

Ad Hoc Rules Committee of the Whole
April 16, 2009
8:30 a.m.

All open meetings will be audio cast on the Internet at: www.isbe.net

AGENDA (*timeframes are estimated for planning purposes*)

1. Roll Call
2. Board Member Participation by Other Means
3. Public Participation 8:30 – 8:40 a.m.
4. Minutes of the March Ad Hoc Rules Committee Meeting (**pp. 2**)
- *5. Rules for Initial Review 8:40 – 8:45 a.m.
 - a. Part 65 (New Teacher Induction and Mentoring) (*Patrick Murphy*) (**pp. 3-9**)
 - b. Part 100 (Requirements for Accounting, Budgeting, Financial Reporting, and Auditing)**
(*Deb Vespa, Lisa LaBonte, Tim Imler*) (*see handout*)
- *6. Rules for Adoption 8:45 – 8:55 a.m.
 - a. Part 100 Emergency Amendments (Requirements for Accounting, Budgeting, Financial Reporting, and Auditing) (*handout*)**
 - b. Part 145 (Temporary Relocation Expenses) (*Deb Vespa*) (**pp. 10-12**)
 - c. Part 151 (School Construction Program) (*Deb Vespa*) (**pp. 13-18**)
 - d. Part 675 (Providers of Supplemental Educational Services) (*Gina Hopper*) (**pp. 19-56**)
7. Committee Agenda Planning/Additional Items
8. Adjourn

* Items listed with an asterisk (*) will be discussed in committee and action may be taken in the plenary session.

Ad Hoc Rules Committee of the Whole

Thursday, March 19, 2009

9:30 a.m.

State Board of Education Office
100 North First Street
Springfield, Illinois

Committee Members Present

Jesse Ruiz
Andrea Brown
Dean Clark
David Fields
Vinni Hall
Brenda Holmes
Joyce Karon
Lanita Koster

Absent

Chris Ward

Others

Chris Koch
Darren Reisberg
Sally Vogl

Chairman Ruiz called the meeting to order at 10:05 a.m. After the roll call, he announced that no members would be participating by other means. No one had signed up for public participation.

4. APPROVAL OF MINUTES

David Fields moved approval of the minutes of the Committee's meeting of February 19, 2009, and Dean Clark seconded the motion. It was adopted unanimously, and the minutes were approved as presented.

5. RULES FOR INITIAL REVIEW

The Chairman turned the meeting over to General Counsel Darren Reisberg, who stated that just one set of rules was being presented for initial review. He noted that the amendments to Part 575 (School Technology Program) represented technical clean-up only. The revisions involved were similar to other updates to cross-references that had been undertaken recently. The Board members had no questions regarding this rulemaking.

6. COMMITTEE AGENDA PLANNING/ADDITIONAL ITEMS


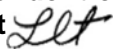

Darren Reisberg indicated that a considerable volume of rules would be coming forward for review at the April meeting. He highlighted a comprehensive set of amendments to Part 25 (Certification) in which two divisions and numerous staff members had been involved and complimented the thorough work that had been done. He also stated that a new set of rules would be presented to cover the policies and requirements that apply to the voluntary recognition of nonpublic schools. Clear guidance on these matters would be of particular importance because the nonpublic schools had recently become eligible to receive certain public funding.

8. ADJOURNMENT

Vinni Hall moved that the meeting be adjourned. Joyce Karon seconded the motion, and the meeting was adjourned at 10:10 a.m.

ILLINOIS STATE BOARD OF EDUCATION MEETING
April 15-16, 2009

TO: Illinois State Board of Education

FROM: Christopher A. Koch, Ed.D., State Superintendent of Education 
Linda Tomlinson, Assistant Superintendent 
Darren Reisberg, General Counsel 

Agenda Topic: Action Item: Rules for Initial Review – Part 65 (New Teacher Induction and Mentoring)

Materials: Recommended Rules

Staff Contacts: Patrick Murphy, Division Administrator

Purpose of Agenda Item

The purpose of this agenda item is to present the proposed amendments for the Board's initial review.

Relationship to/Implications for the State Board's Strategic Plan

This item of rulemaking relates to Goal 2, highly prepared and effective teachers and school leaders, in that the program of induction and mentoring is intended to provide new teachers with necessary orientation to their profession and their specific working environment.

Expected Outcome of Agenda Item

The Board will be asked to adopt a motion authorizing the solicitation of public comment on the proposed amendments to Part 65.

Background Information

Taken together, these proposed amendments will eliminate the current focus of this program as a pilot program and restructure it along the lines of a continuing grant that will be expanded to encompass new applicants as the level of available funding permits. This change involves not only a change in the program's title but also the deletion of statements related to the three-year funding cycle and a revision indicating when requests for proposals will be issued. In addition, specificity is being added to certain of the program specifications, including setting the amount to be paid to each mentor. The current minimum of 10 recipient teachers is being eliminated, as is the participation of certain holders of provisional alternative certificates whose programs already entail close supervision and mentoring.

Analysis and Implications for Policy, Budget, Legislative Action and Communications

Policy Implications: Please see above.
Budget Implications: None.
Legislative Action: None needed.
Communication: Please see "Next Steps" below.

Pros and Cons of Various Actions

Promulgation of these changes will permit the agency to change the way in which the New Teaching Induction and Mentoring Program is administered, while failure to proceed with this rulemaking would require continuing to implement it as described in the current rules.

Superintendent's Recommendation

The Superintendent recommends that the State Board of Education adopt the following motion:

The State Board of Education hereby authorizes the solicitation of public comment on the proposed rulemaking for:

New Teacher Induction and Mentoring (23 Illinois Administrative Code 65),

including publication of the proposed amendments in the Illinois Register.

Next Steps

With the Board's authorization, staff will submit the proposed amendments for publication in the Illinois Register to elicit public comment. Additional means such as the Superintendent's message and the agency's website will be used to inform interested parties of the opportunity to comment.

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER b: PERSONNEL

PART 65

NEW TEACHER INDUCTION AND MENTORING

SUBPART A: GENERAL PROVISIONS

Section

- 65.10 Purpose and Scope
65.20 Requirements of the Plan; Program Specifications

SUBPART B: BEGINNING TEACHER INDUCTION GRANT PILOT PROGRAM

Section

- 65.110 Purpose and Applicability
65.120 Eligible Applicants
65.130 Program Specifications
65.140 Application Procedure
65.150 Criteria for the Review of Initial Applications
65.160 Allocation of Funds

AUTHORITY: Implementing Article 21A of the School Code [105 ILCS 5/Art. 21A] and authorized by Section 21A-35 of the School Code [105 ILCS 5/21A-35].

SOURCE: Emergency rules adopted at 30 Ill. Reg. 11783, effective June 26, 2006, for a maximum of 150 days; adopted at 30 Ill. Reg. 17425, effective October 23, 2006; amended at 33 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 65.20 Requirements of the Plan; Program Specifications

- a) When State funding is available to support new proposals for any initiative under Article 21A of the School Code, the State Superintendent of Education shall issue a Request for Proposals (RFP) (or, in the case of noncompetitive funding, other application materials) in order to solicit applications from eligible entities. As used in this Part, a “proposal” or “application” means relevant portions of a plan

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

for an induction and mentoring program that meets the requirements of Section 21A-20 of the School Code [105 ILCS 5/21A-20], accompanied by the additional materials applicants will be required to submit, as described in the relevant Subpart of this Part.

- b) Each plan shall conform to the requirements of Section 21A-20 of the School Code. In order to demonstrate the alignment required by Section 21A-20(2) of the School Code, each plan shall discuss the relationship among the services and experiences that will be available to new teachers, the content-area standards applicable to their respective fields of certification or assignment (see 23 Ill. Adm. Code 26 and 27), the Illinois Professional Teaching Standards (see 23 Ill. Adm. Code 24), and the employing entity's existing plans for school improvement and professional development.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

SUBPART B: BEGINNING TEACHER INDUCTION GRANT PILOT PROGRAM

Section 65.130 Program Specifications

- a) Each program supported with grant funds under this Subpart B shall incorporate:
- 1) mentoring for new teachers that is provided by experienced teachers who have received training to equip them for this role;
 - 2) professional development for recipient teachers, mentors, and administrators who have roles in the program; and
 - 3) formative assessment of new teachers' practice with respect to the Illinois Professional Teaching Standards and the content-area standards relevant to their respective fields of assignment.
- b) ~~Each program shall serve no fewer than 10 new teachers.~~ Each program shall serve no more than 75 new teachers, unless a specific rationale is provided that demonstrates how each new teacher will receive comparable and adequate attention and support.
- c) Each new teacher shall, at the time he or she begins the program, have less than two years' teaching experience and hold an initial or a provisional early childhood, elementary, secondary, special K-12, or special preschool-age 21

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

~~certificate. Each new teacher shall, at the time he or she begins the program, be in his or her first year of teaching. Each shall hold an initial certificate, except that a provisional or alternative certificate that is not also titled an "initial" certificate shall be treated as an initial certificate if the holder will qualify for an initial certificate rather than a standard certificate upon completion of all applicable requirements.~~

- d) Each program shall be designed to ensure that each new teacher spends no less than ~~75 hours in face-to-face contact~~ 4.5 hours per week in contact with the mentor assigned, either one on one or in another configuration, including both classroom observation of the new teacher by the mentor and other interactions between these individuals. Each mentor who provides at least 75 hours of mentoring service in a grant year shall be paid \$1,200 from grant funds awarded pursuant to this Part.
- e) Each program shall provide for the development of an individual induction plan for each new teacher served and for the provision of professional development that is directly related to the needs identified in the individual plan.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 65.140 Application Procedure

For purposes of this Subpart, the terms "proposal" and "application" shall have the same meaning.

- a) When State funding is available for new grants under this Subpart, the State Superintendent of Education shall issue a Request for Proposals (RFP) in order to solicit applications from eligible entities.
- b) The RFP shall describe the format that applicants will be required to follow and the information they will be required to submit, including a description of the proposed program, identification of the specific schools in which the induction ~~pilot~~ program will be conducted, and the number of new teachers and mentors involved.
- c) The RFP shall indicate the amount or expected amount of the appropriation for the program and shall describe the allowable expenditures and the basis for awarding grants. If matching funds or resources will be required of applicants, the RFP shall describe these requirements.

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- d) The RFP shall include a budget summary and payment schedule, as well as a narrative budget breakdown, i.e., a detailed explanation of each line item of expenditure.
- e) The RFP shall identify the data recipients will be required to collect and report regarding the activities conducted with grant funds and the results of those activities, as well as the timelines for reporting.
- f) The RFP shall include such certifications and assurances as the State Superintendent may require.
- g) The RFP shall specify the deadline for submission of proposals, which shall provide potential applicants with at least 30 days to respond.
- h) Separate applications shall be required for renewal of grant funding. Each application for renewal shall include at least:
 - 1) a description of expenditures and activities during the year just concluded, demonstrating that the project has been implemented in conformance with the approved grant agreement and that the recipient continues to exhibit need for grant funds for this purpose; and
 - 2) an updated budget summary and payment schedule for the renewal year, including a narrative budget breakdown.
- i) Incomplete proposals shall not be considered.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 65.160 Allocation of Funds

- a) The State Superintendent of Education shall approve initial applications for funding and make final determinations regarding the amounts to be provided based upon the total funds appropriated for this initiative, the amounts necessary to fund the top-ranked proposals, and the need to distribute the benefits of innovative induction models on a statewide basis.
- b) It is the intention of the State Board of Education to approve continuation funding for projects under this Part prior to providing funding for new applicants ~~for a~~

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STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS




~~three year period.~~ Funding for existing grantees for each year ~~the second and third years~~ shall be contingent upon the availability of funds for the program and evidence presented in renewal proposals that the projects have been implemented in accordance with the approved grant agreements and that the recipients continue to need additional State resources in order to implement their ~~pilot~~ programs. If funds remain available for new programs, an RFP shall be issued as provided in Section 65.140 of this Part.

- e) ~~An entity that has received three years' funding under this Subpart B may subsequently apply as a new applicant.~~

(Source: Amended at 33 Ill. Reg. _____, effective _____)

ILLINOIS STATE BOARD OF EDUCATION MEETING
April 15-16, 2009

TO: Illinois State Board of Education

FROM: Christopher A. Koch, Ed.D., State Superintendent of Education 
Linda Riley Mitchell, Chief Financial Officer 
Darren Reisberg, General Counsel 

Agenda Topic: Action Item: Rules for Adoption
Part 145 (Temporary Relocation Expenses) and
Part 151 (School Construction Program)

Materials: Recommended Rules

Staff Contacts: Deb Vespa, Division Administrator

Purpose of Agenda Item

The purpose of this agenda item is to present the proposed amendments for adoption.

Relationship to/Implications for the State Board's Strategic Plan

These two rulemaking items are not specifically related to the strategic plan. The two sets of rules are simply being updated for the sake of technical correctness.

Expected Outcome of Agenda Item

The Board will be asked to adopt a motion adopting the proposed amendments to Parts 145 and 151.

Background Information

Both these sets of amendments represent technical updating only. References to Part 110 of the rules (Program Accounting Manual) were replaced by references to the new rules covering the same topics (Part 100; Requirements for Accounting, Budgeting, Financial Reporting, and Auditing). Similarly, where the Fall Enrollment and Housing Report was mentioned by name, the enrollment count as of September 30 has been referenced instead. This reflects the elimination of the separate reporting requirement due to the advent of the Student Information System.

These amendments were presented for the Board's initial review in January of this year and subsequently published in the Illinois Register to elicit public comment. None was received, and the versions being presented for adoption are identical to those originally proposed.

Analysis and Implications for Policy, Budget, Legislative Action and Communications

Policy Implications: Please see above.

Budget Implications: None.

Legislative Action: None needed.

Communication: Please see "Next Steps" below.

Pros and Cons of Various Actions

Promulgation of these changes will bring the rules up to date, while failure to amend the rules would result in the persistence of incorrect cross-references and outdated terminology.

Superintendent's Recommendation

The Superintendent recommends that the State Board of Education adopt the following motion:

The State Board of Education hereby adopts the proposed rulemaking for:

Temporary Relocation Expenses (23 Illinois Administrative Code 145); and

School Construction Program (23 Illinois Administrative Code 151).

Further, the Board authorizes the State Superintendent of Education to make such technical and nonsubstantive changes as the State Superintendent may deem necessary in response to suggestions or objections of the Joint Committee on Administrative Rules.

Next Steps

Notice of the adopted amendments will be submitted to the Joint Committee on Administrative Rules to initiate JCAR's review. When that process is complete, the rules will be filed with the Secretary of State and disseminated as appropriate.

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER c: FINANCE

PART 145

TEMPORARY RELOCATION EXPENSES

Section

- 145.10 Definitions
- 145.20 General Requirements
- 145.30 Allowable Expenses
- 145.40 Documentation (Repealed)
- 145.50 Accounting Requirements
- 145.60 Determination of Loan and Grant Amounts

145.TABLE A Accounting Entries (Repealed)

AUTHORITY: Implementing and authorized by Section 2-3.77 of the School Code [105 ILCS 5/2-3.77].

SOURCE: Adopted at 10 Ill. Reg. 15060, effective August 28, 1986; amended at 22 Ill. Reg. 19777, effective October 30, 1998; amended at 29 Ill. Reg. 10126, effective June 30, 2005; amended at 33 Ill. Reg. _____, effective _____.

Section 145.50 Accounting Requirements

When money appropriated for temporary relocation expenses is received by a school district, the money shall be deposited in the funds fund(s) from which those such expenses were or will be paid and shall be accounted for in accordance with the applicable provisions of 23 Ill. Adm. Code 100 (Requirements for Accounting, Budgeting, Financial Reporting, and Auditing) Program Accounting Manual (23 Ill. Adm. Code 110).

(Source: Amended at 33 Ill. Reg. _____, effective _____)

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER c: FINANCE

PART 151

SCHOOL CONSTRUCTION PROGRAM

SUBPART A: SCHOOL CONSTRUCTION PROJECT GRANTS

Section

- 151.10 Purpose
- 151.20 Eligible Applicants
- 151.30 Application for School Construction Project Grant Entitlement
- 151.35 Application for School Construction Project Grant Entitlement - Districts With A Population Exceeding 500,000
- 151.40 Award of Construction Project Grant Entitlement
- 151.50 Priority Ranking of Construction Grant Entitlements
- 151.55 Needed Capacity for Unit Districts
- 151.60 Grant Index
- 151.70 Debt Service Grants (Repealed)

SUBPART B: SCHOOL MAINTENANCE PROJECT GRANTS

Section

- 151.100 Purpose; Eligible Applicants
- 151.110 Definitions
- 151.120 Application for School Maintenance Project Grants
- 151.130 Award of School Maintenance Project Grants - Applicants With a Population of 500,000 or Fewer
- 151.135 Award of School Maintenance Project Grants - School Districts With a Population Exceeding 500,000
- 151.140 Terms of the Grant

AUTHORITY: Implementing the School Construction Law [105 ILCS 230] and authorized by Section 5-55 of that Law.

SOURCE: Emergency rules adopted at 22 Ill. Reg. 2616, effective January 16, 1998, for a maximum of 150 days; emergency rules modified in response to JCAR objection at 22 Ill. Reg.

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

4500; emergency rules expired June 15, 1998; emergency rules adopted at 22 Ill. Reg. 6238, effective March 24, 1998, for a maximum of 150 days; emergency rules modified in response to JCAR objection at 22 Ill. Reg. 7703; emergency expired June 15, 1998; new Part adopted at 22 Ill. Reg. 12538, effective July 6, 1998; emergency amendment at 23 Ill. Reg. 11336, effective September 1, 1999, for a maximum of 150 days; amended at 24 Ill. Reg. 497, effective January 3, 2000; amended at 24 Ill. Reg. 5661, effective March 17, 2000; amended at 26 Ill. Reg. 886, effective January 15, 2002; amended at 32 Ill. Reg. 7410, effective April 22, 2008; amended at 33 Ill. Reg. _____, effective _____.

SUBPART A: SCHOOL CONSTRUCTION PROJECT GRANTS

Section 151.20 Eligible Applicants

School districts that meet the requirements of the School Construction Law and this Subpart are eligible to apply for school construction project grant entitlements. A district's eligibility for a school construction project grant under the minimum enrollment requirements of Section 5-25(a) of the School Construction Law shall be determined using the district's enrollment in prekindergarten through grade 12 as of the last school day in September of the most recent school year ~~shown on the district's most recent Fall Enrollment/Housing Report.~~

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 151.50 Priority Ranking of Construction Grant Entitlements

Priority ranking of construction grant entitlements shall be done if the appropriation for any fiscal year is insufficient to fund grants for all approved grant entitlements. In this case, districts holding construction grant entitlements shall be eligible for construction grants to be awarded by the Capital Development Board in order of the priority ranking described in this Section.

- a) Districts holding grant entitlements shall be eligible for grant awards in the order of:
 - 1) the six levels of priority described in Section 5-30 of the School Construction Law; and
 - 2) the district's ranking within its level of priority, determined according to subsections (b) through (d) of this Section.

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

b) A district's ranking within a level of priority shall be determined by multiplying the district's needed capacity as determined under subsection (c) of this Section by the ratio of the district's needed capacity to the district's enrollment as of the last school day in September of the most recent school year recorded on the district's most recent Fall Enrollment/Housing Report. The resulting figure shall constitute the district's ranking, with the largest figure having the highest ranking.

c) Needed Capacity

1) For each priority other than priority five, the district's needed capacity shall be calculated by subtracting its currently available capacity as determined under subsection (d) of this Section from its current enrollment or its projected enrollment, whichever is greater.

A) Projected enrollment shall be calculated by multiplying the district's current enrollment by the ratio of the district's current enrollment to the district's enrollment two years before.

B) For purposes of calculating needed capacity, projected enrollment shall not include any increase in enrollment attributable to a change in the district's boundaries.

2) For priority five, the district's needed capacity shall be the number of qualified individuals with disabilities who require a school construction project.

d) Determination of Available Capacity

1) The enrollment capacity of each room or space currently subject to occupancy by students for instructional purposes in a district-owned, permanent building, or in a building leased by the district if the lease is at least ten years from expiration, shall be determined by dividing the net floor area (in square feet) of such room or space by the appropriate loading factor, as follows:

Type of Room or Space	Loading Factor
Prekindergarten Classroom	40
Kindergarten Classroom	40

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

Elementary General Classroom	35
Elementary Art Classroom	40
Elementary Music Classroom	30
Elementary Computer Classroom	35
Middle School General Classroom	35
Middle School Art Classroom	40
Middle School Family and Consumer Sciences Classroom	50
Middle School Music Classroom	25
Middle School Computer Classroom	40
Middle School Science Laboratory	40
Middle School Science Laboratory/Classroom	50
Middle School Industrial Technology Laboratory/Shop Not Classified Elsewhere	40
High School General Classroom	30
High School Art Classroom	35
High School Music Classroom	25
High School Computer Classroom	40
High School Family and Consumer Sciences Classroom	60
High School Science Laboratory	35
High School Industrial Technology Laboratory/Shop	75
High School Laboratory Not Classified Elsewhere	35
Special Education Classroom	50

- 2) Buildings and additions with a functional age over one hundred years old shall be assigned an enrollment capacity of zero. The functional age of a building and each of its additions shall be individually determined by multiplying its actual age by one of the following condition factors, to be determined using the Building Condition Evaluation Form supplied by the State Board of Education:

Condition of Building or Addition	Condition Factor
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ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

Excellent	0.2
Satisfactory	0.4
Substandard	1.0
Poor	1.5
Very Poor	2.0

3) As used in this subsection (d), “permanent building” means a building mounted on a slab or a permanent foundation. A permanent foundation is a closed-perimeter formation consisting of materials such as concrete, mortared concrete block, or mortared brick extending into the ground below the frost line which may include but not be limited to cellars, basements, or crawlspaces but does not include the sole use of piers.

4) Available capacity shall be calculated by multiplying enrollment capacity as determined in subsections (d)(1) through (d)(3) of this Section by the following utilization factors:

A) elementary schools	0.9
B) middle or junior high schools	0.85
C) high schools	0.8

e) A new order of priority ranking shall be established among the applicants for each fiscal year. If a district is not awarded a construction grant in a fiscal year for which it has received an entitlement, the district must update its application to establish its priority ranking for the following fiscal year.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

SUBPART B: SCHOOL MAINTENANCE PROJECT GRANTS

Section 151.140 Terms of the Grant

a) Grants shall be subject to the Illinois Grant Funds Recovery Act [30 ILCS 705]. Any grant funds not expended or legally obligated within two years after disbursement by the State shall be returned to the State Board of Education within 45 days.

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STATE BOARD OF EDUCATION


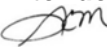

NOTICE OF ADOPTED AMENDMENTS

- b) Grant funds may only be used for the project described in the approved application and shall be accounted for in compliance with applicable accounting rules set forth at 23 Ill. Adm. Code 100 (Requirements for Accounting, Budgeting, Financial Reporting, and Auditing) 110 (Program Accounting Manual). The applicant must provide local matching funds in an amount equal to the grant. If actual project expenditures are less than expected so that the amount of the grant is greater than 50 percent of the total project expenditures, the applicant shall refund the amount of the grant that is in excess of 50 percent of actual project expenditures. The applicant shall file a final expenditure report with the State Board of Education that describes the use of the grant funds.
- c) The applicant shall comply with the School Construction Law, this Subpart and all other applicable laws and regulations in completing a project.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

ILLINOIS STATE BOARD OF EDUCATION MEETING
April 15-16, 2009

TO: Illinois State Board of Education

FROM: Christopher A. Koch, Ed.D., State Superintendent of Education 
Susie Morrison, Deputy Superintendent 
Darren Reisberg, General Counsel 

Agenda Topic: Action Item: Rules for Adoption – Part 675 (Providers of Supplemental Educational Services)

Materials: Recommended Rules

Staff Contacts: Gina Hopper, Division Administrator
Marci Johnson, Division Supervisor
Dr. Gary Greene, Principal Consultant

Purpose of Agenda Item

The purpose of this agenda item is to present the proposed amendments for adoption by the Board.

Relationship to/Implications for the State Board's Strategic Plan

This set of amendments is not specifically related to the strategic plan, although the provision of supplemental educational services contributes to attainment of Goal 1 regarding students' academic achievement and preparation for success.

Expected Outcome of Agenda Item

The Board will be asked to adopt the proposed amendments to Part 675.

Background Information

This set of amendments includes changes in various, chiefly unrelated provisions that are intended to respond to issues that have arisen recently in the implementation of supplemental educational services (SES).

- In Section 675.30 (Code of Ethics), a statement is being added to make clear the applicability of these requirements to contractors and other entities acting in conjunction with providers and a prohibition on marketing directly to students is being added. In addition, the circumstances under which school district employees may be hired by providers is being clarified, resulting in fewer limitations on employees of a given district with respect to working for providers serving other school districts.
- The basis for evaluating providers stated in Section 675.90 is being changed to replace district-specific status with a statewide status for each of the subjects in which a provider offers tutoring.
- Since the USDE has informed states that they must allow providers to be approved to tutor in science and that other subjects may be included in the future, specific references to reading and mathematics are being eliminated in favor of generic references to subjects. See especially Section 675.50.

- In Section 675.175, subsections (b) and (c) are being revised to account for delays that are outside districts' and providers' control and would cause them to miss relevant deadlines. A new subsection (d) also provides a means by which districts can document their compliance with a requirement of NCLB when parents do not respond.
- Based on clarification from the U.S. Department of Education, revisions in Sections 675.210 and 675.220 allow for the inclusion of costs related to transportation.
- The structure of the assessment of parental satisfaction (Appendix B) is being changed from focusing on positive responses from parents to focusing on negative responses instead. This will continue to entail meeting the same standard but will avoid penalizing providers for low response rates by parents. Also in Appendix B, the criterion related to attendance is being restated to refer to providers' "average attendance" rather than to the "attendance rates", in order to state more clearly how this component of the evaluation is being implemented.

Miscellaneous other revisions are being made to provide clarifications, remedy omissions, and state expressly practices that have been developed in response to particular circumstances.

These amendments were presented for initial review in January of this year and subsequently published in the Illinois Register to elicit public comment. Two submissions were received, one of which was submitted on behalf of the Chicago Public Schools (CPS) and addresses numerous points. The issues raised by both commenters are discussed in the Summary and Analysis of Public Comment below.

Analysis and Implications for Policy, Budget, Legislative Action and Communications

Policy Implications: Please see above.

Budget Implications: None.

Legislative Action: None needed.

Communication: Please see "Next Steps" below.

Pros and Cons of Various Actions

Promulgation of these changes would result in a variety of improvements in the rules, as outlined above. Leaving the rules unchanged would leave several issues unaddressed and, in particular, would require adherence to the existing evaluation rubric rather than the revised approach and exclude tutoring in any subject other than reading and mathematics.

Superintendent's Recommendation

The Superintendent recommends that the State Board of Education adopt the following motion:

The State Board of Education hereby adopts the proposed rulemaking for:

Providers of Supplemental Educational Services (23 Illinois Administrative Code 675).

Further, the Board authorizes the State Superintendent of Education to make such technical and nonsubstantive changes as the State Superintendent may deem necessary in response to suggestions or objections of the Joint Committee on Administrative Rules.

Next Steps

Notice of the adopted amendments will be submitted to the Joint Committee on Administrative Rules to initiate JCAR's review. When that process is complete, the rules will be filed with the Secretary of State and disseminated as appropriate.

Summary and Analysis of Public Comment Part 675 (Providers of Supplemental Educational Services)

Comment

Support was expressed for the extension of requirements to subcontractors and others that is being added as an introductory paragraph to 675.30, but the commenter requested the addition of a further statement that providers must inform subcontractors of these requirements and monitor their compliance.

Analysis

We agree that it is appropriate to ensure that these entities will be made aware of the requirements that will apply to them in the context of SES and to place the responsibility for conveying that information on the providers with whom they collaborate. We do not believe it is necessary to make an explicit statement about monitoring, however, because providers' own accountability for compliance provides an adequate incentive for their supervision of these matters. In addition, a slight revision should be made to recognize that some provisions of Section 675.30 apply to district personnel rather than to providers.

Recommendation

The proposed introductory provision to Section 675.30 should be amplified as shown below:

The requirements of this Section for providers shall apply not only to each provider but also to any subcontractor or other person or entity ("agent"), whether paid or unpaid, who acts in conjunction with or on behalf of an approved provider for the purpose of performing any function related to a program of supplemental educational services, including, but not limited to, marketing the program, tutoring students, providing snacks, conducting assessments, and completing individual learning plans. Each provider shall maintain a record of having notified each agent of the agent's responsibility for complying with the requirements of this Section. This notification shall include either the transmittal of a paper or electronic copy of this Part or provision of the web address where this Part is posted by the State Superintendent of Education.

Comment

A change was requested in Section 675.30(f) so that applicability of the prohibition on marketing directly to students without parents present would be limited to students under the age of 15. This was stated to be advisable because high school students are choosing their own services.

Analysis

We do not agree that this suggested change would be advisable or even workable. Under NCLB, the choice of providers is the prerogative of parents (who may, of course, defer to their children in making this selection). Further, it will not always be the case that providers' representatives will know the age of students whom they might wish to approach, and it does not seem reasonable to put students in the position of responding to strangers regarding their age. We believe the rule as originally proposed is appropriate for students' protection and also to preserve the role of parents in making the choice among providers.

Recommendation

No change should be made in response to this comment.

Comment

With regard to Section 675.30(i), insertion of the word “direct” into the phrase “for instructional purposes only” was advocated. The commenter noted that providers have begun assigning district employees to the position of “lead tutor” and that these individuals have engaged in inappropriate marketing and recruiting aimed at students in the schools where they teach as a function of their employment with the district. ISBE was asked to include a rule prohibiting these individuals from serving the provider in the same schools where they teach.

Analysis

This subsection currently prohibits providers from hiring employees of a given district to work in that same district except “for instructional purposes only.” Apparently the concept of instructional purposes is being expanded upon by some providers to encompass certain functions that are clearly related to instruction but are not instruction *per se* (e.g., curriculum development).

Two issues are actually presented here. One is the hiring of district employees outside the parameters established by the rule; the other is unethical behavior on the part of those individuals. Upon reviewing this situation, we have concluded that there is no real necessity for prohibiting district employees from working for providers in lead tutoring positions or performing other work related to providers’ educational programs. We believe the rule should be revised to permit this explicitly. Once that is accomplished, the existing provision discussing the impermissibility of recruiting and marketing will apply to those individuals, which will address the second issue.

Because this introductory language will no longer be couched as a limitation on the employment of district personnel by providers, existing subsections (1) and (2) will no longer be exceptions to the introduction and a slight reorganization of this material is also in order.

Recommendation

Subsection (i) [previously subsection (h)] should be given the title “Role of District Personnel” and each provision should stand on its own. The current introduction should be labeled as subsection (1) and revised as shown below.

- 1) Employees ~~Except as otherwise provided in this subsection (i), employees~~ of a particular district may be hired by a provider serving that district for instructional purposes or to perform other functions related to the delivery of the provider’s program of SES only. District personnel hired for ~~these instructional~~ purposes shall not recruit students to a provider’s program, engage in marketing activities on behalf of a provider, distribute or collect enrollment forms, or otherwise promote or encourage students to enroll in a provider’s program.

[Current subsections (1) and (2) should be renumbered to (2) and (3).]

Comment

ISBE was requested to insert into Section 675.30(k) a prohibition against recruitment of students into a provider’s program and other specified activities which would apply to parents who are hired by providers. The commenter stated that parents influence the SES registration process by using their positions in parent-teacher organizations, seats on local school councils, and other positions that convey status to encourage parents to select particular providers. It was proposed that restrictions on parents should parallel those imposed on district personnel who are hired by providers.

Analysis

We believe there is an important distinction between district employees who are also hired by providers and parents who are hired by providers. The former must behave neutrally in order to avoid an inherent conflict of interest, while parents generally are not in the same situation. We do not believe that ISBE can legitimately curtail the right of expression of these parents and limit them in a way that exceeds the limits placed on employees of the same provider who are not parents of students in a particular school, unless the parents fall under the restrictions stated in Section 675.30(i) [now being relabeled to (j)] because they have a strong and influential affiliation with the school.

This comment has caused us to review whether that provision is specific enough to identify clearly the individuals to whom it is meant to apply. As currently written, it applies to all members of parent-teacher organizations, for example, and this is probably excessively restrictive. On the other hand, the current language may not be adequate to encompass members of school boards and local school councils. We believe this subsection should be revised so that it will be clearer and will apply only to individuals whose level of influence warrants some regulation.

In the last analysis, we also note that the entire system is predicated on the judgment of the parents who are entitled to choose among providers and believe it must be left to them to respond to the various influences to which they are subject.

Recommendation

The provision that will become subsection (j) of Section 675.30 should be amended as shown below.

- j) Each restriction applicable to a school district employee under this Section shall apply equally to each officer ~~a member~~ of any governmental or nonprofit organization formed to support or advise a particular school in which the provider seeks to offer services, to each member of a local school board, governing body, or board of control, and to each member of a local school council in a school district organized pursuant to Article 34 of the School Code [105 ILCS 5/Art. 34].

General Recommendation

This is the third time that Part 675 has been amended since its original adoption in 2005, and all three sets of amendments have included a number of revisions to Section 675.30 that were designed to respond to ethical problems recently identified. It is clear that relationships involving districts and providers are not without natural points of friction, and it is not terribly productive for ISBE to add more specific prohibitions and restrictions each year as these emerge. Instead, we believe the time has come to use Section 675.30 as a set of illustrations for our more general expectation regarding ethical behavior on the part of all concerned. Addition of a statement to this effect in the introductory paragraph to this Section will provide a more useful footing for holding all the individuals involved to a high ethical standard. We recommend that the following new language be inserted at the beginning of the introductory paragraph:

The specific provisions of this Section are intended to illustrate the ethical behavior that is expected of personnel employed by providers of SES, their agents, and school districts, as well as by parents in certain situations. The provisions of this Section shall not be construed as exhaustive but rather as examples that not only apply in the specified situations but also guide the parties' actions under related circumstances.

Comment

It was suggested that the requirement for fair access that is discussed in proposed subsection (s) of Section 675.30 be made specific to access for tutoring, in order to avoid confusion with access for purposes of recruitment or registration.

Analysis

In reviewing this comment, we have been reminded that Section 675.150(b) already contains a statement requiring districts to treat all providers equitably. It would be more appropriate to include this new material in that location. Since Section 675.150 is not being amended as part of this rulemaking, this revision should be held until the next time Part 675 needs to be amended. In the meantime, nothing will be lost by omitting this statement, since the federal regulation (34 CFR 200.48(d)(ii)(2)(i)(C)) imposes this requirement in any case.

Recommendation

Proposed subsection (s) should be deleted from this rulemaking.

Comment

Use of the phrase “the relevant subject area” in Section 675.50(b)(2)(B)(ii) was stated to be confusing, and it was proposed that that provision be rewritten to refer to “the subjects designated by the provider’s approved SES Provider application”.

Analysis

We agree that the clarity of this provision can be improved. However, the specific suggested insertion is circular, since it would call for material in an application to reference material in an approved application. In addition, a similar statement appears in Section 675.50(b)(2)(A)(i) and should be revised in a similar way.

Recommendation

The language of subsection 675.50(b)(2)(A)(i) should be reworded to state:

Evidence that the curriculum and pedagogy proposed for each subject encompassed in the application have a positive impact on students’ achievement in that ~~the relevant~~ subject ~~area~~, particularly for low-income, underachieving students.....

The language of subsection (b)(2)(B)(ii) should be reworded to state:

Evidence that the curriculum and pedagogy to be used by the eligible applicant in a given subject have been demonstrated to have a positive impact on students’ achievement in that ~~the relevant~~ subject ~~area~~, particularly for low-income, underachieving students.....

Comment

While these materials were being prepared, staff received a question regarding the relationship between two subsections within Section 675.70(b). Subsection (b)(1) is being edited to refer specifically to students who have received at least 18 hours of service, and the question went to whether similar language should be added to subsection (b)(3).

Analysis

Staff clarified that these two provisions are intended to be consistent and require reporting on the same body of students.

Recommendation

Section 675.70(b)(3) should be revised to refer to “the percentage of the provider’s Illinois students who received at least 18 hours of services and met ~~meeting~~ the academic goals set out in their Individual Learning Plans.”

Comment

ISBE was asked to add a new provision at the end of Section 675.90(a) requiring the agency to publish evaluations of providers by August 1 annually. Failing this, districts would be authorized to publish their own evaluations of providers’ performance as long as those evaluations were based on criteria similar to those identified in subsection (a). This was stated to be advisable in order to assist parents in selecting providers during the next registration period.

Analysis

While we agree that it is desirable to parents to have timely access to the results of the state evaluations, it is not our practice to impose requirements on the agency that might be impossible to meet. There is also no need for a rule authorizing districts to publish their own evaluations or making that authorization contingent on the unavailability of an evaluation from the state level, as districts are free to do this whenever they wish.

Recommendation

No change is needed in response to this comment.

Comment

It was proposed that Section 675.90(b) be changed to provide for evaluation (by subject) on a districtwide basis if a provider’s program differs significantly from district to district.

Analysis

We disagree with this suggestion, because providers are approved for established programs of instruction that generally do not vary greatly according to the districts in which they are offered. While particular aspects or components of a program are chosen for individual students according to their learning needs, this tailoring is not truly a meaningful difference in the program *per se*.

Recommendation

Section 675.90(b) should not be changed.

Comment

Significant changes were advocated in Section 675.150(d) in conjunction with the recommended elimination of subsections (e), (f), and (g) from Section 675.90. The goal of all these was to place greater control into districts’ hands for terminating the services of a provider and thus to establish stronger incentives for providers to make needed improvements. Unless appealed, a termination would take effect 30 days after the district notified the provider and the State Superintendent. If a corrective action plan were imposed instead of termination, the provider would have until shortly after the end of the succeeding school year to demonstrate that all requirements of that plan had been met. The “graduated vendor remediation system” involving probationary status designations 1 and 2 (see Section 675.90(e)-(g)) was stated to be ineffective and would be eliminated in favor of corrective action limited to one year’s duration.

Analysis

For two reasons, the changes proposed in this regard cannot be introduced at this stage of this rulemaking. First, it should be noted that Section 675.150 was not included in the proposed

amendments, and it is generally not permissible to add a Section after the proposal is published unless its inclusion is needed to accomplish, or avoid a conflict with, the changes that were published. Further, the affected entities would have no opportunity to comment on these changes if they were adopted at this time.

The basis for the commenter's assertion regarding ineffectiveness of the current system is not apparent, and we believe it is important to be attentive to the potential for conflict between districts and providers that is inherent in the system of SES. We also note that ISBE has in place a formal mechanism permitting external parties to request changes in the agency's rules. This is described in Section 5000.115 of the rules for Public Information, Rulemaking and Organization (Consideration of Public Requests for Rulemaking) and calls for a written request based on an identified problem. We believe it would be most appropriate to treat this matter as though it had been raised via that mechanism, since the comment received includes the required information. Agency staff can review the matter further, as called for in Section 5000.115, and prepare a response for the CPS commenter.

Recommendation

No change should be made at this time, but staff should seek further information from the commenter and prepare an appropriate recommendation regarding future rulemaking on this subject.

Comment

A revision in the wording of Section 675.175(d) was requested to reflect the fact that a district and a provider may agree that students' learning plans will be developed by the provider (rather than the district). Instead of requiring records demonstrating that "district personnel made reasonable efforts to consult with a parent," it was proposed that the rule require records demonstrating that "reasonable efforts were made to consult with a parent," so that efforts by either of these actors would be covered. The commenter also requested deletion of the examples that are currently given to indicate what types of efforts will be considered reasonable, stating that the use of examples gives the impression that those efforts are required and others are unacceptable. It was noted that what is reasonable may vary from district to district.

Analysis

Guidance issued by the U.S. Department of Education on January 14, 2009, relative to Section 1116(h)(2) of NCLB does indicate that a district and a provider may agree that the provider will develop the plan. We therefore agree that the rewording suggested by the commenter is preferable to the version originally proposed. We cannot agree, however, to eliminate the examples of reasonable efforts. Requirements for rulemaking dictate that ISBE define what is meant by the subjective adjective "reasonable." Since it is true that what is reasonable will vary, a definition is provided by way of illustrations rather than as a finite list. We believe the rule is clear; the examples are preceded by the phrase "such as," and it is incorrect to read them as either required or limiting.

Recommendation

The affected portion of the proposed version of Section 675.175(d) should be revised as indicated below.

For any student with respect to whom this consultation has not occurred by the time the provision of tutoring is to begin pursuant to subsection (c) of this Section, the plans for the student shall stand as developed by the district and the provider, and the district shall

maintain records demonstrating that ~~district personnel made~~ reasonable efforts were made to consult with a parent.....

Comment

Another issue identified in connection with Section 675.175(d) was an apparent discrepancy between that rule and a related provision in Appendix B (Evaluation Rubric). The commenter noted that the former rule indicates that the district is responsible for creating the learning plan for a student and consulting with the student's parents and provider to secure approval for it, while the rubric for evaluating providers includes ratings based on whether parents were consulted in the development of these plans. The commenter stated that providers should not be punished for the failure of districts to involve parents if involving the parents is, in fact, the district's responsibility.

Analysis

This commenter makes a good point, and it is not our intent to have the evaluation of providers be at cross purposes with either this rule or the portion of NCLB upon which it is based. However, we do see a need for a connection between providers and parents and therefore a need for information about that connection to be part of the evaluation of providers' effectiveness. A revision to Appendix B can be made to focus on an area for which providers clearly are responsible.

Recommendation

The material on parent satisfaction in Appendix B under the heading "Below Standards" should be revised as shown below.

More than 25% of respondents indicate: (1) overall dissatisfaction with the provider; or (2) the provider did not consult with the parent regarding results of the student's diagnostic test and plans for the program of the student's study they were not consulted in the development of the student's individual learning plan.

The text regarding parent satisfaction that is found under the headings "Meets Standards" and "Above Standards" should also be revised in the same way.

Comment

An amendment to Section 675.240(d) was requested, to change the timeframe within which providers may petition ISBE for permission to revise the "reasonable estimate" the provider furnished under Section 675.240(b). The opportunity for providers to increase their cost figures once ISBE publishes the per-pupil allocation was identified as a problem for districts, both from the cost standpoint and because of the difficulty of delivering signed contracts while changes may still be occurring. Reinforcement of the limitation on changes to those caused by unforeseen administrative requirements on the part of the district was also requested, so that providers would be precluded from raising their cost figures based on publication of the per-pupil allocation.

Analysis

This is another instance in which we are procedurally unable to make the changes being suggested. Section 675.240 is not one of the Sections in which changes have been proposed, so it cannot be added to the rulemaking and changed at this point in the process. Here again, we recommend treating this suggestion under Section 5000.115 and developing a response regarding future rulemaking. However, our preliminary inclination is that these changes would not be advisable. By their very nature, draft contracts can be revised at any time before they

are executed, and there are desirable changes that providers might make in response to publication of the per-pupil allocation, such as increasing the number of hours of service that could be offered.

Recommendation

No change should be made in Section 675.240 at this time, and staff should follow up with representatives of CPS and develop a response in keeping with the procedure set forth in Section 5000.115 of ISBE's rules.

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER 0: MISCELLANEOUS

PART 675

PROVIDERS OF SUPPLEMENTAL EDUCATIONAL SERVICES

SUBPART A: GENERAL PROVISIONS

Section	
675.10	Purpose and Scope
675.20	Definitions
675.30	Code of Ethics
675.40	Programmatic Requirements
675.50	Application Requirements
675.60	Application Process
675.65	Mid-Year Changes
675.70	Reporting Requirement
675.80	Retention of Records; Access to Premises
675.90	Evaluation of Providers' Performance, Providers' Status, Sanctions, and Removal
675.100	Public Information
675.110	Removal When No Services Offered
675.150	Provider's Relationship with District
675.175	Timetable for Implementation of the Program

SUBPART B: FINANCIAL REQUIREMENTS

Section	
675.200	Financial Framework for SES
675.210	District Program Cost
675.220	Non-Reimbursable Expenses and Revenue Offsets
675.230	Reports of Actual Costs
675.240	Establishment of Contract Amount and Payment Provisions
675.245	Basis for Invoices and Payments
675.250	Appeals
675.APPENDIX A	Calculation of Effect Size
675.APPENDIX B	Evaluation Rubric

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

675.APPENDIX C Decision Matrix

AUTHORITY: Implementing Section 1116(e) of Public Law 107-110, the No Child Left Behind Act of 2001 (20 USC 6316(e)) (34 CFR 200.45 through 200.48), and authorized by Section 2-3.6 of the School Code [105 ILCS 5/2-3.6].

SOURCE: Emergency rules adopted at 29 Ill. Reg. 9516, effective June 17, 2005, for a maximum of 150 days; emergency expired November 13, 2005; adopted at 29 Ill. Reg. 19942, effective November 23, 2005; amended at 30 Ill. Reg. 14325, effective August 18, 2006; amended at 32 Ill. Reg. 4046, effective February 26, 2008; amended at 33 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 675.30 Code of Ethics

The specific provisions of this Section are intended to illustrate the ethical behavior that is expected of personnel employed by providers of SES, their agents, and school districts, as well as by parents in certain situations. The provisions of this Section shall not be construed as exhaustive but rather as examples that not only apply in the specified situations but also guide the parties' actions under related circumstances. The requirements of this Section for providers shall apply not only to each provider but also to any subcontractor or other person or entity ("agent"), whether paid or unpaid, who acts in conjunction with or on behalf of an approved provider for the purpose of performing any function related to a program of supplemental educational services, including, but not limited to, marketing the program, tutoring students, providing snacks, conducting assessments, and completing individual learning plans. Each provider shall maintain a record of having notified each agent of the agent's responsibility for complying with the requirements of this Section. This notification shall include either the transmittal of a paper or electronic copy of this Part or provision of the web address where this Part is posted by the State Superintendent of Education.

- a) Providers must accurately and completely describe services to consumers in terms that are easy to understand. Providers' statements regarding the number of hours of service offered in their programs must match the number of hours for which districts have contracted. That is, a provider shall not charge a district for a portion of the hours of service offered and indicate that the remaining hours of service are to be provided free of charge.

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

- b) Providers must create and use promotional materials and advertisements that are consistent with their approved applications and free from deception. Upon request, providers shall submit all promotional materials and advertisements related to the SES program to ISBE or the school districts in which they wish to serve.
- c) Providers must not misrepresent to anyone the location of a provider's program or the approval status of a program. If the location of services is contingent upon a minimum student enrollment or the approval of a district, the provider shall indicate the applicable contingencies in its marketing materials.
- d) Providers must not publicly criticize or disparage other providers.
- e) Providers must not distribute a district enrollment form that has the selected provider's name pre-printed as part of the form. Providers must not distribute enrollment forms with directions for how to complete the forms.
- f) Providers must not market their programs directly to students in the absence of those students' parents or guardians, except in the course of district-sponsored provider fairs, school assemblies, or other events permitted pursuant to this Part.
- g) Providers must maintain a system of addressing consumer grievances and concerns and must immediately report any grievances to both the district and ISBE.
- ~~h)g)~~ Providers must not compensate district employees in exchange for access to facilities, to obtain student lists, or for any illegal purpose. Providers must not solicit or accept an exclusive arrangement with any district or school (including, but not limited to, an exclusive right to conduct in-school assemblies or other marketing activities).
- ~~i)h)~~ Role of District Personnel
 - 1) Employees of a particular ~~Except as otherwise provided in this subsection (h),~~ district personnel may be hired by a provider serving that district for instructional purposes or to perform other functions related to the delivery of the provider's program of SES only. District personnel hired for these instructional purposes shall not recruit students to a provider's program, engage in marketing activities on behalf of a provider, distribute or collect

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

enrollment forms, or otherwise promote or encourage students to enroll in a provider's program.

- 2)4) District personnel without responsibility for or involvement in the district's administration of SES may be employed to perform solely clerical functions having no relationship to the marketing of a provider's program or the recruitment of students.
- 3)2) Where a school district or a school is also a provider of SES, an individual may be employed as coordinator or site manager for the SES program it provides if the individual will have no other responsibilities apart from oversight and management of that SES program, which may include marketing and recruitment, subject to the following additional requirements.
- A) The individual employed by the district for this purpose shall not present marketing or recruitment information on any occasion unless all other providers approved for the schools served are offered the same opportunity to present information or recruit students.
 - B) The district shall ensure that the individual has no greater access to parents and students at provider fairs, school assemblies, and other, similar occasions than is afforded to all other providers. "Access" means the amount of speaking time available, the space used, and any other resources allocated to providers.
 - C) The individual's duties related to the SES program for which the district is the provider shall be entirely distinct from those of any other district employee who performs oversight with respect to the provision of SES generally, such as serving as the district's liaison to all SES providers within a school or schools.
- 1)1) Each restriction applicable to a school district employee under this Section shall apply equally to each officer a member of any governmental or nonprofit organization formed to support or advise a particular school in which the provider seeks to offer services, to each member of a local school board, governing body, or board of control, and to each member of a local school council in a school district organized pursuant to Article 34 of the School Code [105 ILCS 5/Art.34].

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

- ~~k)j~~) Each parent of an eligible student who is hired by a provider must have a written job description and must be compensated on the same basis as all other employees of the provider who perform similar work. No parent may receive any commission or other benefit related to the enrollment of his or her child in a provider's program, nor may a parent be subject to any employment action by the provider on account of the parent's selection of an SES program for his or her child.
- ~~l)k~~) Providers must not make payments or in-kind contributions to a district, exclusive of customary fees for facility utilization.
- ~~m)l~~) Providers must not offer or advertise economic incentives or gratuities of any kind to parents or students to solicit them to select the provider for SES. Providers may not offer any incentives to potential students in the course of informational sessions, but may offer promotional materials of negligible value, such as pencils, balloons, or magnets.
- ~~n)m~~) During the provision of SES, providers may offer only nominal rewards to students for achievement of program milestones or objectives that cannot be attained through attendance alone, or for above-average attendance when given after the mid-point of the provider's program. Providers shall not spend more than \$50 per pupil on rewards, exclusive of rewards that consist of materials and equipment used directly in the provision of services.
- ~~o)n~~) Providers must not encourage or induce students or parents to switch providers once enrolled.
- ~~p)o~~) Providers must not attempt to influence or bias parents when performing an evaluation of the provider's services and achievement of the objectives in the student's Individual Learning Plan.
- ~~q)p~~) A provider shall not use information provided by parents of students served under this Part for any commercial purpose without securing the parent's prior written consent for the intended use of the specified information, except that a provider may use parental contact information to communicate about SES with the parents of students served by that specific provider in any prior year.

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

- ~~r)q)~~ School district personnel shall treat all providers of SES impartially. Whether or not the employing district or school is a provider, school personnel shall not:
- 1) promote or disparage specific SES providers;
 - 2) distribute SES enrollment forms that include a pre-printed provider's name;
 - 3) obstruct parents in exercising their right to select an SES provider;
 - 4) seek to influence parents' choices among SES providers;
 - 5) alter or destroy registration forms submitted by parents without specific authorization from the parents; or
 - 6) encourage students to drop out of an SES program or switch providers once enrolled.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 675.50 Application Requirements

Each application for approval to provide SES in Illinois shall consist of the components described in this Section and shall be submitted as specified by the State Superintendent.

- a) A summary of services that indicates:
 - 1) the subject areas available (i.e., ~~reading and/or mathematics~~);
 - 2) the grade levels served;
 - 3) the total program hours per student, provided that, for any program proposing fewer than 30 instructional hours per subject, the applicant must supply specific evidence that the program has resulted in increased student achievement in that subject, including verification from school district administrators in which the program has been previously provided;
 - 4) the proposed locations of service delivery;

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

- 5) the minimum number of students required by the eligible applicant in order to offer SES to a district and an indication of any districts in which that minimum will apply to each site served rather than to the district in the aggregate;
 - 6) whether the eligible applicant can provide services to students of limited English proficiency and, if so, the languages in which the eligible applicant provides instruction and the maximum number of LEP students the eligible applicant can serve in each district;
 - 7) whether the eligible applicant can provide services to students with disabilities and, if so, the accommodations or modifications the eligible applicant can offer and the maximum number of students with disabilities the eligible applicant can serve in each district;
 - 8) the time of day and months during which SES will be offered;
 - 9) the ratio of instructors to children, as determined by the provider; and
 - 10) the districts the eligible applicant seeks to serve.
- b) A rationale for the eligible applicant's SES program, including:
- 1) Evidence that the program complies with Section 675.40 of this Part; and
 - 2) Evidence of effectiveness that complies with either subsection (b)(2)(A) or subsection (b)(2)(B) of this Section.
 - A) General Method
 - i) Evidence that the curriculum and pedagogy program proposed for each subject encompassed in the application have ~~has~~ a positive impact on students' achievement in that subject reading and/or math, particularly for low-income, underachieving students, as demonstrated by scores on the State assessment or on a nationally recognized assessment; and

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

- ii) At least five but no more than ten letters of reference from previous clients (families, districts, or teachers) offering testimonial information on the positive impact of the program proposed in the application and including contact information, starting and ending dates of service provided, and school and district names for each reference.

- B) Alternate Method
 - i) Evidence that the eligible applicant has a minimum of three years' experience serving youth in the community where the eligible applicant intends to offer SES, through activities such as tutoring, mentoring or other extracurricular programs;

 - ii) Evidence that the curriculum and pedagogy to be used by the eligible applicant in a given subject have ~~has~~ been demonstrated to have a positive impact on students' achievement in that subject ~~reading and/or math~~, particularly for low-income, underachieving students, as demonstrated by scores on the State assessment or on a nationally recognized assessment;

 - iii) At least five but no more than ten letters of reference from previous clients (families, districts, or teachers) offering testimonial information on the positive impact of the youth services provided by the eligible applicant and including contact information, starting and ending dates of service provided, and school and district names for each reference; and

 - iv) An agreement to limit services to no more than 200 children during the first two years of SES.

- c) The specific procedures to be used and frequency of reports of student progress to teachers, district staff, and parents/families (including a description of how information will be provided to parents and families in a format and language they can understand).

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

- d) A description of the qualifications of instructional staff, including such resumes and other information on qualifications as ISBE may require. If the applicant intends to assign tutors who reside outside the United States, the application shall identify their countries of residence and, for each of those countries, the national and either regional or local law enforcement authorities from which fingerprint-based checks of criminal history records will be obtained that will be comparable to those required under Section 10-21.9 of the School Code [105 ILCS 5/10-21.9]. Individuals residing in countries where checks of these types are not available shall not be assigned as tutors.
- e) Proof of liability insurance in amounts deemed sufficient by ISBE to protect the district and ISBE in light of the number of students to be served by the provider.
- f) Evidence that the eligible applicant possesses a sound management structure.
- g) Evidence that the provider has adequate financial, organizational and technical resources to administer the proposed program. This evidence shall include, but need not be limited to, completed federal tax returns (or the equivalent for non-profit entities) for the two most recent years and either an audit report or audited financial statements completed within two years prior to submission of the application.
- h) Proof of legal authority to conduct business in Illinois.
- i) Information on the eligible applicant's estimated per-pupil program cost, calculated as set forth in Section 675.210 of this Part for a sample or hypothetical district for which the provider assumes cost factors to be representative. If the provider's costs will vary based on the number of students enrolled, costs must be provided for various enrollment ranges. Providers must specify the assumptions upon which occupancy costs are shown for services in district facilities.
- j) Such certifications, assurances, and/or additional information as ISBE may require in order to verify any information reported by the eligible applicant or otherwise to fulfill its duties with respect to the administration of SES.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

Section 675.70 Reporting Requirement

- a) Each provider shall be required to use a tracking system for student enrollment and progress developed by ISBE. This tracking system shall also be used to determine the amount billable to the district for the provider's services.
- b) Within 60 days after a provider's conclusion of SES for the SES reporting period, the provider shall submit a report to the State Superintendent ~~ISBE~~ including the information identified in this subsection (b), which shall be submitted as specified by the State Superintendent:
 - 1) information on the students served who received at least 18 hours of services;
 - 2) details of any complaints received from teachers or parents and the resolution of those complaints; and
 - 3) the percentage of the provider's Illinois students who received at least 18 hours of services and met ~~meeting~~ the academic goals set out in their Individual Learning Plans.
- c) On or before May 1 of each year, each approved provider shall submit the information identified in this subsection (c) as specified by the State Superintendent:
 - 1)4) updates and revisions to any information set forth in the provider's approved application (including the submission of all information required by Section 675.50 of this Part not previously reported by the provider); and
 - 2)5) an assurance that all other information set forth on the provider's approved application, as may be updated from time to time, remains true and correct.
- d)e) Upon the request of any district served by a provider, the provider shall, within 10 days after receipt of the district's request or after the provider's submission of the report ~~to ISBE~~, whichever is later, furnish to the district the information specified in subsections (b)(2) and (3) of this Section as applicable to that district.

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

However, a provider shall not be obligated to supply this information for any SES reporting period more than one year after the end of that period.

- e)d) The State Superintendent ISBE may request additional information from a provider that may be necessary for the State Superintendent ISBE to verify any information reported by the provider or otherwise to fulfill the its duties of the State Board with respect to the administration of SES.
- f)e) Providers failing to submit timely and complete reports shall not be included on the list of eligible providers for the following SES reporting period.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 675.90 Evaluation of Providers' Performance, Providers' Status, Sanctions, and Removal

- a) For each SES reporting period, ISBE shall evaluate each provider's performance in each district the provider serves based upon students' achievement, students' attendance, and parents' satisfaction. Separate evaluations shall be performed for each subject tutored by a provider (~~i.e., reading and mathematics~~). Achievement shall be measured by calculating an "effect size" in accordance with the provisions of Appendix A to this Part based upon the assessment results attained by students who have received at least 18 hours of instruction in the same provider's program. Attendance shall be measured by the information submitted to ISBE through its tracking system for students' enrollment and progress and by means of a survey administered by ISBE to all providers. Parental satisfaction shall be measured by a survey administered by ISBE to parents of students receiving services. Providers and school districts shall cooperate with ISBE to facilitate the administration of all surveys.
- b) For each of the criteria outlined in subsection (a) of this Section, ISBE will determine, based upon the evaluation rubric set forth in Appendix B to this Part, whether the provider's performance in each subject tutored falls into the category of "insufficient information", "below standards", "meets standards", or "above standards". Based on these determinations, ISBE will assign each provider the status of "good standing", "probationary status 1", or "probationary status 2", in accordance with the decision tree displayed in Appendix C to this Part. Each provider's status shall be determined on a statewide basis for each subject tutored ~~assigned separately with respect to each district served.~~

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

- c) If a provider's compliance with State or federal requirements or interactions with districts or parents indicate areas for improvement that are not serious enough to warrant corrective action under subsection (h) of this Section, the provider's status may also be assigned "with reservations". A provider assigned any status with reservations that fails to address the identified areas for improvement during the next SES reporting period shall be placed into corrective action in accordance with subsection (h) of this Section.
- d) A provider assigned the status of good standing shall not be required to take any action in response, other than addressing any reservations during the next SES reporting period.
- e) A provider assigned to probationary status 1 shall submit a remedial action plan describing the policies and practices the provider will immediately implement to return its status to good standing, including:
 - 1) specific, measurable steps to be taken;
 - 2) a timeline for these activities; and
 - 3) a budget for these activities.
- f) A provider assigned to probationary status 2 shall submit a reconstitution plan setting forth substantial changes the provider will immediately implement to return its status to good standing, including:
 - 1) a fundamental revision to the program described in the provider's approved application;
 - 2) professional development activities for all the provider's instructional staff serving the district;
 - 3) a plan of outreach to promote effective parental involvement in the provider's program;
 - 4) for each aspect described pursuant to subsections (f)(1) through (3) of this Section:

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

- A) the specific, measurable steps to be taken;
 - B) a timeline for these activities; and
 - C) a budget for these activities; and
- 5) a process for monitoring progress and revising the plan as needed.
- g) A provider that receives three consecutive determinations of probationary status 1 or lower with respect to any particular district shall be removed from the State-approved list ~~for that district~~, except that a provider that receives two consecutive determinations of probationary status 2 shall be removed.
- h) The State Superintendent of Education may require corrective action of a provider if compliance issues are raised through ISBE's monitoring of the provider's program. Providers placed in corrective action under this subsection (h) shall, within 30 days after receiving notice to this effect, submit to the State Superintendent of Education for approval a corrective action plan detailing how the provider intends to improve the deficiencies in its program. A provider shall be removed from the State-approved list if it fails to meet the requirements of its corrective action plan by the end of the SES reporting period following the provider's placement into corrective action.
- i) The State Superintendent of Education may immediately suspend a provider's services if ISBE determines that a threat exists to the health or safety of students or if necessary to investigate or remedy concerns regarding compliance issues or illegal practices allegedly engaged in by the provider.
- j) The State Superintendent of Education may remove a provider from the State-approved list upon 30 days' written notice if the provider has engaged in illegal or deceptive practices, violated any assurance or aspect of its application to ISBE, violated any assurance or aspect of a plan submitted to ISBE in accordance with this Section, falsified any information on its application or other reports to ISBE, or otherwise violated State or federal law.
- k) Any corrective action or termination rights ISBE has pursuant to this Part may be exercised solely with respect to the provider's program in one or more schools or districts, if the performance issues are localized.

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 675.175 Timetable for Implementation of the Program

The requirements of this Section shall pertain to a district's initial enrollment period for SES in each school year. Districts are strongly encouraged to undertake parental notification and student enrollment in advance of the timelines set forth in this Section. No provision of this Section shall be construed to limit a district's ability to offer multiple enrollment periods during the course of a school year. The deadline for each district's initial enrollment period shall be no later than 60 days after the first day of school or 60 days after the district's receipt of notification from ISBE as to its status, whichever occurs later.

- a) In any school year when the performance of a district's schools obligates the district to offer supplemental educational services, the district shall distribute to parents of eligible students a notification to this effect, accompanied by a selection form for use by the parents. Each district's notification and selection form must be approved by the State Superintendent of Education annually to ensure that it includes the material required by Section 1116(e)(2)(A) of NCLB, is free of unrelated information, and, to the extent practicable, is written in language that will be understandable to parents.
 - 1) No later than three weeks prior to the date on which the district plans to distribute its notification to parents, each district shall submit to the State Superintendent either:
 - A) the intended notification and the intended enrollment form, if separate; or
 - B) an assurance that its approved notification and enrollment form from the previous year will not be changed other than with respect to dates or available providers.
 - 2) Within four ~~two~~ weeks after receipt of a district's intended notification materials or assurance, the State Superintendent shall either approve the communication or specify areas of insufficiency that must be corrected before the notification can be released.
 - 3) This notification shall be distributed in such a way as to reach parents no later than two weeks prior to the close of the district's initial enrollment

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

period, and shall inform parents regarding all the approved providers that will be serving the schools attended by their respective students.

- 4) Concurrently with distribution of the notification to parents required under this subsection (a), each district shall post on its website:
- A) the number of students eligible for SES in each school year beginning with 2007-08;
 - B) the number of students who participated in SES in each school year beginning with 2007-08, provided that a student is considered to have participated if the district paid a provider for any services performed in connection with that student;
 - C) a list of the providers that are approved and have agreed to serve the district in the current school year; and
 - D) a list of the locations where each provider will offer services during the current school year.
- b) Prior to negotiating contracts with districts, each provider shall submit to ISBE, in the form specified by the State Superintendent, good-faith estimates of its per-pupil district program costs, as specified in Section 675.240 of this Part and based in each case on the approximate number of students expected to enroll in the provider's program. The State Superintendent shall make these estimates available to districts without delay. As soon as reasonably practicable, but in no event later than 45 days after the deadline for a district's initial enrollment period, the district shall submit to each provider a district-approved list of students whose parents have selected that provider, a fully executed contract, and any other information or approvals the provider may need from the district in order to comply with the requirements of this Part. The district may receive an extension of no more than 10 days' time by establishing to the satisfaction of the State Superintendent that the delay is due to circumstances beyond the district's control. The district shall also use its best efforts to deliver a fully executed contract to each provider, based on the provider's estimated per-pupil district program cost, within this timeframe.
- c) No later than 30 days after the district's delivery to the provider of a student list and fully executed contract and any other materials needed pursuant to subsection

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

(b) of this Section, each school district shall verify that each provider with which the district has executed a contract has begun the provision of tutoring to the students whose families chose that provider. If any provider has not begun to provide services, the provider may receive an extension of no more than 10 days' time by establishing to the satisfaction of the State Superintendent that the delay is due to circumstances that are beyond the provider's control and will be alleviated within 10 days. Otherwise, at the end of the 30-day period, the district shall notify the parents of the affected students to this effect and offer the parents a one-week opportunity to choose another approved provider. In any such instance, the district shall conclude any needed contractual revisions within one further week and ensure that the new provider begins serving each affected student no later than two weeks after receiving the applicable contract and the list of students. The other provisions of this subsection (c) notwithstanding, a district that has collected indications of parents' second choices may assign students to the programs selected and notify parents that this has occurred.

- d) Section 1116(e)(3)(A) of NCLB requires consultation by a district with a student's parents and the student's provider to develop a statement of specific achievement goals for the student, a statement regarding how the student's progress will be measured, and a timetable for improving the student's academic achievement in the subjects tutored. For any student with respect to whom this consultation has not occurred by the time the provision of tutoring is to begin pursuant to subsection (c) of this Section, the plans for the student shall stand as developed by the district and the provider, and the district shall maintain records demonstrating that reasonable efforts were made to consult with a parent, such as through telephone contact, e-mail, home visits, or contact at school events.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

SUBPART B: FINANCIAL REQUIREMENTS

Section 675.210 District Program Cost

- a) A provider's district program cost shall consist of amounts reported for each of the cost categories described in this subsection (a) that the provider seeks to charge to the district in accordance with its contract.
- 1) Direct program expenses caused directly by and related directly to the provision of SES within a district and costs attributable to fulfilling certain

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

State mandates imposed by this Part (collectively, “direct program expenses”). Subcategories of direct program expenses include:

- A) Program staff salaries or wages, payroll taxes, and fringe benefits (limited to staff having direct contact with students who receive services);
- B) Program consultants having direct contact with students who receive services;
- C) Program-related materials, supplies (e.g., replacement copies of consumable curricular materials, such as workbooks), and equipment (items costing more than \$500 and having a useful life of more than one year must be capitalized and depreciated on a straight-line basis);
- D) Costs related to the administration of student assessments;
- E) Instructional Staff Training Services – Workshops and demonstrations designed to contribute to the professional competence of the instructional staff;
- F) Snacks for program participants, provided that such snacks do not consist of confections, candy, potato chips, carbonated beverages, fruit drinks containing less than 50 percent pure fruit juice, tea, coffee, or other foods or beverages designated as “competitive foods” by the State Board of Education pursuant to 23 Ill. Adm. Code 305 (School Food Service);
- G) Program Insurance – All liability, malpractice, personal injury, and other types of insurance not reported as property insurance or as employee benefits;
- H) Rewards for student achievement provided in accordance with Section 675.30(m) of this Part;
- I) Student retention activities;
- J) Data entry related to State or local requirements for reporting on

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

enrollment and attendance;

K) Transportation of students to and from SES activities;

L) State cost reporting and auditing requirements; and

M) Other (must be specified).

2) Occupancy expenses for facilities housing SES program activities.
Subcategories of occupancy expenses include:

A) Lease, rental, or property taxes (less any revenues received from portions of a building not used for SES programs);

B) Operations and maintenance of buildings and equipment (including janitorial, building and grounds, and other maintenance supplies, equipment maintenance, utilities, telecommunications, and property/building insurance);

C) Housekeeping, maintenance, and security (including staff salaries, payroll taxes, and fringe benefits);

D) Mortgage and installment interest;

E) Operating interest; and

F) Other (must be specified).

3) Curriculum development expenses – Activities designed to aid providers in purchasing or preparing new curricular materials, refining or updating ~~developing~~ the existing curriculum, preparing and utilizing special curriculum materials, and understanding and appreciating the various techniques that stimulate and motivate pupils, including:

A) Salaries or wages, payroll taxes, and fringe benefits for staff engaged in curriculum development; and

B) Other (must be specified).

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

4) Administrative and general expenses not directly attributable to the provision of SES within a district (other than costs reported for curriculum and training), including expenses for all staff, facilities, supplies, and equipment not used in direct connection with SES program activities (i.e., staff not having regular contact with SES students, and supplies and equipment not used during the delivery of SES at a particular site). Subcategories of administrative and general expenses include:

- A) Salaries or wages, payroll taxes, and fringe benefits for all executive, administrative, managerial, office, and clerical employees not having direct contact with students who receive services;
- B) Legal and accounting services and other administrative consultants;
- C) Operations and maintenance of buildings and equipment – not assigned to program;
- D) Materials, supplies, and equipment – not assigned to program;
- E) Lease, rental, or property taxes for facilities not serving as a primary location for the delivery of SES (less any revenues from the rental of portions of the facility);
- F) Corporate royalty fees;
- G) Advertising and marketing expenses;
- H) Meals and entertainment expenses;
- I) Distributions to shareholders or retained earnings; and
- J) Other (must be specified).

b) Multiple Districts Served

If a provider serves multiple districts (either within or outside of Illinois), the provider's expenses in the categories outlined in subsections (a)(3) and (4) of this

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

Section must be prorated, first in accordance with the percentage of time applicable to SES in general, and second in accordance with the percentage of students served within each district. (Example: a provider's program manager earns an annual salary of \$100,000 and spends 50 percent of her time managing the provider's SES programs throughout the nation and the remainder of her time performing educational consulting services for districts. The provider serves 5,000 students in its SES programs nationwide, 1,000 of whom are within an Illinois district. \$10,000 of her salary may be reported as an actual cost of providing SES within that district. ($\$100,000 \times .5 \times .2 = \$10,000$.) All of the foregoing allocations must be in accordance with the following cost principles, as applicable:

- 1) OMB Circulars (5 CFR 1310 (2005)) available at www.whitehouse.gov/omb/circulars/index.html:
 - A) OMB Circular A-87 (Cost Principles for State, Local and Indian Tribal Governments);
 - B) OMB Circular A-21 (Cost Principles for Educational Institutions);
 - C) OMB Circular A-122 (Cost Principles for Non-Profit Organizations).
- 2) Federal Acquisition Regulation (applicable to for-profit providers) (48 CFR 9904 (2005)) available at www.access.gpo.gov/nara/cfr/waisidx_01/48cfr9904_01.html).

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 675.220 Non-Reimbursable Expenses and Revenue Offsets

- a) The expenditures discussed in this subsection (a) shall be non-reimbursable costs and shall not be calculated or reported as part of a provider's district program cost.
 - 1) Expenses resulting from transactions with related organizations that are greater than the expense to the related organization. Providers may be required to submit evidence to substantiate or refute any claim of relatedness in determining allowable costs.

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

- 2) Non-straight-line depreciation.
- 3) Bad debt.
- 4) Special benefits to owners, including owner and keyman life insurance, except insofar as required by lending institutions.
- 5) Charity grants.
- 6) Interest payments related to a provider's assets that are unrelated to an SES program.
- 7) Costs incurred by owners for non-SES activities, including that portion of overhead that should be allocated to these activities.
- 8) Printing expenses unrelated to the program.
- 9) Lobbying activities.
- 10) ~~Transportation of students to and from SES activities.~~
- 11) Meals provided to students enrolled in SES programs.
- 11)12) Confections, candy, potato chips, carbonated beverages, fruit drinks containing less than 50 percent pure fruit juice, tea, coffee, or other foods or beverages designated as "competitive foods" by the State Board of Education pursuant to 23 Ill. Adm. Code 305.
- 12)13) Fines and penalties.
- 13)14) Payments of principal on mortgages or loans.
- 14)15) Asset acquisition costs for items whose costs exceed \$500 and have a useful life of one year or more.
- 15)16) Legal expenses incurred for non-program activities or for litigation against governmental entities.

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

~~16)17)~~ Severance pay.

~~17)18)~~ Sales tax (in the case of not-for-profit organizations).

~~18)19)~~ Income tax.

~~19)20)~~ Costs of any kind prohibited by the Code of Ethics set forth in Section 675.30 of this Part.

~~20)21)~~ Economic incentives or gratuities of any kind to parents.

- b) Any revenue received by the provider for the provision of SES from any source other than the district shall be offset against the provider's district program costs.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 675.230 Reports of Actual Costs

- a) Each provider shall report to the State Board of Education, no later than September 30 following the end of the SES reporting period or 45 days after the end of the provider's fiscal year, whichever is later, and using a form provided by ISBE, the provider's district program cost for each district the provider served. The cost report shall also indicate the payments received or invoiced to the district for the SES reporting period, as well as the difference between these payments and the district program cost.
- 1) Each provider shall identify all transactions with related organizations and the actual cost of each transaction.
 - 2) For purposes of this subsection (a)(2), a student "served" is one with respect to whom a provider performed any service that was billed to a district. Each non-governmental provider serving more than 50 students within a district must engage an independent Licensed Certified Public Accountant (CPA) who is a member of the American Institute of Certified Public Accountants to perform agreed-upon procedures on its reported information. An agreed-upon procedures report must be submitted with the district program cost report required by this subsection (a). The agreed-upon procedures must include the following.

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

- A) Obtain the general ledger trial balance as of the reporting date and agree or reconcile the balances in the trial balance to the cost report;
- B) Inquire of members of management who have responsibility for financial and accounting matters concerning:
 - i) whether the cost report has been prepared using the accrual basis;
 - ii) the procedures for recording, classifying, and summarizing transactions and accumulating information;
 - iii) the method used to allocate curriculum development and administrative and general expenses to the district;
 - iv) known transactions with related organizations and whether the actual cost of such transactions was accurately reported; and
 - v) the provider's procedures for identifying non-reimbursable expenses;
- C) Identify and report on results from the following procedures:
 - i) compare the actual average cost per pupil as shown on the cost report to the average cost per pupil shown in the contract with the district, and report on management's explanation for any differences greater than 10 percent; and
 - ii) compare current-year and prior-year cost results by report line item, and report on management's explanations for any differences in line item amounts that exceed 10 percent of the prior year's amounts, or if the total cost for the reporting period exceeds the total cost for the prior year by more than 5 percent;
- D) For providers serving more than 200 students in a district, select a sample of program and curriculum and training expenses for

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

source document testing. The sample must be representative of the population and represent no less than 25 percent of the expenses for each category. As a part of testing procedures, perform the following:

- i) verify that the provider properly classified costs according to the categories and subcategories set forth in Section 675.210 of this Part, and report on sampled items that were not classified in accordance with that Section;
 - ii) verify that sampled items are not non-reimbursable as defined in Section 675.220 of this Part, and report on sampled items that are non-reimbursable as defined in that Section; and
 - iii) verify that curriculum development and administrative and general expenses have been allocated to the district in an accurate and consistent manner and in accordance with Section 675.210(b) of this Part, and report on allocations for any sampled items that are not in accordance with that Section; and
- E) Report on whether, as determined by the procedures performed under subsection (a)(2)(D) of this Section, the sampled items contain errors, omissions, inconsistencies, or non-compliance with the cost reporting requirements set forth in this Section, and specify each material error, omission, or inconsistency.
- 3) An agreed-upon procedures report submitted pursuant to subsection (a)(2) of this Section shall indicate whether all elements of the provider's cost report comply with the requirements of this Subpart B. In addition to the specific items to be reported under subsection (a)(2) of this Section, the CPA shall also report on:
- A) any unreconciled differences between the general ledger trial balance and the cost report;
 - B) any cost report that was not prepared on the accrual basis;

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

- C) any entries that are not supported by or do not agree with documentation provided by management;
 - D) any cost allocation methods that are not in accordance with the requirements set forth in Section 675.210(b) of this Part; and
 - E) any other material error, omission, inconsistency, or area of non-compliance that comes to the CPA's attention during the course of conducting the agreed-upon procedures required by subsection (a)(2) of this Section.
- b) Each provider shall report the number of students enrolled in the provider's program during each SES reporting period. If a student's services are terminated during the SES reporting period, the student shall be reported in accordance with the percentage of the program completed prior to termination of services. For example, a student who completed 60 percent of the provider's program prior to termination of services should be reported as .6 of a student on the provider's cost report.
- c) All reporting shall be provided on an accrual basis.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

Section 675.APPENDIX B Evaluation Rubric

Criterion	Insufficient Information	Below Standards	Meets Standards	Above Standards
Student Achievement (See Note 1)	There is insufficient information available to determine student achievement outcomes.	The effect size for students in the provider's program can be identified and does not demonstrate any gains that can be attributed to tutoring received from the provider.	The effect size for students in the provider's program can be identified and does demonstrate gains that can be attributed to tutoring received from the provider.	The effect size for students in the provider's program can be identified and is in the top one-third of those providers demonstrating gains that can be attributed to tutoring received from the provider.
Attendance (See Notes 2 and 3)	Not applicable. Providers that do not submit attendance data will not be included on the list of eligible providers for the following SES reporting period.	(1) The provider's <u>average attendance rate</u> is one full standard deviation below the <u>overall average mean attendance rate</u> ; and (2) The provider cannot demonstrate, based on a survey and ISBE's verification of reported information, <u>satisfactorily</u> that it has made dedicated efforts to encourage student attendance.	The provider's <u>average attendance rate</u> is between one full standard deviation below and one full standard deviation above the <u>overall average mean attendance rate</u> .	The provider's <u>average attendance rate</u> is one standard deviation or more above the <u>overall average mean attendance rate</u> .

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

Parent Satisfaction	There is insufficient information available to determine parent satisfaction outcomes.	<u>More than 25%</u> Fewer than 75% of respondents indicate: (1) overall <u>dissatisfaction</u> satisfaction with the provider; or (2) <u>the provider did not consult with the parent regarding results of the student's diagnostic test and plans for the program of the student's study</u> they were consulted in the development of the student's individual learning plan.	<u>More than 10% but no more than 25%</u> 75-89% of respondents indicate: (1) overall <u>dissatisfaction</u> satisfaction with the provider; and (2) <u>the provider did not consult with the parent regarding results of the student's diagnostic test and plans for the program of the student's study</u> they were consulted in the development of the student's individual learning plan.	<u>No more than 10%</u> 90-100% of respondents indicate: (1) overall <u>dissatisfaction</u> satisfaction with the provider; and (2) <u>the provider did not consult with the parent regarding results of the student's diagnostic test and plans for the program of the student's study</u> they were consulted in the development of the student's individual learning plan.
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Note 1: The evaluation shall be limited to students who have received at least 18 hours of instruction from a given provider.

Note 2: Calculated based on attendance rate for sessions scheduled by the provider.

Note 3: A “provider’s average attendance” is calculated by dividing the total number of hours the provider served by the total number of students the provider served. The “overall average attendance” is calculated by dividing the sum of all the “provider’s average attendances” by the total number of providers. “Mean attendance rate” means, ~~for programs serving the Chicago Public Schools, the mean attendance rate for all programs serving that district. For programs in districts other than the Chicago Public Schools, “mean attendance rate” means the mean attendance rate for all programs in districts outside the Chicago Public Schools.~~

(Source: Amended at 33 Ill. Reg. _____, effective _____)

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

Section 675.APPENDIX C Decision Matrix

Determination Based on Evaluation	Status*
<ul style="list-style-type: none">• Student achievement: insufficient information, meets standards or above standards.• Attendance: <u>insufficient</u> information, meets standards, or above standards.• Parent satisfaction: insufficient information, meets standards or above standards.	Maintain or return to good standing.
<ul style="list-style-type: none">• Student achievement: insufficient information, meets standards or above standards.• Either attendance or parent satisfaction below standards.	Probationary status 1.
<ul style="list-style-type: none">• Student achievement: below standards (regardless of attendance or parental satisfaction).	Probationary status 2.

* Any status level may be assigned “with reservations” in accordance with Section 675.90(c) of this Part.

(Source: Amended at 33 Ill. Reg. _____, effective _____)