Ad Hoc Rules Committee of the Whole  
Wednesday, September 20, 2006  
3:00 p.m.  
(This meeting will begin at the conclusion of the previous session.)

9-040 James R. Thompson Center  
100 West Randolph Street  
Chicago, Illinois

Public Conference Call Access Number: 1-866-297-6391 (listen only)  
Confirmation # 1 5 7 2 0 6 4 1

AGENDA

1. Public Participation

2. Minutes of the June Ad Hoc Rules Committee Meeting (pp: 2-7)

*3 Rules for Initial Review
   a. New Part 232 (Summer Bridges Program) (Myron Mason) (Plenary pp: 6-16)

*4. Rules for Adoption
   a. Amendments to Part 1 (Public Schools Evaluation, Recognition and Supervision (AMAOs for Bilingual Programs) (Robin Lisboa) (Plenary pp: 25-33)
   b. New Part 65 (New Teacher Induction and Mentoring) (Linda Jamali) (Plenary pp: 34-43)
   c. Amendments to Part 228 (Transitional Bilingual Education) (Robin Lisboa) (Plenary pp: 44-91)
   d. New Part 265 (Grants for Arts Education and Foreign Language Education (Plenary pp: 92-108)
      (Dana Kinley)
   e. New Part 365 (Technology Immersion Pilot Project) (Dana Kinley) (Plenary pp: 109-116)

5. Additional Items

6. Adjourn

* Items listed with an asterisk (*) will be discussed in committee and action may be taken in the plenary session.
1. PUBLIC PARTICIPATION:
Chairman Ruiz asked Mr. Hal Berman to come to the Board table.

A. Mr. Hal Berman, speaking on behalf of Club Z! Tutoring Services, addressed the Board regarding Part 675 (Providers of Supplemental Educational Services). Mr. Berman requested the Board to consider eliminating the current Section 675.200 in its entirety and asked that changes not be implemented until there is further study on the matter.

General Counsel Jon Furr stated that, although each contract for services is between the provider and the school district, the federal government has made it clear that it is not districts’ role to oversee costs. That is something that should be addressed at the state agency level. These rules perform ISBE’s diligence in making sure there is accountability in that industry and providing appropriate procedures for cost allocation to the local school district, so that districts are not charged for costs that should not be attributed to the program.

Dr. Hall thanked Mr. Berman for his comments and hoped that he would be able to submit some of the things that he talked about in writing.

B. Ms. Agnos, representing LEND/SCOPE, commented on Part 305 (School Food Service). Ms. Agnos noted Representative McKeon’s motion for JCAR’s filing prohibition on these rules, in which he offered three different points. First was that the Statewide Wellness Task Force had been established by the General Assembly and charged with responsibility for establishing state nutritional guidelines. The Task Force’s report and recommendations are to be made to the General Assembly in January 2007. Further, Ms. Agnos pointed out that Rep. McKeon had stated he didn’t believe the proposed rules provided a total approach to child wellness and nutrition. Finally, having received over 400 letters, Rep. McKeon directed the State Board to look
seriously at the process, meaning the rules process, and reach out to school professionals, school personnel and nutritionists to accomplish the shared goal in an efficient and effective manner. Ms. Agnos suggested to the Board that practitioners should review the proposals for revising the rules before taking action. The information came out after the end of the school year, when the food service staff and administrators are gone. Ms. Agnos asked the Board to make a motion to postpone any action.

Board Member Brenda Holmes asked why SCOPE/LEND, LUDA, EdRED and school nutrition staff had not been involved. Mr. Furr responded by indicating that the request for feedback had gone to the Management Alliance, on the assumption that the Alliance would at least bring in the nutrition expertise that they would need in their evaluation. Mr. Furr said that all the substantive information being shared with the Board had been available for review and reiterated the need for action if any revised standards were to be in place for the coming school year.

C. Cynthia Woods, representing the Management Alliance and the School Board Association, addressed Part 305 with respect to both the process and the issues.

Ms. Woods told the Board that this should be treated as a local policy and local control issue. It needs to be dealt with on a local basis so that local districts would have some flexibility. She also told the Board it should be done legislatively and not through rulemaking. She asked that the Board await the January 2007 recommendations of the task force.

Ms. Holmes asked Ms. Woods to describe the involvement of the Alliance in the review process, and Ms. Woods summarized what she understood regarding this point.

Board Member David Fields asked if the Alliance was advocating postponement of action on the rules. Ms. Woods replied that they were seeking one of two things: either to have it put into a legislative agenda or to wait until after the January 2007 wellness report and see what the follow-up would be from there.

Dr. Brown commented that local control might be sacrificed in the case of a legislative mandate and asked how the IASB would react if the legislative mandate were to exceed the existing federal mandate. Ms. Woods stated that would be a problem and that she did not believe anyone would want to go beyond the federal mandate.

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

3. DISCUSSION OF RULES FOR INITIAL REVIEW

PART 1
(Public Schools Evaluation, Recognition and Supervision)

Robin Lisboa, Division Administrator for English Language Learning (ELL), staff members Dr. Boon Lee of ELL and Sally Vogl came to the Board table.

Ms. Lisboa noted that there are two accountability measures under NCLB: adequate yearly progress and the annual measurable achievement objectives (AMAOs) required under Title III. She explained that Title I mandates that all students grades K-12 who are English language learners be assessed annually across all language domains, and Title III requires that ISBE develop English Language Proficiency standards and then an assessment aligned to those standards. Students’ progress in English on that assessment is an important component of the AMAOs. Ms. Lisboa discussed the new Section of the rules that sets forth those objectives.
Dr. Boon Lee explained that this is consistent with A.Y.P. and Board Member Dean Clark asked for clarification regarding students served by a cooperative. It was clarified that the students in a cooperative are treated collectively and their results apply to all their districts of origin.

Ms. Holmes asked Dr. Lee and Ms. Lisboa how many districts are receiving Title III funds, whether they were concentrated geographically, and for whom the treatment of cooperatives just described might have the greatest impact. Dr. Lee said there had been about seven coops last year that decided not to cooperate this year. Dr. Lee said staff had brought this concern to USDOE and hopes that they might revisit this policy.

Ms. Holmes asked how many local districts would be receiving Title III funds. Ms. Lisboa indicated that not quite 200 school districts and about 18 cooperatives would be expected to apply and that Title III funding for the previous year had amounted to some $23 million.

**PART 65**
*(New Teacher Induction and Mentoring)*

Chairman Ruiz announced that the meeting had been joined by Representative Bassi.

Linda Jamali, Division Administrator for Certification, explained to the Board the emergency rules for New Teacher Induction and Mentoring. She noted that the original legislation had been enacted in 2003 without an appropriation but that for FY 07 an appropriation had been made. These funds are for pilot programs rather than for the statewide program originally envisioned, and consequently the rules had been written to address pilot programs.

Ms. Vogl indicated that one aspect of the rules needed additional language because of an understanding that school boards would not be able to submit applications for this grant without the concurrence of the local bargaining agent. She referred to a replacement page displaying that statement as an eligibility criterion for the Board’s consideration and explained that, if the request for proposals were to include that requirement it would need to be stated in the rules.

Dr. Hall commented that the teacher incentive program had been intensely focused on the fact that teachers as a group buy in. She urged the Board to include teacher groups and also asked about the relationship of this program to hard-to-staff schools. Ms. Jamali pointed out that the rules provide for giving priority too hard-to-staff schools when considering proposals that are otherwise substantially similar.

Mr. Clark voiced the concern that ISBE had typically avoided taking sides in collective bargaining issues and stated his doubts that the Board should be enforcing the involvement of the bargaining unit at the local level through rulemaking.

Mr. Geppert responded that he understood Mr. Clark’s concerns but did not view this statement as a collective bargaining issue. Rather, the rule would provide an assurance that both the mentors and the new teachers who would be affected would be willing participants in the program so that, when sending money to a particular grant recipient, ISBE could be assured that the money is going for its purpose. Ms. Holmes agreed with Mr. Geppert regarding teacher support. She said engagement and requirement are two different issues and if the statute has not specifically stated this requirement, then she would like to see the legislative intent language.

Mr. Furr explained that ISBE does have flexibility within the grant program established by the statute to set out general application requirements and procedures for distributing those funds. Mr. Geppert said that the Board would not be requiring this to be negotiated or requiring any hurdle except for an assurance that this is something that the parties will participate in.
PART 235  
(Early Childhood Block Grant)

Kay Henderson, division administrator for Early Childhood, explained the Early Childhood Block Grant emergency rules that give definition to Preschool For All and establish the parameters for the program. She noted that the rules deal with both the proposals submitted to the State Board for consideration and then also at the local level the children who would be participating in this program for the coming two years.

Ms. Holmes had questions about the program staff review. 1) Will that apply to Chicago and 2) can the review evaluation cost be taken out of the $45 million. Ms. Henderson responded affirmatively and continued to explain the process involved.

Ms. Holmes asked about the language to the effect that grant funds may not be used to provide religious instruction, conduct workshops, etc., and asked why this kind of language had not been included in other rules previously. Mr. Furr explained by saying the State constitution would restrict the grant funds from being used for that purpose. Rather than having the attorneys at the State Board do a separate constitutional analysis each time the question is raised with respect to a particular program, it had been deemed prudent to have it clarified in the rules.

Ms. Holmes asked if that would be an issue and Mr. Furr said that it had been a specific issue in this program which is why we decided that it would be a good idea to add it in terms in this grant. That same restriction is based on the Illinois Constitution.

Chairman Ruiz asked where the growth in the program would occur and whether it would be in any particular area or segment such as nonprofit organizations. Ms. Henderson noted that, as this would be a grant process, all applications received would be reviewed within the context of the rubric that is designed to reflect the RFP and the given criteria. She noted that the existing programs had reported anywhere from 8,000 to 10,000 at-risk children statewide on waiting lists. The expectation is that in the first year the program would continue to be serving that population of kids and in some instances those children are concentrated in more urban areas and some in other areas such as southern Illinois.

Dr. Hall complimented Ms. Henderson and Mr. Regenstein in all the work done in this area.

Mr. Furr said he wanted to thank Shelley Helton of his staff who has put in a lot of work in working with Ms. Henderson and her staff to get this in place in the face of some very tight timelines.

PART 365  
(Technology Immersion Pilot Project)

Dana Kinley, Division Administrator of Curriculum and Instruction, presented the emergency rules for Part 365 (Technology Immersion Pilot Project). She provided some legislative background, noting that a bill had been enacted in 2004 but there was no appropriation attached to it. In the spring of 2005, the Lt. Governor had came forth with his I-Connect program, which touted a one-to-one learning opportunity, meaning a laptop for every seventh grader; that proposal didn’t receive an appropriation either.

Ms. Karon asked about the apparent contradiction in information presented in the cover memo and the rules; Ms. Vogl explained that the law discusses both the number of districts and specific numbers of the schools.

Darren Reisberg, Deputy General Counsel, commented about entering into an inter-agency agreement with the Capital Development Board (CDB) so that ISBE could administer the funds that are appropriated to that agency. CDB would have the funds, but ISBE would essentially be handling the program and entering into the contract with the vendor that is chosen as a result of issuing the RFSP. The CDB might or might not also be a party to that agreement.
Ms. Karon commented that ISBE should not ask for equipment back and she also said that in terms of repair and maintenance, we should look for a vendor that is thoughtful in what they are doing and provides for replacement rather than a repair, particularly for laptops, which seem not to be worth repairing.

4. Rules for Adoption

**Part 305 (School Food Service)**

Chris Schmitt, Division Administrator of Child Nutrition, staff members Roxanne Ramage and Mark Haller came to the Board table.

Mr. Furr explained to the Board the status of the rules and discussed the content of the proposal. He reminded the Board that, at its April meeting, JCAR had filed a prohibition on filing the proposal that had originally been adopted. He went on to note that the prohibition would be permanent unless lifted within 180 days either by action of a simple majority of JCAR or the passage of a joint resolution by the General Assembly. It appeared that there would be sufficient support among the JCAR members for lifting the prohibition if ISBE presented a revised version of the rules addressing some concerns that were raised with the initial proposal. Therefore a change had been made to have the same standards for all grade levels that would be subject to the rules. Further, there would no longer be an exclusion of snack chips, and the rules would affect only food sales during non-meal times. Mr. Furr continued to discuss the availability of a waiver if needed by a school that would have difficulty complying with the rules and other related changes.

Ms. Holmes asked questions regarding the exemption language for existing vendors’ contracts. Mr. Haller responded that there are contracts that are in place for a longer period at a time but that one year should be sufficient time within which to negotiate changes in those contracts. Ms. Ramage told the Board that the majority of the contracts that the staff sees in relation to food are one year contracts although some are for shorter periods.

Ms. Holmes asked about the intended internal process for approving the exceptions to which Mr. Furr had alluded. Ms. Karon questioned multi-year contracts and expressed her concern that the community should be involved in this matter.

Mr. Clark commented that the changes in the rules represented significant improvement in many ways, although they did not address the issues he had raised in the past with regard to local control. He reiterated his belief that local school boards should be making the decisions. He also would prefer not to adopt a version of the rules knowing that it would need to be revised in January.

Mr. Geppert urged the Board to go forward with the rules.

Board Member Chris Ward expressed his views of the rules and hoped they would be adopted. In his opinion, the effects of childhood obesity on health leave no time to be lost in addressing students’ nutrition.

Dr. Fields asked whether the revised rules would address the issues and concerns raised by JCAR. Secondly, he inquired what the impact would be if the Board waited until the wellness report were completed prior to making the final decision. Mr. Furr noted that by waiting one more year at least would elapse before there would be any statewide standards for school nutrition for elementary and middle-grade students.

Dr. Fields asked Mr. Furr what he anticipated school districts’ reaction would be if changes were implemented at this time and then further changes were made as a result of the task force’s report. Mr. Furr acknowledged that work would be needed at the local level as far as dealing with implementation was concerned. He indicated that ISBE staff was preparing to provide significant
technical assistance to make sure that communication to school districts is adequate. He also reiterated the provisions in the rules that would provide flexibility in instances where a district might not be able to change an existing contract right away. He noted that a phased approach would be involved, since the School Wellness Policy Task Force would be looking at cafeteria sales, second entrées, ala carte items, and thus a broader perspective over all. The task force might also suggest there be some revisions to the standards included in the rules.

Dr. Fields asked Mr. Furr whether ISBE had fully addressed JCAR’s concerns, and Mr. Furr replied that he would never state that he could speak on behalf of the Joint Committee. He noted that one of the issues had been the absence of a comprehensive approach to child nutrition and wellness but stated the need to communicate to JCAR that ISBE had never put this forward as being the comprehensive answer but instead had always viewed it as one piece of the puzzle. It would be inappropriate to try in one rulemaking to cover school food standards, physical education, health standards, and education. However, ISBE does have other requirements in place with respect to those areas.

Part 675
(Providers of Supplemental Educational Services)

Robert Wolfe, division administrator for External Assurance, Dr. Gary Greene, State SES Coordinator and Sally Vogl came to the Board table for discussion.

Mr. Furr explained key points of the rules being presented for adoption, including revisions to the Code of Ethics, instituting an evaluation process, and also dealing with the financial framework and the amounts that can be charged for overhead and program expenses. He noted particularly the use of ISAT scores as a measure of providers’ performance in terms of students’ achievement.

Chairman Ruiz asked Mr. Furr to confirm that the rules would in no way limit or eliminate funding for any of these programs; Mr. Furr reaffirmed the correctness of that statement.

Dr. Hall complimented staff who worked on the rules. She mentioned her concern for communication with the schools regarding children’s progress. Gary Greene explained providers’ use of diagnostic tools to determine students’ needs.

New Part 1500
(Joint Rules of the Office of the State Fire Marshal and ISBE: School Emergency and Crisis Response Plans)

Debbie Vespa, division administrator for School Business and Support Services, outlined for the Board the recommended revision to the original version of the rules.

5. Informational Update: Less Red Tape
   Mr. Furr said he wanted to update the Board before he left the agency about the rules review and also the Less Red Tape process and to give a summary of SB 2829.

6. Adjournment
   Joyce Karon made the motion to adjourn. Chris Ward seconded the motion.

Meeting adjourned at 3:45.