AGENDA

1. Public Participation

2. Minutes of the March Ad Hoc Rules Committee Meeting  *(p. 2)*

3. Rules for Initial Review
   a. Part 130 (Determining Special Education Per Capita Tuition Charge) *(Plenary pp. 16 – 27)* *(Tim Imler)*
   b. Part 228 (Transitional Bilingual Education) *(Robin Lisboa) (Plenary pp. 28 – 55)*
   c. New Part 560 (Parental Participation Pilot Project) *(Myron Mason) (Plenary pp. 56 – 62)*

4. Additional Items

5. Adjourn

* Items listed with an asterisk (*) will be discussed in committee and action may be taken in the plenary session.
1. PUBLIC PARTICIPATION:
The following persons provided public participation on the proposed amendments to Part 305, School Food Service:

A. Kathleen Workman, Illinois School Nutrition Association. Ms. Workman thanked the Board for holding a hearing on this topic earlier and noted that was her colleagues’ chance to get some of their concerns out on the first set of rules that was proposed. However, they still had concerns on the implementation and the content of the new version. The association’s prime concern is with circumventing the state wellness committee that is working, and action on the proposed rules should be deferred until 2008. Ms. Workman said they would like to see changes made but want to make sure they do not have negative effects on the program and the children served. She stated they had found the rules rather cumbersome for schools to implement and mentioned that the free nutritional analysis program stated to be available does not provide the information that is called for in the rules. Both sugars and fats must be broken down when looking at some of the food items that are to be sold outside the cafeteria. She went on to outline some of the shortcomings of that analysis, stating that schools would still have to purchase software to make determinations about foods in commercial packaging. Further, her association questioned the distinction made between pretzels and chips. Ms. Workman noted especially the potential loss of revenues from chips, while indicating that the average number of bags consumed per week, per student, ranges from one-half a bag to 1.25 bags. The association did not believe this amount was overly large in terms of students’ daily and weekly intake.

Ms. Workman noted that, aside from the public hearing ISBE had held there had been a conference call at which input was gathered. However, some areas of the state had not been represented due to the number of callers that could be accommodated. General Counsel Jon Furr responded that the problem with the phone conference had not been apparent at the time but that in any case ISBE had made an affirmative outreach to work with the school nutrition association and would have been very willing to continue those communications.

Board Member Dean Clark asked Ms. Workman what she believed the impact would be on individual schools and districts if the rules were implemented this fall. Ms. Workman noted that the current version of the rules is open regarding the sale of second items off in the school lunch program. She also said that right now any outside organization that
sells food in the school would be banned from doing so. The ban on baked chips would affect the schools financially.

Board Member Andrea Brown asked whether the School Nutrition Association has an executive committee and whether the organization’s posture on this issue had been formulated by such a committee. Ms. Workman indicated that was the case, and Dr. Brown followed up to confirm that representation was statewide.

Board Member Vinni Hall asked Ms. Workman what would happen if someone were to bring food to the school. Ms. Workman stated her understanding that class parties and food brought in are not affected; the rules affect only the food items to be sold.

Dr. Hall said she understood that foods can be sold before and after school but not during the school day. Mr. Furr clarified that the restrictions would apply both before school and during the regular school day. After the last bell, these restrictions would not apply. Mr. Furr said that typical fundraisers and market days, etc., are occurring after school. Mr. Furr said he would talk more about the Appendix B issue in his later comments. Items such as yogurt and bran muffins and certain cereals would be brought in to the Appendix B approach but otherwise would have been restricted. He acknowledged that the list would not open up a lot things but stated that those items would be permissible.

B. Lynn Rochkes, President of the Illinois Association of School Nurses, spoke as a nurse for the Association. She stated that school nurses see the havoc in children who have a combination of poor nutrition and inactivity and know that is playing a significant role in obesity, some type II diabetes, and other health concerns, particularly heart disease. She expressed the Association's support for addressing nutrition in schools. She also noted the fact that some children receive about 40% of their daily requirements at school. For some young people, the noon meal on Friday is the last full meal until Monday morning’s breakfast.

Mr. Ruiz asked whether the 40% figure she has quoted had been a constant generally or was increasing or decreasing.

Ms. Rochkes responded that over the last couple of years it had been a constant in her district and she felt the district had done a fairly good job of trying to provide nutritious breakfasts and lunches. The problem is snacks and things that are sold at the high school level where students can make choices. Prohibiting these items should have an effect on obesity.

Dr. Brown wanted to know about children bringing their own food if these rules were implemented. She also asked about the monitoring barrier on this and whether the School Nurses Association had any views.

Ms. Rochkes responded that, in her district, most of the students eat lunch at school because they are provided with free or reduced-price meals. The Association has taken the posture of supporting the nutrition guidelines.

Ms. Holmes asked Ms. Rochkes to expand on her comment about reducing obesity. Ms. Rochkes again identified the limitations on the amount of high fat content, high sugar content, snacks and foods as significant.

C. Brittan Bolin, American Heart Association. Ms. Bolin briefly reiterated the Heart Association’s support for the food service rules, applauding the Governor and the State Board for their leadership in addressing school nutrition. She stated the association’s appreciation for the Board’s efforts to reach out to the health advocacy groups and noted that Jonathan Furr had been very helpful with that. The Heart Association sees physical
activity as one component of a comprehensive approach that should include physical education and physical activity but also views regulating food choices as a very important component and a good first step. In closing, Ms. Bolin stated that the expression “child obesity epidemic” is overused for a reason. There is a very real problem. She pointed to a study that had received broad coverage. One of the final comments in the article was from a physician who said that the time for putting all the responsibility for this on the home and parents is past and that the community must step forward and become involved. That would certainly support the AHA’s position on this issue.

Ms. Holmes noted that nutrition is an instructional area that all public schools must address in a required health education course and public schools’ curricula for physical education, physical development and health are to be aligned with the learning standards. She asked why the Heart Association believes there is such a problem given local wellness policies and required daily physical education. Specifically, is it because during the school day choices are available that are not healthy?

Ms. Bolin stated that there are a lot of different factors that have created the problem. The Heart Association sees this as a step forward rather than a complete solution.

Dr. Brown commented on the fact that, as of two years ago, Illinois was the only state to require p.e. daily yet the Illinois data were no different than those of any other state. She stated she was having trouble discerning what the first step’s impact would be.

Ms. Bolin commented that it would be a positive step to emphasize nutrition in schools and for that reason the Heart Association supports it.

D. Cynthia Woods, Illinois Association of School Boards. Ms. Woods said she believes all districts in the state would agree that there is a need to provide healthy foods for kids. She thought that everyone would agree that junk food should be restricted, but her concern was the prescriptiveness with which this had been presented. In her view a collaborative effort and a more gentle way of going about this are needed. Ms. Woods said the thing that had also struck her in the last month was the Board’s role as the leaders of the educational system; she voiced reluctance to see the title of “menu planner” added. She requested the Board to be more deliberate in determining how best to approach this issue and to consider input from the local level.

Board Member David Fields asked Ms. Woods what other suggestions she would have.

Ms. Woods replied that first of all she thought the Board should engage a broader base of the stakeholders that would be affected. Ms. Woods suggested the Board to do some study on the amount of time, the cost, and what works. Ms. Woods also said that what works in one district might not work in another district. She said there needs to be flexibility, education on the issue and some input and ownership and stated her belief that many districts were feeling disenfranchised as they had not been a part of the debate. She suggested that this be accomplished in the legislative arena as opposed to through the rules.

E. Ben Schwarm, Illinois Association of School Boards. Mr. Schwarm commented that IASB had grave concerns about how over prescriptive and burdensome the rules were. He stated that, from IASB’s point of view, the revisions failed to address basic things to make implementation less complicated or easier for school districts. He noted that the revised rules go as far as saying what a fifth-grader can drink versus what a sixth-grader can drink. Mr. Schwarm contended that local boards of education need to make these decisions, because they are responsive to their constituents. As an aside, he voiced agreement with Board Members Holmes and Brown on the PE issue, noting that Illinois is the only state with a daily requirement but that no statistical differences can be identified. To Dr. Fields’ question regarding other suggestions, Mr. Schwarm summed it up in one
sentence: The sale of carbonated soft drinks, sports drinks, and prepackaged candy, cakes, and unhealthy chips through vending machines or over the counter is prohibited in elementary and middle schools during regular school hours.

Board Member Dean Clark asked Mr. Schwarm how he would address the critics who say that school boards do, indeed, have the ability to do this but they haven’t done it yet. Mr. Schwarm said they have done it at the elementary and middle school level and that it is rare for these schools to have vending machines.

Ms. Karon noted her sense that some of the existing wellness policies are more stringent even than these rules. She also pointed out that changing attitudes and behavior is important because it is possible to become obese on healthy foods. Ms. Karon said it would be nice if next November the IASB would prepare some samples of what those wellness policies and programs look like throughout the state.

Board Member Ed Geppert asked about possible disruptions in some of the types of sales typically conducted in junior high schools. Mr. Schwarm mentioned that a lot of school clubs and organizations have their big fund-raisers with food items. He would prefer a prohibition before lunch but permission to sell after the lunch period, after the students have eaten, because once the school day ends the opportunity to sell is gone.

Mr. Geppert commented that in most of the K-6 schools he has seen, there are no vending machines available during school hours.

Ms. Holmes asked Mr. Schwarm if this was a purely financial issue to his organizations. Mr. Schwarm said no, the point would be to withdraw this rule proposal and work through the legislative process instead.

F. Bill Anderson, a parent. Mr. Anderson identified himself as having three young children in school and wanted to strongly express his support for the proposed rules. He noted that states have primary responsibility for education and it is widely acknowledged that nutrition is an important part of education. In his view, therefore, it is entirely appropriate for the state to have nutrition guidelines. Mr. Anderson also believed that many districts lack the resources, expertise and motivation to develop such standards. He and his wife were surprised at the menu in their children’s elementary school, which appears to be high in fat, carbohydrates and calories and low in protein and whole grains, fresh fruits and vegetables. He added that in the middle school, the situation is even more troubling, because children have access to the a la carte line, which includes a daily selection of hot dogs, cheeseburgers, pizza and French fries. Mr. Anderson reported that he had been told by an adult in the lunch program that, by 7th grade, almost all kids who purchase school lunch bypass the full lunch for the a la carte line. Some believe that as long as healthy alternatives are offered, the school has no responsibility if children choose to buy the minimally nutritious foods. Mr. Anderson stated his disagreement, pointing out that parents have ultimate responsibility for the food their children need. However, he stated how hard it is for parents to compete with the attractiveness of minimally nutritious foods, especially when they have the explicit endorsement of the school by virtue of the fact they are served there.

Mr. Anderson considered that districts would be worried about having to subsidize the lunch program if the utilization rate fails. Food service providers often work on fixed-rate contracts, so keeping utilization rates high is essential to meeting their economic goals. Mr. Anderson also believed that many parents conclude that, if food served at school, it must be okay. Parents who raise questions soon find out that a tremendous time commitment will be required to make meaningful changes. Mr. Anderson stated that the state nutrition guidelines were entirely appropriate, despite his general preference for local control as opposed to state or federal.
G. Peg Agnos, LEND/SCOPE. Ms. Agnos represents school districts in DuPage and the south Cook County area and commented that she agreed with Mr. Anderson that the state should have nutritional standards. The State Wellness Task Force is charged with coming up with state nutritional standards, and LEND/SCOPE are pleased with the 19 organizations that are represented. Ms. Agnos asked that the Board assist and guide districts and direct them in providing the resources and the services necessary. She requested that the Board slow down and wait for the report of the State Wellness Task Force.

Dr. Brown asked Ms. Agnos, if the Task Force had held 3-4 meetings and committees were working, whether the consensus-building was going well between health providers and educators? No clear information could be presented at that time.

H. Elliot Regenstein, Office of the Governor. Mr. Regenstein recalled Governor Blagojevich’s appearance before the Board at the December meeting to request the adoption of rules that would regulate sales of junk food. He emphasized the opportunity to adopt final rules and asked on the Governor’s behalf for a favorable vote. He noted how the rules had evolved since December, in large part due to the concerns raised by the many dedicated professionals who work in school foods service around the state. The original version of the rules would have completely changed what schools can serve in the lunch line, and he expressed agreement that those represented too drastic a change to be successfully implemented for the fall of 2006. He stated that the changes were now much less substantial and outlined the main thrust of the current version. He pointed out that there would be no prohibition on the sale of food and beverages from vending machines or fundraisers, simply some limitations on what can be sold.

Mr. Regenstein said the second major change would amend the definition of “junk food” to better align the State Board with modern nutritional standards. He noted that staff had had to balance a variety of competing values. He disagreed that the rules were inconsistent with the role of state and local wellness committees, as many important issues remain for them to discuss. On behalf of the Governor, Mr. Regenstein urged the Board and the staff to provide guidance and support and to be understanding and sympathetic to some of the difficulties in transition that schools might have. He noted that these rules alone would not solve the whole problem of child obesity but stated the Governor’s point of view that if the Board has the power to eliminate unhealthy food from the learning environment it should use that power to do so. On behalf of Governor Blagojevich, he asked the Board to move forward and adopt the rules, then continue working to continue to improving the health of children around the state of Illinois.

Board Member Chris Ward pointed to the possibility of waivers or modifications in situations where the rules prove unwieldy to implement. Mr. Furr agreed that flexibility would be available, especially when schools are affected by some of the distinctions between the elementary and middle school levels. He clarified the process that would apply.

Mr. Clark had one question he wished to ask of Mr. Regenstein. He stated that his concern was less the specific “junk food” matter but rather what he had heard others emphasize in connection with local control. How would Mr. Regenstein address the idea that the Board is now dictating to locally elected officials how to run their local districts?

Mr. Regenstein responded that there are certain issues and problems that have a state and national character and that it may be incumbent upon the State to take action to address those issues. He noted that individuals might well disagree whether this is such an issue or not but stated there is some role for the state in nutrition, given that rules already exist. He felt it appropriate for the State Board to be looking at nutrition issues and to be considering whether the current rules are adequate.
Dr. Hall stated her view that children’s health is very important and that Board should take a leadership role. However, her preference would be to work with school districts and use the rules as guidance and leadership rather than taking punitive action against a school district.

Mr. Regenstein agreed wholeheartedly that the point was to provide the service, not to punish school districts that are struggling to provide service.

Dr. Fields pointed to the General Assembly as “the ultimate school board in Illinois” and asked about legislative actions. There was a discussion of recent initiatives versus the hoped-for action by the Board. Mr. Geppert stated he also would not want to see anything punitive to school districts. He concurred that the rules would not address all aspects of the problem but felt that for the Board to use that as a rationale to do nothing would be in opposition to the members’ sworn duty.

Ms. Karon returned to the need to change the choices students make and to involve the entire community. She also made the point that the current Board had said it would reduce rules and regulations but would be adding at this point rather than reducing. She urged the Board to look at not imposing additional rules and regulations on school boards and districts where local control is of the utmost importance, and she asked the School Board Association and the Management Alliance to give her data six months from now to see how many districts had really worked out having a strong wellness policy that is pervasive throughout their community.

Dr. Ward commented that this had probably been the topic that had brought the richest dialogue from the school community as well as board members, and he certainly respected those differences of opinion. Dr. Ward had asked his doctor what the biggest medical issue was and she had identified obesity and all ancillary diseases that accompany it, such as diabetes. Dr. Ward also commented about a CNN report that children born today would not live longer than their parents. He viewed this as a crisis and stated that the Board had the opportunity to take a leadership role. Historians and school district superintendents would make the judgment whether this was a good decision or not. He advocated adopting these rules on the understanding that the feedback received would be used to make implementation manageable. Dr. Ward had seen evidence of that in some of the changes and would advocate that the agency be sensitive during implementation to the fact that not every district might have the wherewithal to make changes as quickly as the rules would indicate.

Chairman Ruiz concurred with Dr. Ward and emphasized the need to balance local control, reasonableness, and not having more red tape. However, health and education go hand-in-hand. Mr. Ruiz said staff would be eminently reasonable in the implementation of any rules that were adopted and would work with districts. He believed that, if the Board would make its decision based on what is in the best interest of every single child, the decision could not be a bad one.

2. MINUTES OF THE FEBRUARY AD HOC RULES COMMITTEE OF THE WHOLE
The February Ad Hoc Rules Committee meeting minutes were unanimously approved.

3. DISCUSSION OF RULES FOR ADOPTION
Chris Schmitt, Division Administrator of Nutrition Programs, and staff member Shawn Rotherham came to the Board table. Mr. Furr thanked Chris, Shawn, Mark Haller, Joan Love, Sandy Dunkel, and Roxanne Ramage, as well as Shelley Helton of the Rules and Waivers Unit for all the tremendously hard work that had gone into developing the rules and also complimented the work of the various groups that had participated in the discussions on this issue.

Mr. Furr discussed the process and the specifics of the rules. He said the two major changes were to expand the prohibition on students’ purchases of restricted foods from mealtime at the elementary level only to the entire school day in both elementary and middle schools and also to update the definition of restricted foods that had been adopted in 1978. The first proposed change had been in response to the Governor’s request to implement a full-day ban on junk food for elementary and middle school students by the beginning of the 2006-07 school year. The second proposed change had been requested by State Board staff, who did not feel the existing rules reflected what is now known about child nutrition. In developing the standards brought to the Board in December, staff had looked at the criteria for sales of food and beverages in the USDA’s HealthierUS School Challenge, a program under which schools can apply for recognition for their commitment to the health and well-being of students. The same standard was also included in the model wellness policy developed by ISBE in collaboration with a number of outside organizations.

During the public comment period, staff had extensive discussions with a variety of groups on all sides of this issue about the proposed standards. It became clear that the proposed standards caused the greatest concern in relation to second entrée and a la carte sales within the cafeteria during meal periods. Most of the comments that opposed these rules were directly related to their impact on second entrées and a la carte sales. Staff also realized that many schools have difficulty ordering commodities for the next school year without knowing the content of the final rules. As a result, staff had concluded that the Board should take additional time to develop a general standard for food sold as second entrées or a la carte items. Discussions with the School Wellness Policy Task Force should continue during the coming months. Staff’s intention would be to bring a recommendation for a general standard for those items back to the Board in January 2007, which should tie in nicely with the work of the School Wellness Policy Task Force and allow the standards to be in place for the 2007-08 school year. Mr. Furr continued to explain some of the specifics on a chart presented in the Board packet.

Ms. Karon asked what to do about the 5th and 6th graders who are served in the same lunch line but for whom the allowable beverage size is not the same. Mr. Furr said the first thing would be to ask the school if all the 5th graders have access to all the same food and beverage items as the 8th graders. To the extent they do, the district could seek a modification and state it couldn’t implement this distinction. Mr. Furr said that would be a valid basis for approving a modification.

State Superintendent Dunn said that situation might be common and that ISBE’s analysis would focus on whether there would be a way to separate those serving lines. If the serving line is for grades 5-8, then that would be a problem. If there was a way to manage a separation, then that would be different. There would be a unique set of facts for each school that would have to be examined.

Mr. Clark asked Mr. Furr about the 6th-8th grade beverage list, and Mr. Furr outlined the types of water that are allowable to sell. Ms. Holmes noted the contradiction that would be inherent in readily allowing modifications in 5/6 centers and stated the belief that there are numerous attendance centers that do have 5th and 6th grades. She touched on the complexity of trying to get them through the lunch line. She also asked whether a 7th grade student would be allowed to purchase two 8-ounce cartons of whole milk in the lunch line. It was explained that the rules would have no impact on the number of items a student can purchase in the lunch line. If someone were still hungry after consuming one portion of a food product, he or she could go
back and buy another. Ms. Holmes followed up regarding the serving size restriction to be sure whether a student would or would not be able to have two 8-ounce containers of whole milk without a doctor’s order.

Mr. Furr repeated that the rules would not restrict the number of items students can purchase, but that the size limit is based on the belief that packaging affects the way that consumers purchase items. Ms. Holmes noted that the rules did not differentiate according to how active individual students are or address the whole concept of wellness. Chairman Ruiz responded, saying the approach involved presenting options.

Shawn Rotherham commented about the portion size of milk for students, noting that school staff should not be placed in the position of saying yes and no to different students. If one eight-ounce portion were the limit, there would be some students who would need more milk but couldn’t obtain it.

Mr. Furr discussed the distinction between the elementary and middle school grade levels that had been emphasized during the public comment period by the school nutrition staff and others. He indicated that it had become apparent that 5-8 configurations are fairly common and it might make sense to make a change if the Board were amenable to it. If a student is in 5th grade and in a 5-8 building, he or she could be treated as a 6th-grader for purposes of these rules. That approach would help avoid numerous applications for modifications under the waiver law.

Mr. Clark said the 5-8 configurations were fairly common but pointed also to the prevalence of 5-6 configurations that would also need to be addressed. He said that, given his position on this, he would reluctantly agree with Mr. Furr that portion size is partly a peer pressure thing as well. Dr. Clark did not believe districts would want to carry both an 8-ounce and a 12-ounce container of the same product.

Mr. Furr made a few closing comments. Outside of the criteria for foods and beverages, the rules previously stated that the revenues from items sold within the food service areas in competition with the federal meals program would accrue to the non-profit school foods program account. This restriction has been maintained. He stated there is no perfect standard, but what the rules can do is set a baseline for the entire state so all students, regardless of where they are living, will have food and beverage options based upon good nutritional content. He stated further that this standard would not be set in stone for perpetuity and an advantage of the rulemaking process was that the agency would be able to monitor the impact of the rules and consider making adjustments in 2007 and beyond if needed. He noted that Ms. Schmitt and her staff would be meeting with the School Wellness Policy Task Force in the coming weeks. The next steps would be the development of general standards for second entrée and a la carte items. He concluded by reiterating that the rules were only one piece of the puzzle in addressing child obesity issues.

Dr. Brown asked whether it was correct that the rules had not been changed in 28 years, and Mr. Furr affirmed that that was the case. Dr. Brown said it seemed as though school lunch personnel had seen some rule changes during that time and perhaps they originated at the federal level instead. Ms. Schmitt explained the technical assistance districts receive from staff whenever changes need to be communicated.

**PART 1**

*(Public Schools Evaluation, Recognition and Supervision)*

Sally Vogl came to the Board table to discuss Part 1. She stated that the rulemaking addressed two issues, the timing of the appeals process and the requirements for writing-intensive courses for graduation. Ms. Vogl said no public comment had been received on either of those issues and the only change that was being submitted for consideration had to do with a question that was received on double-counting of coursework for graduation.

Chairman Ruiz said Board members had no questions regarding Part 1.
Ms. Vogl then discussed the master certificate in school counseling, which is a school service personnel certificate instead of a teaching certificate, and the availability of endorsements for out-of-state candidates whose preparation does not match the Illinois structure. She noted that no public comment had been received on this set of amendments. Consequently, the rules presented for adoption were identical to the version presented in December for initial review.

Dr. Hall expressed concern with shortages in various teaching fields and referred to the Educator Supply and Demand report. Her hope was that standards for preparation programs would not intensify existing shortages. Dr. Dunn commented that Dr. Hall’s point was absolutely correct and clarified that this set of rules governs all types of programs; no new requirements are being established in particular fields.

4. RULES FOR INITIAL REVIEW

Ms. Vogl reminded the Board of 2005 legislation that had re-established the authority for Gifted Education and made receipt of state funds by school districts for that purpose contingent upon the agency’s approval of their programs. She stated that there were a number of programmatic criteria and specifications in the law, so that the need for ISBE to write rules was fairly limited. However, there were a few of the law’s criteria that need to be explored further in terms of saying whether a district’s plan did or did not meet requirements. She stated that those were the aspects delineated in the rules and that they included matters such as an equitable method of identifying students and a fair and impartial appeals process. Another major topic was the qualifications to be required of teachers, given that there is no gifted education endorsement or any specific standards. Ms. Vogl noted that the old rules on this subject that had been repealed after the law was repealed several years ago provided for three requirements and allowed each teacher to meet any two of those. At this point, though, it would not be feasible to require that every teacher who is in a program would have met those requirements, because of the time that has passed. With the help of the Gifted Education Advisory Council, a number of different options were identified for meeting the requirements. She pointed out that rules also provided for a grace period so teachers would have time to come into compliance. The goal of the rule was identified as stimulating the availability of appropriately trained personnel instead of penalizing districts for the fact that there may not be someone on hand right now who can meet those requirements.

Dr. Hall commented that the International Baccalaureate programs that are nationally supported might be a model for some of the training that those teachers will need. Ms. Vogl said that she was certain Myron Mason and Carol McCue, the program staff responsible, would consider that possibility during the public comment period, which would also help clarify whether the proposed criteria were perceived as adequately flexible.

Ms. Vogl pointed to the distinction between this competitive grant program and the formula-based reimbursement that had previously been available. With the funding stream uncertain, the rules had been set up to provide for a three-year funding cycle, after which a funded program would be treated as a new program. Finally, she noted the inclusion of a rule to account for the situation in which it might be better for the state as a whole for ISBE to reserve the entire appropriation for statewide activities such as professional development or research. She noted that the law calls for ISBE to issue contracts or fund those projects “by rule” meaning a rule that would explain the circumstances under which that would happen.
Mr. Furr asked Ms. Vogl whether these were decisions that staff would be making with the advisory council. Ms. Vogl responded by saying yes and indicated that staff had held two lengthy meetings with the advisory council and received substantive input as to what the policy direction should be on various points.

**PART 1500**
**(Joint Rules of the State Fire Marshal and the State Board of Education: School Emergency and Crisis Response Plans)**

Ms. Vogl asked Ms. Weitekamp of School Business and Support to join her to discuss Part 1500. She explained that legislation enacted in 2005 requires a set number of specific types of safety drills each year and includes a great deal of specificity about what districts have to do and who has to be involved. Here again, she advised that the rulemaking role for ISBE was limited to a small number of issues. One of those was what would be considered an adequate annual review of the school district’s crisis response plan, and the other was defining what it really means to conduct a drill that is aimed at fostering and promoting the safety of everyone in the school environment. She explained that the law calls for a common set of rules with the office of the State Fire Marshal and that staff from OSFM had had significant involvement with ISBE staff in the development of these rules, along with the terrorism task force.

**PART 675**
**(Providers of Supplemental Educational Services)**

Mr. Furr stated that important changes were being made in this Part and that he would like to go into detail with the Board. With the framework that was put in place last year, Illinois had assumed national prominence in dealing with supplemental educational service providers. However, three areas needing attention had become apparent: the code of ethics; the evaluation of providers’ effectiveness; and the cost structure for providers, specifically in terms of limiting the overhead that providers can charge.

Mr. Furr noted some actions that had occurred during the enrollment period in the fall of 2005 which, while perhaps not directly violating the letter of the ethics code, certainly had violated its spirit. It would be important to ensure that providers do not distribute enrollment forms with directions on how to complete the forms, because that might be confusing to parents who do not understand they have a wide selection of providers to choose from. Also, providers should be prohibited from soliciting or accepting specific arrangements with a district or school. He noted that the rules already prohibit hiring of district personnel for non-instructional purposes and recommended that this should be extended explicitly to hiring members of a PTA (or an LSC in Chicago), in order to avoid giving providers unfair access to particular schools.

Mr. Furr also stated that providers should also not be allowed to hire parents until after the enrollment deadline. If a parent is on the payroll of a provider, he or she would not be likely to make an objective selection for that child’s tutoring. One other change that was suggested was to allow providers to hire district personnel solely for clerical purposes, because the same conflict of interest is not involved. Finally, Mr. Furr noted that providers had been hiring teachers before the enrollment deadline to be the tutors for their programs, which would create direct or indirect pressure to get as many pupils as possible into that program. He suggested that there should be an absolute firewall between teachers hired for instructional purposes and any recruiting or marketing activities.

Dr. Ward asked if the rules would protect in some way against clerical staff doing recruiting, noting that a clerical staff member would very often be the registrar. He believed that the same concern exists with respect to these staff members as for teachers. Mr. Furr stated that clerical staff has no relation to the marketing of the provider’s program. He indicated that the issue would be looked at to see if there was a need to make that more explicit.
Mr. Furr then discussed the second area of the amendments, the evaluation process for providers, noting that the proposed changes were in line with the presentation given to the Board by contractor Dr. Steven Ross and other members of the team from University of Memphis and Learning Point Associates. The evaluation rubric sets out three criteria as part of the evaluation from the regulatory standpoint: student achievement, the attendance in the provider’s program, and parent satisfaction. Each criterion has classifications for either being above standards, meeting standards, or being below standards. In the case of student achievement and parent satisfaction, there might be some instances where there would not be sufficient information on which to judge a particular provider.

Mr. Geppert asked if there is anything requiring “Probationary Status 2.” He felt that if student achievement is unsatisfactory then positive results on the other aspects should not improve a provider’s status or give extra time for them to improve. Ms. Karon agreed. Mr. Furr clarified that, under federal law, there must be at least a two-year window for removal and followed up to verify the meaning of Mr. Geppert’s suggestion. There was further discussion on how actual quality would or should be evaluated and how much time providers should be given. Dr. Hall voiced particular concern for input by classroom teachers. Mr. Furr responded that it might be possible to add a teacher survey in the future, depending upon the availability of resources, and noted that the state assessment does provide an objective measure. It was determined that the status chart would be revised to reflect student achievement as the dominant determining factor.

The necessity for maintaining an adequate pool of providers was touched on by Mr. Clark, to which Dr. Fields replied by emphasizing that the Board would not want to be in the position of keeping poorly performing providers on the approved list. Mr. Clark agreed and clarified that his prior point had been intended to highlight the difficulties that districts may face and the need to identify other suitable providers. All agreed that there would be no “quick fix” and that in some cases having no provider would be preferable to paying for poor service.

Mr. Furr then briefed the Board on the portion of the rules related to cost structure. He noted the importance of requiring that providers only charge for the actual cost of their services so that the largest possible number of students can be served. He also identified a need for transparency in this industry since public funds are being used. He described the proposal to cap the amount of “administrative and general” expenses that a provider can charge at 25% of the prior year’s Title 1 per-pupil allocation. He noted that, for the Chicago Public Schools, this approach would mean a $470 limit on the amount that could go towards “administrative and general” expenses, very close to the median amount that providers reported for that category for ’04-’05. Mr. Furr stated that without such a limitation providers had used upwards of $700 of a district’s Title I funds for these overhead expenses.

The other limit that was being proposed was an overall 40% limit on “administrative and general” and “curriculum and training” expenses combined, because curriculum and training also happen outside the classroom, such as curriculum development at the national level. This approach would avoid artificial shifts of administrative expenditures into the “curriculum and training” category. Mr. Furr emphasized the desirability of having a majority of the public funds spent on tutoring provided directly within the district. For an effective provider that has achievement levels above standards, however, he noted that there would be less concern over the level of these expenses. If a provider is above standards for student achievement, he recommended that the rule permit an exception to these limits if necessary for program delivery. In other words, effective service models would not need to be subject to these requirements, but in programs that are less effective more money should be going directly towards the program expenses within the district.

In response to a question from Mr. Clark, Mr. Furr responded that there are not any market forces involved whatsoever. He explained that parents make the selection and districts cannot negotiate costs or bid to obtain the best costs, so essentially ISBE is the only entity that can hold providers
accountable for reasonable costs. It was also clarified that the limitations just discussed would vary according to districts’ specific per-pupil allocations and that no limit had been set on direct programmatic costs. Thus, if there are additional costs related to hiring teachers within a certain area, those higher expenditures would not be restricted.

Dr. Dunn commented that as Mr. Wolfe and his staff go out and perform audits, necessary adjustments on a regional cost basis might become apparent.

5. Rules for Preliminary Discussion

PART 254
(Vocational Education)

Mr. Furr said Part 254 will be tabled for another month.

6. Informational Update: Less Red Tape

Mr. Furr provided a brief update on the Less Red Tape initiative.

7. Adjournment

David Fields made the motion to adjourn. Vinni Hall seconded the motion.

Meeting adjourned at 1:30 p.m.