualifying patients or designated caregivers.
- d) [Designated caregivers of registered qualifying patient under 18 years of age may purchase only medical cannabis-infused products from medical cannabis dispensing organizations.](#)

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(Source: Amended by emergency rulemaking at 39 Ill. Reg. 444, effective December 22, 2014, for a maximum of 150 days)

SUBPART C: PHYSICIAN REQUIREMENTS

Section 946.310 Physician Written Certification**EMERGENCY**

- a) A certification indicating that a qualifying patient is recommended for the use of medical cannabis shall be written on a form provided by the Department and shall include, at minimum, the following:
 - 1) The qualifying patient's name, date of birth, home address and primary telephone number;
 - 2) The physician's name, address, telephone number, e-mail address, medical license number, indication of specialty or primary area of clinical practice, if any, and DEA registration number;
 - 3) The length of time the qualifying patient has been under the care of the physician;
 - 4) The qualifying patient's debilitating medical condition;
 - 5) Additional comments, if necessary, that would be useful in assessing the qualifying patient's application for use of medical cannabis;
 - 6) A statement that the physician has confirmed a diagnosis of a debilitating medical condition; has a bona-fide physician-patient relationship; has conducted an in-person physical examination; has conducted a review of the patient's medical history, including reviewing medical records from other treating physicians, if any, from the previous 12 months; and has explained the potential risks and benefits of the use of medical cannabis to the qualifying patient; and
 - 7) The physician's signature and date.

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- b) *A patient may apply for a waiver where a physician provides a substantial medical basis in a signed, written statement asserting that, based on the patient's medical history, in the physician's professional judgment, 2.5 ounces is an insufficient adequate supply for a 14-day period to properly alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition. (Section 10(a)(2) of the Act)*
- 1) The waiver recommendation shall be on a Physician Waiver Recommendation form provided by the Department.
 - 2) The waiver shall describe in the physician's professional opinion why 2.5 ounces is an insufficient supply for a 14-day period.
 - 3) The waiver shall describe how the qualifying patient will benefit from an increased supply.
 - 4) The waiver shall include a statement by the physician indicating the amount of medical cannabis that would be a sufficient supply for the qualifying patient's debilitating medical condition and provide a recommendation for the length of time the waiver should be in effect.
 - 5) If the Department approves the waiver, the amount of medical cannabis recommended by the physician shall be noted on the registry identification card.
- c) [Applications for qualifying patients under 18 years old shall require a written certification from a physician and a reviewing physician.](#)

(Source: Amended by emergency rulemaking at 39 Ill. Reg. 444, effective December 22, 2014, for a maximum of 150 days)

SUBPART D: CANNABIS-INFUSED PRODUCTS

Section 946.410 Sale and Distribution of Cannabis-Infused Products
EMERGENCY

Neither the Department of Public Health nor the Department of Agriculture nor the health department of a unit of local government may regulate the service of medical cannabis-infused

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food products by a registered cultivation center or registered dispensing organizations provided all of the following conditions are met. (Section 80 of the Act)

- a) *No cannabis infused products requiring refrigeration or hot-holding or considered potentially hazardous food (Section 4 of the Food Handling Regulation Enforcement Act) shall be manufactured at a cultivation center for sale or distribution at a dispensing organization due to the potential for food-borne illness (Section 80(a) of the Act).*
- b) *Baked products infused with medical cannabis (such as brownies, bars, cookies, cakes, breads, pastries), tinctures, and other non-refrigerated items are acceptable for sale at dispensing organizations (Section 80(a) of the Act). The products are allowable for sale only at dispensing organizations registered with the Department of Financial and Professional Regulation.*
- c) All cannabis-infused products offered for sale at registered dispensing organizations shall be labeled in accordance with Section 946.400.
- d) Designated caregivers of registered qualifying patient under 18 years of age may purchase only medical cannabis-infused products from registered dispensing organizations.

(Source: Amended by emergency rulemaking at 39 Ill. Reg. 444, effective December 22, 2014, for a maximum of 150 days)

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- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) Section Number: 100.7300 Emergency Action: Amendment
- 4) Statutory Authority: 35 ILCS 5/704A
- 5) Effective Date of Rulemaking: December 23, 2014
- 6) If the 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 amendment will expire at the end of the 150-day period.
- 7) Date Filed with the Index Department: December 22, 2014
- 8) A copy of the adopted rulemaking, 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: An increase in income tax return filings that claim excessive refunds based on withholding shown on altered or fictitious Forms W-2 can be countered by earlier receipt of Form W-2 information from employers, allowing the Department to verify withholding claimed by taxpayers as the returns are processed.
- 10) A Complete Description of the Subjects and Issues Involved: This emergency amendment provides for an earlier due date than is provided in the current rule for electronic filing of Form W-2 information in order to allow the Department to verify withholding and other information reported on returns systemically as the returns are received and processed. The amended rule will apply to Form W-2 information for calendar 2014, and require filing by February 15, 2015, rather than March 31, 2015, as required under the existing rule.
- 11) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
100.2197	Amendment	38 Ill. Reg. 19128 September 26, 2014
100.2470	Amendment	38 Ill. Reg. 21295, November 14, 2014
100.3450	New Section	38 Ill. Reg. 21758, November 21, 2014

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- 12) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 13) Information and questions regarding this rulemaking shall be directed to:

Paul Caselton
Deputy General Counsel - Income Tax
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield IL 62796

217/524-3951

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

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NOTICE OF EMERGENCY AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 100
INCOME TAX

SUBPART A: TAX IMPOSED

Section

100.2000	Introduction
100.2050	Net Income (IITA Section 202)
100.2060	Compassionate Use of Medical Cannabis Pilot Program Act Surcharge (IITA Section 201(o))

SUBPART B: CREDITS

Section

100.2100	Replacement Tax Investment Credit Prior to January 1, 1994 (IITA Section 201(e))
100.2101	Replacement Tax Investment Credit (IITA 201(e))
100.2110	Investment Credit; Enterprise Zone and River Edge Redevelopment Zone (IITA Section 201(f))
100.2120	Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone and River Edge Redevelopment Zone (IITA Section 201(g))
100.2130	Investment Credit; High Impact Business (IITA 201(h))
100.2140	Credit Against Income Tax for Replacement Tax (IITA 201(i))
100.2150	Training Expense Credit (IITA 201(j))
100.2160	Research and Development Credit (IITA Section 201(k))
100.2163	Environmental Remediation Credit (IITA 201(l))
100.2165	Education Expense Credit (IITA 201(m))
100.2170	Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)
100.2171	Angel Investment Credit (IITA 220)
100.2180	Credit for Residential Real Property Taxes (IITA 208)
100.2185	Film Production Services Credit (IITA Section 213)
100.2190	Tax Credit for Affordable Housing Donations (IITA Section 214)
100.2193	Student-Assistance Contributions Credit (IITA 218)
100.2195	Dependent Care Assistance Program Tax Credit (IITA 210)
100.2196	Employee Child Care Assistance Program Tax Credit (IITA Section 210.5)
100.2197	Foreign Tax Credit (IITA Section 601(b)(3))

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- 100.2198 Economic Development for a Growing Economy Credit (IITA 211)
100.2199 Illinois Earned Income Tax Credit (IITA Section 212)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS
OCCURRING PRIOR TO DECEMBER 31, 1986

Section

- 100.2200 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Scope
- 100.2210 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) – Definitions
- 100.2220 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Current Net Operating Losses: Offsets Between Members
- 100.2230 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Carrybacks and Carryforwards
- 100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Effect of Combined Net Operating Loss in Computing Illinois Base Income
- 100.2250 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS FOR LOSSES
OCCURRING ON OR AFTER DECEMBER 31, 1986

Section

- 100.2300 Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2310 Computation of the Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2320 Determination of the Amount of Illinois Net Loss for Losses Occurring On or After December 31, 1986
- 100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring On or

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- After December 31, 1986
- 100.2340 Illinois Net Losses and Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns
- 100.2350 Illinois Net Losses and Illinois Net Loss Deductions, for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Changes in Membership

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS, CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

- Section
- 100.2405 Gross Income, Adjusted Gross Income, Taxable Income and Base Income Defined; Double Deductions Prohibited; Legislative Intention (IITA Section 203(e), (g) and (h))
- 100.2410 Net Operating Loss Carryovers for Individuals, and Capital Loss and Other Carryovers for All Taxpayers (IITA Section 203)
- 100.2430 Addition and Subtraction Modifications for Transactions with 80-20 and Noncombination Rule Companies
- 100.2435 Addition Modification for Student-Assistance Contribution Credit (IITA Sections 203(a)(2)(D-23), (b)(2)(E-16), (c)(2)(G-15), (d)(2)(D-10))
- 100.2450 IIT Refunds (IITA Section 203(a)(2)(H), (b)(2)(F), (c)(2)(J) and (d)(2)(F))
- 100.2455 Subtraction Modification: Federally Disallowed Deductions (IITA Sections 203(a)(2)(M), 203(b)(2)(I), 203(c)(2)(L) and 203(d)(2)(J))
- 100.2470 Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))
- 100.2480 Enterprise Zone and River Edge Redevelopment Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))
- 100.2490 Foreign Trade Zone/High Impact Business Dividend Subtraction (IITA Sections 203(a)(2)(K), 203(b)(2)(L), 203(c)(2)(O), 203(d)(2)(M))

SUBPART F: BASE INCOME OF INDIVIDUALS

- Section
- 100.2510 Subtraction for Contributions to Illinois Qualified Tuition Programs (Section 529 Plans) (IITA Section 203(a)(2)(Y))
- 100.2580 Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))

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100.2590 Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

SUBPART H: BASE INCOME OF TRUSTS AND ESTATES

Section

100.2655 Subtraction Modification for Enterprise Zone and River Edge Redevelopment Zone Interest (IITA Section 203(b)(2)(M))
100.2657 Subtraction Modification for High Impact Business Interest (IITA Section 203(b)(2)(M-1))
100.2680 Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for Charity (Repealed)

SUBPART J: GENERAL RULES OF ALLOCATION AND APPORTIONMENT OF BASE INCOME

Section

100.3000 Terms Used in Article 3 (IITA Section 301)
100.3010 Business and Nonbusiness Income (IITA Section 301)
100.3015 Business Income Election (IITA Section 1501)
100.3020 Resident (IITA Section 301)

SUBPART K: COMPENSATION

Section

100.3100 Compensation (IITA Section 302)
100.3110 State (IITA Section 302)
100.3120 Allocation of Compensation Paid to Nonresidents (IITA Section 302)

SUBPART L: NON-BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section

100.3200 Taxability in Other State (IITA Section 303)
100.3210 Commercial Domicile (IITA Section 303)
100.3220 Allocation of Certain Items of Nonbusiness Income by Persons Other Than Residents (IITA Section 303)

SUBPART M: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

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100.3300	Allocation and Apportionment of Base Income (IITA Section 304)
100.3310	Business Income of Persons Other Than Residents (IITA Section 304) – In General
100.3320	Business Income of Persons Other Than Residents (IITA Section 304) – Apportionment (Repealed)
100.3330	Business Income of Persons Other Than Residents (IITA Section 304) – Allocation
100.3340	Business Income of Persons Other Than Residents (IITA Section 304)
100.3350	Property Factor (IITA Section 304)
100.3360	Payroll Factor (IITA Section 304)
100.3370	Sales Factor (IITA Section 304)
100.3371	Sales Factor for Telecommunications Services
100.3373	Sales Factor for Publishing
100.3380	Special Rules (IITA Section 304)
100.3390	Petitions for Alternative Allocation or Apportionment (IITA Section 304(f))
100.3400	Apportionment of Business Income of Financial Organizations for Taxable Years Ending Prior to December 31, 2008 (IITA Section 304(c))
100.3405	Apportionment of Business Income of Financial Organizations for Taxable Years Ending on or after December 31, 2008 (IITA Section 304(c))
100.3420	Apportionment of Business Income of Insurance Companies (IITA Section 304(b))
100.3500	Allocation and Apportionment of Base Income by Nonresident Partners

SUBPART N: ACCOUNTING

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100.4500	Carryovers of Tax Attributes (IITA Section 405)

SUBPART O: TIME AND PLACE FOR FILING RETURNS

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100.5030	Taxpayer's Notification to the Department of Certain Federal Changes Arising in Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years (IITA Section 506)
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100.5140	Composite Returns: Estimated Payments
100.5150	Composite Returns: Tax, Penalties and Interest
100.5160	Composite Returns: Credits on Separate Returns
100.5170	Composite Returns: Definition of a "Lloyd's Plan of Operation"
100.5180	Composite Returns: Overpayments and Underpayments

SUBPART Q: COMBINED RETURNS

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100.5201	Definitions and Miscellaneous Provisions Relating to Combined Returns
100.5205	Election to File a Combined Return
100.5210	Procedures for Elective and Mandatory Filing of Combined Returns
100.5215	Filing of Separate Unitary Returns
100.5220	Designated Agent for the Members
100.5230	Combined Estimated Tax Payments
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100.7020	Transacting Business Within this State (IITA Section 701)
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100.7040	Employer Registration (IITA Section 701)
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100.7060	Additional Withholding (IITA Section 701)
100.7070	Voluntary Withholding (IITA Section 701)
100.7080	Correction of Underwithholding or Overwithholding (IITA Section 701)
100.7090	Reciprocal Agreement (IITA Section 701)
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100.7100	Withholding Exemption (IITA Section 702)
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SUBPART V: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

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100.7310	Returns Filed and Payments Made on Annual Basis (IITA Sections 704 and 704A)
100.7320	Time for Filing Returns and Making Payments for Taxes Required to Be Withheld Prior to January 1, 2008 (IITA Section 704)

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- 100.7325 Time for Filing Returns and Making Payments for Taxes Required to Be Withheld On or After January 1, 2008 (IITA Section 704A)
- 100.7330 Payment of Tax Required to be Shown Due on a Return (IITA Sections 704 and 704A)
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- 100.7360 Definitions and Special Provisions Relating to Reporting and Payment of Income Tax Withheld (IITA Sections 704 and 704A)
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- 100.7380 Economic Development for a Growing Economy (EDGE) and Small Business Job Creation Credit (IITA Section 704A(g) and (h))

SUBPART W: ESTIMATED TAX PAYMENTS

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- 100.8000 Payment of Estimated Tax (IITA Section 803)
- 100.8010 Failure to Pay Estimated Tax (IITA Sections 804 and 806)

SUBPART X: COLLECTION AUTHORITY

Section

- 100.9000 General Income Tax Procedures (IITA Section 901)
- 100.9010 Collection Authority (IITA Section 901)
- 100.9020 Child Support Collection (IITA Section 901)

SUBPART Y: NOTICE AND DEMAND

Section

- 100.9100 Notice and Demand (IITA Section 902)

SUBPART Z: ASSESSMENT

Section

- 100.9200 Assessment (IITA Section 903)
- 100.9210 Waiver of Restrictions on Assessment (IITA Section 907)

SUBPART AA: DEFICIENCIES AND OVERPAYMENTS

Section

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100.9300	Deficiencies and Overpayments (IITA Section 904)
100.9310	Application of Tax Payments Within Unitary Business Groups (IITA Section 603)
100.9320	Limitations on Notices of Deficiency (IITA Section 905)
100.9330	Further Notices of Deficiency Restricted (IITA Section 906)

SUBPART BB: CREDITS AND REFUNDS

Section

100.9400	Credits and Refunds (IITA Section 909)
100.9410	Limitations on Claims for Refund (IITA Section 911)
100.9420	Recovery of Erroneous Refund (IITA Section 912)

SUBPART CC: INVESTIGATIONS AND HEARINGS

Section

100.9500	Access to Books and Records (IITA Section 913)
100.9505	Access to Books and Records – 60-Day Letters (IITA Section 913) (Repealed)
100.9510	Taxpayer Representation and Practice Requirements
100.9520	Conduct of Investigations and Hearings (IITA Section 914)
100.9530	Books and Records

SUBPART DD: JUDICIAL REVIEW

Section

100.9600	Administrative Review Law (IITA Section 1201)
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SUBPART EE: DEFINITIONS

Section

100.9700	Unitary Business Group Defined (IITA Section 1501)
100.9710	Financial Organizations (IITA Section 1501)
100.9720	Nexus
100.9730	Investment Partnerships (IITA Section 1501(a)(11.5))
100.9750	Corporation, Subchapter S Corporation, Partnership and Trust Defined (IITA Section 1501)

SUBPART FF: LETTER RULING PROCEDURES

Section

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100.9800 Letter Ruling Procedures

SUBPART GG: MISCELLANEOUS

Section

100.9900 Tax Shelter Voluntary Compliance Program

100.APPENDIX A Business Income Of Persons Other Than Residents

100.TABLE A Example of Unitary Business Apportionment

100.TABLE B Example of Unitary Business Apportionment for Groups Which
Include Members Using Three-Factor and Single-Factor Formulas

AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49, p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective

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November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687, effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001; amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective June 20, 2002; amended at 26 Ill. Reg. 13237, effective August 23, 2002; amended at 26 Ill. Reg. 15304, effective October 9, 2002; amended at 26 Ill. Reg. 17250, effective November 18, 2002; amended at 27 Ill. Reg. 13536, effective July 28, 2003; amended at 27 Ill. Reg. 18225, effective November 17, 2003; emergency amendment at 27 Ill. Reg. 18464, effective November 20, 2003, for a maximum of 150 days; emergency expired April 17, 2004; amended at 28 Ill. Reg. 1378, effective January 12, 2004; amended at 28 Ill. Reg. 5694, effective March 17, 2004; amended at 28 Ill. Reg. 7125, effective April 29, 2004; amended at 28 Ill. Reg. 8881, effective June 11, 2004; emergency amendment at 28 Ill. Reg. 14271, effective October 18, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 14868, effective October 26, 2004; emergency amendment at 28 Ill. Reg. 15858, effective November 29, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 2420, effective January 28, 2005; amended at 29 Ill. Reg. 6986, effective April 26, 2005; amended at 29 Ill. Reg. 13211, effective August 15, 2005; amended at 29 Ill. Reg. 20516, effective December 2, 2005; amended at 30 Ill. Reg. 6389, effective March 30, 2006; amended at 30 Ill. Reg. 10473, effective May 23, 2006; amended by 30 Ill. Reg. 13890, effective August 1, 2006; amended at 30 Ill. Reg. 18739, effective November 20, 2006; amended at 31 Ill. Reg. 16240, effective November 26, 2007; amended at 32 Ill. Reg. 872, effective January 7, 2008; amended at 32 Ill. Reg. 1407, effective January 17, 2008; amended at 32 Ill. Reg. 3400, effective February 25, 2008; amended at 32 Ill. Reg. 6055, effective March 25, 2008; amended at 32 Ill. Reg. 10170, effective June 30, 2008; amended at 32 Ill. Reg. 13223, effective July 24, 2008;

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amended at 32 Ill. Reg. 17492, effective October 24, 2008; amended at 33 Ill. Reg. 1195, effective December 31, 2008; amended at 33 Ill. Reg. 2306, effective January 23, 2009; amended at 33 Ill. Reg. 14168, effective September 28, 2009; amended at 33 Ill. Reg. 15044, effective October 26, 2009; amended at 34 Ill. Reg. 550, effective December 22, 2009; amended at 34 Ill. Reg. 3886, effective March 12, 2010; amended at 34 Ill. Reg. 12891, effective August 19, 2010; amended at 35 Ill. Reg. 4223, effective February 25, 2011; amended at 35 Ill. Reg. 15092, effective August 24, 2011; amended at 36 Ill. Reg. 2363, effective January 25, 2012; amended at 36 Ill. Reg. 9247, effective June 5, 2012; amended at 37 Ill. Reg. 5823, effective April 19, 2013; amended at 37 Ill. Reg. 20751, effective December 13, 2013; recodified at 38 Ill. Reg. 4527; amended at 38 Ill. Reg. 9550, effective April 21, 2014; amended at 38 Ill. Reg. 13941, effective June 19, 2014; amended at 38 Ill. Reg. 15994, effective July 9, 2014; amended at 38 Ill. Reg. 17043, effective July 23, 2014; amended at 38 Ill. Reg. 18568, effective August 20, 2014; amended at 38 Ill. Reg. 23158, effective November 21, 2014; emergency amendment at 39 Ill. Reg. 483, effective December 23, 2014, for a maximum of 150 days.

SUBPART V: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section 100.7300 Returns and Payments of Income Tax Withheld from Wages (IITA Sections 704 and 704A)**EMERGENCY**

- a) Quarterly returns. Except as otherwise provided in Section 100.7310 or 100.7350, every employer required to deduct and withhold tax on compensation paid in Illinois shall make a return for the first calendar quarter in which the tax is deducted and withheld and for each subsequent calendar quarter (whether or not compensation is paid in that quarter) until a final return is filed. (See IITA Sections 704(c) and 704A(b).) Each return required under this subsection must be made *in the form and manner required by the Department* [35 ILCS 5/704(b) and 704A(b)].
 - 1) For calendar years after 2009, payroll providers who withhold Illinois income tax for employers during the year and who are required to file federal withholding returns on magnetic media under 26 CFR 301.6011-2 shall file returns due under this subsection (a) with the Department using the same magnetic media used for their federal filing.
 - 2) All other returns required under this subsection (a) may be filed with the Department at the address provided on the Form IL-941, Illinois Quarterly Withholding Income Tax Return, or its instructions.

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- b) Filing and retention of copies of combined W-2.
 - 1) For calendar years prior to 2008.
 - A) Every employer required under this Section or Section 100.7310 or 100.7350 to make a return of tax withheld from compensation for a period ending December 31, or for any period for which a return is made as a final return, shall retain a copy of each wage and tax statement on the combined W-2 required under Section 100.7200 to be furnished by the employer with respect to compensation paid during the calendar year. For calendar years prior to 2008, every employer shall maintain copies of the combined W-2 forms for three years from the due date of the IL-W-3 for that period. For each calendar year after 2007, every employer shall maintain copies of the combined W-2 forms until January 31 of the fourth year following that calendar year. If the Department makes a written request for copies of the combined W-2 forms, the copies shall be forwarded to the Department within 30 days after the written request.
 - B) If an employer issues a corrected copy of a combined W-2 to an employee for a prior calendar year (see Section 100.7200(d) above), a copy shall be retained for a period of four years from the date fixed for filing the employer's return of tax withheld for the period ending December 31 of the year in which the correction is made, or for any period in the year for which the return is made as a final return. A statement explaining the corrections shall also be retained and, if the Department requests, a copy of the corrected W-2 shall be submitted within 30 days after the written request.
 - C) Each year, the Department will contact a sample of Illinois employers and require those employers to provide copies of their employee W-2s. Employers chosen by the Department will be required to file W-2s in the same manner they are required to file W-2s federally.
 - i) Employers with more than 250 employees in the State of Illinois will be required to provide the W-2s on magnetic

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tape, diskette, or cartridge meeting the specifications required by the Social Security Administration (see 26 CFR 301.6011-2).

- ii) All other employers may provide the W-2s on magnetic media or paper.
- D) An extension of time for providing statements requested by the Department shall be granted upon a showing of good cause.
- 2) The following persons, if they are required to file copies of the W-2s on magnetic media under 26 CFR 301.6011-2, shall file copies of the W-2s with the Department using the same magnetic media used for their federal filing ~~no later than March 31 of the year following the year of the withholding, unless a later due date is prescribed under federal law for filing the copies of the W-2, in which case filing of copies with the Department shall be due on the same date (see IITA Sections 704(f) and 704A(f))~~:
- A) for calendar years after 2007, payroll providers who withhold Illinois income tax for employers during the year; and
 - B) for calendar years after 2008, all employers.

For calendar years prior to 2014, the copies of W-2s shall be filed no later than March 31 of the year following the year of the withholding, unless a later due date is prescribed under federal law for filing the copies of the W-2s, in which case filing of copies with the Department shall be due on the same date. For calendar years after 2013, the copies of W-2s shall be filed no later than February 15 of the year following the year of the withholding, provided that, if the IRS has granted an extension of time to file a federal information return that would otherwise be due from the employer on that date because of natural disaster under IRC Section 7508A, an employer taxpayer who files copies of its W-2s on or before the extended due date of the federal information return is deemed to have reasonable cause for the late filing. (See IITA Sections 704(f) and 704A(f).)

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- 3) For calendar years after 2007, with respect to copies of W-2s other than those required to be filed on magnetic media under subsection (b)(2):
 - A) Every employer required under this Section or Section 100.7310 or 100.7350 to make a return of tax withheld from compensation for a period ending December 31, or for any period for which a return is made as a final return, shall retain a copy of each wage and tax statement on the combined W-2 required under Section 100.7200 to be furnished by the employer with respect to compensation paid during the calendar year. Every employer shall maintain copies of the combined W-2 forms until January 31 of the fourth year following that calendar year. If the Department makes a written request for copies of the combined W-2 forms, the copies shall be forwarded to the Department within 30 days after the written request.
 - B) If an employer issues a corrected copy of a combined W-2 to an employee for a prior calendar year (see Section 100.7200(d)), a copy shall be retained for a period of four years from the date fixed for filing the employer's return of tax withheld for the period ending December 31 of the year in which the correction is made, or for any period in the year for which the return is made as a final return. A statement explaining the corrections shall also be retained and, if the Department requests, a copy of the corrected W-2 shall be submitted within 30 days after the written request.
 - C) Each year, the Department will contact a sample of Illinois employers and require those employers to provide copies of their employee W-2s.
 - D) An extension of time for providing statements requested by the Department shall be granted upon a showing of good cause.
- c) Payments of amounts withheld prior to January 1, 2008. Except as otherwise provided in Section 100.7310 or 100.7350, with respect to amounts withheld or required to be withheld prior to January 1, 2008:
 - 1) Quarter-monthly tax payments. Every employer required to file a quarterly return under subsection (a) shall also file a quarter-monthly tax payment

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form if the amount of tax deducted and withheld during any quarter-monthly period plus the amount previously withheld and not remitted to the Department exceeds \$1,000. An employer need not file a quarter-monthly form if no quarter-monthly payment is due. Certain taxpayers with tax liabilities exceeding statutory thresholds are required to pay their tax liabilities by electronic funds transfer. 86 Ill. Adm. Code 750 sets forth the rules of the Department concerning payment of taxes by electronic funds transfer, as well as the statutory payment thresholds.

- 2) Monthly tax payments. Every employer required to file a quarterly return under subsection (a) shall also file a monthly tax payment form if the amount of tax deducted and withheld during any calendar month plus the amount previously withheld and not remitted to this Department exceeds \$500 including amounts previously withheld and not remitted to the Department, but does not exceed \$1,000. An employer need not file a monthly form if no monthly payment is due. No monthly form is required for the third month in any calendar quarter. The information otherwise required to be reported on the monthly form for the third month in a calendar quarter shall be reported on the quarterly return filed for that quarter and no monthly form need be filed for that month.

- d) Payments of amounts withheld on or after January 1, 2008. Except as provided in Section 100.7310 or 100.7350, with respect to amounts withheld or required to be withheld on or after January 1, 2008:
 - 1) Semi-weekly tax payments.
 - A) An employer who withheld or was required to withhold more than \$12,000 during the look-back period for a calendar year must make semi-weekly payments for the entire calendar year.
 - B) An employer who withholds or is required to withhold more than \$12,000 in any quarter of a calendar year is required to make semi-weekly payments of amounts withheld or required to be withheld during each remaining quarter of that calendar year and for the subsequent calendar year. (See IITA Section 704A(c)(1).)
 - 2) Monthly tax payments. An employer who is not required to make semi-weekly payments shall make monthly payments of taxes withheld or

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required to be withheld. (See IITA Section 704A(c)(3).)

(Source: Amended by emergency amendment at 39 Ill. Reg. 483, effective December 23, 2014, for a maximum of 150 days)

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NOTICE OF PEREMPTORY AMENDMENTS

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

<u>Section Numbers:</u>	<u>Proposed Action:</u>
125.260	Amendment
125.380	Amendment
- 4) Reference to the Specific State or Federal Court Order, Federal Rule or Statute that Requires this Peremptory Rulemaking: The Meat and Poultry Inspection Act [225 ILCS 650]; the Federal Meat Inspection Act (21 USCA 661); the Federal Poultry Products Inspection Act (21 USCA 454); and 79 FR 71007 (2014).
- 5) Statutory Authority: The Meat and Poultry Inspection Act [225 ILCS 650]
- 6) Effective Date: December 22, 2014
- 7) A Complete Description of the Subjects and Issues Involved: In order to maintain an "equal to" status with the federal meat and poultry products inspection program as required by the Federal Meat Inspection Act and the Federal Poultry Products Inspection Act and as required by Section 16 of the Meat and Poultry Inspection Act, the Department is adopting amendments to the federal meat and poultry products in section rules.

The Food Safety and Inspection Service (FSIS) is establishing January 1, 2018, as the uniform compliance date for new meat and poultry product labeling regulations that are issued between January 1, 2015, and December 31, 2016. FSIS periodically announces uniform compliance dates for new meat and poultry product labeling regulations to minimize the economic impact of label changes.
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Date Filed with the Index Department: December 22, 2014
- 10) A copy of the peremptory rulemaking, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 11) These peremptory amendments are in compliance with Section 5-150 of the Illinois Administrative Procedure Act.

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- 12) Are there any other proposed rulemakings pending to this Part? No
- 13) Statement of Statewide Policy Objective: These preemptory amendments do not affect units of local government.
- 14) Information and questions regarding this preemptory rule shall be directed to:

Susan Baatz
Illinois Department of Agriculture
State Fairgrounds, P. O. Box 19281
Springfield IL 62794-9281

217/524-6905
217/785-4505 (fax)

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

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

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

PART 125
 MEAT AND POULTRY INSPECTION ACT

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

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

SUBPART B: MEAT INSPECTION

Section

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

SUBPART C: POULTRY INSPECTION

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

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

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NOTICE OF PEREMPTORY AMENDMENTS

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

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

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

SUBPART B: MEAT INSPECTION

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NOTICE OF PEREMPTORY AMENDMENTS

Section 125.260 Labeling, Marking and Containers

- a) The Department incorporates by reference 9 CFR 317.1 through 317.2(j)(10), 317.2(j)(12) through 317.4(f)(2), 317.5, 317.6, 317.8, 317.10 through 317.13, 317.17 through 317.24, 317.300, 317.302, 317.308, 317.309, 317.312, 317.313, 317.343, 317.344, 317.345, 317.354, 317.356, 317.360, 317.361, 317.362, 317.363, 317.369, 317.380, 317.400 (2010; 75 FR 82148, effective January 1, 2012; 77 FR 76824, effective December 31, 2012; 78 FR 66826, effective January 6, 2014; [79 FR 71007, effective December 1, 2014](#)).
- b) The Department shall approve only those abbreviations for marks of inspection as specifically stated in Section 2.26(j)(3) and (k)(3), (4), (5) and (9) of the Act.
- c) Labeling and sketch labeling shall be approved by the Department if the label is in compliance with the provisions of this Section and the label is not misbranded in accordance with Section 2.20 of the Act. All labels and sketch labels shall be submitted to the Springfield office of the Department for approval.
- d) The Department shall approve temporary labeling as stated in 9 CFR 317.4(f). Labeling which has received temporary approval shall not be used beyond the temporary approval period unless the printer or manufacturer of the label is unable to provide the official establishment with the labels before the expiration of the temporary approval.
- e) The quantity of contents as shown on the label shall be in compliance with the Weights and Measures Act [225 ILCS 470] and the rules adopted thereto (8 Ill. Adm. Code 600).
- f) Any Type I establishment is authorized to use generically approved labeling for meat and poultry products as defined in subsection (h) of this Section without the labeling being submitted for approval to the Department, provided the labeling is in accordance with this Section and shows all mandatory features in a prominent manner as required in 9 CFR 317.2 and 381 and is not otherwise false or misleading.
- g) The Department shall select samples of generically approved labeling from the records maintained by official establishments to determine compliance with

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labeling requirements. Any finding of false or misleading labeling shall institute the proceedings prescribed in 225 ILCS 650/13.

- h) Generically approved labeling is labeling that complies with the following:
- 1) Labeling for a product that has a product standard as specified in 9 CFR 319 and 381 or the Standards and Labeling Policy Book and does not contain any special claims such as quality claims, nutrient content claims, health claims, negative claims, geographical origin claims or guarantees, or is not a domestic product labeled in a foreign language;
 - 2) Labeling for single-ingredient products, such as beef steak or lamb chops, that does not contain any special claims such as quality claims, nutrient content claims, health claims, negative claims, geographical origin claims or guarantees or is not a domestic product labeled with a foreign language;
 - 3) Labeling for containers of products sold under contract specifications to federal government agencies that the product is not offered for sale to the general public, provided that the contract specifications include specific requirements with respect to labeling and are made available to the inspector-in-charge;
 - 4) Labeling for shipping containers that contain fully labeled immediate containers, provided that the labeling complies with 9 CFR 316.13 and 381.127;
 - 5) Labeling for products not intended for human food, provided it complies with 9 CFR 325, 381.152(c) and 381.193;
 - 6) Meat inspection legends;
 - 7) Inserts, tags, liners, pasters and similar devices containing printed or graphic matter and for use or to be placed within containers and coverings of products, provided the devices contain no reference to product and bear no misleading feature;
 - 8) Labeling for consumer test products not intended for sale;

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- 9) Labeling that was previously approved by the Department as sketch labeling, and the final labeling was prepared without modification or with the following modifications:
- A) All features of the labeling are proportionately enlarged or reduced provided that all minimum size requirements specified in applicable regulations are met and the labeling is legible;
 - B) The substitution of any unit of measurement with its abbreviation or the substitution of any abbreviation with its unit of measurement, e.g., "lb." for "pound" or "oz." for "ounce" or of the word "pound" for "lb." or "ounce" for "oz.";
 - C) A master or stock label has been approved where the name and address of the distributor are omitted and the name and address are applied before being used (in that case, the words "prepared for" or similar statement must be shown together with the blank space reserved for the insertion of the name and address when the labels are offered for approval);
 - D) Wrappers or other covers bearing pictorial designs, emblematic designs or illustrations, e.g., floral arrangements, illustrations of animals, fireworks, etc., are used with approved labeling (The use of the designs will not make necessary the application of labeling not otherwise required.);
 - E) A change in the language or the arrangement of directions pertaining to the opening of containers or the serving of the product;
 - F) The addition, deletion or amendment of a dated or undated coupon, a cents-off statement, cooking instructions, packer product code information or the UPC product code information;
 - G) Any change in the name or address of the packer, manufacturer or distributor that appears in the signature line;
 - H) Any change in the net weight, provided the size of the net weight statement complies with 9 CFR 317.2 and 318.121;

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- I) The addition, deletion or amendment of recipe suggestions for the product;
- J) Any change in punctuation;
- K) Newly assigned or revised establishment numbers for a particular establishment that has been approved by the Department;
- L) The addition or deletion of open dating information;
- M) A change in the type of packaging material on which label is printed;
- N) Brand name changes, provided that there are no design changes, the brand name does not use a term that connotes quality or other product characteristics, the brand name has no geographic significance, and the brand name does not affect the name of the product;
- O) The deletion of the word "new" on new product labeling;
- P) The addition, deletion or amendment of special handling statements, provided that the change is consistent with 9 CFR 317.2(k) and 318.125(a);
- Q) The addition of safe handling instructions as required by 9 CFR 317.2(1) and 381.125(b);
- R) Changes reflecting a change in the quantity of an ingredient shown in the formula without a change in the order of predominance shown on the label, provided that the change in quantity of ingredients complies with any minimum or maximum limits for the use of the ingredients prescribed in 9 CFR 318, 319 and 381.147;
- S) Changes in the color of the labeling, provided that sufficient contrast and legibility remain;

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- T) A change in the product vignette, provided that the change does not affect mandatory labeling information or misrepresent the content of the package;
 - U) A change in the establishment number by a corporation or parent company for an establishment under its ownership;
 - V) Changes in nutrition labeling that only involve quantitative adjustments to the nutrition labeling information, except for serving sizes, provided the nutrition labeling information maintains its accuracy and consistency;
 - W) Deletion of any claim, and the deletion of non-mandatory features or non-mandatory information; and
 - X) The addition or deletion of a direct translation of the English language into a foreign language for products marked "for export only".
- i) With regard to the incorporated language in 9 CFR 317.6, the extension of time for exhausting existing stocks of labels is not applicable since all labels presently in use are in compliance with the rules of this Part.
 - j) The Department does not issue a list of approved packaging materials and will permit for use any packaging material which has been approved by the U.S. Department of Agriculture (see 9 CFR 317.24 (2004)).
 - k) Labels to be used for the relabeling of inspected and passed product shall be permitted to leave the official establishment when the product must be relabeled because the original labels have become mutilated or damaged. The official establishment shall reimburse the Department for any overtime costs, if applicable, involved for the inspector to supervise the relabeling of a product. The overtime charges shall be as set forth in Section 125.80.
 - l) The inspector shall grant authorization to transport labels, wrappers and containers bearing official marks from one official establishment to another official establishment provided the official establishment provides to the inspector the information required in 9 CFR 317.13 so that the inspector can notify the inspector at the destination point.

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- m) Labeling of custom slaughter and/or custom processed meat and/or meat products and the containers containing custom slaughtered and/or custom processed meat and/or meat products shall be as set forth in Section 5 of the Act.
- n) References in the incorporated language to 9 CFR 312 shall be interpreted to mean in accordance with Section 125.90.

(Source: Amended by peremptory rulemaking at 39 Ill. Reg. 502, effective December 22, 2014)

SUBPART C: POULTRY INSPECTION

Section 125.380 Labeling and Containers

- a) The Department incorporates by reference 381.115 through 381.127, 381.129 through 381.132(f), 381.133, 381.134, 381.136 through 381.140, 381.144(a) through 381.144(d), 381.400, 381.402, 381.408, 381.409, 381.412, 381.413, 381.443; 381.444; 381.445; 381.454; 381.456, 381.460, 381.461, 381.462, 381.463, 381.469, 381.480, 381.500 (2010; 75 FR 82148, effective January 1, 2012; 76 FR 82077, effective December 30, 2011; 77 FR 76824, effective December 31, 2012; 78 FR 66826, effective January 6, 2014; 79 FR 49566, effective October 20, 2014; [79 FR 71007, effective December 1, 2014](#)).
- b) Each shipping container and each immediate container containing inspected and passed poultry and/or poultry products shall be identified in accordance with the labeling provisions of this Section.
- c) Immediate containers of poultry products packed in, bearing or containing any chemical additive shall bear a label naming the additive and the purpose of its use.
- d) Labels for consumer packages shall be approved if the label is not misbranded in accordance with Section 2.20 of the Act and is in compliance with this Section.
- e) The specific statements listed in 9 CFR 381.121 may be added to the label for the shipping container at the option of the licensee.
- f) The quantity of contents as shown on the label shall be in compliance with the Weights and Measures Act and the rules adopted thereto (8 Ill. Adm. Code 600).

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- g) No labeling or containers that have not been approved shall be used until a final decision is rendered at an administrative hearing in accordance with Section 19 of the Act.
- h) The Department shall approve the manufacture of a device or label containing an official mark of inspection provided the device or label is in compliance with Section 125.90.
- i) Labeling and sketch labeling shall be approved by the Department if the label is in compliance with the provisions of this Section and the label is not misbranded in accordance with Section 2.20 of the Act. All labels and sketch labels shall be submitted to the Springfield office of the Department for approval.
- j) The Department shall approve temporary labeling as stated in 9 CFR 381.132(f). Labeling which has received temporary approval shall not be used beyond the temporary approval period unless the printer or manufacturer of the label is unable to provide the official establishment with the permanent labels before the expiration of the temporary approval.
- k) A copy of each label submitted for approval shall be accompanied by a statement showing the common or usual names, the kinds and percentages of the ingredients comprising the poultry product and a statement indicating the method or preparation of the product with respect to which the label is to be used. Laboratories used for chemical analysis shall be any approved laboratory as defined in 8 Ill. Adm. Code 20.1.
- l) The Department does not approve terms for generic labeling and considers the approval of terms as generic to be the responsibility of the federal government.
- m) The Department does not issue a list of approved packaging materials and will permit for use any packaging material which has been approved by the U.S. Department of Agriculture (see 9 CFR 317.24 (1997)).
- n) Labels and devices approved for use pursuant to Section 125.90 and this Section shall be disposed of only when such labels or devices have been mutilated or damaged or when the establishment ceases to do business. Such labels and devices shall be given to the inspector for disposition.

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- o) The inspector shall grant authorization to transport labels, wrappers and containers bearing official marks from one official establishment to another official establishment provided the official establishment provides to the inspector the information required in 9 CFR 381.138 so that the inspector can notify the inspector at the destination point.
- p) Labels to be used for the relabeling of inspected and passed product shall be permitted to leave the official establishment when the product must be relabeled because the original labels have become mutilated or damaged. The official establishment shall reimburse the Department for any overtime costs, if applicable, involved for the inspector to supervise the relabeling of a product. The overtime charges shall be as set forth in Section 125.80.
- q) Labeling of custom slaughtered and/or custom processed poultry and/or poultry products and the containers containing custom slaughtered and/or custom processed poultry products shall be as set forth in Section 5 of the Act.
- r) The Department shall approve only those abbreviations for marks of inspection as specifically stated in Section 2.26(j)(3), (4), (5) and (9) of the Act.

(Source: Amended by peremptory rulemaking at 39 Ill. Reg. 502, effective December 22, 2014)

CHIEF PROCUREMENT OFFICER FOR CAPITAL DEVELOPMENT BOARD

JANUARY 2015 REGULATORY AGENDA

- a) Parts (Heading and Code Citations): Procurement Practices (44 Ill. Adm. Code 8)
- 1) Rulemaking:
- A) Description: The Chief Procurement Officer for Capital Development Board anticipates amendments to the procurement practices rules to provide for clarifications and to address legislative changes made by the 98th General Assembly.
- B) Statutory Authority: 30 ILCS 500
- C) Scheduled Meeting/Hearing Dates: None have been scheduled.
- D) Date Agency anticipates First Notice: February 16, 2015
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The rulemaking may affect small businesses that contract with the State of Illinois, especially construction contractors and architect/engineers.
- F) Agency contact person for information:
- Lorri Lawton
Deputy Chief Procurement Officer
318 Stratton Office Building
Springfield IL 62706
- 217/558-2295
- G) Related rulemakings and other pertinent information: None

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

JANUARY 2015 REGULATORY AGENDA

- a) Parts (Heading and Code Citations): Chief Procurement Officer for General Services Standard Procurement (44 Ill. Adm. Code 1)
- 1) Rulemaking:
- A) Description: The Chief Procurement Officer for General Services anticipates amendment to the standard procurement rules to implement the changes made by PA 98-1076, PA 98-1038 and to address other legislative changes made by the 98th General Assembly.
- B) Statutory Authority: 30 ILCS 500
- C) Scheduled Meeting/Hearing Dates: None have been scheduled.
- D) Date Agency anticipates First Notice: February 2015
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The proposals may affect small businesses that contract with the State of Illinois.
- F) Agency contact person for information:
- Margaret L. van Dijk
Senior Policy Advisor
Chief Procurement Office for General Services
712 Stratton Office Building
Springfield IL 62706
217/558-2228
- G) Related rulemakings and other pertinent information: None

CHIEF PROCUREMENT OFFICER FOR HIGHER EDUCATION

JANUARY 2015 REGULATORY AGENDA

a) Parts (Heading and Code Citations): Chief Procurement Officer for Public Institutions of Higher Education Standard Procurement (44 Ill. Adm. Code 4)

1) Rulemaking:

A) Description: The Chief Procurement Officer for Higher Education anticipates amendment to the standard procurement rules to further implement the changes made by PA 96-795, PA 97-307 and PA 97-895, as well as to address any other legislative changes made by the 98th General Assembly.

B) Statutory Authority: 30 ILCS 500

C) Scheduled Meeting/Hearing Dates: None have been scheduled.

D) Date Agency anticipates First Notice: January 2015

D) Effect on small businesses, small municipalities or not-for-profit corporations: The proposals may affect small businesses that contract with the State of Illinois.

E) Agency contact person for information:

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

217/558-2247

F) Related rulemakings and other pertinent information: None

EXECUTIVE ETHICS COMMISSION

JANUARY 2015 REGULATORY AGENDA

- a) Parts (Heading and Code Citations): Organization, Information, Rulemaking and Hearings, (2 Ill. Adm. Code 1620)
- 1) Rulemaking:
- A) Description: The amendments will incorporate the provisions of PA 96-1528 that added regional transit boards to the State Officials and Employees Ethics Act.
- B) Statutory Authority: State Officials and Employees Ethics Act [5 ILCS 430]
- C) Scheduled Meeting/Hearing Dates: None have been scheduled.
- D) Date Agency anticipates First Notice: The Commission anticipates filing the proposed rulemaking during the next six months of this year.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:
- Chad Fornoff
Executive Director
Executive Ethics Commission
401 S. Spring St.
513 William Stratton Building
Springfield IL 62706
- 217/558-1393
- G) Related rulemakings and other pertinent information: None

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- a) Part (Heading and Code Citations): Regulations Under the Illinois Business Brokers Act of 1995; 14 Ill. Admin. Code 140

1) Rulemaking:

- A) Description: Amend rules and draft rules generally to conform regulations to legislative enactments.
- B) Statutory Authority: Illinois Business Broker Act of 1995, 815 ILCS 307/10-1.
- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency anticipates First Notice: Unknown
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Unknown
- F) Agency contact person for information:

Tanya Solov, Director
Illinois Securities Department
69 W. Washington Street, Suite 1220
Chicago IL 60602

312/793-3384
fax: 312/793-1202
tsolov@ilsos.net

- G) Related rulemakings and other pertinent information: None

- b) Part (Heading and Code Citations): Regulations Under the Illinois Securities Law of 1953, 14 Ill. Admin. Code 130

1) Rulemaking:

- A) Description: Amend rules to conform regulations to state and federal legislative enactments and rules of the US Securities and Exchange Commission to adopt electronic filing and use of Form ADV Part 2 for

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JANUARY 2015 REGULATORY AGENDA

investment adviser representatives. Amend portions of procedures for administrative hearings. Remove returned check fee due to statutory changes

- B) Statutory Authority: Illinois Securities Law of 1953, 815 ILCS 5/1
- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency anticipates First Notice: Unknown
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Unknown
- F) Agency contact person for information:

Tanya Solov, Director
Illinois Securities Department
69 W. Washington Street, Suite 1220
Chicago IL 60602

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tsolov@ilsos.net

- G) Related rulemakings and other pertinent information: None

- c) Part (Heading and Code Citations): Regulations Under the Illinois Business Opportunity Sales Law of 1995, 14 Ill. Admin. Code 135

- 1) Rulemaking:

- A) Description: Amend rules and draft rules generally to conform regulations to legislative enactments.
- B) Statutory Authority: Illinois Business Opportunity Sales Law of 1995; 815 ILCS 602/5-1
- C) Scheduled Meeting/Hearing Dates: None

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- D) Date Agency anticipates First Notice: Unknown
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Unknown
- F) Agency contact person for information:

Tanya Solov, Director
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Chicago IL 60602

312/793-3384
fax: 312/793-1202
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- G) Related rulemaking or other pertinent information: None

d) Part (Heading and Code Citations): Regulations Under the Illinois Loan Brokers Act of 1995; 14 Ill. Admin. Code 145

1) Rulemaking:

- A) Description: Amend rules and draft rules generally to conform regulations to legislative enactments.
- B) Statutory Authority: Illinois Loan Broker Act; 815 ILCS 175/15-1
- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency anticipates First Notice: Unknown
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Unknown
- F) Agency contact person for information:

Tanya Solov, Director
Illinois Securities Department

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- G) Related rulemakings and other pertinent information: None
- e) Part (Heading and Code Citations): Procedures and Standards; 92 Ill. Admin. Code Part 1001

1) Rulemaking:

- A) Description: We will file a rulemaking to revise our non-resident offender/out-of-state program. This will involve revisions to Subparts A, C and D of 92 IAC Part 1001. The out-of-state/mail-in hearing program was established several years ago to provide relief to out-of-state offenders whose driving privileges were revoked in Illinois. These include offenders who committed the offense in Illinois, then moved to other states without first applying for reinstatement of their Illinois driving privileges and who now are being denied a driver's license in their new state of residence, and offenders who resided in another state when they committed the offense in Illinois and who never before attempted to have their Illinois driving privileges reinstated. Their home state is now also refusing to renew their driving privileges/driver's license until their Illinois driving privileges are reinstated. These offenders are now coming into our system due to the enhanced and improved security required by the federal government related to driver's licenses and other forms of identification. As a result of these measures, the caseload of the Out-of-State Unit has increased dramatically in recent years. Our rulemaking will attempt to provide more efficient procedures for the processing of these petitions, and discourage the filing of petitions by petitioners who are unprepared to satisfy our requirements;

We have conducted an internal survey to determine whether our staff believes that revisions should be made to Part 1001 to improve and facilitate the hearing process, based upon our day-to-day experience with the current rules. As a result, extensive revisions will be made in Subparts

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A, C, and D including the reorganization of Section 1001.100 (Conduct of Hearings);

Extensive revision and reorganization of §1001.460 in an attempt to clarify their substantive content. "Modification" defined; disqualifying factors recited and factors to be considered by hearing officer in considering modification recited; new subsection implements recent amendment to Section 6-206 of the IVC (new subsection (a)16) made by PA 96-1305 (HB 4580, effective 1 January 2011). The case of *Webb v. White* (4th Dist., 2006), 364 Ill.App.3d 650, 850 N.E.2d 233, which criticized us for upholding a suspension based upon a Liquor Control Act violation, compels us to re-examine this rule. Further, the reorganization of §6-20 of the LCA in PA 95-166 (HB 3131, effective 1 January 2008) and PA 95-355 (HB 624, effective 1 January 2008), will enable us to more effectively respond to the court's concerns;

Our rules on safety responsibility hearings, at 92 IAC Subpart B, will be updated.

Our rules on restricted driving permits, at 92 IAC 1001.420, must be amended to implement the new daycare and educational permits, authorized by PA 95-848, and elderly and disabled person permits, authorized by PA 96-1180 (HB 4859);

Our rules on hearings for zero tolerance suspensions, at 92 IAC Subpart F, will be updated to require greater accountability for those offenders with multiple ZT suspensions;

It is not yet clear whether the rules on hearings will require revision in order to implement PA 1157, which authorizes the Secretary of State to issue temporary visitor driver's licenses to illegal immigrants. The Department of Driver Services, which is implementing the legislation, recently adopted their rules on this legislation. See 37 Ill. Reg. 19342, effective November 28, 2013;

Respond to an implement the Compassionate Use of Medical Cannabis Pilot Program Act, PA 98-122. We will also provide for the issuance of driving privileges to petitioners who are involved in methadone and opiate maintenance programs.

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- B) Statutory Authority: 625 ILCS 5/2-104
- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency anticipates First Notice: September 2014
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:

Marc Christopher Loro, Senior Legal Advisor
Illinois Secretary of State
Administrative Hearings
501 South Second
Howlett Building, Room 200
Springfield IL 62756

217/785-8245
fax: 217/782-2192
mloro@ilsos.net

- G) Related rulemakings and other pertinent information: At this time, the Department is not aware of any further information which may serve the public interest. The public will have an opportunity to comment on any proposed rulemaking during the first notice period.

f) Part (Heading and Code Citations): Commercial Driver Training Schools, 92 Ill. Admin. Code 1060

1) Rulemaking:

- A) Description: 1060.50-Amend location requirements. 1060.120-Amend instructor requirements. 1060.200-Amend vehicle requirements for CDL accredited schools.
- B) Statutory Authority: 625 ILCS 5/6-401 et al.

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- C) Schedule meeting/hearing date: None
- D) Date Agency anticipates First Notice: Unknown
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Minimal
- F) Agency contact person for information:

Tom Wekony
Illinois Secretary of State
Commercial Driver Training Schools
650 Ropollo Lane
Elk Grove Village, IL 60007

847/981-7455
fax: 847/437-5831
twekony@ilsos.net

- G) Related rulemakings and other pertinent information: None

g) Part (Heading and Code Citations): Issuance of Licenses, 92 Ill Admin. Code 1030

1) Rulemaking:

- A) Description: On May 9, 2011 the Federal Motor Carrier Safety Administration published a final rule in the Federal Register regarding the training and testing of applicants for a commercial learner's permit (CLP) and a commercial driver's license (CDL). States must come into compliance with the federal regulations no later than July 8, 2015. Among items to be included in the proposed rules; applicants for a CDL will be required to hold a CLP for a minimum of 14 days prior to applying for a CDL; examination of applicants will be done in accordance with 49 CFR 383; Secretary of State employees, as well as third party testers, will be subject to training, testing and background checks; non-governmental third party entities will be required to post a surety bond; proof of legal presence; issuance of non-domiciled CIPs and CDLs and auditing of skills examiners.

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- B) Statutory Authority: 625 ILCS 5/6-521
- C) Scheduled Meeting/Hearing Dates: No meetings or hearings are scheduled at this time.
- D) Date Agency anticipates First Notice: Unknown
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Companies employing persons required to have a CDL may be affected in that an applicant will be required to hold a CLP for 14 days prior to obtaining or upgrading a CDL. Third party entities that are not governmental agencies will incur a cost in obtaining and maintaining the required surety bond and will have to undergo training and testing.
- F) Agency contact person for information:

Brenda Glahn, Assistant General Counsel
Illinois Secretary of State
Driver Services Department
501 South Second
Howlett Building – Room 298
Springfield IL 62756

217/785-3094
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bglahn@ilsos.net

- G) Related rulemakings and other pertinent information: Cancellation, Revocation or Suspension of Licenses or Permits, 92 Ill. Admin. Code 1040
- h) Part (Heading and Code Citations): Cancellation, Revocation or Suspension of Licenses or Permits, 92 Ill. Admin. Code 1040
- 1) Rulemaking:
- A) Description: On May 9, 2011 the Federal Motor Carrier Safety Administration published a final rule in the Federal Register regarding driver's license sanctions states must impose for commercial learner's

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permit (CLP) and commercial driver's license (CDL) holders who have committed fraud in obtaining the CLP or CDL. States must come into compliance with the federal regulations no later than July 8, 2015. The amended rule will set forth those sanctions.

- B) Statutory Authority: 625 ILCS 5/6-521
- C) Schedule Meeting/Hearing Date: No meetings or hearings are scheduled at this time.
- D) Date Agency anticipates First Notice: Unknown
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Companies that employ CLP/CDL holders who have committed fraud will not be allowed to permit those employees to drive while their CLP/CDL is sanctioned.
- F) Agency contact person for information:

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fax: 217/524-1689
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- G) Related information and other pertinent information: Issuance of Licenses, 92 Ill. Admin. Code 1030
- i) Part (Heading and Code Citations): Cancellation, Revocation or Suspension of Licenses or Permits, 92 Ill. Admin. Code 1040
 - 1) Rulemaking:

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- A) Description: The General Assembly passed several bills during the Spring 2014 session. The Governor signed the following bills into law; required changes to Section 1040.20 Illinois Offense Table are as follows:

PA 98-0285, increases the penalty for violation of a second or subsequent driving during a revocation or suspension involving personal injury or death.

PA 98-0122, additional three new traffic offenses, 11-502.1(a) illegal possession of medical cannabis within the passenger area of any motor vehicle in this State; 11-502.1(b) illegal possession of medical cannabis by an agent in a non-sealed medical cannabis container; and 11-502.1(c) illegal possession by passenger within passenger area of any motor vehicle in this State. In addition, includes a new authority section 625 ILCS 5/6-206(a)(47) suspension for having committed a violation of section 11-502-1 of this Code;

PA 98-0726, amends 625 ILCS 5/6-204(a)(24) and will allow the Secretary of State to suspend for offenses that take place on out-of-state military bases (currently may suspend only for offenses that occur on Illinois military bases);

PA 98-0168, includes a new authority section 625 ILCS 5/6-108(a)(5) cancellation for failure to disclose a traffic citation for which a disposition had not been rendered at the time of application for a graduated driver's license;

AAMVA ACD Code Version 5.1.0 Update, addition of three new ACD codes introduced with the new commercial learner's permit requirements W27 Fail to make appointment to re-test within 30 days; W28 Failure to re-test or fail test(s) and W82 Failure to surrender license or permit; and

Typographical or Transposition errors for the following offenses:

Type Action 93/94 offenses

11-1414(a) effective date listed 1/1/13 corrected to 7/1/13;

335-14bb.1 changed from 335-14bb.2 to 335-14bb.1

335-14bb.2 changed from 335-14bb.1 to .2

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Type Action 97/99 offenses

11-601(a) removed "a serious traffic violation if committed in a commercial motor vehicle" in accordance to definition in AAMVA Conviction Dictionary Version 5.1.0;

11-1414(a) discontinued date listed 12/31/12 corrected to 6/30/13;
12-604.1(a), 12-604.1(a-5), 12-610.1(b-5), 12-610.1(e-5), 12-610.2(b-5) and 12-610.2(b) EDPM Codes corrected

Type Action 18 suspension

Deleted TA 18 from Title

ACD Codes – Type Action 87

Duplicate entry of BO2, Hit and Run – failure to stop and render aid after accident – fatal accident.

F) Agency contact person for information:

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Illinois Secretary of State
Driver Services Department
2701 South Dirksen Parkway
Springfield IL 62723

217/557-4462
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jegizii@ilsos.net

G) Related rulemakings and other pertinent information: Nonej) Part (Heading and Code Citations): Cancellation, Revocation or Suspension of Licenses or Permits 92 Ill Admin. Code 10401) Rulemaking:

A) Description: Adding rule to stipulate sanction of violation for possession of medical marijuana in a vehicle

B) Statutory Authority: 625 ILCS 5/6-206(a)47

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- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency anticipates First Notice: January 1, 2015
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:

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- G) Related rulemakings and other pertinent information: None

k) Part (Heading and Code Citations): Commercial Driver Training Schools, 92 Ill. Admin. Code 1060

1) Rulemaking:

- A) Description: 1060.50 will be amended to require a commercial driving school's posted hours of business to match those on file with the Secretary of State. 1060.120 will be amended to additional offenses that would disqualify individuals from being instructors at commercial driving schools. 1060.200 will be amended to allow automatic transmission vehicles to be used for testing at CDL accredited commercial driving schools.
- B) Statutory Authority: 625 ILCS 5/6-419
- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency anticipates First Notice: Spring 2015

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E) Effect on small businesses, small municipalities or not-for-profit corporations: 1060.50-None; 1060.120-May disqualify some current driving instructors; 1060.200-May expand the customer base at CDL accredited driving schools.

F) Agency contact person for information:

Tom Wekony
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twekony@ilsos.net

G) Related rulemakings and other pertinent information: None

l) Part (Heading and Code Citations: The Illinois State Library System Act, (23 Ill. Admin. Code 3030)

1) Rulemaking:

A) Description: This Part has been proposed as new and will be effective in early 2015. A possible rulemaking could arise as a result of the implantation of the rules.

B) Statutory Authority: Implementing and authorized by the Illinois Library System Act [75 ILCS 10]

C) Scheduled Meeting/Hearing Dates: None

D) Date Agency anticipates First Notice: June 2015

E) Effect on small businesses, small municipalities or not-for-profit corporations: None

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F) Agency contact person for information:

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Illinois State Library
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217/558-4185
fax: 217/557-2619
jnatale@ilsos.net

G) Related rulemakings and other pertinent information: Nonem) Part (Heading and Code Citations): The Illinois State Library Grant Programs, (23 Ill Admin. Code 3035)1) Rulemaking:

A) Description: In an on-going initiative to make more efficient for both the grantor (the Illinois State Library) and the grantees (qualifying Illinois libraries, library systems and other qualified entities), these rules will be amended to accommodate those participating in the grant program and also to ensure accountability in the expenditure of State and Federal grant funds covered by this Part.

B) Statutory Authority: Implementing and authorized by the Illinois State Library Act [15 ILCS 320/18]

C) Scheduled Meeting/Hearing Dates: None

D) Date Agency anticipates First Notice: June 2015

E) Effect on small businesses, small municipalities or not-for-profit corporations: None

F) Agency contact person for information:

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JANUARY 2015 REGULATORY AGENDA

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G) Related rulemakings and other pertinent information: None

n) Part (Heading and Code Citations): Local Records Commission of Cook County (44 Ill. Admin. Code 4500)

1) Rulemaking:

A) Description: Proposed amendments will update and will add greater detail to existing procedures for the disposal of records.

B) Statutory Authority: Local Records Act (50 ILCS 205)

C) Scheduled Meeting/Hearing Dates: None

D) Date Agency anticipates First Notice: July 2015

E) Effect on small businesses, small municipalities or not-for-profit corporations: These amendments apply to local units of government, including municipalities. There will be no fiscal impact on the municipalities. The amendments seek to update existing procedures.

F) Agency contact person for information:

David A. Joens, Director
Illinois State Archives
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Springfield IL 62756

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JANUARY 2015 REGULATORY AGENDA

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djoens@ilsos.net

- G) Related rulemakings and other pertinent information: None
- o) Part (Heading and Code Citations): Local Records Commission (44 Ill. Admin. Code 4000)
- 1) Rulemaking:
- A) Description: Proposed amendments will update and will add greater detail to existing procedures for the disposal of records.
- B) Statutory Authority: Local Records Act (50 ILCS 205)
- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency anticipates First Notice: July 2015
- E) Effect on small businesses, small municipalities or not-for-profit corporations: These amendments apply to local units of government, including municipalities. There will be no fiscal impact on the municipalities. The amendments seek to update existing procedures.
- F) Agency contact person for information:
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- G) Related rulemakings and other pertinent information: None

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- p) Part (Heading and Code Citations): Local Records Commission (44 Ill. Admin. Code 4400)
- 1) Rulemaking:
- A) Description: Proposed amendments will update and will add greater detail to existing procedures for the disposal of records.
- B) Statutory Authority: State Records Act (5 ILCS 160)
- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency anticipates First Notice: July 2015
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The rule applies only to state agencies.
- F) Agency contact person for information:
- David A. Joens, Director
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- G) Related rulemakings and other pertinent information: None

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- a) Part(s) (Heading and Code Citation): Public Schools Evaluation, Recognition and Supervision; (23 Ill. Adm. Code 1)
- 1) Rulemaking:
- A) Description: Changes to Part 1 will address requirements for the school report card under 105 ILCS 5/10-17a and the definition of "graduation cohort" for purposes of federal reporting. Other changes flow from numerous public acts from the 98th General Assembly, including laws addressing the State assessment, tuberculosis screening, discipline reporting and learning conditions survey, to name a few.
- B) Statutory Authority: 105 ILCS 5/2-3.6
- C) Scheduled meeting/hearing date: To be announced.
- D) Date agency anticipates First Notice: February 27, 2015
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency contact person for information:
- Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
Springfield IL 62777
- 217/782-5270
Fax: 217/524-3911
shelton@isbe.net
- G) Related rulemakings and other pertinent information:
- b) Part(s) (Heading and Code Citation): Standards for School Support Personnel Endorsements (23 Ill. Adm. Code 23)
- 1) Rulemaking:

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- A) Description: Part 23 will be amended to include the standards for receipt of an endorsement for family and marriage counseling in response to P.A. 98-413, effective August 16, 2013.
- B) Statutory Authority: 105 ILCS 5/2-3.6
- C) Scheduled meeting/hearing date: To be announced.
- D) Date agency anticipates First Notice: July 3, 2015
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: Not-for-profit entities and private postsecondary institutions wishing to offer educator preparation programs would need to meet the standards in order for their programs to be approved.
- F) Agency contact person for information:

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

217/782-5270
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shelton@isbe.net

- G) Related rulemakings and other pertinent information:

c) Part(s) (Heading and Code Citation): Educator Licensure (23 Ill. Adm. Code 25)

1) Rulemaking:

- A) Description: Changes result from recently enacted legislation and address endorsements for principal, superintendent, and career and technical educator.
- B) Statutory Authority: 105 ILCS 5/Art. 21B and 2-3.6

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- C) Scheduled meeting/hearing date: To be announced.
- D) Date agency anticipates First Notice: January 2, 2015
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency contact person for information:

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- G) Related rulemakings and other pertinent information:

d) Part(s) (Heading and Code Citation): Educator Licensure (23 Ill. Adm. Code 25)

1) Rulemaking:

- A) Description: Part 25 will be amended to include changes relative to legislation enacted during the 98th General Assembly (e.g., highly qualified physical education and health teachers, teaching excellence program, family and marriage counseling endorsement). In addition, the system for approving educator preparation programs will be streamlined. Other changes will be made to reflect updates to agency practices.
- B) Statutory Authority: 105 ILCS 5/Art. 21B and 2-3.6
- C) Scheduled meeting/hearing date: To be announced.
- D) Date agency anticipates First Notice: July 3, 2015

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- E) Effect on small businesses, small municipalities, or not-for-profit corporations: Not-for-profit entities and private postsecondary institutions wishing to offer educator preparation programs would need to meet the standards in order for their programs to be approved.
- F) Agency contact person for information:
- Shelley Helton
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shelton@isbe.net
- G) Related rulemakings and other pertinent information:
- e) Part(s) (Heading and Code Citation): Standards for Endorsements in Specific Teaching Fields (23 Ill. Adm. Code 27)
- 1) Rulemaking:
- A) Description: The use of national standards for the approval of educator preparation programs will be phased in over a period of several years, and Part 27 will be amended to reflect this change.
- B) Statutory Authority: 105 ILCS 5/Art. 21B and 2-3.6
- C) Scheduled meeting/hearing date: To be announced.
- D) Date agency anticipates First Notice: July 3, 2015
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: Not-for-profit entities and private postsecondary institutions wishing to offer educator preparation programs would need to meet the standards in order for their programs to be approved.

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F) Agency contact person for information:

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G) Related rulemakings and other pertinent information:f) Part(s) (Heading and Code Citation): Programs for the Preparation of Directors of Special Education in Illinois (23 Ill. Adm. Code 31)1) Rulemaking:

- A) Description: New Part 31 will establish the criteria for the approval of programs that will prepare individuals to receive an endorsement for special education director on the professional educator license.
- B) Statutory Authority: 105 ILCS 5/Art. 21B and 2-3.6
- C) Scheduled meeting/hearing date: To be announced.
- D) Date agency anticipates First Notice: May 29, 2015
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: Not-for-profit entities and private postsecondary institutions wishing to offer educator preparation programs would need to meet the standards in order for their programs to be approved.
- F) Agency contact person for information:

Shelley Helton
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G) Related rulemakings and other pertinent information:

g) Part(s) (Heading and Code Citation): Programs for the Preparation of Superintendents in Illinois (23 Ill. Adm. Code 33)

1) Rulemaking:

A) Description: A technical correction will be made in Section 33.70 to reference "superintendent" rather than "principal" preparation programs.

B) Statutory Authority: 105 ILCS 5/Art. 21B and 2-3.6

C) Scheduled meeting/hearing date: To be announced.

D) Date agency anticipates First Notice: January 2, 2015

E) Effect on small businesses, small municipalities, or not-for-profit corporations: None

F) Agency contact person for information:

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G) Related rulemakings and other pertinent information:

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h) Part(s) (Heading and Code Citation): Pupil Transportation Reimbursement (23 Ill. Adm. Code 120)

1) Rulemaking:

A) Description: P.A. 98-1057, effective January 1, 2015, will require changes in Subpart B of the rules regarding reimbursement to parents of transportation costs for certain categories of students.

B) Statutory Authority: 105 ILCS 5/Art. 29

C) Scheduled meeting/hearing date: To be announced.

D) Date agency anticipates First Notice: February 27, 2015

E) Effect on small businesses, small municipalities, or not-for-profit corporations: None

F) Agency contact person for information:

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G) Related rulemakings and other pertinent information:

i) Part(s) (Heading and Code Citation): School Construction Program (23 Ill. Adm. Code 151)

1) Rulemaking:

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- A) Description: Special education cooperatives will be added as eligible recipients of school maintenance grants, as per P.A. 98-710, effective July 16, 2014.
- B) Statutory Authority: 105 ILCS 230
- C) Scheduled meeting/hearing date: To be announced.
- D) Date agency anticipates First Notice: February 27, 2015
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency contact person for information:

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- G) Related rulemakings and other pertinent information:
- j) Part(s) (Heading and Code Citation): Health/Life Safety Code for Public Schools (23 Ill. Adm. Code 180)
- 1) Rulemaking:
- A) Description: Section 180.60 will be amended to include standards specific to storm shelters in response to P.A. 98-883, effective January 1, 2015.
- B) Statutory Authority: 105 ILCS 5/2-3.12, 2-3.25, 2-3.137, and 17-2.11
- C) Scheduled meeting/hearing date: To be announced.

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- D) Date agency anticipates First Notice: April 3, 2015
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency contact person for information:
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Illinois State Board of Education
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shelton@isbe.net
- G) Related rulemakings and other pertinent information:
- k) Part(s) (Heading and Code Citation): Low-income Student Funds Plan (23 Ill. Adm. Code 203)
- 1) Rulemaking:
- A) Description: Part 203 will be modified to update provisions for City of Chicago School District 299's submission of a plan for its use of supplemental general state aid.
- B) Statutory Authority: 105 ILCS 5/18-8.05(H)
- C) Scheduled meeting/hearing date: To be announced.
- D) Date agency anticipates First Notice: July 3, 2015
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency contact person for information:

STATE BOARD OF EDUCATION

JANUARY 2015 REGULATORY AGENDA

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G) Related rulemakings and other pertinent information:

1) Part(s) (Heading and Code Citation): Special Education (23 Ill. Adm. Code 226)

1) Rulemaking:

A) Description: Part 226 will be revised in response to legislation enacted in the 98th General Assembly (i.e., provision of services, mediation, transition planning, dyslexia and surrogate parents); to remove speech-language paraprofessional from among the positions eligible for reimbursement under 105 ILCS 5/14-13.01; to address requirements specific to special education director and assistant director; and to make other needed updates and technical changes.

B) Statutory Authority: 105 ILCS 5/Art. 14 and 2-3.6

C) Scheduled meeting/hearing date: To be announced.

D) Date agency anticipates First Notice: July 3, 2015

E) Effect on small businesses, small municipalities, or not-for-profit corporations: None

F) Agency contact person for information:

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G) Related rulemakings and other pertinent information:

m) Part(s) (Heading and Code Citation): Transitional Bilingual Education (23 Ill. Adm. Code 228)

1) Rulemaking:

A) Description: In response to P.A. 98-639, effective June 9, 2014, the purpose of the rules will be modified so that charter schools are subject to the same requirements as those that apply to school districts.

B) Statutory Authority: 105 ILCS 5/Art. 14C

C) Scheduled meeting/hearing date: To be announced.

D) Date agency anticipates First Notice: February 27, 2015

E) Effect on small businesses, small municipalities, or not-for-profit corporations: None

F) Agency contact person for information:

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G) Related rulemakings and other pertinent information:

STATE BOARD OF EDUCATION

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- n) Part(s) (Heading and Code Citation): Early Childhood Block Grant (23 Ill. Adm. Code 235)
- 1) Rulemaking:
- A) Description: Part 235 will be updated to reflect new standards for children ages 0-3 and for English language development, as well as to address changes in program operations necessitated by Illinois' receipt of the federal Early Learning Challenge grant under the Race to the Top initiative.
- B) Statutory Authority: 105 ILCS 5/1C-2
- C) Scheduled meeting/hearing date: To be announced.
- D) Date agency anticipates First Notice: January 2, 2015
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency contact person for information:
- Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
Springfield IL 62777
- 217/782-5270
Fax: 217/524-8585
shelton@isbe.net
- G) Related rulemakings and other pertinent information:
- o) Part(s) (Heading and Code Citation): Special Education Facilities under Section 14-7.02 of the School Code (23 Ill. Adm. Code 401)
- 1) Rulemaking:

STATE BOARD OF EDUCATION

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- A) Description: The program approval process outlined in Part 401 will be streamlined and accountability provisions will be modified to better align to the State recognition process and to provide for improved monitoring. Technical updates specific to the new licensure system also will be made.
- B) Statutory Authority: 105 ILCS 5/14-7.02 and 14-8.01
- C) Scheduled meeting/hearing date: To be announced.
- D) Date agency anticipates First Notice: July 3, 2015
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency contact person for information:

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- G) Related rulemakings and other pertinent information:

p) Part(s) (Heading and Code Citation): Regional Offices of Education and Intermediate Services (23 Ill. Adm. Code 525)

- 1) Rulemaking:

- A) Description: Existing Part 525 will be repealed and new Part 525 will be promulgated in response to the reduction in the number of regional offices of education (P.A. 97-703, effective June 24, 2012, and related law P.A. 98-647, effective June 13, 2014) and in response to several pieces of related legislation, including P.A. 96-893, effective July 1, 2010

STATE BOARD OF EDUCATION

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(elimination of the suburban Cook County regional office of education and of its advisory board) and P.A. 96-568, effective August 18, 2009 (qualifications of members of advisory boards).

- B) Statutory Authority: 105 ILCS 5/2-3.62 and 3A-16
- C) Scheduled meeting/hearing date: To be announced.
- D) Date agency anticipates First Notice: February 27, 2015
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency contact person for information:

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- G) Related rulemakings and other pertinent information:
- q) Part(s) (Heading and Code Citation): Enrollment of and Payment for Out-of-state Students at the Philip J. Rock Center and School (23 Ill. Adm. Code 600)
- 1) Rulemaking:
 - A) Description: New Part 600 will set forth the criteria for enrolling out-of-state students into the Philip J. Rock Center and School and for the use of State funding for out-of-state students receiving services at the facility.
 - B) Statutory Authority: 105 ILCS 5/2-3.6 and 14-11.02
 - C) Scheduled meeting/hearing date: To be announced.

STATE BOARD OF EDUCATION

JANUARY 2015 REGULATORY AGENDA

- D) Date agency anticipates First Notice: July 3, 2015
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency contact person for information:

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- G) Related rulemakings and other pertinent information:

r) Part(s) (Heading and Code Citation): Charter Schools (23 Ill. Adm. Code 650)

1) Rulemaking:

- A) Description: Revisions to Part 650 provide a new email address for submitting reports to the State Board of Education and address two recently enacted public acts (P.A. 98-1048, effective August 25, 2014, and P.A. 98-783, effective January 1, 2015).
- B) Statutory Authority: 105 ILCS 5/Art. 27A
- C) Scheduled meeting/hearing date: To be announced.
- D) Date agency anticipates First Notice: February 6, 2015
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency contact person for information:

STATE BOARD OF EDUCATION

JANUARY 2015 REGULATORY AGENDA

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G) Related rulemakings and other pertinent information:

s) Part(s) (Heading and Code Citation): Procurement by the State Board of Education (44 Ill. Adm. Code 1105)

1) Rulemaking:

- A) Description: These rules will be repealed due to the agency's use of 44 Ill. Adm. Code 1 for procurement.
- B) Statutory Authority: 30 ILCS 500/1-30(a)
- C) Scheduled meeting/hearing date: To be announced.
- D) Date agency anticipates First Notice: February 6, 2015
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency contact person for information:

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STATE BOARD OF EDUCATION

JANUARY 2015 REGULATORY AGENDA

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shelton@isbe.net

G) Related rulemakings and other pertinent information:

t) Part(s) (Heading and Code Citation): Public Information, Rulemaking and Organization (2 Ill. Adm. Code 5000)

1) Rulemaking:

A) Description: These rules will be updated to reflect the current organizational structure of the State Board of Education and the agency.

B) Statutory Authority: 5 ILCS 100/5-15

C) Scheduled meeting/hearing date: To be announced.

D) Date agency anticipates First Notice: July 3, 2015

E) Effect on small businesses, small municipalities, or not-for-profit corporations: None.

F) Agency contact person for information:

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G) Related rulemakings and other pertinent information:

u) Part(s) (Heading and Code Citation): Access to Information of the State Board of Education under the Freedom of Information Act (2 Ill. Adm. Code 5001)

STATE BOARD OF EDUCATION

JANUARY 2015 REGULATORY AGENDA

- 1) Rulemaking:
- A) Description: Proposed changes will respond to P.A. 98-1129, effective December 3, 2014, regarding "voluminous" requests.
 - B) Statutory Authority: 5 ILCS 140/3(h)
 - C) Scheduled meeting/hearing date: To be announced.
 - D) Date agency anticipates First Notice: May 29, 2015
 - E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
 - F) Agency contact person for information:

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shelton@isbe.net
 - G) Related rulemakings and other pertinent information:

DEPARTMENT OF STATE POLICE

JANUARY 2015 REGULATORY AGENDA

- a) Part (Heading and Code Citation): Access to Records of the Illinois State Police; 2 Ill. Adm. Code 1410
- 1) Rulemaking:
- A) Description: The rule will be proposed in order to establish procedures for making records available for reasonable public inspection, obtaining records in the agency's possession, and for claiming and determining which records are exempt from disclosure.
- B) Statutory Authority: 5 ILCS 100/5-15, 5 ILCS 140 and 20 ILCS 2605/2605-15
- C) Scheduled Meeting/Hearing Dates: No schedule has been established at this time.
- D) Date Agency anticipates First Notice: No date has been determined at this time.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:
- Ms. Suzanne L. Y. Bond
Chief Legal Counsel
Illinois State Police
801 South Seventh Street, Suite 1000-S
Springfield IL 62703
- 217/782-7658
- G) Related rulemakings and other pertinent information: None
- b) Part (Heading and Code Citation): Expungement Procedures; 20 Ill. Adm. Code 1205
- 1) Rulemaking:

DEPARTMENT OF STATE POLICE

JANUARY 2015 REGULATORY AGENDA

- A) Description: The rule will be amended to revise and update procedures for court ordered expungements/sealing of records received by the Illinois Department of State Police, Bureau of Identification.
- B) Statutory Authority: 20 ILCS 2605/2605-15 and 20 ILCS 2630/1
- C) Scheduled Meeting/Hearing Dates: No schedule has been established at this time.
- D) Date Agency anticipates First Notice: No date has been determined at this time.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:

Ms. Suzanne L. Y. Bond
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Illinois State Police
801 South Seventh Street, Suite 1000-S
Springfield IL 62703

217/782-7658

- G) Related rulemakings and other pertinent information: None

c) Part (Heading and Code Citation): Non-Court Ordered Juvenile Record Expungement; 20 Ill. Adm. Code 1206

1) Rulemaking:

- A) Description: This rule will be proposed in order to provide requirements and procedures for non-court ordered expungements of juvenile law enforcement records maintained by the Illinois Department of State Police.
- B) Statutory Authority: 20 ILCS 2605/2605-15, 20 ILCS 2630/7 and 705 ILCS 405

DEPARTMENT OF STATE POLICE

JANUARY 2015 REGULATORY AGENDA

- C) Scheduled Meeting/Hearing Dates: No schedule has been established at this time.
- D) Date Agency anticipates First Notice: No date has been determined at this time.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:
- Ms. Suzanne L. Y. Bond
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801 South Seventh Street, Suite 1000-S
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- 217/782-7658
- G) Related rulemakings and other pertinent information: None
- d) Part (Heading and Code Citation): Individual's Right to Access and Review Criminal History Record Information; 20 Ill. Adm. Code 1210
- 1) Rulemaking:
- A) Description: The rule will be amended in order to revise procedures for allowing certain individuals to view criminal history record information.
- B) Statutory Authority: 20 ILCS 2630/7 and 20 ILCS 2605/2605-15
- C) Scheduled Meeting/Hearing Dates: No schedule has been established at this time.
- D) Date Agency anticipates First Notice: No date has been determined at this time.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None

DEPARTMENT OF STATE POLICE

JANUARY 2015 REGULATORY AGENDA

F) Agency contact person for information:

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217/782-7658

G) Related rulemakings and other pertinent information: Nonee) Part (Heading and Code Citation): Firearm Owner's Identification Card Act, 20 Ill. Adm. Code 12301) Rulemaking:

A) Description: The rule will be amended to revise and update procedures associated with applying for, or the review of applications, as well as granting, denying, and revoking the Firearm Owner's Identification Card and related activities.

B) Statutory Authority: 20 ILCS 2605/2605-15 and 430 ILCS 65/11

C) Scheduled Meeting/Hearing Dates: No schedule has been established at this time.

D) Date Agency anticipates First Notice: No date has been determined at this time.

E) Effect on small businesses, small municipalities or not-for-profit corporations: None

F) Agency contact person for information:

Ms. Suzanne L. Y. Bond
Chief Legal Counsel
Illinois State Police

DEPARTMENT OF STATE POLICE

JANUARY 2015 REGULATORY AGENDA

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G) Related rulemakings and other pertinent information: None

f) Part (Heading and Code Citation): Firearm Concealed Carry Act Procedures; 20 Ill. Adm. Code 1231

1) Rulemaking:

A) Description: The rule will be amended to revise and update procedures associated with the Firearm Concealed Carry Act.

B) Statutory Authority: 430 ILCS 66

C) Scheduled Meeting/Hearing Dates: No schedule has been established at this time.

D) Date Agency anticipates First Notice: No date has been determined at this time.

E) Effect on small businesses, small municipalities or not-for-profit corporations: None

F) Agency contact person for information:

Ms. Suzanne L. Y. Bond
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801 South Seven Street, Suite 1000-S
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G) Related rulemakings and other pertinent information: None

DEPARTMENT OF STATE POLICE

JANUARY 2015 REGULATORY AGENDA

g) Part (Heading and Code Citation): Firearm Transfer Inquiry Program; 20 Ill. Adm. Code 1235

1) Rulemaking:

- A) Description: The rule will be amended to revise and update procedures associated with the Firearm Transfer Inquiry Program and related activities.
- B) Statutory Authority: 20 ILCS 2605/2605-15 and 430 ILCS 65/3.1
- C) Scheduled Meeting/Hearing Dates: No schedule has been established at this time.
- D) Date Agency anticipates First Notice: No date has been determined at this time.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:

Ms. Suzanne L. Y. Bond
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- G) Related rulemakings and other pertinent information: None

h) Part (Heading and Code Citation): Currency Reporting Act; 20 Ill. Adm. Code 1245

1) Rulemaking:

- A) Description: The rule will be proposed in order to provide procedures for authorized representatives to be given access to information and documents relating to financial transactions received by the Director of the

DEPARTMENT OF STATE POLICE

JANUARY 2015 REGULATORY AGENDA

State Police from the Federal Government as a result of any memorandum of agreement or understanding between any Department of the United States and the State of Illinois.

- B) Statutory Authority: 20 ILCS 2605/2605-15 and 205 ILCS 685/6
- C) Scheduled Meeting/Hearing Dates: No schedule has been established at this time.
- D) Date Agency anticipates First Notice: No date has been determined at this time.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:

Ms. Suzanne L. Y. Bond
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- G) Related rulemakings and other pertinent information: None

i) Part (Heading and Code Citation): Sex Offender Registration Act; 20 Ill. Adm. Code 1280

1) Rulemaking:

A) Description: The rule will be amended to revise and update procedures and policies relating to the implementation of the Sex Offender Registration Act.

B) Statutory Authority: 20 ILCS 2605/2605-15 and 730 ILCS 150/4

DEPARTMENT OF STATE POLICE

JANUARY 2015 REGULATORY AGENDA

- C) Scheduled Meeting/Hearing Dates: No schedule has been established at this time.
- D) Date Agency anticipates First Notice: No date has been determined at this time.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The amendment may effect small businesses, small municipalities and/or not-for-profit corporations.
- F) Agency contact person for information:
- Ms. Suzanne L. Y. Bond
Chief Legal Counsel
Illinois State Police
801 South Seventh Street, Suite 1000-S
Springfield IL 62703
- 217/782-7658
- G) Related rulemakings and other pertinent information: None
- j) Part (Heading and Code Citation): Sex Offender and Child Murderer Community Notification Law; 20 Ill. Adm. Code 1282
- 1) Rulemaking:
- A) Description: The rule will be amended to revise and update procedures and policies relating to the implementation of the Sex Offender Community Notification Law.
- B) Statutory Authority: 20 ILCS 2605/2605-15 and 730 ILCS 152
- C) Scheduled Meeting/Hearing Dates: No schedule has been established at this time.
- D) Date Agency anticipates First Notice: No date has been determined at this time.

DEPARTMENT OF STATE POLICE

JANUARY 2015 REGULATORY AGENDA

- E) Effect on small businesses, small municipalities or not-for-profit corporations: The amendment may effect small businesses, small municipalities and/or not-for-profit corporations.
- F) Agency contact person for information:
- Ms. Suzanne L. Y. Bond
Chief Legal Counsel
Illinois State Police
801 South Seventh Street, Suite 1000-S
Springfield IL 62703
- 217/782-7658
- G) Related rulemakings and other pertinent information: None
- k) Part (Heading and Code Citation): Child Murderer and Violent Offender Against Youth Registration Act; 20 Ill. Adm. Code 1283
- 1) Rulemaking:
- A) Description: The rule will establish policies and procedures for the implementation of the Child Murderer and Violent Offender Against Youth Registration Act.
- B) Statutory Authority: 20 ILCS 2605/2605-15 and 730 ILCS 154
- C) Scheduled Meeting/Hearing Dates: No schedule has been established at this time.
- D) Date Agency anticipates First Notice: No date has been determined at this time.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The rule may effect small businesses, small municipalities and/or not-for-profit corporations.
- F) Agency contact person for information:

DEPARTMENT OF STATE POLICE

JANUARY 2015 REGULATORY AGENDA

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Illinois State Police
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G) Related rulemakings and other pertinent information: None

l) Part (Heading and Code Citation): Sample Collection for Genetic Marker Indexing; 20 Ill. Adm. Code 1285

1) Rulemaking:

A) Description: The rule will be amended to revise and update procedures and policies relating to Sample Collection for Genetic Marker Indexing.

B) Statutory Authority: 20 ILCS 2605/2605-15 and 730 ILCS 5/5-4-3

C) Scheduled Meeting/Hearing Dates: No schedule has been established at this time.

D) Date Agency anticipates First Notice: No date has been determined at this time.

E) Effect on small businesses, small municipalities or not-for-profit corporations: None

F) Agency contact person for information:

Ms. Suzanne L. Y. Bond
Chief Legal Counsel
Illinois State Police
801 South Seventh Street, Suite 1000-S
Springfield IL 62703

217/782-7658

DEPARTMENT OF STATE POLICE

JANUARY 2015 REGULATORY AGENDA

- G) Related rulemakings and other pertinent information: None
- m) Part (Heading and Code Citation): Testing of Breath, Blood and Urine for Alcohol, Other Drugs, and Intoxicating Compounds; 20 Ill. Adm. Code 1286
- 1) Rulemaking:
- A) Description: The rule will be amended to revise and update procedures and policies relating to the testing of breath, blood and urine for alcohol, drugs, and intoxicating compounds.
- B) Statutory Authority: 20 ILCS 2605/2605-15, 625 ILCS 5/6-106.1A, 625 ILCS 5/11-501.2, 625 ILCS 5/11-501.5, 625 ILCS 5/11-501.6, 625 ILCS 5/11-501.8, 625 ILCS 40/5-7.5, 625 ILCS 45/5-16b, and 625 ILCS 45/6-1
- C) Scheduled Meeting/Hearing Dates: No schedule has been established at this time.
- D) Date Agency anticipates First Notice: No date has been determined at this time.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The amendment may effect small businesses, small municipalities and/or not-for-profit corporations.
- F) Agency contact person for information:
- Ms. Suzanne L. Y. Bond
Chief Legal Counsel
Illinois State Police
801 South Seven Street, Suite 1000-S
Springfield IL 62703
- 217/782-7658
- G) Related rulemakings and other pertinent information: None
- n) Part (Heading and Code Citation): Certification and Training of Electronic Criminal Surveillance Officers; 20 Ill. Adm. Code 1295

DEPARTMENT OF STATE POLICE

JANUARY 2015 REGULATORY AGENDA

- 1) Rulemaking:
 - A) Description: The rule will be amended to revise and update procedures for the certification of electronic criminal surveillance officers and the standards relating to the recording of private oral communications.
 - B) Statutory Authority: 20 ILCS 2605/2605-15, 725 ILCS 5/108B-14
 - C) Scheduled Meeting/Hearing Dates: No schedule has been established at this time.
 - D) Date Agency anticipates First Notice: No date has been determined at this time.
 - E) Effect on small businesses, small municipalities or not-for-profit corporations: The amendment may effect small businesses, small municipalities and/or not-for-profit corporations.
 - F) Agency contact person for information:

Ms. Suzanne L. Y. Bond
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Illinois State Police
801 South Seven Street, Suite 1000-S
Springfield IL 62703

217/782-7658
 - G) Related rulemakings and other pertinent information: None
- o) Part (Heading and Code Citation): Imaging Products; 20 Ill. Adm. Code 1298
 - 1) Rulemaking:
 - A) Description: The rules will be amended in order to update the fees incurred to acquire, maintain, and reproduce the particular imaging products by the Illinois State Police.

DEPARTMENT OF STATE POLICE

JANUARY 2015 REGULATORY AGENDA

- B) Statutory Authority: 20 ILCS 2605/2605-15
- C) Scheduled Meeting/Hearing Dates: No schedule has been established at this time.
- D) Date Agency anticipates First Notice: No date has been determined at this time.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Small municipalities may be affected.
- F) Agency contact person for information:

Ms. Suzanne L. Y. Bond
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- G) Related rulemakings and other pertinent information: None

STATE UNIVERSITIES RETIREMENT SYSTEM

JANUARY 2015 REGULATORY AGENDA

a) Parts (Heading and Code Citations): Universities Retirement; (80 Ill. Adm. Code 1600)

1) Rulemaking:

A) Description: The System anticipates rulemaking affecting the following:

Revise the current rule on Making Preliminary Estimated Payments to include procedures for holding payments when the member has not responded to informational requests, and to terminate the benefit after a period of non-compliance with the request.

Tier II - Promulgate additional rules for implementation of PA 96-889 and 97-609.

Revise the current procurement rule to further modify existing procedures.

Return to Work - Promulgate rules for implementation of PA 97-968.

Revise the current rule concerning disability benefits to clarify the treatment of vacation pay with respect to initial eligibility for benefit payments.

Add group trust provisions to allow the commingling of assets between the defined benefit plans and the Self-Managed Plan for investment purposes only.

Add provisions to enhance compliance with Section 415 of the Internal Revenue Code.

B) Statutory Authority: Article 15 of the Illinois Pension Code, 40 ILCS 5/15-177

C) Scheduled Meeting/Hearing Dates: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the *Illinois Register*. No public hearings are anticipated.

D) Date Agency anticipates First Notice: Spring 2015

STATE UNIVERSITIES RETIREMENT SYSTEM

JANUARY 2015 REGULATORY AGENDA

E) Effect on small businesses, small municipalities or not-for-profit corporations: None

F) Agency contact person for information:

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

217/378-8825
email: mweinstein@surs.org
fax: 217/378-9801

G) Related rulemakings and other pertinent information: Other Amendments may be necessary based on emergent issues.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
NOTICE OF REQUEST FOR EXPEDITED CORRECTION
DEPARTMENT OF PUBLIC HEALTH

- 1) Heading of the Part: Ambulatory Surgical Treatment Center Licensing Requirements
- 2) Code Citation: 77 Ill. Adm. Code 205
- 3) Section Number: 205.1370
- 4) Date of Proposal published in *Illinois Register*: September 13, 2013; 37 Ill. Reg. 14565
- 5) Date of Adoption published in *Illinois Register*: September 26, 2014; 38 Ill. Reg. 19208
- 6) Summary and Purpose of Expedited Correction: Section 205.1370(j) shows subsections (1) and (2) that should have appeared under subsection (o).
- 7) Information and questions regarding this request shall be directed to:

Susan Meister
Division of Legal Services
Department of Public Health
535 West Jefferson, 5th Floor
Springfield IL 62761
e-mail: dph.rules@illinois.gov

JOINT COMMITTEE ON ADMINISTRATIVE RULES

NOTICE OF REQUEST FOR EXPEDITED CORRECTION

DEPARTMENT OF PUBLIC HEALTH

TITLE 77: PUBLIC HEALTH

CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER b: HOSPITAL AND AMBULATORY CARE FACILITIES

PART 205

AMBULATORY SURGICAL TREATMENT CENTER LICENSING REQUIREMENTS

SUBPART A: GENERAL PROVISIONS

Section

- 205.110 Definitions
- 205.115 Incorporated and Referenced Materials
- 205.118 Conditions of Licensure
- 205.120 Application for Initial Licensure
- 205.125 Application for License Renewal
- 205.130 Approval of Surgical Procedures
- 205.135 Diagnostic Cardiac Catheterization Procedures

SUBPART B: OWNERSHIP AND MANAGEMENT

Section

- 205.210 Ownership, Control and Management
- 205.220 Organizational Plan
- 205.230 Standards of Professional Work
- 205.240 Policies and Procedures Manual

SUBPART C: PERSONNEL

Section

- 205.310 Personnel Policies
- 205.320 Presence of Qualified Physician
- 205.330 Nursing Personnel
- 205.340 Basic Life Support
- 205.350 Laboratory Services

SUBPART D: EQUIPMENT, SUPPLIES, AND FACILITY MAINTENANCE

JOINT COMMITTEE ON ADMINISTRATIVE RULES

NOTICE OF REQUEST FOR EXPEDITED CORRECTION

DEPARTMENT OF PUBLIC HEALTH

Section

205.410 Equipment
205.420 Sanitary Facility

SUBPART E: GENERAL PATIENT CARE

Section

205.510 Disaster Preparedness
205.520 Preoperative Care
205.530 Operative Care
205.540 Postoperative Care
205.550 Infection Control

SUBPART F: RECORDS AND REPORTS

Section

205.610 Clinical Records and Reports
205.620 Statistical Data

SUBPART G: LIMITED PROCEDURE SPECIALTY CENTERS

Section

205.710 Pregnancy Termination Specialty Centers
205.720 Personnel (Repealed)
205.730 General Patient Care (Repealed)
205.740 Preoperative Requirements (Repealed)
205.750 Postoperative Requirements (Repealed)
205.760 Reports (Repealed)

SUBPART H: LICENSURE PROCEDURES

Section

205.810 Complaints
205.820 Notice of Violation
205.830 Plan of Correction
205.840 Adverse Licensure Action
205.850 Fines and Penalties

JOINT COMMITTEE ON ADMINISTRATIVE RULES

NOTICE OF REQUEST FOR EXPEDITED CORRECTION

DEPARTMENT OF PUBLIC HEALTH

205.860 Hearings

SUBPART I: BUILDING DESIGN, CONSTRUCTION STANDARDS,
AND PHYSICAL REQUIREMENTS

Section

205.1310 Plant and Service Requirements
205.1320 General Considerations
205.1330 New Construction, Additions and Major Alterations
205.1340 Minor Alterations and Remodeling Changes
205.1350 Administration Department and Public Areas
205.1360 Clinical Facilities
205.1370 Support Service Areas
205.1380 Diagnostic Facilities
205.1390 Other Building Services
205.1400 Details and Finishes
205.1410 Construction, Including Fire-Resistive Requirements, and Life Safety

SUBPART J: MECHANICAL

Section

205.1510 General
205.1520 Thermal and Acoustical Insulation
205.1530 Steam and Hot Water Systems
205.1540 Air Conditioning, Heating and Ventilating Systems

SUBPART K: PLUMBING AND OTHER PIPING SYSTEMS

Section

205.1610 General
205.1620 Plumbing Fixtures
205.1630 Water System
205.1640 Drainage Systems
205.1650 Identification

SUBPART L: ELECTRICAL

JOINT COMMITTEE ON ADMINISTRATIVE RULES

NOTICE OF REQUEST FOR EXPEDITED CORRECTION

DEPARTMENT OF PUBLIC HEALTH

Section

205.1710	General
205.1720	Switchboards and Power Panels
205.1730	Panelboards
205.1740	Lighting
205.1750	Receptacles (Convenience Outlets)
205.1760	Grounding
205.1770	Equipment Installation in Special Areas
205.1780	Emergency Electric Service
205.1790	Fire Alarm System

205.TABLE A General Pressure Relationships and Ventilation Rates of Ambulatory Surgery Area

AUTHORITY: Implementing and authorized by the Ambulatory Surgical Treatment Center Act [210 ILCS 5].

SOURCE: Amended July 18, 1974; emergency amendment at 3 Ill. Reg. 10, p. 43, effective February 23, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 30, p. 371, effective July 23, 1979; amended at 5 Ill. Reg. 12756, effective November 4, 1981; amended at 6 Ill. Reg. 6220, 6225, and 6226, effective May 17, 1982; amended at 6 Ill. Reg. 10974, effective August 30, 1982; amended at 6 Ill. Reg. 13337, effective October 20, 1982; amended at 7 Ill. Reg. 7640, effective June 14, 1983; codified at 8 Ill. Reg. 9367; amended at 9 Ill. Reg. 12014, effective July 23, 1985; amended at 10 Ill. Reg. 8806, effective June 1, 1986; amended at 10 Ill. Reg. 21906, effective January 15, 1987; amended at 11 Ill. Reg. 14786, effective October 1, 1987; amended at 12 Ill. Reg. 3743, effective February 15, 1988; amended at 12 Ill. Reg. 15573, effective October 1, 1988; amended at 13 Ill. Reg. 16025, effective November 1, 1989; emergency amendment at 14 Ill. Reg. 5596, effective March 26, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13802, effective August 15, 1990; amended at 15 Ill. Reg. 17770, effective December 1, 1991; amended at 17 Ill. Reg. 3507, effective March 3, 1993; amended at 18 Ill. Reg. 11939, effective July 22, 1994; amended at 18 Ill. Reg. 17250, effective December 1, 1994; amended at 22 Ill. Reg. 9335, effective May 20, 1998; amended at 22 Ill. Reg. 22019, effective December 4, 1998; amended at 24 Ill. Reg. 2691, effective February 18, 2000; amended at 25 Ill. Reg. 7471, effective May 31, 2001; amended at 26 Ill. Reg. 16556, effective October 25, 2002; amended at 27 Ill. Reg. 13457, effective July 25, 2003; amended at 31 Ill. Reg. 7278, effective May 7, 2007; amended at 32 Ill. Reg. 14326, effective August 12, 2008; amended at 33 Ill. Reg. 13395, effective September 10, 2009; amended at 34 Ill. Reg. 7915, effective May 25, 2010;

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amended at 38 Ill. Reg. 19208, effective September 9, 2014; expedited correction at 39 Ill. Reg. 571, effective September 9, 2014.

SUBPART I: BUILDING DESIGN, CONSTRUCTION STANDARDS, AND PHYSICAL REQUIREMENTS

Section 205.1370 Support Service Areas

- a) A control station shall be located to permit visual surveillance of all traffic that enters the surgical area. Personnel who have a communicable disease shall be excluded from the surgical area.
- b) The ASTC shall provide sterilizing facilities with high-speed autoclaves conveniently located in a clean workroom to serve all procedure rooms. Alternate provisions, approved by the governing body, may be made for replacement of sterile instruments during surgery.
- c) A drug distribution station shall be provided for storage and preparation of medication to be administered to patients.
- d) Scrub stations with knee, foot or elbow actuated faucets or with automatic electronic actuated faucets shall be provided near the entrances to, but outside of, the procedure rooms. Scrub facilities shall be arranged to minimize splatter on nearby personnel or supply carts.
- e) A soiled workroom for the exclusive use of the surgical suite staff shall be provided. The soiled workroom shall contain a work counter, a sink equipped for hand washing, a waste receptacle, and a linen receptacle. This room may be used for cleaning anesthesia equipment.
- f) Fluid waste disposal facilities shall be conveniently located with respect to the general procedure rooms.
- g) A clean workroom or a clean supply room is required when clean materials are assembled within the surgical suite prior to use. A clean workroom shall contain a work counter, sink equipped for hand washing, and space for clean and sterile supplies. A clean supply room shall be provided when the narrative program

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defines a system for the storage and distribution of clean and sterile supplies that would not require the use of a clean workroom.

- h) Anesthesia storage facilities shall be provided. Flammable anesthetics are prohibited.
- i) Medical gas supply storage with space for reserve nitrous oxide and oxygen cylinders shall be provided, with all tanks properly secured.
- j) A storage area for equipment and supplies used in the surgical suite shall be provided. The area shall provide protection against dust, moisture, insects, vermin, and temperature and humidity extremes.
 - 1) ~~Restricted area: traffic is restricted to authorized personnel and patients. No street clothing shall be worn in the restricted area. Health care workers shall wear facility laundered surgical attire. Head and facial hair shall be contained within a protective covering. Cloth head coverings shall be laundered by the facility and changed daily. Additional garments shall be completely contained or covered within the surgical attire. Masks shall be worn in restricted areas where open sterile supplies or equipment are present or scrubbed persons are located.~~
 - 2) ~~Semi-restricted area: traffic is restricted to authorized personnel and patients. No street clothing shall be worn in the semi-restricted area. Health care workers wear facility laundered surgical attire. Head and facial hair shall be contained within a protective covering. Cloth head coverings shall be laundered by the facility and changed daily. Additional undergarments shall be completely contained or covered within the surgical attire. Masks are not required in this area. Patients shall wear attire appropriate for their surgical procedure and shall wear hair covering if applicable.~~
- k) Staff and personnel facilities shall be provided for male and female personnel (orderlies, technicians, nurses, and doctors) working within the surgical suite. The areas shall contain a lounge area, lockers, toilets, lavatories equipped for hand washing, and space for changing clothes. These areas shall be arranged to provide a one-way traffic pattern so that personnel entering from outside the

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surgical area can change and move directly into the sterile area in facility-laundered surgical attire.

- l) The ASTC shall provide change areas where patients can change from street clothes into hospital gowns in privacy and be prepared for surgery. This shall include lockers, toilets, clothing change or gowning areas, and space for the administration of medications.
- m) The stretcher storage area shall be out of the direct line of traffic.
- n) A janitor's closet containing a floor receptor or service sink and storage space for housekeeping supplies and equipment shall be provided exclusively for the surgical area.
- o) Traffic patterns in the surgical area shall be designed to facilitate movement of the patients and personnel into, through and out of defined areas, including restricted and semi-restricted areas. Traffic flow shall be tailored to the types of procedures offered in the ASTC.
 - 1) Restricted area: traffic is restricted to authorized personnel and patients. No street clothing shall be worn in the restricted area. Health care workers shall wear facility-laundered surgical attire. Head and facial hair shall be contained within a protective covering. Cloth head coverings shall be laundered by the facility and changed daily. Additional garments shall be completely contained or covered within the surgical attire. Masks shall be worn in restricted areas where open sterile supplies or equipment are present or scrubbed persons are located.
 - 2) Semi-restricted area: traffic is restricted to authorized personnel and patients. No street clothing shall be worn in the semi-restricted area. Health care workers shall wear facility-laundered surgical attire. Head and facial hair shall be contained within a protective covering. Cloth head coverings shall be laundered by the facility and changed daily. Additional undergarments shall be completely contained or covered within the surgical attire. Masks are not required in this area. Patients shall wear attire appropriate for their surgical procedure and shall wear hair covering if applicable.

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- p) Signage shall clearly delineate the traffic flow and surgical attire requirements.
- q) The movement of clean and sterile items shall be separated from contaminated or dirty items by space, time or traffic patterns.
- r) All jewelry shall be removed prior to the surgical scrub. Jewelry shall not be worn in the operating room, except that anesthesia personnel may wear a watch.
- s) Additional personal protective equipment shall be worn when exposure to blood or other potentially infectious material is anticipated.
- t) Whenever surgical attire or personal protective equipment is soiled, it shall be removed and discarded prior to leaving the surgical area.
- u) The sterile gown and gloves used when participating in surgical procedures shall be removed and discarded.
- v) The unsterile gloves worn when participating in surgical procedures shall be removed and discarded prior to leaving the operating room.
- w) The use of single-use coverall suits shall be determined by ASTC policy.
- x) Shoe covers shall be worn when it can reasonably be anticipated that splashes or spills may occur. If shoe covers are worn, they shall be changed whenever they become torn, wet or soiled; or daily, whichever comes first. They shall be removed and discarded before leaving the surgical area.
- y) The use of cover gowns for covering the surgical attire when outside of the surgical area shall be determined by ASTC policy. Surgical attire worn into the institution from outside shall be changed before entering the operating room. Persons exiting the facility shall don facility-laundered surgical attire upon return to the surgical area.

(Source: Expedited Correction at 39 Ill. Reg. 571, effective September 9, 2014)

JOINT COMMITTEE ON ADMINISTRATIVE RULES

STATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

POLLUTION CONTROL BOARD

Heading of the Part: General Rules

Code Citation: 35 Ill. Adm. Code 101

<u>Section Numbers:</u>	101.110	101.902	101.1050	
	101.111	101.904	101.1060	
	101.202	101.906	101.1070	
	101.300	101.1000	101.APPENDIX E	ILLUSTRATION A
	101.302	101.1010	101.APPENDIX E	ILLUSTRATION B
	101.304	101.1020	101.APPENDIX H	ILLUSTRATION A
	101.306	101.1030	101.APPENDIX H	ILLUSTRATION B
	101.400	101.1040	101.APPENDIX I	

Date Originally Published in the Illinois Register: 6/20/14
38 Ill. Reg. 12685

At its meeting on December 16, 2014, the Joint Committee on Administrative Rules considered the above-cited rulemaking and recommended that PCB be more timely in codifying its procedural rules to reflect changes in Board practice. PCB has been operating the Clerk's Office On-Line (COOL) file management system since 2005 without codifying those procedures in its rules.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES

STATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

Heading of the Part: Hospital Services

Code Citation: 89 Ill. Adm. Code 148

Section Numbers: 148.299

Date Originally Published in the Illinois Register: 8/29/14
38 Ill. Reg. 18052

At its meeting on 12/16/14, the Joint Committee on Administrative Rules objected to the above-cited rulemaking because the Department is expanding medical assistance payments to certain hospitals in this rulemaking that are not specifically authorized by statute.

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

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of December 16, 2014 through December 22, 2014. The rulemakings are scheduled for review at the Committee's January 13, 2015 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>
1/29/15	<u>Department of Healthcare and Family Services,</u> Medical Payment (89 Ill. Adm. Code 140)	8/8/14 38 Ill. Reg. 16468	1/13/15
1/29/15	<u>Department of Healthcare and Family Services,</u> Medical Payment (89 Ill. Adm. Code 140)	8/22/14 38 Ill. Reg. 17533	1/13/15
1/29/15	<u>Department of Healthcare and Family Services,</u> Medical Assistance Program (89 Ill. Adm. Code 120)	9/5/14 38 Ill. Reg. 18290	1/13/15
1/29/15	<u>Illinois Racing Board,</u> Claiming Races (11 Ill. Adm. Code 510)	10/24/14 38 Ill. Reg. 20139	1/13/15
1/29/15	<u>Office of State Fire Marshal,</u> Fire Station Revolving Loan Programs (41 Ill. Adm. Code 294)	10/24/14 38 Ill. Reg. 20121	1/13/15
1/29/15	<u>Office of the State Fire Marshal,</u> Ambulance Revolving Loan Program (41 Ill. Adm. Code 292)	10/24/14 38 Ill. Reg. 20106	1/13/15
1/29/15	<u>Office of the State Fire Marshal,</u> Fire Truck Revolving Loan Program (41 Ill. Adm. Code 290)	10/24/14 38 Ill. Reg. 20092	1/13/15

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

1/30/15	<u>Department of Children and Family Services,</u> Background Checks (89 Ill. Adm. Code 385)	7/7/14 38 Ill. Reg. 13570	1/13/15
1/31/15	<u>Department of Insurance,</u> Filing Policy and Endorsements Form (50 Ill. Adm. Code 753)	6/27/14 38 Ill. Reg. 13131	1/13/15
1/31/15	<u>Department of Insurance,</u> Required Procedure for Filing and Securing Approval of Policy Forms (50 Ill. Adm. Code 916)	4/11/14 38 Ill. Reg. 7719	1/13/15
1/31/15	<u>Department of Insurance,</u> Viatical Settlement Provider Reporting Requirements (50 Ill. Adm. Code 5701)	8/29/14 38 Ill. Reg. 18094	1/13/15
1/31/15	<u>Higher Education Travel Control Board,</u> Higher Education Travel (80 Ill. Adm. Code 2900)	3/14/14 38 Ill. Reg. 5927	1/13/15
1/31/15	<u>State Board of Education,</u> Voluntary Registration and Recognition of Nonpublic Schools (23 Ill. Adm. Code 425)	10/3/14 38 Ill. Reg. 19502	1/13/15
1/31/15	<u>State Board of Education,</u> Public Schools Evaluation, Recognition and Supervision (23 Ill. Adm. Code 1)	9/5/14 38 Ill. Reg. 18371	1/13/15
1/31/15	<u>State Board of Education,</u> Student Records (23 Ill. Adm. Code 375)	9/5/14 38 Ill. Reg. 18424	1/13/15
1/31/15	<u>State Board of Education,</u> Standards for Endorsements in Early Childhood Education and in Elementary Education (23 Ill. Adm. Code 26)	9/5/14 38 Ill. Reg. 18388	1/13/15

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

1/31/15	<u>Department of State Police</u> , Individual's Right to Access and Review Criminal History Record Information (20 Ill. Adm. Code 1210)	10/31/14 38 Ill. Reg. 20644	1/13/15
2/1/15	<u>Department of Public Health</u> , Water Well Construction Code (77 Ill. Adm. Code 920)	7/25/14 38 Ill. Reg. 15874	1/13/15
2/1/15	<u>Illinois Commerce Commission</u> , Administration of Funds Created by the Wireless Emergency Telephone Safety Act (83 Ill. Adm. Code 729)	10/10/14 38 Ill. Reg. 19585	1/13/15
2/4/15	<u>Department of Public Health</u> , Hospital Licensing Requirements (77 Ill. Adm. Code 250)	10/3/14 38 Ill. Reg. 19431	1/13/15
2/4/15	<u>Department of Public Health</u> , Sheltered Care Facilities Code (77 Ill. Adm. Code 330)	10/3/14 38 Ill. Reg. 19458	1/13/15
2/4/15	<u>Department of Public Health</u> , Skilled Nursing and Intermediate Care Facilities (77 Ill. Adm. Code 300)	10/3/14 38 Ill. Reg. 19444	1/13/15
2/4/15	<u>Department of Public Health</u> , Illinois Veteran's Homes Code (77 Ill. Adm. Code 340)	10/3/14 38 Ill. Reg. 19470	1/13/15
2/4/15	<u>Department of Public Health</u> , Intermediate Care for the Developmentally Disabled Facilities Code (77 Ill. Adm. Code 350)	10/3/14 38 Ill. Reg. 19478	1/13/15
2/1/15	<u>Department of Public Health</u> , Long-Term Care for Under Age 22 Facilities Code (77 Ill. Adm. Code 390)	10/3/14 38 Ill. Reg. 19491	1/13/15

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

2/4/15

Department of Healthcare and Family Services,
Medical Payment (89 Ill. Adm. Code 140)

9/5/14
38 Ill. Reg.
18308

1/13/15

PROCLAMATIONS

**2014-475
SPECIAL SESSION PROCLAMATION**

WHEREAS, we grieve the unexpected loss of a true public servant, State Comptroller Judy Baar Topinka; and

WHEREAS, under Article V, Section 7 of the Illinois Constitution of 1970, there is a vacancy in the office of State Comptroller that must be filled by appointment to maintain the day-to-day functions of State government; and

WHEREAS, the people of Illinois are best served by having elected statewide officers; and

WHEREAS, there is currently no process in Illinois law to replace by special election an appointee to the office of State Comptroller, although such a process is permitted under and contemplated by Article V, Section 7 of the Illinois Constitution of 1970; and

WHEREAS, the most fitting course of action following this tragedy is to empower the people of the State to elect a new Comptroller in a statewide special election; and

WHEREAS, the Illinois Attorney General has urged that a law be passed to allow for a special session at the next General Election in 2016 to fill the office of State Comptroller through the General Election in 2018; and

WHEREAS, Article IV, Section 5(b) of the Illinois Constitution empowers the Governor, as Chief Executive, to convene special sessions of the General Assembly;

THEREFORE, pursuant to Article IV, Section 5(b) of the Illinois Constitution of 1970, I hereby call and convene the 98th General Assembly in a special session to commence on January 8, 2015, at 11:00 a.m., for the purpose of considering any legislative measure, new or pending, that would provide for a special election for the office of State Comptroller.

Dated: December 18, 2014

Filed with Secretary of State: December 18, 2014

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

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