

**Ad Hoc Rules Committee of the Whole**  
**June 18, 2009**  
**9:00 a.m.**

(This meeting will begin immediately following the previous session.)

**All open meetings will be audio cast on the Internet at: [www.isbe.net](http://www.isbe.net)**

**AGENDA** (*timeframes are estimated for planning purposes*)

1. Roll Call
  2. Board Member Participation by Other Means
  3. Public Participation **9:00 – 9:15 a.m.**
  4. Minutes of the May Ad Hoc Rules Committee Meeting (**pp. 2-4**)
  - \*5. Rules for Initial Review **9:15 – 10:00 a.m.**
    - a. Part 180 (Health/Life Safety Code for Public Schools) (*Linda Mitchell*) (**pp. 5-13**)
    - b. Part 252 (Driver Education) (*Linda Mitchell*) (**pp. 14-25**)
    - c. Part 120 (Pupil Transportation Reimbursement) (*Sally Vogl*) (**pp. 26-36**)
    - d. Part 401 (Special Education Facilities Under Section 14-7.02 of the School Code) (*Sally Vogl*) (**pp. 26-28; 37-39**)
    - e. Part 675 (Providers of Supplemental Educational Services) (*Sally Vogl*) (**pp. 26-28; 40-46**)
  - \*6. Rules for Adoption **10:00 – 10:15 a.m.**
    - a. New Part 405 (Payments to Certain Facilities Under Section 14-7.05 of the School Code) (**pp. 47-64**)  
(*Beth Hanselman*)
    - b. Part 575 (School Technology Program) (*Connie Wise*) (**pp. 65-69**)
  7. Annual Report on the Status of Agency Rulemaking (**pp. 70-73**)
  8. Committee Agenda Planning/Additional Items (no committee meetings until September)
  9. 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

Wednesday, May 20, 2009

1:00 p.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  
Joyce Karon  
Lanita Koster  
Chris Ward

### Absent

### Others

Chris Koch  
Darren Reisberg  
Sally Vogl  
Tim Imler  
Linda Jamali  
Gayle Johnson  
Robin Lisboa  
Steve Parrott  
Joyce Zurkowski

**Chairman Ruiz called the meeting to order at 1:05 p.m. He noted that all the Board members were present and asked each to identify him- or herself for the record. There was no need for Board member participation by other means, and no one had signed up for public participation.**

#### **4. APPROVAL OF MINUTES**

Dean Clark moved approval of the minutes of the Committee's meeting of April 16, 2009, and David Fields 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 listed the several sets of rules that were being presented for initial review. These included amendments to Part 1 (Public Schools Evaluation, Recognition and Supervision), Part 24 (Standards for All Illinois Teachers), Part 25 (Certification), and Part 120 (Pupil Transportation Reimbursement), as well as a new set of rules for Voluntary Registration and Recognition of Nonpublic Schools (Part 425). Mr. Reisberg noted that revisions had been made in the materials for Parts 1 and 25 after the packet had been printed and posted. He also indicated that several division administrators and other staff members were available to respond to any questions the Board members might have on any of these rules.

Lanita Koster requested further explanation of the discussion in the cover memo for Part 1 on the subject of requirements for assignment. Rules Coordinator Sally Vogl drew the distinction between the function of the personnel-related portions of Part 1 (to identify whom districts may assign to various functions) and the general function of Part 25 (to establish requirements for receiving and maintaining various educational credentials). This information was related to the deletion of material on the use of noncertified staff from Part 25 and its placement into Part 1 in accordance with that organizational principle.

Andrea Brown requested confirmation that the changes to Section 1.420(o) regarding programs of library/media services would not change what districts needed to do. Ms. Vogl confirmed this and explained that the revisions were being made solely for the purpose of further clarification as to the rule's current meaning.

In connection with Section 1.530, Joyce Karon noted that growing numbers of students are not being vaccinated due to their parents' fears that vaccines may cause other health problems or disabilities. Darren Reisberg outlined the two obligations of school districts (i.e., to ensure that the percentage of their students who have been vaccinated complies with the law and to report the relevant data to ISBE) and explained that the purpose of this rule was to inform districts of the circumstances under which a penalty would be imposed for failure to comply with either of these requirements. This was intended to serve as a deterrent to noncompliance. General discussion followed as to the issues associated with these requirements, particularly given that the only currently available exemption is based on religious grounds. It was noted that, even within the medical community, there is no consensus as to the possible detrimental effects of vaccination. Ms. Karon expressed a desire for ISBE to be proactive in developing an appropriate approach to the increase in the tendency of parents to forego immunization because of the other health concerns. Mr. Reisberg indicated that information from other states could be reviewed to determine whether other, preferable ways to handle this matter had been found.

Chairman Ruiz asked why the new language in Part 24 referred to "semester hours" rather than "credit hours". Assistant Superintendent Linda Tomlinson explained that the term "credit hours" could refer either to semester hours or to quarter hours and confirmed that all the certification requirements were intentionally stated in terms of semesters of study.

Superintendent Koch referred to the review of the certification rules by the State Teacher Certification Board (STCB) and noted that, although the STCB had recommended these rules for consideration by the State Board, the STCB had excepted from its recommendation the proposed new requirement for discrete courses in methods of teaching reading and in identifying and meeting the needs of students with disabilities. He pointed to the study done several years previously by Vanderbilt University that had identified these areas as weaknesses in Illinois. On that basis, he and various Board members felt inclined to proceed with this aspect of the rulemaking so that the public comment period could be used to gather more information, including the cost aspect. It was noted that these provisions could be omitted at the time of adoption if need be. This would affect the amendments to Part 24 and selected portions of the amendments to Part 25.

Dr. Brown inquired as to what had caused the development of these new provisions. Dr. Tomlinson responded by noting the drop in students' reading scores and the lack of a uniform requirement that reading methods form part of a teacher's formal preparation, particularly for the high school level. She stated that some institutions indicate that they do infuse this material into some of their programs, while others may use their regular freshman English courses for this purpose. She reiterated the importance of the ability to teach reading skills and reading comprehension and the concern that many teachers lack these competencies, based on the evidence provided by students' test scores. Dr. Brown voiced apprehension regarding the impact of new requirements on the length of time needed to complete a preparation program and also inquired about the State Teacher Certification Board's action on these provisions.

Lanita Koster asked what the specific objections of the State Teacher Certification Board had been, and Dr. Tomlinson pointed to the proposed requirements for two discrete courses. Some institutions and programs already have these, while others do not. She acknowledged the pressures that bear on institutions not to add semester hours to their programs but believed it would be possible to accommodate these requirements through redesigning rather than adding. Superintendent Koch noted the possibility of revisiting the study that had been done through Vanderbilt University. It would be an option for the Board to remove these provisions from the current rulemaking and review what is known about teachers' preparation and students' achievement in reading.

Joyce Karon re-emphasized the importance of the discrete skills that are needed by teachers at the middle and high school levels, stating that even very skilled teachers may not be able to identify where students are having problems with reading. She was concerned that Illinois would

remain “behind the eight-ball” in this respect without additional emphasis on this preparation. David Fields noted that this matter had been identified in several national studies. Dr. Brown stated that she did not disagree about the importance of this instruction but only remained unsure of the long-term impact of the proposed additional requirements. Further discussion on these points ensued, at the conclusion of which it was agreed to publish these changes as part of the larger rulemaking and await the outcome of the public comment period unless public participation in the plenary session the next day provided a compelling reason not to do so.

Vinni Hall asked why Section 25.493 was being repealed and received the reply that no internship programs were being operated under that rule.

The presentation of new Part 425 regarding nonpublic school recognition prompted Dr. Hall to inquire generally about the requirements that applied to home schooling, and Darren Reisberg provided brief information on this topic.

**6. RULES FOR ADOPTION**

Mr. Reisberg then moved on to the rulemakings for Parts 140 (Calculation of Excess Cost Under Section 18-3 of the School Code) and 240 (Alternative Learning Opportunities Program). These rules had been presented for initial review at the February Board meeting and subsequently published in the Illinois Register. No public comment had been received on either of these sets of amendments. Division Administrator Tim Imler clarified for the record that the costs referred to in Part 140 were not related to special education but rather to general education provided in detention centers and other facilities.

**7. COMMITTEE AGENDA PLANNING/ADDITIONAL ITEMS**




Mr. Reisberg noted that the agenda for the June meeting would be lighter and would be likely to include amendments to Parts 180 (Health/Life Safety Code for Public Schools), 227 (Gifted Education), and 252 (Driver Education), all for initial review, as well new Part 405 (Payments to Certain Facilities Under Section 14-7.05 of the School Code) for adoption.

**8. ADJOURNMENT**

Vinni Hall moved that the meeting be adjourned. Dean Clark seconded the motion, and the meeting was adjourned at 1:40 p.m.

**ILLINOIS STATE BOARD OF EDUCATION MEETING**  
**June 17-18, 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 Initial Review – Part 180 (Health/Life Safety Code for Public Schools)

**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 to Part 180 for the Board's initial review.

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

This item of rulemaking relates to Goal 3, a safe and healthy learning environment for all students, as ensuring this is the overall function of Part 180.

**Expected Outcome of Agenda Item**

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

**Background Information**

The major aspect of these amendments is to incorporate by reference the newest editions of the International Building Code and its sub-codes as the requirements for school construction in Illinois. This change would affect projects for which design contracts are executed on or after January 1, 2010. In addition, a technical correction is being made to eliminate an outdated reference to the Fall Enrollment and Housing Report.

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

Policy Implications: Please see above.

Budget Implications: While no detailed information is available, it should be acknowledged that certain aspects of the updated codes may entail higher costs than would be true under the 2006 editions. In some specific instances, these are expected to be mitigated or offset by the resulting energy savings so that districts would recoup the additional funds spent.

Legislative Action: None needed.

Communication: Please see "Next Steps" below.

### **Pros and Cons of Various Actions**

Promulgation of these amendments will permit reliance on the most updated versions of various national building codes and standards. Without conducting this rulemaking, ISBE will need to continue enforcing the 2006 editions rather than moving forward to use the 2009 editions.

### **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:

Health/Life Safety Code for Public Schools (23 Illinois Administrative Code 180),

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.

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STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES  
SUBTITLE A: EDUCATION  
CHAPTER I: STATE BOARD OF EDUCATION  
SUBCHAPTER d: CONSTRUCTION AND BUILDING MAINTENANCE

PART 180  
HEALTH/LIFE SAFETY CODE FOR PUBLIC SCHOOLS

SUBPART A: GENERAL PROVISIONS

Section	
180.10	Purpose and Scope
180.20	Severability
180.30	Definitions
180.40	Responsibilities of Local School Board
180.50	Responsibilities of Regional Superintendent
180.60	Applicability
180.70	Variances and Waivers
180.80	Vehicular Facilities

SUBPART B: REQUIRED QUALIFICATIONS

Section	
180.100	Approval Procedure
180.110	Specific Requirements for Plan Reviewers
180.120	Specific Requirements for Inspectors

SUBPART C: CONSTRUCTION AND LIKE ACTIVITIES

Section	
180.200	Application for Building Permit
180.210	Issuance of Building Permit
180.220	Inspections During and Upon Completion of Construction
180.225	Application for Certificate of Occupancy
180.230	Certificate of Occupancy
180.240	Demolition or Movement of Buildings or Other Structures
180.250	Sprinkler Systems
180.260	Sprinkler System Requirements and Applicability (Repealed)
180.270	Standards for Sprinkler Systems (Repealed)

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180.280 Standards for Sprinkler System Plans and Specifications (Repealed)

SUBPART D: INSPECTIONS

Section

180.300 Annual Building and Fire Safety Inspections  
180.310 Decennial Inspections  
180.320 Safety Survey Report  
180.330 Safety Reference Plans  
180.340 Local Board Action and Approval of Safety Survey Reports

SUBPART E: ADDRESSING VIOLATIONS

Section

180.400 Violations  
180.410 Unsafe Conditions  
180.420 Temporary Closing and Condemnation

SUBPART F: FIRE PREVENTION AND SAFETY FINANCING

Section

180.500 Request for Authorization  
180.510 Initiation of Work (Repealed)  
180.520 Accounting for Fire Prevention and Safety Funds (Repealed)  
180.530 Emergencies  
180.540 Cost Estimates

**AUTHORITY:** Implementing and authorized by Sections 2-3.12, 2-3.25, 2-3.137, and 17-2.11 of the School Code [105 ILCS 5/2-3.12, 2-3.25, 2-3.137, and 17-2.11].

**SOURCE:** Adopted at 19 Ill. Reg. 5004, effective March 24, 1995; amended at 22 Ill. Reg. 12514, effective July 6, 1998; amended at 29 Ill. Reg. 15904, effective October 3, 2005; amended at 31 Ill. Reg. 14296, effective September 25, 2007; amended at 32 Ill. Reg. 13351, effective July 25, 2008; amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

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SUBPART A: GENERAL PROVISIONS

**Section 180.60 Applicability**

- a) Except as provided in subsection (b) of this Section, every facility other than a vehicular facility shall conform to the standards identified in this subsection (a) and published by the International Code Council, Inc., 4051 W. Flossmoor Road, Country Club Hills, Illinois 60478-5795, unless a variance or waiver is obtained pursuant to Section 180.70 of this Part or use of a temporary facility is authorized pursuant to Section 180.230 of this Part. No later amendments to or editions of these standards are incorporated by this Section. The effective date called for in Section 3410.2 of the International Building Code (IBC) shall be the effective date shown for this Section 180.60. Except for the “minimum conditions” presented in the International Property Maintenance Code and the International Fire Code, the IBC permits a facility constructed prior to its effective date to be maintained in compliance with the building code that previously applied to the facility, and provides separate provisions governing the alteration, repair, change of occupancy, replacement of component parts or systems, and enlargement of an existing facility. (IBC, Section 102.6; Chapter 34, and the International Existing Building Code)
- 1) Through December 31, 2009, the ~~The~~ applicable standards shall be the 2006 International Building Code and its subcodes as follows:
    - 1) A) the 2006 International Energy Conservation Code (IECC);
    - 2) B) the 2006 International Existing Building Code (IEBC);
    - 3) C) the 2006 International Fire Code (IFC), excluding Chapter 4;
    - 4) D) the 2006 International Fuel Gas Code (IFGC);
    - 5) E) the 2006 International Mechanical Code (IMC); and
    - 6) F) the 2006 International Property Maintenance Code (IPMC).
  - 2) With respect to any project for which the design contract is executed on or after January 1, 2010, the applicable standards shall be the 2009 International Building Code and its subcodes, as follows:

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- A) the 2009 International Energy Conservation Code (IECC);
  - B) the 2009 International Existing Building Code (IEBC);
  - C) the 2009 International Fire Code (IFC), excluding Chapter 4;
  - D) the 2009 International Fuel Gas Code (IFGC);
  - E) the 2009 International Mechanical Code (IMC); and
  - F) the 2009 International Property Maintenance Code (IPMC).
- b) The applicability of the codes listed in subsection (a) of this Section shall be limited as set forth in this subsection (b).
- 1) The provisions of 29 Ill. Adm. Code 1500 (Joint Rules of the Office of the State Fire Marshal and the Illinois State Board of Education: School Emergency and Crisis Response Plans) shall apply instead of Chapter 4 of the International Fire Code.
  - 2) The administrative provisions of this Part shall apply instead of the administrative provisions contained in Sections 101.4.4, 103-108, 110-113, and 115 of Chapter 1 of the International Building Code.
  - 3) The Illinois Accessibility Code (71 Ill. Adm. Code 400) shall apply instead of the accessibility provisions set forth in Chapter 11 of the International Building Code.
  - 4) The requirements set forth in the Illinois Plumbing Code (77 Ill. Adm. Code 890) shall apply instead of those expressed in Section 101.4.4 of Chapter 1 and incorporated in Chapter 35 of the International Building Code.
  - 5) The requirements set forth in the Illinois State Fire Marshal's rules titled Boiler and Pressure Vessel Safety (41 Ill. Adm. Code 120) shall apply instead of those expressed in the Boiler and Pressure Vessel Safety Code (ASME 98) published by the American Society of Mechanical Engineers and incorporated in Chapter 35 of the International Building Code.

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

SUBPART F: FIRE PREVENTION AND SAFETY FINANCING

**Section 180.540 Cost Estimates**

- a) Administration and implementation of this Subpart require that many costs be estimated and certified as a prerequisite to approval of proposed work or determination of the applicability of particular rules. The following standards and procedures are to be used where certification of cost estimates is required.
- b) All cost estimates shall be based upon published price guides such as those compiled by R. S. Means Company, Inc., Frank Walker Company, and McGraw-Hill Cost Information Systems.
  - 1) The source of the cost figures shall be specifically identified by title, publisher, and period of effectiveness.
  - 2) The cost factors to be used shall be the mean or median costs published for such construction nationally.
  - 3) These raw cost estimates shall be adjusted by applying the appropriate inflation factors, size adjustment factors, and regional cost adjustment factors.
  - 4) The estimate shall be based upon the work to be performed as described in the violation and recommendation schedule.
  - 5) The estimate shall specify the unit or units of measure, the quantity of such units necessary, and the unit cost installed.
  - 6) A total of estimated costs must be provided, along with a general breakdown.
  - 7) The resulting figure shall be referred to as the Adjusted Gross Estimated Cost.

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- c) Estimates of the replacement cost of a school shall be based upon the cost of constructing a new building of equal size, serving like grades, and for the same programmatic purposes as the facility to be replaced. The procedure is as follows.
- 1) Determine the type of school to be built based upon its classification as derived from the school's enrollment reported as of the last school day in September of ~~as reflected on the Fall Enrollment and Housing Report for~~ the immediately preceding school year.
  - 2) Determine the size of the school to be built, based upon the square footage of the school to be replaced.
  - 3) Multiply the square footage of the school to be built by the appropriate square-foot cost factor.
    - A) The published cost factor for elementary schools shall be used for preschools, kindergartens, and elementary schools.
    - B) The published cost factor for junior high/middle schools shall be used for schools housing various combinations of grades 5 through 9.
    - C) The published cost factor for high schools shall be used for schools housing combinations of grades 9 through 12.
  - 4) The resulting figure shall be referred to as the Adjusted Gross Estimated Replacement Cost of the school.
- d) For purposes of estimating costs related to energy conservation measures, the procedures outlined in "ASTM Standards on Building Economics, Fifth Edition," published by the American Society for Testing and Materials (2004; 1916 Race Street, Philadelphia, Pennsylvania 19103-1187), shall be used. No later amendments to or editions of these standards are incorporated by this rule.
- 1) In addition, the sources of heating degree days, cooling degree days, and energy consumption data, and the basis for determining the efficiency of existing systems and equipment and their useful lifetimes shall be noted.

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- 2) Where Fire Prevention and Safety Funds are to be used to finance all or part of energy conservation measures, the payback period calculations must show that payback can be achieved over the useful lifetime of the proposed measure or 20 years, whichever is less.

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

**ILLINOIS STATE BOARD OF EDUCATION MEETING**  
**June 17-18, 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: Proposed Amendments for Initial Review: Part 252 (Driver Education)

**Materials:** Recommended Amendments

**Staff Contact(s):** Tim Imler

**Purpose of Agenda Item**

The purpose of the 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 agenda item links to Strategic Plan Goal 1 (academic achievement and success) since it will enable school districts to provide behind-the-wheel driving instruction via contract for those students who are unable to participate in the regular program of instruction due to physical or cognitive limitations.

**Expected Outcome(s) of Agenda Item**

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

**Background Information**

The proposed amendments to rules governing Driver Education (Part 252) include three changes, each of which is described below.

New Section 252.20(f) is being added to provide flexibility for school districts with students who require adaptive driver's education for the behind-the-wheel component of the course. Currently, the rules prohibit a school district from providing either component of its driver education program (i.e., classroom or behind the wheel) through a contract with an individual or commercial driving school. A contractual arrangement may only be used if the district first secures relief from the regulatory requirement using the waiver process set forth in Section 2-3.25g of the School Code.

In the last several years, agency staff have fielded an increasing number of inquiries from school districts for approval to enter into contracts for the services of facilities offering adaptive

driver's education instruction. Districts for which the waiver process would have been impractical have been advised to modify their equipment to meet the needs of the students needing the specialized instruction. As an alternative to this costly remedy, agency staff also have suggested the district work with the student's parents to arrange for the services and then have the parents seek reimbursement for their costs from the resident school district. Neither of these solutions has been satisfactory, however.

In drafting the proposed amendments, staff worked with the Secretary of the State's (SOS) office to learn more about facilities that offer adaptive driver's education. Such facilities are approved by SOS as commercial driving schools to provide the program of instruction required under Section 27-23 of the School Code and the Driver Education Act (105 ILCS 5/23-24 through 24.8). They also employ one or more instructors who have been certified as "driver rehabilitation specialists" by a national organization called ADED -- the Association for Driver Rehabilitation Specialists. Both of these criteria have been placed in the proposed amendments. After drafting, an external review of the proposed amendments was conducted with SOS and two certified driver rehabilitation specialists.

Districts wishing to enter into a contract with a facility that does not meet the requirements as set forth in the proposed amendments may submit a waiver under Section 2-3.25g of the School Code seeking permission to do so.

A companion change is being made in Section 252.30 to explicitly state that districts may receive reimbursement for those students successfully completing the course under an allowable contractual arrangement. (See Section 252.30(d).)

The final change adds a cross-reference in Section 252.40(a) to the new requirements for the endorsement in safety and driver education that the Board considered at its meeting in May. Instructors in both public and nonpublic schools must meet these requirements.

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

Policy Implications. See "Background" above.

Budget Implications. See "Background" above.

Legislative Action. None.

Communication. See below.

### **Pros and Cons of Various Actions**

The proposed amendments will enable school districts to more effectively meet the instructional needs of students who require specialized instruction in the behind-the-wheel component of the driver education program. While it is possible for a school district to request permission through the waiver process to enter into a contract with a facility to provide these services, the requirements of that process may make it impractical if the district needs to serve a student in a timely fashion.

### **Superintendent's Recommendation**

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

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

Driver Education (23 Illinois Administrative Code 252),

including publication of the proposed rules in the Illinois Register.

### **Next Steps**

With the Board's authorization, staff will submit the proposed amendments to the Administrative Code Division for publication in the Illinois Register to elicit public comment. Additional means, such as the *Superintendent's Weekly Message* and the agency's website, will be used to inform interested parties of the opportunity to comment on this rulemaking.

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NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER g: SPECIAL COURSES OF STUDY

PART 252

DRIVER EDUCATION

Section

252.10	Definitions
252.20	Administration and Procedures
252.25	Eligibility of Students
252.30	The Terms of Reimbursement for Public School Participation in the Course
252.40	Driver Education Personnel Requirements
252.50	Commercial Schools (Transferred)

**AUTHORITY:** Implementing and authorized by Section 27-23 of the School Code and the Driver Education Act [105 ILCS 5/27-23 and 27-24 through 27-24.8].

**SOURCE:** Adopted September 4, 1975; codified at 8 Ill. Reg. 1585; emergency amendment at 9 Ill. Reg. 15558, effective October 1, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 12922, effective July 22, 1986; Section 252.50 transferred to 92 Ill. Adm. Code 1060.240 (Secretary of State) pursuant to Section 5-80(d) of the Illinois Administrative Procedure Act [5 ILCS 100/5-80(d)] and Section 6-411 of the Illinois Driver License Law [625 ILCS 5/6-411] at 11 Ill. Reg. 1631; amended at 18 Ill. Reg. 16307, effective October 25, 1994; amended at 22 Ill. Reg. 7577, effective April 17, 1998; amended at 26 Ill. Reg. 10476, effective July 1, 2002; amended at 28 Ill. Reg. 15481, effective November 22, 2004; amended at 29 Ill. Reg. 15936, effective October 3, 2005; amended at 32 Ill. Reg. 10922, effective July 7, 2008; amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 252.20 Administration and Procedures**

- a) Availability of the Course -- Any public school district maintaining grades 9 through 12 must provide the driver education course for any legal resident of the district between the ages of 15 and 21 years who requests the course, provided such resident is eligible as set forth in Sections 27-23 and 27-24.2 of the School Code. All eligible students who reside in a school district must be provided an equal opportunity to enroll in driver education, and school districts are obligated to make the driver education course available within a reasonable length of time after each individual's declaration of intent is made. A "reasonable length of

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time” shall be determined based on the student's individual needs and the school district's ability to meet those needs, provided that the course must be offered within 12 months after the declaration of intent.

- 1) Public school districts that include high schools must provide the driver education course for all eligible students of the district who attend a nonpublic school that does not offer the course.
  - 2) Nonpublic schools may offer a driver education course at their own expense.
  - 3) Public school districts that include high schools must provide the driver education course for all eligible Illinois students, regardless of the district of their residence, who attend a nonpublic school located within that school district's boundaries when application is made by the administrators of the nonpublic school. Such an application shall constitute a declaration of intent by the affected student or students. *By April 1, the nonpublic school shall notify the district offering the course of the names and district numbers of the nonresident students desiring to take such a course the next school year. The district offering the course shall notify the district of residence of those students affected by April 15.* [105 ILCS 5/27-24.4]
  - 4) An eligible student may elect to enroll in a driver education course at a commercial driver training school at his or her expense.
- b) When to Offer the Course -- Any school district that includes one or more high schools offering a driver education course must offer both portions of the course during the school day and may offer either or both portions at other times.
- 1) Enrollment in a driver education course must be closed at the inception of the course, except as provided in subsection (b)(2) of this Section. Another course may be started when enrollment warrants.
  - 2) A student who transfers to a new school after the inception of the driver education course at that school may be allowed to enroll in the course under the following conditions.

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- A) The driver education course in which the student was enrolled at the previous school offered 30 clock hours of classroom instruction and 6 clock hours of behind-the-wheel instruction.
  - B) The length of time the student previously participated in the driver education course (prior to his or her transfer) is sufficient to allow the student to complete the course at the new school within the time during which it is offered.
  - C) The new school has received verification, either by mail or in an electronic format, of the student's previous participation in the driver education course (i.e., length of time in the course, grade(s) received). The verification shall be placed in the student's temporary school record as defined in 23 Ill. Adm. Code 375.10.
- 3) *A high school student may be allowed to commence the classroom instruction part of the driver education course prior to reaching age 15 if the student will be eligible to complete the entire course within 12 months after being allowed to commence classroom instruction. (See Section 27-24.2 of the School Code.)*
- c) Course Organization -- Driver education courses must be organized according to the standards established in the Driver Education Act [105 ILCS 5/27-23 through 27-24.8] and this Part.
- 1) The classroom and the behind-the-wheel instruction each must be scheduled regularly throughout a period of not less than six complete weeks (four weeks allowable in summer courses and for schools using block scheduling).
  - 2) Behind-the-wheel instruction shall not begin until the student has started classroom instruction; however, a student may be enrolled in both portions of the course on a concurrent basis.
  - 3) At least one but not more than three student observers must be in the car during behind-the-wheel instruction. At least one hour of observation time is required for each hour of behind-the-wheel instruction.
- d) Dual-Control Cars -- The instructor shall occupy the front passenger seat. The driver education car is to be used for instructional purposes. A school district

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may not use the driver education car for purposes other than those designated by agreement or contract.

- e) Contracting -- In fulfilling the requirements of the Driver Education Act, a public school district must either offer the course in its own school or must provide the course for its students, and any other legal residents of the school district who request the course, through a joint agreement with another public school district or through the provisions of cooperative school district programs. Schools offering a driver education course shall not contract for the course from any individual or commercial driver training school, except as provided in subsection (f) of this Section.
- f) A public school district may contract for the provision of the behind-the-wheel portion of the course for students who have physical limitations that would require the use of a specially equipped car or for students who require other specialized instruction (e.g., vision or hearing impairments, cognitive disabilities) provided that:
- 1) the facility is approved by the Illinois Secretary of State (SOS) as meeting all of the requirements of Chapter 6, Article IV of the Illinois Vehicle Code [625 ILCS 5/6-401 to 5/6-424] and of rules promulgated by SOS (see 92 Ill. Adm. Code 1030 (Issuance of Licenses));
  - 2) each instructor providing instruction to the public school district's students is certified as a Driver Rehabilitation Specialist by the ADED – the Association for Driver Rehabilitation Specialists (see <http://www.driver-ed.org/i4a/pages/index.cfm?pageid=1>; 2425 N. Center Street, #369, Hickory, North Carolina 28601); and
  - 3) the facility conducts an evaluation of the student's physical and cognitive abilities to determine the individualized course of instruction.

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

**Section 252.30 The Terms of Reimbursement for Public School Participation in the Course**

- a) Claims for Reimbursement -- *These shall be made under oath or affirmation of the chief school administrator for the district employed by the school board or authorized driver education personnel employed by the school board* [105 ILCS 5/27-24.6].

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- 1) Reimbursement shall be determined in accordance with the provisions of Sections 27-24.4 and 27-24.5 of the School Code [105 ILCS 5/27-24.4 and 27-24.5].
- 2) *The school district that is the residence of an eligible pupil who attends a nonpublic school in another district that has furnished the driver education course shall reimburse the district offering the course the difference between the actual per capita cost of giving the course the previous school year and the amount reimbursed by the State (Section 27-24.4 of the School Code). This arrangement shall also apply in the case of tuition students who receive driver education from the districts where they are enrolled rather than from their respective districts of residence.*
- 3) The district may charge a reasonable fee not to exceed the amount specified in Section 27-23 of the School Code to students who participate in a driver education course approved in accordance with this Part. No other fee or portion thereof shall be charged to students and attributed to the driver education course. As used in this Part, "reasonable fee" means a fee calculated by dividing the sum of documented annual district costs for items such as instructional materials (if not included in the district's textbook rental fee), the cost of driver education cars, car maintenance costs, fuel, and insurance by the number of students enrolled or participating in the driver education course. The district's costs used in this calculation shall not include any portion of the salaries or benefits of school district personnel. For purposes of this calculation, the cost of driver education cars that are purchased by the district shall be amortized over a five-year period, and the cost of leasing cars shall be included in the fee calculation in the year the costs are incurred.
- 4) The driver education fee shall be waived with respect to any student who applies pursuant to this subsection and who is eligible for free lunches or breakfasts pursuant to the School Breakfast and Lunch Program Act [105 ILCS 125], and with respect to other students in accordance with the district's policy adopted in accordance with Section 1.245 (Waiver of School Fees) of the rules of the State Board of Education (see 23 Ill. Adm. Code 1, Public Schools Evaluation, Recognition and Supervision).

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- b) Transfer Student – For any transfer student as defined in Section 252.20(b)(2) of this Part, reimbursement shall be claimed only by the school district to which the student has transferred.
- c) Cooperative School Programs -- In fulfilling the requirements for reimbursement, a school district must provide a driver education course or participate in a special education cooperative or be part of an approved joint school agreement with another public school district.
- d) Contracting – School districts providing the driver education course through a contract as provided under Section 252.20(f) of this Part or under a waiver granted pursuant to Section 2-3.25g of the School Code [105 ILCS 5/2-3.25g] shall make a claim for reimbursement by submitting, in a format specified by the State Superintendent of Education, the names of the students successfully completing the course and the date of course completion for each.
- e) ~~d~~) Records -- Daily attendance records shall be kept by the teachers in the manner prescribed in Section 27-24.6 of the School Code and are to be used to certify claims made under the Act.
  - 1) Records in either paper or electronic format must be maintained by the school to substantiate daily lessons, time behind the wheel, observation time, and periodic as well as final evaluation of each student. Also recorded shall be the beginning and ending dates of classroom and behind-the-wheel instruction. Students are to be identified by their instructional permit number, name, address and other personal information.
  - 2) Such records are to be on file in the office of the driver education supervisor, principal, or other manager at the time reimbursement and/or certification is requested.
  - 3) Driver education participation records are to be kept and be readily available for a period of not less than three years.
  - 4) All records are subject to yearly audit by State auditors.

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

**Section 252.40 Driver Education Personnel Requirements**

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- a) Qualifications of Teachers -- All persons who teach a driver education course must meet the applicable standards of this subsection (a).
- 1) A driver education instructor who teaches in a public school district shall hold a secondary teaching certificate and either have an endorsement for safety and driver education or meet the requirements of 23 Ill. Adm. Code 1.730(q) through January 31, 2012. Each individual first assigned to teach safety and driver education on or after February 1, 2012, shall be required to hold a certificate valid for the secondary grades and an endorsement received pursuant to 23 Ill. Adm. Code 25.100(n).
  - 2) A driver education instructor who teaches in a nonpublic school is not required to be certified but must hold a baccalaureate degree, or equivalent as determined by the employing school, and meet the requirements of 23 Ill. Adm. Code 1.730(q) through January 31, 2012. Each individual first assigned to teach safety and driver education on or after February 1, 2012, shall meet the course requirements of 23 Ill. Adm. Code 25.100(n).
  - 3) A driver education instructor who teaches in either a public school district or in a nonpublic school must:
    - A) possess good physical health as determined in accordance with Section 24-5 of the School Code [105 ILCS 5/24-5]; and
    - B) hold a valid driver's license in good standing that has been issued by the state in which he or she resides. For the purposes of this subsection (a)(3)(B), a driver's license issued in Illinois shall not be considered valid and in good standing if it is revoked, suspended, expired or cancelled as described in Sections 6-201 through 6-209 of the Illinois Driver Licensing Law [625 ILCS 5/6-201 through 6-209] or if restrictions have been placed on driving privileges through either a restricted driving permit under Section 6-205 or judicial driving permit under Section 6-206.1.
  - 4) Additional requirements will not be retroactive as pertaining to those qualified under standards applicable prior to September 1, 1962, so long as they continue to teach driver education in the same district, except in the event the method of instruction has been changed to include simulation and/or multiple-car laboratory instruction. (See 23 Ill. Adm. Code

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1.730(q).) The prescribed additional requirements effective July 1, 1969, must be met.

- 5) When schools have a department chairman or a person designated to supervise the driver education program, this person must be qualified as described in this Section.
- b) Invalid Driver's License – The State Board of Education, using information provided by the Secretary of State, shall on a regular basis provide to school districts and nonpublic schools employing driver education instructors who possess Illinois driver's licenses a list of driver education instructors who are in possession of an invalid driver's license as described in subsection (a)(3)(B) of this Section. It shall be the responsibility of the school district or nonpublic school employing an instructor who holds an out-of-state license to ensure that that license is valid and in good standing (e.g., has not been revoked, suspended, expired, or cancelled or is restricted by the state issuing the license).
- 1) After receiving the list, or confirmation that an out-of-state license is invalid, the school district or nonpublic school shall inform each of the instructors in writing of the determination that he or she is in possession of an invalid license and that he or she has no more than five school days to provide evidence to the school district or nonpublic school disputing the determination.
  - 2) If the initial determination is found to be correct (i.e., the instructor's license is not valid), then the driver education instructor shall be removed from the driver education program immediately.
  - 3) A driver education instructor who is removed from his or her teaching position due to an invalid license shall not be allowed to teach a driver education course for three years following the reinstatement of a valid driver's license.
  - 4) For the purposes of this subsection (b), a driver education instructor shall not be subject to the three-year suspension described in subsection (b)(3) of this Section if:
    - A) the invalid license is restored to good standing, and

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- B) the reason that the license was invalidated is due to a non-serious violation not related to driving ability or performance (e.g., failure to renew a license, failure to pay traffic fines, not possessing a mandatory insurance card).
- c) Administrators and teachers of State-approved high school driver education courses shall not acquire an interest in, teach in, or solicit for a commercial driver training school.

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

ILLINOIS STATE BOARD OF EDUCATION MEETING  
June 17-18, 2009

**TO:** Illinois State Board of Education

**FROM:** Christopher A. Koch, Ed.D., State Superintendent of Education   
Linda Riley Mitchell, Chief Financial Officer   
Susie Morrison, Deputy Superintendent/Chief of Staff   
Darren Reisberg, General Counsel 

**Agenda Topic:** Action Item: Rules for Initial Review

Part 120 (Pupil Transportation Reimbursement)

Part 401 (Special Education Facilities Under Section 14-7.02 of the School Code)

Part 675 (Providers of Supplemental Educational Services)

**Materials:** Recommended Rules

**Staff Contact:** Tim Imler, David Andel, and Gina Hopper, Division Administrators  
Sally Vogl, Rules Coordinator

**Purpose of Agenda Item**

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

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

These rulemakings are not specifically related to the strategic plan. All the needed changes are nonsubstantive, as explained below.

**Expected Outcomes of Agenda Item**

The Board will be asked to adopt a motion authorizing the solicitation of public comment on the proposed amendments to Parts 120, 401, and 675.

**Background Information**

These sets of amendments involve technical updating almost exclusively.

- In Part 120, references to Part 110 of the rules (Program Accounting Manual) need to be replaced by references to the new rules covering the same topics (Part 100; Requirements for Accounting, Budgeting, Financial Reporting, and Auditing). Similarly, a reference to Part 275 (Pupil Transportation) needs to be deleted because that Part was repealed in 2005. These revisions will be added to the more substantive set of amendments to Part 120 that the Board reviewed at the May meeting. All the material will be published as one proposed rulemaking and will move through the process together from this point forward.
- In Part 401, one update to terminology and one update to a cross-reference to Part 226 (Special Education) are being made. These changes were originally presented in the spring of last year but were never filed. They formed part of the rulemaking that could not be completed due to opposition on the part of the Joint Committee on Administrative Rules related to facilities where “skin shock therapy” is used. That earlier rulemaking is considered withdrawn, and there is no reason to delay initiating these minor revisions.
- In Part 675, it has come to our attention that one provision relating to certain providers is not necessary and may be counterproductive. Consequently the requirement for experience serving youth in the same community where SES will be offered should be deleted from Section 675.50(b)(2)(B)(i). In addition, one change is needed in two places within Appendix B (Evaluation Rubric). As part of the amendments to Part 675 that were completed earlier this month, this same change was made in the discussion of parental satisfaction, under the heading “Below Standards”. However, due to a failure of communication between ISBE staff and staff of the Joint Committee on Administrative Rules, it was not included in the columns for “Meets Standards” and “Above Standards”. This amendment will simply repair that omission and will have no effect on the next scheduled evaluations of providers.

### **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 amendments will bring the rules up to date, while failure to amend the rules would result in the persistence of incorrect cross-references in Parts 120 and 401 and a mismatched combination of evaluation standards in Part 675.

### **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:

Pupil Transportation Reimbursement (23 Illinois Administrative Code 120),

Special Education Facilities Under Section 14-7.02 of the School Code (23 Illinois Administrative Code 401), and

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

including publication of the proposed amendments in the Illinois Register.

### **Next Steps**

With the Board's authorization, staff will submit the proposed amendments to the Administrative Code Division 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.

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NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER c: FINANCE

PART 120

PUPIL TRANSPORTATION REIMBURSEMENT

SUBPART A: SCHOOL REIMBURSEMENT

Section

120.10	Definitions
120.20	Transportation and Student Discipline
120.30	Pupil Transportation Services Eligible for Reimbursement
120.40	Pupil Transportation Services and Costs Not Eligible for Reimbursement
120.50	Reimbursable Direct Operating Costs
120.60	Reimbursable Annual Depreciation Allowances
120.70	Deductions from Direct Operating Costs
120.80	Reimbursable Indirect Cost for Pupil Transportation Services
120.90	Cost Proration Related to Pupil Transportation
120.100	Reimbursement Formulas
120.110	Reporting Requirements
120.115	Fully Allocated Costs of Transportation
120.120	Bus Scheduling Services and Software
120.130	Seat Back Reimbursement (Repealed)

SUBPART B: CUSTODIAN REIMBURSEMENT FOR PUPIL TRANSPORTATION

Section

120.200	Definitions
120.210	Custodians Eligible for Reimbursement
120.220	Custodians Not Eligible for Reimbursement
120.230	Responsibilities of Schools
120.235	Responsibilities of Public and Nonpublic Chief Administrative Officers (Repealed)
120.240	Reimbursement
120.245	Responsibilities of the Regional Superintendents of Schools
120.250	Dispute Resolution
120.260	Audit and Enforcement

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AUTHORITY: Implementing and authorized by Article 29 of the School Code [105 ILCS 5/Art. 29].

SOURCE: Adopted at 10 Ill. Reg. 19438, effective October 31, 1986; amended at 10 Ill. Reg. 21675, effective December 11, 1986; amended at 12 Ill. Reg. 4147, effective February 5, 1988; amended at 13 Ill. Reg. 7731, effective May 8, 1989; amended at 16 Ill. Reg. 10213, effective June 10, 1992; emergency amendment at 18 Ill. Reg. 12853, effective August 9, 1994, for a maximum of 150 days; emergency expired January 6, 1995; amended at 21 Ill. Reg. 2165, effective February 1, 1997; amended at 26 Ill. Reg. 1169, effective January 16, 2002; amended at 28 Ill. Reg. 4575, effective February 24, 2004; amended at 29 Ill. Reg. 12422, effective July 28, 2005; amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART A: SCHOOL REIMBURSEMENT

**Section 120.50 Reimbursable Direct Operating Costs**

All reimbursable direct operating costs must be paid from the Transportation Fund of a school district, except for those items required by Section 17-7 of the School Code to be paid from the Operation and Maintenance Fund and IMRF payments made for transportation supervisory salaries. All reimbursable direct operating costs of a cooperative for special education or vocational education must be paid from function 2550 (Pupil Transportation Services; see 23 Ill. Adm. Code ~~100.Table D 110.Table D~~). Reimbursable direct operating costs are listed below:

- a) District owned and operated pupil transportation services, including districts which make payments to other LEAs.
  - 1) *The cost of physical examinations for school bus drivers required for their employment* (Section 29-5 of the School Code) ~~pursuant to 23 Ill. Adm. Code 275 (Pupil Transportation).~~
  - 2) Salaries and/or wages for the following employees:
    - A) School bus drivers;
    - B) School bus maintenance personnel;
    - C) Chief mechanic;

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- D) Special education attendants or aides for that portion of time they assist special education pupils, i.e., for transit time only;
  - E) Transportation supervisory salary costs as defined in Section 120.10 of this Part when paid from the Transportation Fund as set forth in Section 120.90(b) and (c) of this Part; and
  - F) Dispatchers and clerical workers who support the transportation functions, when their positions are documented and records support the percentage of time claimed for each position.
- 3) The cost of the following benefits for the employees enumerated in subsection (a)(2) of this Section (if proration is necessary for salaries and/or wages, benefits shall be prorated in the same manner):
- A) Health insurance;
  - B) Life insurance;
  - C) Dental insurance;
  - D) Vision insurance;
  - E) Annuities in lieu of health, life, dental, or vision insurance;
  - F) Municipal retirement contribution, if paid by the employer as part of the transportation supervisory salary costs; and
  - G) Teacher retirement contributions, if paid by the employer from the Transportation Fund as part of the transportation supervisory salary costs.
- 4) Payments made to other school districts for providing pupil transportation services and expenditures consistent with this Part.
- 5) Payments made to other agencies for computerized bus scheduling; to companies for the purchase of computer software used to establish school bus routes; and to companies for maps that identify vehicular traffic hazards.

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- 6) Payments made for fuel, oil, tires, and other supplies that are necessary for the operation of pupil transportation vehicles.
- 7) The total cost of converting school bus gasoline engines to more fuel efficient engines or to engines which use alternate energy sources.
- 8) Expenditures (according to a school district's written travel reimbursement policies) for travel to workshops or meetings conducted by the regional superintendent or the State Superintendent of Education designed to improve the driving skills of school bus drivers or travel to other training programs that are for the enhancement of skills necessary to operate vehicles safely, manage student behavior, or address specific student needs (excluding competitions).
- 9) Expenditures for contractual maintenance services including materials, parts, supplies and labor necessary for the operation of pupil transportation vehicles or equipment used in the transportation program not exceeding \$2,500 per service.
- 10) Expenditures for lease agreements for pupil transportation vehicles, for lease/rental of less than 30 days.
- 11) Expenditures for insurance, license plates, and inspection fees pertaining to pupil transportation vehicles.
- 12) Expenditures for the rental of pupil transportation equipment for fewer than 30 days.
- 13) Transportation related building, land and building maintenance costs. The prorated costs of operation and maintenance of buildings, as set forth in Section 120.90(g) of this Part, when directly related to pupil transportation services including:
  - A) Utility costs;
  - B) Custodial supplies and services;
  - C) Insurance for buildings and/or for site improvements;

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- D) Security services;
  - E) Telephone charges incurred for the transportation program; and
  - F) Lease or rental of land or buildings for storing or maintaining transportation vehicles when leased for less than 30 days.
- 14) Expenditures for items that enhance transportation safety, costing less than \$2,500 and not funded by any other federal or State source of funding, including but not limited to:
- A) federally approved child safety restraint systems;
  - B) reflective tape;
  - C) alarm/warning systems for child safety;
  - D) cameras used on school buses specifically for security purposes.
- b) Contractual pupil transportation services
- 1) The cost of contractual pupil transportation services, which shall be limited to the following types:
    - A) Payments to independent carriers whose drivers and vehicles comply with the Illinois Vehicle Code (e.g., to bus companies, taxi companies, limousine services, and medical transportation carriers qualifying as independent carriers); and
    - B) Payments to parents or guardians for transporting their own children when the district has an obligation to provide free pupil transportation services.
  - 2) Payments made for fuel, oil, tires, and other supplies that are necessary for the operation of pupil transportation vehicles.
  - 3) Transportation supervisory salary costs as allowed in subsections (a)(2)(E) and (a)(3)(E) and (F) of this Section.

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- 4) Transportation related building, land and building maintenance costs as allowed in Sections 120.50(a)(13) and 120.60(d) and (e) of this Part.

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

**Section 120.90 Cost Proration Related to Pupil Transportation**

- a) When costs or depreciation allowances are to be prorated among pupil transportation services and other nontransportation related activities, the categories used shall constitute:
  - 1) Regular pupil transportation services;
  - 2) Vocational pupil transportation services;
  - 3) Special education pupil transportation services;
  - 4) Nonreimbursable pupil transportation services; and
  - 5) Nontransportation related activities.
- b) If an employee performs multiple job duties (e.g., district/cooperatives employing a part-time transportation supervisor/director) and at least one job duty is reimbursable under pupil transportation, the salary and district paid employee benefits for such employee shall be prorated to each type of job duty based on the ratio of the number of hours worked in each job to the total hours worked.
- c) The formula for computing the district superintendent and/or joint agreement director expenses as permitted in Section 120.50(a)(2)(E) or 120.50(a)(3) of this Part is listed in this subsection (c).
  - 1) The district superintendent allowable expenditures shall be prorated based on the ratio of the total transportation fund expenditures to the district's total expenditures of all funds. The district's expenditures are to be calculated in the Illinois Local Education Agency Annual Financial Report pursuant to 23 Ill. Adm. Code 100 (Requirements for Accounting, Budgeting, Financial Reporting, and Auditing) 110 (Program Accounting Manual).

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- 2) The joint agreement/cooperative director allowable expenditures shall be prorated based on the ratio of total expenditures/ disbursements and transfers for transportation to the total expenditures/disbursements and transfers of the joint agreement. The joint agreement/cooperative total expenditures/ disbursements and transfers are to be calculated in the Joint Agreement Annual Financial Report.
- d) District owned/operated transportation systems must prorate all expenses based on the ratios of miles traveled in each category to the total miles traveled in all categories operated by the district. This method of proration includes Salaries and Employee Benefits, unless the district can document the number of hours worked per category to the total number of hours worked per person.
- e) Payments for all contractual transportation services must be prorated based on miles per contractor across all types of transportation provided (i.e., regular, vocational, special education, and/or non-reimbursable), with the exception of the following:
  - 1) Payments to a contractor that provides only one type of transportation service;
  - 2) Payments by a district to a contractor that provides multiple types of transportation service, a contract for each of which was separately executed on or after July 1, 2004, based on the lowest bid among at least two bids tendered, as reflected in the district's records on the procurement of these services;
  - 3) Payments to a contractor by a district for costs that are part of a contractual agreement between a cooperative or joint agreement and the contractor; and
  - 4) Payments by one district to another district for one type of transportation service.
- f) If a pupil transportation vehicle is used for more than one category of transportation service, the depreciation allowance shall be prorated based on the ratio of the number of miles traveled in each category of service to the total miles traveled in all categories.

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- g) Expenditures charged to the Operations and Maintenance Fund and/or the Education Fund that are directly related to the Pupil Transportation Program Services may be claimed as direct cost reimbursement from the Transportation Program. When the district or joint agreement cannot substantiate the portion of the cost applicable to the pupil transportation program, the expenditures shall be allocated according to the square footage of the bus garage divided by the total square footage of all the district owned buildings and that result multiplied by the total expenditures of each allowable cost. The transportation portion of each allowable cost that is under \$2,500 or which has a useful life less than one year is claimed under Section 120.50(a)(13).

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

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NOTICE OF PROPOSED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER I: NONPUBLIC ELEMENTARY AND SECONDARY SCHOOLS

PART 401

SPECIAL EDUCATION FACILITIES UNDER SECTION 14-7.02 OF THE SCHOOL CODE

SUBPART A: APPROVAL OF PROGRAMS

Section

- 401.5 Definitions
- 401.10 Application for Eligibility
- 401.20 Notification Requirements
- 401.30 Changes in Approval Status

SUBPART B: PLACEMENT AND EDUCATION OF STUDENTS

Section

- 401.110 Use by School Districts
- 401.120 Placement Procedures
- 401.130 Operating Schedule
- 401.140 Provision of Educational Program
- 401.145 Administration of State Assessment
- 401.150 Classroom Records

SUBPART C: OPERATIONAL REQUIREMENTS

Section

- 401.210 General Requirements
- 401.220 Health and Safety Requirements
- 401.230 Student Progress Reports and Reviews
- 401.240 Staffing Requirements
- 401.250 Staff Training
- 401.260 Staff Records
- 401.270 Student Records
- 401.280 Fiscal Provisions

AUTHORITY: Implementing and authorized by Sections 14-7.02 and 14-8.01 of the School Code [105 ILCS 5/14-7.02 and 14-8.01].

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SOURCE: Adopted July 25, 1973; emergency amendment at 4 Ill. Reg. 39, p. 323, effective September 15, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 4576, effective April 9, 1981; codified at 7 Ill. Reg. 14966; Part repealed, new Part adopted at 19 Ill. Reg. 7185, effective May 10, 1995; amended at 30 Ill. Reg. 8818, effective April 25, 2006; amended at 31 Ill. Reg. 14050, effective September 24, 2007; amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART C: OPERATIONAL REQUIREMENTS

**Section 401.270 Student Records**

- a) A separate student record file shall be maintained for each student served under Section 14-7.02 of the School Code. Such files shall be maintained in a central location on the premises of the facility. Each student's file shall contain the information listed below, or the information shall be made readily accessible for inspection.
  - 1) Documentation of the date of the student's most recent enrollment in the program in question under Section 14-7.02 of the School Code.
  - 2) Copies of the most recent reports that address the domains covered in the student's most recent ~~case study~~ evaluation, documentation of the IEP Team's determination of the domains that would be included (see 23 Ill. Adm. Code 226.75 and 226.110 ~~226.120~~), and a copy of the most recent eligibility determination.
  - 3) Evidence of compliance with 23 Ill. Adm. Code 226.330(d).
  - 4) The student's current IEP developed for the placement in accordance with 23 Ill. Adm. Code 226, Subpart C (The Individualized Education Program (IEP)).
  - 5) Reports of review procedures conducted with respect to the student's progress as specified in Section 401.230(b) of this Part, including copies of all progress reports provided to parents and the sending school district.
- b) All material in the student record file shall be signed as required, dated, and placed in chronological order for the purpose of inspection and evaluation by

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representatives of the State Board of Education and the public school district of the student's residence.

- c) The record of a student enrolled in a program at a facility subject to this Part pursuant to Section 14-7.02 of the School Code shall be the property of the student's public school district of residence and shall be subject to the policies and procedures established by that school district to govern school student records and to the provisions of the Illinois School Student Records Act [105 ILCS 10] regarding confidentiality of such records.
- d) When a student is no longer served in a facility under this Part for any reason, and regardless of any monetary amount due to the provider from the public school district that placed the student, all the student's records shall be returned or provided to the district within 30 calendar days, and staff of the facility shall maintain a record of having returned them. The records to be returned include, but are not limited to:
  - 1) The temporary public school records that were provided by the district at the time of the student's placement.
  - 2) Other records of an academic or instructional nature that have accumulated during the student's enrollment at the nonpublic facility, including:
    - A) Records of behavior management plans; and
    - B) Records of all psychological and social work and any therapeutic tests related to goals and objectives included in the student's IEP.
  - 3) A transcript of any academic credits earned while the student was served at the facility.
  - 4) Records of the student's attendance while served at the facility.

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

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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

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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 June 1, 2009; amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART A: GENERAL PROVISIONS

**Section 675.50 Application Requirements**

Each application for approval to provide SES in Illinois shall consist of the components described in this Section.

- 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;
  - 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;

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- 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 program proposed in the application has a positive impact on students' achievement in 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
      - 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.

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- 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 to be used by the eligible applicant has been demonstrated to have a positive impact on students' achievement in 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).
- 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].

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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.
- 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 \_\_\_\_\_)

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**Section 675.APPENDIX B Evaluation Rubric**

<b>Criterion</b>	<b>Insufficient Information</b>	<b>Below Standards</b>	<b>Meets Standards</b>	<b>Above Standards</b>
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 average attendance is one full standard deviation below the overall average attendance; and (2) The provider cannot demonstrate satisfactorily that it has made dedicated efforts to encourage student attendance.	The provider's average attendance is between one full standard deviation below and one full standard deviation above the overall average attendance.	The provider's average attendance is one standard deviation or more above the overall average attendance.
Parent Satisfaction	There is insufficient information available to determine parent satisfaction outcomes.	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.	More than 10% but no more than 25% of respondents indicate: (1) overall dissatisfaction 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</u>	No more than 10% of respondents indicate: (1) overall dissatisfaction 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>

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			<del>student's study they were not consulted in the development of the student's individual learning plan.</del>	<del>they were not consulted in the development of the student's individual learning plan.</del>
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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.

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

**ILLINOIS STATE BOARD OF EDUCATION MEETING**  
**June 17-18, 2009**

**TO:** Illinois State Board of Education

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

**Agenda Topic:** Action Item: Rules for Adoption – New Part 405 (Payments to Certain Facilities Under Section 14-7.05 of the School Code)

**Materials:** Recommended Rules

**Staff Contacts:** David Andel and Tim Imler, Division Administrators

**Purpose of Agenda Item**

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

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

This new set of rules is not specifically related to the strategic plan, in that it was developed in direct response to new legislation. However, various portions of the rules comport with Goal 1 (academic achievement) and Goal 2 (highly prepared and effective teachers) by virtue of the standards that are implicit in the proof that will be called for from the providers of educational programs before payment by school districts is required.

**Expected Outcome of Agenda Item**

The Board will be asked to adopt proposed new Part 405.

**Background Information**

This new set of rules responds to Public Act 95-938, which was enacted in the summer of 2008. That legislation revised Section 14-7.05 of the School Code by establishing some conditions on the obligation of a school district to pay the provider of a program that is not approved under Part 401 of our rules (Special Education Facilities Under Section 14-7.02 of the School Code) for the costs of educating a student with a disability who is placed into a residential facility by a court or a state agency. The new provisions require that the provider of the program furnish three elements of proof to ISBE, as well as enrollment and attendance information. Unless this information is provided to ISBE's satisfaction, the student's district of residence will not be under any obligation to pay the provider.

In addition to the obvious need to state in rule what will be considered satisfactory proof or information in each of the areas specified in the law, there is a need to set forth some procedures that will ensure communication among the provider, ISBE staff, and the district of residence. In particular, agency staff will need to know that a student has been placed, and the provider will need to know what information to submit and how to submit it so that payment by

the district will eventually be warranted. Similarly, the district of residence will have to be notified of its obligation and of the amount involved. Section 405.30 has been written to initiate the flow of all this information in a timely manner.

Section 405.40 explains “satisfactory proof” in the areas required by the statute.

- For “appropriate certification of teachers for the student population”, we will require a description of the program and the student population involved and a list identifying all the teachers serving in the program. The certificates held by those individuals must be those that are acceptable for providing the services in question in the public schools and in programs approved under Part 401. (Please see additional information on this topic in the Summary and Analysis of Public Comment.)
- For “age-appropriate curriculum”, we will rely upon a showing that the provider bases the program on the current levels of academic achievement of the students and affords them access to the general curriculum in ways that will help them make progress in achieving the Illinois Learning Standards; that academic assessments are comparable to those administered to other students of the same age; that the age range in classes does not exceed that permissible in the public schools and in programs approved under Part 401; and that the setting is age-appropriate.
- For “ability to implement the child’s IEP”, the rule calls for information showing the availability of all the professional staff time that is needed for delivery of the services specified in the IEP, including assurances that paraprofessionals are not used in place of qualified professionals.

In addition, Section 405.40 requires information about enrollment in the program generally and certain early information about the attendance of the student in question. This will be complemented by the quarterly attendance reports called for in Section 405.50.

The final substantive matter that needs to be dealt with is the amount for which the student’s district of residence will be responsible. The statute states that “the resident district’s financial responsibility and reimbursement must be calculated in accordance with the provisions of Section 14-7.02 of the School Code.” The rate-setting methodology used by the Illinois Purchased Care Review Board implements Section 14-7.02 and is thus the obvious choice in this instance as well. Accordingly, Section 405.60 calls for use of that method, as set forth in the Review Board’s rules at 89 Ill. Adm. Code 900, while making it clear that programs need not seek approval from ISBE under Part 401 in order to qualify for payment in the instances discussed in Section 14-7.05 of the School Code.

It should be noted that ISBE staff will need to conduct certain outreach and awareness efforts so that the staff of juvenile courts and other placing agencies will be aware of the requirements of Section 14-7.05 and these new rules. By identifying contacts in those offices, providing them with the necessary materials, and urging them to pass those on to providers when students are placed, we hope to ensure that the necessary information is available to those affected when they need to use it. Additional means of promoting awareness, including especially the agency’s web site, will also be used. These preparatory activities do not need to be described in the rules.

These proposed rules were presented for the Board’s initial review in February of this year and subsequently published in the Illinois Register to elicit public comment. Four submissions were

received, and the issues raised 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**

While staff believe, based on experience to date, that placements needing to be covered by these new rules will be rare, promulgation of Part 405 will provide assurances to districts that the most fundamental aspects of special education programming are being provided to the affected students before districts are required to pay for the services. In the absence of rules specifying the proof that ISBE will accept, districts' obligations would be much less clear-cut and providers would have no firm basis on which they could demonstrate that they should receive payment in these instances.

### **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:

Payments to Certain Facilities Under Section 14-7.05 of the School Code (23 Illinois Administrative Code 405).

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 rules 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 405 (Payments to Certain Facilities Under Section 14-7.05 of the School Code)

### Comment

One respondent questioned what was perceived as the creation of “another class of private special education facilities”, considering Part 405 to offer an additional avenue of private placement without the benefit of rate-setting or program approval. As an alternative, this individual would prefer to have the rules build in time (60-90 days) for providers to seek and receive approval for their programs from ISBE under Part 401, failing which they would not qualify for payment by the affected districts.

### Analysis

Section 14-7.05 of the School Code stops well short of requiring approval of these educational programs under Section 14-7.02, and this means ISBE has no authority to establish a policy that, “if the facility wants to accept the student, then they will comply with the requirement.” As will be discussed in more detail below, Section 14-7.05 sets no limit on the ability of certain agencies to place students and no limit on the ability of providers to accept them. It only establishes the ability of ISBE to verify the presence of minimal conditions sufficient to obligate districts of residence to cover the educational costs. It may also not be the case that these facilities mainly offer special education and that placements of students with disabilities into their programs are infrequent. If so, there would be no real likelihood that they could be approved under Part 401. Further, if a facility’s emphasis is not on special education, it is likely that a student with an IEP who is placed there will receive a combination of special education and general education. The proposed language related to the qualifications of personnel is not broad enough to encompass such a situation and thus needs to be revised to include requirements specific to general education.

### Recommendation

Section 405.40(a)(2) should be amplified as shown below.

- 2) a listing of the names and certificate numbers of all certified teachers assigned to the program, demonstrating that each general education teacher who serves the affected student holds the qualifications required pursuant to Subpart G of the rules of the State Board of Education for Public Schools Evaluation, Recognition and Supervision (23 Ill. Adm. Code 1) and that each individual who provides special education to the affected student ~~instruction to the students in the program~~ holds:
  - A) a special preschool – age 21 certificate endorsed for the population to be served, in accordance with the certification policies of the State Board of Education that are in effect pursuant to the federal court orders of February 27 and August 15, 2001, in the matter of Corey H., et al., vs. Board of Education of the City of Chicago, et al; or
  - B) another teaching certificate that is valid for the grade range of the students served and bears an endorsement or approval for the population served, in accordance with the certification policies identified in subsection (a)(2)(A) of this Section; or

- C) a short-term emergency certificate in special education issued in accordance with the certification policies identified in subsection (a)(2)(A) of this Section; or
- D) the specific qualifications comparable to those issued in Illinois in connection with the positions in question, if the facility is located outside Illinois.

**Comment**

A request was expressed by a provider of educational programs that, under contract to the students' districts of residence, serve students in drug and alcohol treatment facilities. The students were described as having IEPs but also addictive behavior that dictated their placements. The commenter did not believe the programs would fall under Part 405 but was concerned for that potential interpretation. He therefore requested the addition of an explicit statement exempting contractual providers of educational services acting as districts' agents from these requirements. This policy was identified as consistent with guidance issued earlier by ISBE.

**Analysis**

This comment pertains to the introductory provision to Section 405.10 (Purpose and Applicability). The proposed language of that provision indicates that the rules relate to the costs of educating students who are placed in certain facilities "pursuant to Section 14-7.05 of the School Code". Section 14-7.05 specifically discusses placements made or paid for by Illinois public agencies and courts and payment by districts of residence to "the entity providing the educational services, whether the entity is the residential facility or the school district wherein the facility is located..."

In the instance outlined by this commenter, the district of residence is providing the educational program by means of a contract with another entity (which is permissible under the guidance referred to). This is not the same as either of the arrangements contemplated in Section 14-7.05 of the School Code, because the educational program is not being provided by the residential facility or the district where it is located (unless that also would happen to be the student's district of residence, making the entire question moot). We therefore agree that Part 405 will not apply in this situation. Since this distinction is difficult to recognize, we also agree that it should be addressed by the rule.

**Recommendation**

The affected sentence in the introduction to Section 405.10 should be expanded as shown below, and a technical correction in the reference to Part 130 should be made at the same time.

This Part shall not apply to districts' payment for educational services in programs approved under the rules of the State Board of Education for Special Education Facilities Under Section 14-7.02 of the School Code (23 Ill. Adm. Code 401), ~~or~~ to districts' payment for educational services provided by other school districts (see 23 Ill. Adm. Code 130, Determining Calculating Special Education Per Capita Tuition Charge), or to districts' payment for educational services provided on their behalf by contractual agents.

**Comment**

The same commenter advocated a change in the definition of "provider" that is found in Section 405.20 to exclude providers that are serving as districts' contractual agents. This change was

stated to be needed in order to make clear that payments to these entities are not subject to the requirements of Part 405.

### **Analysis**

The definition in question refers to organizations that are offering special education services to students with disabilities “pursuant to Section 14-7.05 of the School Code”. As noted above, the arrangement in which the commenter’s organization is involved is not occurring pursuant to that Section. Further, the principal purpose of defining the terms “facility”, “program”, and “provider” is to distinguish among physical premises, educational offerings, and people as a basis for consistency in references. This is particularly necessary when establishing responsibilities, in that a “facility”, not being a person, cannot take required actions. These definitions have been used for the same purpose in Part 401 of ISBE’s rules as well as in the rules of the Illinois Purchased Care Review Board, simply for the sake of establishing correct usage. We believe it is preferable to keep the definitions consistent across all the sets of rules that use the terms in similar contexts, and that the insertion recommended above will be sufficient to make it clear that these contractual arrangements are not subject to the requirements of Part 405.

### **Recommendation**

No change should be made in response to this comment.

### **Comment**

Two points were made with regard to ISBE’s role that relate to the sequence of events contemplated by these rules. First, it was stated that ISBE’s involvement should be limited to ensuring that in each case the provider and the district of residence have in place the required contract and other documentation. Further, the flow of information should properly originate with the placing agency and progress to the treatment facility, then to the school district, and then to ISBE.

### **Analysis**

When a school district intends to place a student with a disability into a special education facility, rules in both Part 226 (Special Education) and Part 401 require that a number of conditions be fulfilled. Among those is the execution of a contractual agreement with the provider of the program that will serve the student (see 23 Ill. Adm. Code 401.110(g) and 23 Ill. Adm. Code 226.330(c) and (d)). By its nature, a contract is a written agreement voluntarily executed by two consenting entities, and in the case of a placement by a district the contract will delineate what the provider will do as a result of having been chosen by the district and having agreed to accept the student. In the instances discussed in Part 405, by contrast, the district has not made a choice and is not a party to the placement, which is being made for reasons that may or may not place primary emphasis on the student’s disability-related needs. There is no basis on which the district can develop a contract with the provider, because the terms of the placement are not at the district’s discretion. It should therefore be understood that this contract is not required and will not exist in the situations contemplated in Part 405.

Proposed Section 405.30 would require a provider to notify ISBE within 15 days after the provider becomes aware that a student will be placed into the provider’s program. While we agree that it would be more nearly ideal if the provider were to notify the student’s district of residence, as the law in fact requires, there could be a significant disadvantage to relying on that requirement alone. That is, if the provider does not know what is required in order to secure payment from the district of residence and the district does not already know about the placement, nothing will happen to initiate the flow of information. School district personnel, if unaware, will not be in a position to inform the provider about the need to submit the required

proof to ISBE, and it is very possible that the provider's representatives will not learn of the need for "proof" until it is too late for the district to pay the bill. Only by requiring notification to ISBE can we be sure that the needed information will flow to the provider in return, and this is the rationale for the way the rule was written. However, we acknowledge that the rule should probably also reference the statutory requirement for notification to the district of residence.

As we have noted previously, the weak link in the entire chain of communication is the potential lack of knowledge on the part of the placing agencies and courts, because it would be most effective for staff of those entities to serve as a conduit for information to the providers with whom they place students under Section 14-7.05. ISBE staff will make every effort to identify as many of these entities as possible and alert their representatives to this matter and to identify the providers of programs not approved under Part 401. In addition, the relevant information will be posted where it can readily be located.

In considering these points, it also came to our attention that the effective date of the district's payment obligation is not explicitly stated in the rules. This should be rectified so it will be clear to all those affected.

### **Recommendation**

The proposed version of Section 405.30(a) should be expanded as shown below.

- a) In addition to providing notice to the district of residence as required by Section 14-7.05 of the School Code, and no later than 15 days after a provider is notified of the placement of an affected student and wishes to receive payment from the student's district of residence for the cost of educating that student, the provider shall furnish to the State Superintendent.....

In addition, a statement should be added to the end of Section 405.30 to clarify the date as of which the district of residence becomes responsible for paying for the educational program:

- e) The State Superintendent shall provide copies of all notifications to providers under this Section to the districts of residence of the affected students. *A school district is under no obligation to pay the residential facility until the district receives notification from the State Superintendent that satisfactory proof has been provided (Section 14-7.05 of the School Code). When this is the case, the district's responsibility for payment begins with the date on which the district received notice from either the provider or the placing agent regarding the student's placement.*

### **Comment**

Conflicting comments were received in connection with the initial reporting timeline of 15 days called for in Section 405.30(a). One respondent considered this to be too short because the provider would scarcely know the student at that point. It was noted that in many instances 30 days are allowed for required actions to be completed. This commenter also indicated that the student's IEP should not be developed in isolation and questioned whether calendar or school days were meant. On the other hand, another commenter stated that a 15-day period during which no entity would have information about the student's placement was "a daunting prospect" in view of the district's obligation to ensure an appropriate and safe education. It was on this basis that the commenter believed ISBE should assume the role of approving assurances about safety and behavioral management.

## **Analysis**

These comments are good illustrations of the admittedly imperfect situation that will exist in the unusual circumstances addressed here. We should note first that the provider of a program into which a student is placed will not be developing an IEP for the student, and thus the 15-day timeframe proposed in Section 405.30(a) is not a deadline for completion of the IEP. In fact, Part 405 will apply specifically because the student already *has* an IEP, and the provider cannot change it unilaterally. It is, of course, to be hoped that these placements will occur into programs where providers can implement students' existing IEPs. However, there is no guarantee that this will always be the case. When changes in an IEP are needed, that process remains under the control of the district of residence, making it all the more urgent for ISBE to be assured that that district has been identified and notified. This is one of the main reasons why only a short time should be allowed to elapse before the provider notifies ISBE of the placement. At that point ISBE can determine whether the district of residence has been contacted and whether any further action is needed along those lines.

It should also be noted that Section 405.30(a) calls for the submission of "as much of the following information as may be available to the provider". The intent of this rule is to provide the necessary starting point for the communication that needs to occur with the district of residence and with ISBE. Further, Section 405.30(d) allows providers to supplement their original submissions of proof, which will afford them a "safety valve" in case the 15-day timeframe is too brief for compiling some of the information called for under Section 405.40. (The 15 days referred to are 15 calendar days, as "day" means a calendar day unless otherwise identified as a school day, a business day, etc.)

While it is not ideal for neither the district of residence nor ISBE to know immediately when a placement has occurred, there is nothing ISBE can do to control that situation. On balance, therefore, we believe this is an appropriate compromise between too much and too little time.

## **Recommendation**

No change should be made in the 15-day submission timeline.

## **Comment**

It was suggested that approval of a list of necessary assurances should be ISBE's responsibility because, as the rules are written, ISBE is "reserving for itself a modicum of responsibility" for students' safety and education without any means of enforcing compliance. The paper-based review contemplated in the rules was considered both onerous and ineffective. Alternatives that were proposed included:

- requiring that each of the affected programs have either accreditation or, if located in another state, approval in that state; and
- requiring that the placing agency notify ISBE in advance of a student's placement so that the information could be reviewed beforehand.

One advantage of strengthening the rules in this way was considered to be the avoidance of liability on the part of ISBE, given that providers would simply be providing paper assurances otherwise.

## **Analysis**

Since Section 14-7.05 of the School Code does not provide ISBE with the power to limit where other agencies and the courts may place students, ISBE's rulemaking authority cannot be used to make these placements contingent on the review of information submitted in advance,

whether this would be an extensive list of assurances or the “proof” required under Section 14-7.05. Instead, and rather than reserving to itself any particular responsibility, ISBE is in the position of reacting once a placement has occurred. ISBE is not authorized to require compliance with the desired additional requirements or charged with securing evidence of such compliance. For these reasons, this proposal is unworkable.

### **Recommendation**

These suggested changes should not be made.

### **Comment**

Several additions were recommended to the list of elements of proof that ISBE is to collect and review, including compliance with health/life safety requirements and criminal history records checks; behavioral management safeguards; and conformance with the requirements of Part 401 as to operating schedule, reporting of students’ progress, recordkeeping on employees, and staff training. Two of the commenters expressed the idea that ISBE should do more to ensure that these various “requirements” were being met so that students would be served in safe and healthy environments.

One of the submissions on this subject originated with the Illinois State Advisory Council on the Education of Students with Disabilities (ISAC). It was acknowledged by ISAC that ISBE is unable to impose all the requirements included in Part 401 of the rules, but it was thought logical that those listed above should apply. Nevertheless, it was stated that members of the advisory council would like to receive additional training and information from ISBE on the scope of P.A. 95-938 and particularly on ISBE’s ability to enforce certain protections for the students served.

### **Analysis**

We certainly have no disagreement with the goal of these comments. However, because ISBE has no ability to disallow the placement of students in these situations, the agency also has virtually no ability to ensure that the providers meet any given set of requirements. This fundamental fact underlies our reaction to these comments.

It must be recognized that the provisions of Part 405 will only come into play after another entity has already used its authority to place a student with an Individualized Education Program (IEP) into a program that is not approved under Part 401. The role assigned to ISBE under Section 14-7.05 is only to ascertain whether school districts must bear the educational costs of these placements. Furthermore, the basis on which ISBE is to make this determination is restricted to the adequacy of the proof and other information provided in the areas specified in the law -- appropriate certification of teachers; age-appropriate curriculum; enrollment and attendance data; and ability to implement the child’s IEP.

The additional aspects recommended for inclusion by the commenters cannot be required unless they fall within these areas, and it would therefore be inaccurate to consider those other points to be “requirements” in this context. For example, the facilities at issue here are not subject to the requirements stated in Part 180 of our rules (Health/Life Safety Code for Public Schools). It should be noted in passing that each will be under the jurisdiction of the code authority that is responsible for the geographical area where it is located and will be subject to the code enforced by that authority. Monitoring compliance with those various codes is completely outside ISBE’s purview.

### **Recommendation**

No change would be appropriate in response to these comments.

### **Comment**

ISBE was requested to clarify the responsibility of a student's district of residence for the development and implementation of the student's IEP. The commenter stated that the proposed rules wrongly presume that ISBE is responsible for assuring the ability of the provider to meet the student's educational needs by means of a cumbersome paper review. The statutory intent was characterized as leaving control of the IEP to the district even while the student was in residence in a facility.

### **Analysis**

We believe the purpose and meaning of Part 405 are being incorrectly interpreted in this instance. The submission of proof to this agency of a provider's ability to implement the IEP is not being done in order to give ISBE responsibility for the IEP or to ensure that it will be implemented. That submission of proof is being done only so that ISBE can determine whether the district of residence is obligated to pay the costs of the educational program. The distinction between ability to implement a child's IEP and actually implementing it may seem specious, but it is one that unfortunately must be understood in order to read Part 405 in its proper context. The point of ISBE's involvement is to keep districts from having to pay for educational programs that do not bear a close relationship to the affected students' needs, by means of reviewing the proof outlined in the law.

These new rules have not addressed responsibility for the IEP because this matter is covered in Part 226, which applies "in every instance when a child is or may be eligible for special education and related services" (Section 226.10). This comment has made us aware that not all readers will perceive that relationship, and there is no reason not to add an explicit acknowledgment of the district's retention of this responsibility.

### **Recommendation**

A new subsection (g) should be added to Section 405.30, to state:

- g) Nothing in this Part shall be construed as alleviating the responsibility of any student's district of residence for the development of that student's IEP in accordance with the requirements of 23 Ill. Adm. Code 226.220 and 226.230, or as conferring responsibility for the IEP on any other entity.

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STATE BOARD OF EDUCATION

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TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER I: NONPUBLIC ELEMENTARY AND SECONDARY SCHOOLS

PART 405

PAYMENTS TO CERTAIN FACILITIES UNDER SECTION 14-7.05 OF THE SCHOOL  
CODE

Section

405.10	Purpose and Applicability
405.20	Definitions
405.30	Procedural Requirements
405.40	Satisfactory Proof
405.50	Quarterly Attendance Reports
405.60	Calculation of Costs
405.70	Termination of Placement

AUTHORITY: Implementing Section 14-7.05 of the School Code [105 ILCS 5/14-7.05] and authorized by Section 2-3.6 of the School Code [105 ILCS 5/2-3.6].

SOURCE: Adopted at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 405.10 Purpose and Applicability**

This Part applies to the obligation of school districts to pay the cost of educating students who are served, pursuant to Section 14-7.05 of the School Code [105 ILCS 5/14-7.05], in residential facilities providing educational programs that are not approved by the State Board of Education. This Part shall not apply to districts' payment for educational services in programs approved under the rules of the State Board of Education for Special Education Facilities Under Section 14-7.02 of the School Code (23 Ill. Adm. Code 401), to districts' payment for educational services provided by other school districts (see 23 Ill. Adm. Code 130, Determining Special Education Per Capita Tuition Charge), or to districts' payment for educational services provided on their behalf by contractual agents. The purposes of this Part are:

- a) to establish procedures and timelines for providers' presentation of the required proof as a prerequisite to districts' payment of the cost of educating affected students;

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- b) to identify the proof that will be considered as adequate evidence of programs' conformance with the requirements identified in Section 14-7.05 of the School Code; and
- c) to establish a uniform basis for the calculation of the costs for which districts will be responsible under Section 14-7.05 of the School Code.

**Section 405.20 Definitions**

“Affected Student”: For purposes of this Part, *an individual with a disability*, as defined in Sections 14-1.02 and 14-1.03a of the School Code [105 ILCS 5/14-1.02 and 14-1.03a], *whose placement in a residential facility has been made or paid for by an Illinois public State agency or made by any court in Illinois* (Section 14-7.05 of the School Code), when the educational program provided to the student has not been approved pursuant to 23 Ill. Adm. Code 401 (Special Education Facilities Under Section 14-7.02 of the School Code).

“Facility”: Physical premises where a provider offers services.

"Program": A set of educational services, residential services, or both that is designed to serve students who have similar educational needs. An “educational program” is one that consists of instruction, supportive services, supplies, materials, adjustments to the physical plant, and activities intended to lead to students’ attainment of the annual goals and short-term objectives set forth in their Individualized Education Programs (IEPs).

“Provider”: An organization not approved under Section 14-7.02 of the School Code and 23 Ill. Adm. Code 401 that offers special educational services to students with disabilities pursuant to Section 14-7.05 of the School Code.

**Section 405.30 Procedural Requirements**

- a) In addition to providing notice to the district of residence as required by Section 14-7.05 of the School Code, and no later than 15 days after a provider is notified of the placement of an affected student and wishes to receive payment from the student’s district of residence for the cost of educating that student, the provider shall furnish to the State Superintendent of Education, using a method and format

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specified by the State Superintendent, as much of the following information as may be available to the provider:

- 1) the affected student's full name and date of birth;
  - 2) contact information for the student's parent or guardian;
  - 3) the placing authority;
  - 4) the effective date of the placement and the date on which educational services began or will begin, as applicable;
  - 5) the ending date of the placement, if any has been established;
  - 6) the unique identifying number assigned to the student by the Student Information System (see 23 Ill. Adm. Code 1.75);
  - 7) the student's district of residence; and
  - 8) the provider's calendar for the educational program for the school year in which the placement occurs.
- b) No later than 15 days after an affected student's placement into an educational program, the provider shall submit the documentation and information required under Section 405.40 of this Part to the State Superintendent of Education, using a method and format specified by the State Superintendent. However, when an affected student's placement occurs during the month of June, the provider will only be able to preserve the right to payment by the district of residence by submitting the required documentation and information quickly enough to leave time for the district to make payment out of funds available for the fiscal year ending June 30.
- c) The State Superintendent or designee shall review the materials submitted pursuant to subsection (b) of this Section and, within ten business days, notify the provider either:
- 1) that satisfactory proof has been furnished as required by Section 14-7.05 of the School Code; or

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- 2) that the materials submitted do not constitute satisfactory proof in one or more specified respects and the nature of the deficiency.
- d) A provider receiving notice of insufficient proof may submit additional documentation related to the identified areas of deficiency, provided that additional submissions received after June 30 following the end of the school year in which the placement occurred shall not be considered and a student's district of residence shall not be obligated to pay the costs of educating the student for that school year.
- e) The State Superintendent shall provide copies of all notifications to providers under this Section to the districts of residence of the affected students. *A school district is under no obligation to pay the residential facility until the district receives notification from the State Superintendent that satisfactory proof has been provided (Section 14-7.05 of the School Code).* When this is the case, the district's responsibility for payment begins with the date on which the district received notice from either the provider or the placing agent regarding the student's placement.
- f) The decision of the State Superintendent as to the obligation of a school district to make payments pursuant to this Part shall be final, subject to the provisions of the Administrative Review Law [735 ILCS 5/Art. III].
- g) Nothing in this Part shall be construed as alleviating the responsibility of any student's district of residence for the development of that student's IEP in accordance with the requirements of 23 Ill. Adm. Code 226.220 and 226.230, or as conferring responsibility for the IEP on any other entity.

**Section 405.40 Satisfactory Proof**

All information called for in this Section, except the quarterly attendance reports called for in Section 405.50 of this Part, shall be submitted no later than 15 days after an affected student's placement, using the method and format prescribed by the State Superintendent of Education.

- a) As satisfactory proof of *appropriate certification of teachers for the student population* (Section 14-7.05 of the School Code) in a given program, the provider of the program shall submit:

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- 1) a description of the program, including the characteristics of the students for whom it is intended and the number of students served;
  - 2) a listing of the names and certificate numbers of all certified teachers assigned to the program, demonstrating that each general education teacher who serves the affected student holds the qualifications required pursuant to Subpart G of the rules of the State Board of Education for Public Schools Evaluation, Recognition and Supervision (23 Ill. Adm. Code 1) and that each individual who provides special education to the affected student holds:
    - A) a special preschool – age 21 certificate endorsed for the population to be served, in accordance with the certification policies of the State Board of Education that are in effect pursuant to the federal court orders of February 27 and August 15, 2001, in the matter of Corey H., et al., vs. Board of Education of the City of Chicago, et al; or
    - B) another teaching certificate that is valid for the grade range of the students served and bears an endorsement or approval for the population served, in accordance with the certification policies identified in subsection (a)(2)(A) of this Section; or
    - C) a short-term emergency certificate in special education issued in accordance with the certification policies identified in subsection (a)(2)(A) of this Section; or
    - D) the specific qualifications comparable to those issued in Illinois in connection with the position in question, if the facility is located outside Illinois.
- b) As satisfactory proof that a program offers *an age-appropriate curriculum* (Section 14-7.05 of the School Code), the provider shall submit information demonstrating that:
- 1) the program is based upon evaluation of the participating students' current levels of academic achievement and performance and is designed to afford the students access to the general curriculum in the fundamental areas of learning identified in Section 27-1 of the School Code [105 ILCS 5/27-1]

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at levels that will promote their attainment of the Illinois Learning Standards (see 23 Ill. Adm. Code 1, Appendix D);

- 2) academic assessments administered to affected students are the same as those administered to other individuals served in the program who are of approximately the same age;
  - 3) the age range of the pupils grouped in any class does not exceed four years (if at the elementary level) or six years (if at the secondary level); and
  - 4) the program is delivered in an age-appropriate setting.
- c) The provider shall submit a description of the method used for recording attendance on a daily basis, as well as information on enrollment in the program for which payment is being sought and information on the attendance of each affected student.
- 1) Enrollment information shall include:
    - A) the total number of individuals receiving educational services in or through the facility;
    - B) a description of how individuals are grouped (e.g., by grade level or age);
    - C) identification of the grouping or “program” in which the affected student is being served; and
    - D) the number of individuals served in each grouping described.
  - 2) Attendance information shall include:
    - A) a signed assurance indicating that the provider will keep daily attendance records with respect to the affected student and will submit those records to the State Superintendent using the format prescribed by the State Superintendent; and
    - B) a record reflecting the student’s attendance during the first 10 days of service.

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- d) As satisfactory proof of the provider's ability to implement a particular student's IEP, the provider shall submit:
- 1) a copy of the student's current or most recent available IEP;
  - 2) a list of all teachers and other professional service providers that also:
    - A) indicates the specific portions of the IEP that each will be responsible for fulfilling; and
    - B) identifies the certificate, license, or other credential held by each professional other than a teacher that qualifies the individual to provide the professional services in question;
  - 3) if a paraprofessional will be assigned to assist in any class attended by the student, an assurance that the assignment of the individual will conform to the requirements of 23 Ill. Adm. Code 1.630(b); and
  - 4) for any teacher or professional not directly employed by the provider, information regarding the individual's contractual status that will clarify the amount of time for which the individual is available for the program, and the number of students whom the individual is responsible for serving during that time, and the total amount of service time required with respect to those students.

**Section 405.50 Quarterly Attendance Reports**

The provider serving a student shall, no later than five business days after the conclusion of each quarter of the school year, submit to the State Superintendent of Education a record reflecting the attendance of the affected student during that quarter. Provided that complete information is submitted in the required format, the State Superintendent shall forward the report to the district of residence for use in responding to billing by the provider. A district shall have no obligation to pay a provider for educational services performed during any period of time until the student's attendance has been reported as required.

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**Section 405.60 Calculation of Costs**


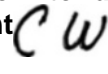

The provider of an educational program not approved by the State Board of Education under its rules at 23 Ill. Adm. Code 401 shall not be required to seek approval for the program. In order to receive payment from a student's district of residence, however, the provider shall be required to submit information to the Illinois Purchased Care Review Board (IPCRB), in a format specified by the IPCRB, so that a rate can be established for the program using the method described in the IPCRB's rules at 89 Ill. Adm. Code 900 (Illinois Purchased Care Review Board). The "*costs of educating the child*" (Section 14-7.05 of the School Code) that must be paid by the district of residence of a student under this Part shall be determined on the basis of the daily rate set for the respective educational program by the IPCRB and the number of days for which the student is enrolled. The State Superintendent shall inform the district of residence of the rate as soon as it has been set.

**Section 405.70 Termination of Placement**

The provider of an educational program into which an affected student is placed shall notify the State Superintendent of Education no later than 10 days after receiving information as to the date on which the student's placement will be terminated.

**ILLINOIS STATE BOARD OF EDUCATION MEETING**  
**June 17-18, 2009**

**TO:** Illinois State Board of Education

**FROM:** Christopher A. Koch, Ed.D., State Superintendent of Education   
Connie Wise, Assistant Superintendent   
Darren Reisberg, General Counsel 

**Agenda Topic:** Action Item: Rules for Adoption – Part 575 (School Technology Program)

**Materials:** Recommended Rules

**Staff Contacts:** Marica Cullen, 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**

This item of rulemaking is not specifically related to the strategic plan, since it involves only technical updating.

**Expected Outcome of Agenda Item**

The Board will be asked to adopt the proposed amendments to Part 575.

**Background Information**

These amendments will:

- replace a reference to the now-repealed Program Accounting Manual (formerly Part 110 of ISBE's rules) with a reference to the new rules covering the same topics (Part 100; Requirements for Accounting, Budgeting, Financial Reporting, and Auditing); and
- replace a reference to the Fall Enrollment and Housing Report with a reference to the date on which enrollment is determined.

As has been noted previously, Part 575 is one of several sets of rules in which these revisions need to be made as time permits. These amendments were presented for the Board's initial review in March of this year and subsequently published in the Illinois Register to elicit public comment. None was received, and the version being recommended for adoption is therefore identical to that 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 outdated references.

### **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:

School Technology Program (23 Illinois Administrative Code 575).

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.

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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 575  
SCHOOL TECHNOLOGY PROGRAM

SUBPART A: SCHOOL TECHNOLOGY GRANTS

Section

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

SUBPART B: SCHOOL TECHNOLOGY REVOLVING LOAN PROGRAM

Section

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

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

SOURCE: Adopted at 20 Ill. Reg. 3522, effective February 13, 1996; emergency amendment at 22 Ill. Reg. 9591, effective May 22, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19770, effective November 2, 1998; amended at 23 Ill. Reg. 8370, effective July 12, 1999; amended at 25 Ill. Reg. 8167, effective June 21, 2001; amended at 26 Ill. Reg. 915, effective January 15, 2002; amended at 28 Ill. Reg. 13227, effective September 17, 2004; amended at 29 Ill. Reg. 18474, effective October 31, 2005; amended at 32 Ill. Reg. 8773, effective May 27, 2008; amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

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STATE BOARD OF EDUCATION  
NOTICE OF ADOPTED AMENDMENTS

SUBPART B: SCHOOL TECHNOLOGY REVOLVING LOAN PROGRAM

**Section 575.300 Maximum Amount of Loan**

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

- a) For school districts, approved university laboratory schools and charter schools, the maximum loan amount shall be calculated using the enrollment as reported as of the last school day in September of ~~on the Fall Enrollment and Housing Report~~ for the immediately preceding school year.
- b) For area vocational centers, the maximum loan amount shall be calculated using the enrollment as reported to the State Board of Education in April of the immediately preceding school year.

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

**Section 575.700 Terms and Conditions of Loan Agreement**

- a) Loan proceeds under this program shall be used exclusively for the purposes listed in Section 575.200 of this Part and shall be expended in accordance with the approved application and the participant's policies and procedures related to such expenditures. In the event that the loan proceeds are not expended in the manner approved, then the participant, upon written notification from the State Board of Education, shall be required to submit, by the next payment due date, payment of the outstanding principal of the loan and the amount of the interest accrued as of that payment due date.
- b) Loan proceeds shall be obligated no later than six months following receipt of the loan.
- c) Use of loan proceeds shall be accounted for in accordance with the rules of the State Board of Education at 23 Ill. Adm. Code 100 (Requirements for Accounting, Budgeting, Financial Reporting, and Auditing) ~~the Program~~

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~~Accounting Manual (23 Ill. Adm. Code 110)~~ or, for participants not subject to ~~those rules the Program Accounting Manual~~, in accordance with generally accepted standards of governmental accounting principles.

- d) Loan recipients shall submit to the State Board of Education a report detailing how the loan proceeds were used. This expenditure report, to be submitted on a form supplied by the State Board of Education, shall be due not later than nine months following receipt of the loan.
  
- e) Subject to Section 575.400(b)(5) of this Part, in the event of default that is not cured within 90 calendar days, the State Board of Education shall deduct the amount owed from the participant's next payment of General State Aid. The participant shall be ineligible for additional loans until good standing has been restored; however, the chartering school district of a charter school participant or the school districts participating in a vocational education cooperative shall be allowed to apply for loans on behalf of their respective school districts.

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

**ILLINOIS STATE BOARD OF EDUCATION MEETING**  
**June 17-18, 2009**

**TO:** Illinois State Board of Education

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

**Agenda Topic:** Informational Item: Annual Report on the Status of Agency Rulemaking

**Materials:** Summary of Rulemaking Activity in Fiscal Year 2009

**Staff Contacts:** Sally Vogl and Shelley Helton

**Purpose of Agenda Item**

The purpose of this item is to provide a summary of the agency's rulemaking activities during Fiscal Year 2009. No action is needed.

**Background Information**

This report represents a departure from our long-standing practice of presenting the annual report on this topic at the September Board meeting. It is more logical to summarize the activities on a fiscal-year basis rather than according to any other timeline, and this is a good opportunity to make that change.

The chart in the report begins with the rulemaking items that are being initiated this month and moves back in time to the beginning of this fiscal year to show those items that were begun in FY 08 but completed in FY 09.

### Summary of FY 09 Rulemaking Activities

The chart below presents a summary of all rulemaking activities either completed or initiated by ISBE during FY 09. These are organized in chronological order, with the most recently begun ones first. "DIBR" stands for "Date of Initial Board Review", i.e., the month in which the State Board authorized the initiation of the given rulemaking. Where dates are not filled in, the procedural steps in question have not yet been reached.

Title of the Part and III. Adm. Code Citation	Description	Timeline/Status
Health/Life Safety Code for Public Schools (Part 180)	Updates to rely on 2009 editions of IBC and sub-codes; revision related to safety reference plans	DIBR: June 2009 Adoption: Effective:
Driver Education (Part 252)	Permission for districts to contract with facilities offering adaptive programs needed by certain students with disabilities; update requirements for teachers	DIBR: June 2009 Adoption: Effective:
Special Education Facilities Under Section 14-7.02 of the School Code (Part 401)	Technical updates left over from previous rulemaking that could not be filed	DIBR: June 2009 Adoption: Effective:
Providers of Supplemental Educational Services (Part 675)	Technical correction to evaluation rubric; update in application requirements	DIBR: June 2009 Adoption: Effective:
Public Schools Evaluation, Recognition and Supervision (Part 1)	Numerous revisions and updates	DIBR: May 2009 Adoption: Effective:
Certification (Part 25)	Numerous revisions and updates	DIBR: May 2009 Adoption: Effective:
Pupil Transportation Reimbursement (Part 120)	Provisions for transportation to and from child care locations; other clarifications	DIBR: May and June 2009 Adoption: Effective:
Voluntary Registration and Recognition of Nonpublic Schools (Part 425)	New rules	DIBR: May 2009 Adoption: Effective:
New Teacher Induction and Mentoring (Part 65)	Change from pilot program to continuing grant; uniform amount to be paid	DIBR: April 2009 Adoption: Effective:
School Technology Program (Part 575)	Technical updating	DIBR: March 2009 Adoption: June 2009 Effective:
Calculation of Excess Cost Under Section 18-3 of the School Code (Part 140)	Mainly changes in response to P.A. 95-793	DIBR: February 2009 Adoption: May 2009 Effective:

<b>Title of the Part and III. Adm. Code Citation</b>	<b>Description</b>	<b>Timeline/Status</b>
Alternative Learning Opportunities Program (Part 240)	Technical updating	DIBR: February 2009 Adoption: May 2009 Effective:
Payments to Certain Facilities Under Section 14-7.05 of the School Code (Part 405)	New rules	DIBR: February 2009 Adoption: June 2009 Effective:
Temporary Relocation Expenses (Part 145)	Technical updating	DIBR: January 2009 Adoption: April 2009 Effective: June 1, 2009
School Construction Program (Part 151)	Technical updating	DIBR: January 2009 Adoption: April 2009 Effective: June 1, 2009
Providers of Supplemental Educational Services (Part 675)	Updates to Code of Ethics; basis for evaluations; accommodate additional subjects; miscellaneous other changes	DIBR: January 2009 Adoption: April 2009 Effective: June 1, 2009
Public Schools Evaluation, Recognition and Supervision (Part 1)	Update rule on Student Information System; flexibility in middle grades for format changes; refine dean of students	DIBR: November 2008 Adoption: February 2009 Effective: March 24, 2009
Certification (Part 25)	One-year delay in accreditation visits	DIBR: November 2008 Adoption: February 2009 Effective: March 24, 2009
Reading Improvement Program (Part 260)	New provisions for professional development grants	DIBR: October 2008 Adoption: January 2009 Effective: February 23, 2009
Program Accounting Manual (Part 110)	Repeal of entire Part	DIBR: September 2008 Adoption: December 2008 Effective January 21, 2009
Student Activity Funds and Convenience Accounts (Part 125)	Repeal of entire Part	DIBR: September 2008 Adoption: December 2008 Effective January 21, 2009
Determining Special Education Per Capita Tuition Charge (Part 130)	Technical updating	DIBR: September 2008 Adoption: December 2008 Effective January 21, 2009
Early Childhood Block Grant (Part 235)	Extend ending date for Preschool for All (P.A. 95-724)	DIBR: September 2008 Adoption: December 2008 Effective: February 23, 2009
Education of Homeless Children and Youth State Grant Program (Part 245)	New rules	DIBR: September 2008 Adoption: December 2008 Effective January 27, 2009

<b>Title of the Part and III. Adm. Code Citation</b>	<b>Description</b>	<b>Timeline/Status</b>
Education of Homeless Children and Youth State Grant Program (Part 245)	Emergency rules	Adoption: September 2008 Effective: September 22, 2008, for a maximum of 150 days
Replacement of Required Rules (Part 500)	Repeal of entire Part	DIBR: September 2008 Adoption: December 2008 Effective January 21, 2009
Regional Offices of Education and Intermediate Services (Part 525)	Technical updating to refer to Part 100 instead of Part 110; addition of requirements from Part 110 not replicated in Part 100	DIBR: September 2008 Adoption: December 2008 Effective January 27, 2009
Incentive Grants for Agricultural Science Teacher Education (Part 75)	New rules implementing Section 2-3.80a of the School Code	DIBR: August 2008 Adoption: October 2008 Effective: November 26, 2008
Mentoring Program for New Principals (Part 35)	Definition of "first-year principal"; updating and clarifications	DIBR: June 2008 Adoption: September 2008 Effective: October 30, 2008
Student Records (Part 375)	Transcripts to include unique student identifier from Student Information System for purposes of longitudinal data collection	DIBR: April 2008 Adoption: August 2008 Effective: September 29, 2008
Requirements for Accounting, Budgeting, Financial Reporting, and Auditing (Part 100)	Addition of School Facility Occupation Tax (P.A. 95-675)	DIBR: April 2008 Adoption: August 2008 Effective: September 24, 2008
School Food Service (Part 305)	Amendments to reflect recommendations of School Wellness Task Force; updating	DIBR: March 2008 Adoption: September 2008 Effective: October 23, 2008
Early Childhood Block Grant (Part 235)	Include all early childhood certificates	DIBR: March 2008 Adoption: June 2008 Effective: July 25, 2008