AGENDA (timeframes are estimated for planning purposes)

1. Roll Call

2. Board Member Participation by Other Means

3. Public Participation 9:30 – 9:45 a.m.

4. Minutes of the October Ad Hoc Rules Committee Meeting (pp. 2-4)

*5. Rules for Adoption (9:45 – 10:15 a.m.)
   a. Part 110 (Program Accounting Manual) (Repeal) (Deb Vespa) (pp. 5-6)
   b. Part 125 (Student Activity Funds and Convenience Accounts) (Repeal) (Deb Vespa) (pp. 5-6)
   c. Part 130 (Determining Special Education Per Capita Tuition Charge) (Tim Imler) (pp. 7-16)
   d. Part 235 (Early Childhood Block Grant) (Kay Henderson) (pp. 17-20)
   e. Part 245 (Education of Homeless Children and Youth State Grant Program) (Gina Hopper) (pp. 21-33)
   f. Part 500 (Replacement of Required Rules) (Repeal) (Darren Reisberg) (pp. 34-35)
   g. Part 525 (Regional Offices of Education and Intermediate Services) (Patrick Murphy) (pp. 36-44)

6. Committee Wrap-up (Superintendent Koch)

7. Committee Agenda Planning/Additional Items

8. Adjourn

* Items listed with an asterisk (*) will be discussed in committee and action may be taken in the plenary session.
Chairman Ruiz called the meeting to order at 10:20 a.m. After the roll call, he announced that all members were present and therefore no members would be participating by other means. Further, no one had signed up for public participation.

4. APPROVAL OF MINUTES

Board member Brenda Holmes moved approval of the minutes of the Committee’s meeting of September 18, 2008, and Board member Dean Clark seconded the motion. It was adopted unanimously, and the minutes were approved as presented.

5. RULES FOR INITIAL REVIEW

Chairman Ruiz turned the meeting over to General Counsel Darren Reisberg, who indicated that there were two rulemakings presented for the Board’s action.

PART 260 (Reading Improvement Block Grant Program)

Mr. Reisberg noted the meeting would be short, noting only one rulemaking for initial, Part 260. Mr. Reisberg asked if any Board member had comments or questions concerning the amendments to Part 260, which set forth the requirements for receiving grants for professional development under the Reading Improvement Block Grant Program. There were none.

6. RULES FOR ADOPTION

PART 75 (Incentive Grants for Agricultural Science Teacher Education)

Mr. Reisberg pointed out that one set of rules are ready for adoption, Incentive Grants for Agricultural Science Teacher Education (Part 75). Mr. Reisberg noted that the Board initially considered this proposed rulemaking a couple months ago at its August retreat. He added that the proposed rules were being brought back to the Board quickly in order for grants to be awarded as soon as possible this fiscal year. Two letters of public comment were received, and Mr. Reisberg indicated that Sally Vogl and Winnie Tuthill worked closely with staff in the divisions of Career and Technical Education and Educator and School Development to address the concerns raised.
On a related note, State Superintendent Christopher Koch told the Board that he had received comments from regional offices of education (ROEs) about their ability to apply for grant funding. For instance, Superintendent Koch noted that for one of the programs authorized under Part 260, ROEs would not be eligible to apply. He said staff are looking at the issue carefully, and that ROEs recently approached the agency about working with them to address their concerns.

Dr. Koch asked Mr. Reisberg to discuss the issues involved in determining the eligibility of ROEs to apply for grants. For many programs, ROEs are not included as eligible applicants in the statutes authorizing the grant programs. Mr. Reisberg added that while the School Code defines ROEs as local education agencies (LEAs) for the purpose of applying for grants that are available to LEAs, the term “LEA” is not the same as “school district” but rather is a broader term. ROEs, therefore, would not be eligible to apply in instances where only school districts are the eligible applicants.

Mr. Reisberg also told the Board that the School Code does allow other entities (area vocational centers, approved university laboratory schools and charter schools) to apply for grants on the same basis as school districts. When the law authorizing the grant program indicates that school districts may apply for grants competitively, then these entities may also apply. Mr. Reisberg reiterated that the ROEs have asked for staff’s help in drafting legislation that would allow ROEs to be considered as “school districts” for purposes of grant application, and that staff would be meeting with the ROE association’s legislative committee after the Board meeting to discuss this further.

Board member Andrea Brown then asked whether ROEs could apply for federal grants. Mr. Reisberg said they often could since eligible applicants under many federal programs are LEAs; therefore ROEs would be eligible regardless of whether state law is changed. On the other hand, if federal guidance for a particularly defines only school districts as eligible, then as LEAs, ROEs would not be eligible to apply.

Dr. Brown then asked specifically about the state “Grow Your Own” Teachers program. Dr. Linda Tomlinson, assistant superintendent for School Support Services, indicated that it had been determined that ROEs were not eligible to serve as part of a consortium but that staff has discussed the possibility of changing the statute for that program.

Mr. Reisberg summed up the discussion by pointing out the importance of ROEs becoming involved in the legislative debate when new programs are under consideration to ensure that the regional offices are included as eligible applicants. If ROEs are not specified as eligible in the statute, then a Request for Proposals (RFP) cannot be written more broadly than statute to allow them to do so.

After some discussion, Board member Brenda Holmes said that she is not certain that she agrees with a “blanket, overall opening up” of grant opportunities to entities other than school districts. She noted that the approved university laboratory schools fought “long and hard” to change the law to enable them to access grant money. She said that at the time, she disagreed with that change, noting that some grants are more specific to school districts. At the same time, Ms. Holmes acknowledged that it was the prerogative of the legislature to make the final determination. In conclusion, Mr. Reisberg said it is important for the agency to understand whether ROEs want to apply for grants to provide services or rather, only to serve as an administrative or fiscal agent, which potentially could be less of a concern.

7. COMMITTEE AGENDA PLANNING/ADDITIONAL ITEMS

Mr. Reisberg noted that no items are anticipated for Board action in November, as a meeting of Rules Committee may not be scheduled. For the December meeting, four parts of rules are likely to come back to the Board for adoption. These are Part 130 (Special Education Per Capita
Tuition Charge), Part 235 (Early Childhood Block Grant), Part 245 (Education of Homeless Children and Youth State Grant Program), and Part 525 (Regional Offices of Education and Intermediate Services). In addition, the Board also could consider three parts of rules proposed for repeal: Part 110 (Program Accounting Manual), Part 125 (Student Activity Funds and Convenience Accounts) and Part 500 (Replacement of Required Rules).

8. **ADJOURNMENT**

Board member Vinni Hall moved that the meeting be adjourned. The motion was seconded by Board member Dean Clark, and the meeting was adjourned at 10:40 a.m.
TO: Illinois State Board of Education

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

Agenda Topic: Action Item: Rules for Adoption –
               Repeal of Part 110 (Program Accounting Manual)
               Repeal of Part 125 (Student Activity Funds and Convenience Accounts)

Materials: Recommended Rules
           In the interest of conservation, a copy of these rules is available for review on line
           at www.isbe.net/rules/proposed/default.htm

Staff Contacts: Deb Vespa, Division Administrator

Purpose of Agenda Item

The purpose of this agenda item is to present the proposed repeal of two sets of rules for
adoption.

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

These two rulemaking items are not specifically related to the strategic plan. The two sets of
rules involved have been replaced by new Part 100 (Requirements for Accounting, Budgeting,
Financial Reporting, and Auditing), and their repeal represents technical clean-up only.

Expected Outcome of Agenda Item

The Board will be asked to adopt the proposed repeal of these sets of rules.

Background Information

Rulemaking was conducted in 2007 to establish a new set of rules covering the chart of
accounts for school districts and all the other related issues previously addressed in Parts 110
and 125. That new set, Part 100, indicates that its effectiveness begins with Fiscal Year 2009.
At the same time as it was adopted, Parts 110 and 125 were amended to state that their
effectiveness would end after Fiscal Year 2008. Now that FY 2009 has been reached, the
material in Parts 110 and 125 is no longer needed, and those Parts can be repealed in their
entirety.

These two rulemaking items were presented for initial review at the September Board meeting
and subsequently published in the Illinois Register to elicit public comment. None was received.
In the interest of conservation, copies of these repealers are not being included in the printed
Board packet. However they are available for review on line at
www.isbe.net/rules/proposed/default.htm.
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

Repealing these rules will help eliminate any possible uncertainty in the field about the effectiveness of new Part 100. Leaving Parts 110 and 125 in place would serve no further purpose and might cause some confusion about the relationship among the three different Parts.

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:

- Program Accounting Manual (23 Illinois Administrative Code 110), and
- Student Activity Funds and Convenience Accounts (23 Illinois Administrative Code 125).

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 repealers 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 the affected entities will be informed through the agency’s web site and other means as appropriate.
TO: Illinois State Board of Education
FROM: Christopher A. Koch, Ed.D., State Superintendent of Education
       Linda Riley Mitchell, Chief Financial Officer
       Darren Reisberg, General Counsel

Agenda Topic: Action Item: Rules for Adoption – Part 130 (Determining Special Education Per Capita Tuition Charge)

Materials: Recommended Rules

Staff Contacts: Tim Imler, 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 rulemaking item is not specifically related to the strategic plan. The set of rules involved needs to be updated to eliminate obsolete cross-references. These amendments represent technical clean-up only.

Expected Outcome of Agenda Item

The Board will be asked to adopt the proposed amendments.

Background Information

Beginning with Fiscal Year 2009, new Part 100 (Requirements for Accounting, Budgeting, Financial Reporting, and Auditing) has taken the place of long-standing Parts 110 (Program Accounting Manual) and 125 (Student Activity Funds and Convenience Accounts). Various other sets of ISBE’s rules contain cross-references to Part 110 in particular and thus need to be updated as time permits.

These amendments were presented for initial review at the September Board meeting and subsequently published in the Illinois Register to elicit public comment. None was received, so there are no changes to recommend in response to public comment. However, it has come to our attention that there is an outdated reference to the Fall Enrollment and Housing Report that should be corrected at this time since that report is no longer current. It is recommended that the affected definition in Section 130.10 be revised as follows:

"Total Number of Pupils Enrolled" - The total enrollment of the local education agency for the school year, as reported to the State Board of Education as of the last school day in September on the Fall Enrollment and Housing Report.
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 Part 130 up to date. Failure to adopt the amendments would result in the persistence of technical inconsistency among various sets of the agency’s rules.

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:

   Determining Special Education Per Capita Tuition Charge (23 Illinois Administrative Code 130).

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

Next Steps

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

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER c: FINANCE

PART 130
DETERMINING SPECIAL EDUCATION PER CAPITA TUITION CHARGE

Section 130.10 Definitions
130.20 Applicability
130.30 Allowable Expenditures for Determining Per Capita Cost
130.40 Expenditures Not Allowed in the Per Capita Cost
130.45 Calculation of Individual Cost
130.50 Tuition Billing

AUTHORITY: Implementing and authorized by Sections 14-7.01, 14-7.02b, and 14-7.03 of the School Code [105 ILCS 5/14-7.01, 14-7.02b, and 14-7.03].


Section 130.10 Definitions


"Average Daily Attendance" - The number of full-time equivalent days a pupil is in attendance in a program divided by the number of days school is in session.

"Average Daily Enrollment" - For an individual pupil, the number of days a pupil is enrolled in a program divided by the number of days a program is in session, multiplied by the percentage of the school day the pupil participates in the program. For a program, the Average Daily Enrollment is the total of the Average Daily Enrollment figures for all students enrolled in it.
“Days in Session” – The number of actual pupil attendance days reported on the final calendar for the school year.

"District Per Capita Tuition Charge" - District expenditures (including allowable depreciation) associated with providing education during the regular school term from local taxes and common school fund monies, calculated by deducting revenues for various state categorical programs as shown on the district's annual financial statement filed in accordance with Section 3-15.1 of the School Code [105 ILCS 5/3-15.1], local user fees, and federal receipts, other than federal impaction aid, from the operating expense; then dividing the result by the annual average daily attendance of the district.

Eligible Pupils" - All children with disabilities 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] and in 23 Ill. Adm. Code 226 (Special Education).

“IEP” – A pupil’s individualized education program (see 23 Ill. Adm. Code 226).

"Local Education Agency" - A public educational agency at the local level that operates schools or contracts for educational services. This includes school districts, school districts providing services under a joint agreement pursuant to Section 10-22.31a of the School Code [105 ILCS 5/10-22.31a], educational service regions pursuant to Section 3A-1 of the School Code [105 ILCS 5/3A-1], educational (intermediate) service centers pursuant to Section 2-3.62 of the School Code [105 ILCS 5/2-3.62] and 23 Ill. Adm. Code 525 (Regional Offices of Education and Intermediate Services), public university laboratory schools pursuant to Section 18-8.05(K) of the School Code [105 ILCS 5/18-8.05(K)], and governing boards formed pursuant to Section 10-22.31 or Section 3-15.14 of the School Code [105 ILCS 5/10-22.31 or 3-15.14].

"Local Educational Facilities" - Buildings, including sites and site improvements, operated by a local education agency.

"Program" – For purposes of the reimbursement of claims under Sections 14-7.02b and 14-7.03 of the School Code [105 ILCS 5/14-7.02b and 14-7.03], a combination of special education instructional services, supportive services, supplies, materials, physical plant adjustments, and other special educational facilities designated by a local education agency as meeting the common
NOTICE OF ADOPTED AMENDMENTS

educational needs of a group of students with disabilities that also conforms to the requirements set forth in Section 110.50(c)(11) of the Manual.


"Special Education" - Those instructional programs, supportive services, supplies, materials, physical plant adjustments, and other special educational facilities described in Article 14 of the School Code [105 ILCS 5/Art. 14] and 23 Ill. Adm. Code 226 that modify, supplement, support, or are in place of the standard educational program of the public school, and that are needed to meet the needs of eligible pupils.

"Special Educational Facility and Services" – See Section 14-1.08 of the School Code [105 ILCS 5/14-1.08].

"Special Education Per Capita Cost" - The average expenditure per eligible pupil incurred by a local education agency in the implementation and maintenance of each special education program, computed by dividing the allowable program expenditures by the average daily enrollment of all eligible participating pupils in the manner prescribed in this Part.

"Special Education Pupil Transportation" - Those transportation services that are in addition to the regular pupil transportation services provided by the local education agency, and that are required and provided in accordance with the provisions of 23 Ill. Adm. Code 226.

"Special School" - An educational setting that is established by the local education agency exclusively to meet the needs of exceptional pupils.

"The School Code" - The School Code [105 ILCS 5].

“Time in Special Education” – For purposes of the reimbursement of claims under Sections 14-7.02b and 14-7.03 of the School Code, the percentage that reflects the amount of time for which a pupil receives special education services under his or her IEP at the time of entry into the special education program as compared to the total amount of time in the pupil’s regular instructional day. The instructional school day is not “bell to bell” and should omit passing periods, lunch, and recess unless the pupil’s IEP requires support during those times.
"Total Number of Pupils Enrolled" - The total enrollment of the local education agency for the school year, as reported to the State Board of Education as of the last school day in September on the Fall Enrollment and Housing Report.

"Total Number of Special Education Pupils Enrolled" - The total number of pupils reported to the State Board of Education as being enrolled in special education programs on December 1 of a particular year. For special education joint agreements and regional programs, this is the sum of all member districts' enrolled special education pupils as of December 1.

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

Section 130.30 Allowable Expenditures for Determining Per Capita Cost

a) All local education agencies operating special educational facilities shall maintain evidence of their accountability for funds as prescribed in the accounting rules Manual.

b) Accounting dimensions used to record expenditures used in calculating per capita costs shall include at least the fund, fiscal year, four-digit function number, and object. Functions and objects must correspond to and be traceable to the official budget and annual financial report of the local education agency.

c) Expenditures for equipment necessary for the operation of a special educational facility either shall be included in the expenditures in the year of purchase, if the total cost is less than $2500, or shall be depreciated on a five-year schedule, if the total cost is $2500 or more. If equipment is purchased solely for the benefit of one pupil and billed in that manner, the district billed is the owner of the equipment.

d) Per capita instructional costs recorded in functions 1201-1220 of the accounting rules Manual shall be calculated by dividing the allowable expenditures, minus individual student costs such as individual aides, by the average daily enrollment of the pupils served in the specific special education program.

e) Per capita expenditures recorded in the functional accounts 2120 (Guidance Services), 2130 (Health Services), 2210 (Improvement of Instruction), and 2220 (Educational Media Services) as specified in the accounting rules Manual shall be calculated as provided in this subsection (e).
1) Expenditures in each functional area shall be allocated as follows:
   
   A) All expenditures for specific special education programs;
   
   B) All expenditures that are incurred in support of all eligible pupils and that cannot be directly allocated to a specific special education program as required in subsection (e)(1)(A) of this Section; and
   
   C) All expenditures that are incurred in support of the general pupil population, including eligible pupils.

2) Per capita pupil support services costs for a specific special education program shall be calculated by dividing the allowable expenditures by the average daily enrollment of the pupils served in the program.

3) Per capita pupil support services costs incurred in support of all eligible children shall be calculated by dividing the allowable expenditures by the total number of special education pupils enrolled.

4) Per capita pupil support services costs incurred in support of the general pupil population shall be calculated by dividing the allowable expenditures by the total number of pupils enrolled.

f) Per capita expenditures recorded in the functional accounts 2113 (Social Work Services), 2140 (Psychological Services), and 2150 (Speech Pathology and Audiology Services) as specified in the accounting rules Program Accounting Manual shall be calculated by dividing the allowable expenditures by the total number of special education pupils enrolled.

g) Per capita expenditures for general administrative services recorded in the functional accounts 2310 (Board of Education Services), 2320 (Executive Administrative Services), 2330 (Special Area Administrative Services), 2410 (Office of the Principal Services), 2510 (Direction of Business Support Services), 2520 (Fiscal Services), 2570 (Internal Services), and 2600 (Support Services Central) as specified in the accounting rules Manual shall be calculated by dividing the allowable expenditures by the total number of pupils enrolled.
h) Per capita special education administration costs recorded in the functional account 2330 (Special Area Administrative Services) shall be calculated by dividing the allowable expenditures by the total number of special education pupils enrolled.

i) Operation and Maintenance

1) Expenditures for the operation and maintenance of buildings owned by a local education agency shall be allocated to each program according to the number of classrooms used and the average cost per classroom. The average cost per classroom shall be identified by dividing the total amount of expenditures for operations and maintenance, excluding capital outlay, by the total number of classrooms.

2) If a privately owned building is used, the portion of the operation and maintenance costs attributable to a specific program shall be determined by dividing the square footage of the portion of the building so used by the square footage of the building or buildings for which operation and maintenance costs are incurred.

j) Depreciation and Rent

1) Depreciation of physical facilities owned by the local education agency shall be calculated using the rate provided in Section 14-7.01 of the School Code. The local education agency may not rent facilities from itself. The depreciation rate specified in Section 14-7.01(f) of the School Code must be applied to all owned facilities. Operations and maintenance costs for owned facilities may be claimed as provided in subsection (i) of this Section.

2) If the local educational facility is rented by the local education agency, the actual rent paid for the physical facilities is to be divided by the average daily enrollment of the pupils served within the facility. If the rented facility is used for both instructional and administrative functions, the square footage used for instruction shall be divided by the total square footage rented. The result of this division shall be multiplied by the rental fee paid to determine the portion of rent applicable to the program.
k) Interest paid for costs of operating a program approved pursuant to Section 14-7.03 of the School Code shall be segregated in the accounts of the local agency and claimed in total. Per capita interest costs shall be computed by dividing the other interest expenditures recorded in the 5000 series of functions, less function 5100, exclusive of interest for capital expenditures, by either:

1) the total number of pupils enrolled, if the local education agency serves both special and regular education students; or

2) the total number of special education pupils enrolled, if the local education agency serves only special education students.

l) Twenty percent of the total cost incurred for special education pupil transportation, or such total cost minus reimbursement received during the current year from the State of Illinois under Section 14-13.01(b) of the School Code [105 ILCS 5/14-13.01(b)], whichever is less, may be included in the computation of the per capita cost. However, for pupils claimed under Section 14-7.03 of the School Code, one hundred percent of the transportation costs shall be included in the computation and not claimed for special education pupil transportation reimbursement.

m) Non-special education (i.e., regular) program costs charged to other districts must be calculated in accordance with Section 10-20.12a of the School Code [105 ILCS 5/10-20.12a] and billed to the district of residence based on a percentage of the student's time spent in non-special education classes.

n) Social Security and Illinois Municipal Retirement Fund contributions by the employer; the amounts so recovered shall be returned to the funds from which the expenditures were made.

o) Expenditures for liability insurance; the amounts recovered shall be returned to the funds from which the expenditures were made.

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

Section 130.40 Expenditures Not Allowed in the Per Capita Cost

a) Food service expenditures may not be claimed for reimbursement under Section 14-7.03 of the School Code, unless they are directly related to instructional
methodology or techniques, for example in homemaking, cooking, or consumer education courses. However, food service expenditures may be billed to the district of residence of a pupil served.

b) Expenditures from revenue received from state reimbursement during the current year for special education personnel under Section 14-13.01 of the School Code, allocated to each program based on the number of positions in the program divided by the number of positions claimed for special education personnel reimbursement.

c) Expenditures that are reimbursed from federal sources, except for health care services as provided in Section 14-7.04 of the School Code [105 ILCS 5/14-7.04]; the amount of federal reimbursement for such services need not be deducted.

d) Expenditures for life-safety building improvements or asbestos abatement.

e) Expenditures classified (see Table FD of the accounting rules Program Accounting Manual) as Capital Outlay (the object code 500 series of object codes), except specialized equipment purchased for the specific special education program, which may be included based upon a depreciation schedule of five years.

f) Expenditures for purchased services (the object code 300 series of object codes) other than those recorded in accounts 1201-1220 (Instruction), 2113 (Social Work Services), 2130 (Health Services), 2140 (Psychological Services), 2150 (Speech Pathology and Audiology Services), 2210 (Improvement of Instruction), 2220 (Educational Media Services), and 2540 (Operation and Maintenance).

g) Expenditures applicable to one student only.

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

Rules Committee Packet - Page 16
TO: Illinois State Board of Education

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

Agenda Topic: Action Item: Rules for Adoption – Amendments to Part 235 (Early Childhood Block Grant)

Materials: Recommended Rules

Staff Contact(s): Kay Henderson

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

Part 235 establishes requirements for grants to support early childhood education for children, ages 0 to 5 years old, who are considered at risk of academic failure. The programs address parent education, preschool education, and staff development for teachers and others working in the programs. For these reasons, this agenda item links to Strategic Plan Goal 1 (academic achievement and success) and Goal 2 (highly prepared and effective teachers and school leaders).

Expected Outcome(s) of Agenda Item

The Board will be asked to adopt a motion adopting the proposed amendments to Part 235.

Background Information

P.A. 95-724, effective June 30, 2008, extends the Preschool for All (PFA) program authorized under Section 2-3.71 of the School Code for two additional fiscal years (from June 30, 2008, to June 30, 2010). Established in 2006, the PFA program seeks to serve all 3- and 4-year-olds in the state whose parents wish to participate, with an emphasis on funding programs that primarily serve children who are at risk of academic failure and those who are from low-income families. During the time that it is in effect, the PFA program essentially replaces the Prekindergarten Program for Children at Risk of Academic Failure for the purposes of funding any new preschool programs.

Subpart B of the Early Childhood Block Grant rules governs the use of funds for PFA, while Subpart A sets forth requirements for the prekindergarten at-risk program. In order to have a seamless transition back to the prekindergarten at-risk program once the PFA program “sunset”, a repealer date for Subpart B is included in the rules at Section 235.100(c). That date must be changed for the regulatory requirements of Subpart B to remain in effect for FY 2009 and 2010.
The proposed amendments were published September 22, 2008, in the Illinois Register to elicit public comment; none was received.

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

**Policy Implications**: See above.

**Budget Implications**: None.

**Legislative Action**: None.

**Communication**: See “Next Steps” below.

**Pros and Cons of Various Actions**

The proposed amendment will ensure that the rules conform to the law. Not making the change will result in the expiration, as of June 30, 2008, of requirements set forth in the rules specific to PFA applicants and of the criteria the agency uses to award grants under that program.

**Superintendent’s Recommendation**

I recommend that the following motion be adopted:

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

> Early Childhood Block Grant (23 Illinois Administrative Code 235),

> 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.
NOTICE OF ADOPTED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER f: INSTRUCTION FOR SPECIFIC STUDENT POPULATIONS

PART 235
EARLY CHILDHOOD BLOCK GRANT

SUBPART A: PRESCHOOL EDUCATION AND PREVENTION INITIATIVE PROGRAMS

Section
235.10 Purpose; Eligible Applicants
235.20 Application Procedure and Content for New or Expanding Programs
235.30 Additional Program Components for Preschool Education Proposals
235.40 Additional Program Components for Prevention Initiative Proposals
235.50 Proposal Review and Approval for New or Expanding Programs
235.60 Application Content and Approval for Continuation Programs
235.70 Terms of the Grant

SUBPART B: PRESCHOOL FOR ALL CHILDREN PROGRAM

Section
235.100 Purpose; Eligible Applicants
235.110 Application Procedure and Content for New or Expanding Programs
235.120 Proposal Review and Approval for New or Expanding Programs
235.130 Application Content and Approval for Continuation Programs
235.140 Terms of the Grant

SUBPART C: SOCIAL AND EMOTIONAL CONSULTATION SERVICES

Section
235.200 Implementation and Purpose; Eligible Applicants
235.210 Application Procedure and Content
235.220 Proposal Review and Approval of Proposals

235.APPENDIX A Illinois Early Learning Standards
235.APPENDIX B Illinois Birth to Three Program Standards


SUBPART B: PRESCHOOL FOR ALL CHILDREN PROGRAM

Section 235.100 Purpose; Eligible Applicants

a) This Subpart B establishes the procedures and criteria for the approval of proposals submitted to the State Board of Education by eligible applicants for grants to assist in establishing Preschool for All Children programs authorized by Section 2-3.71(a)(4.5) of the School Code [105 ILCS 5/2-3.71(a)(4.5)].

b) Applicants eligible to apply for the Preschool for All Children program are those listed in Section 235.10(b) and (c) of this Part.

c) This Subpart is repealed as of June 30, 2008 2010 (see Section 2-3.71(a)(4.5) of the School Code).

(Source: Amended at 33 Ill. Reg. _____, effective _____________)
TO: Illinois State Board of Education

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

Agenda Topic: Action Item: Rules for Adoption – New Part 245 (Education of Homeless Children and Youth State Grant Program)

Materials: Summary and Analysis of Public Comment
          Recommended Rules

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

The proposed rules establish requirements for grants to support education for homeless children and youth, with a focus on ensuring that these students succeed in school and that school staff are aware of issues and challenges of homelessness. For these reasons, this agenda item links to Strategic Plan Goal 1 (academic achievement and success) and Goal 2 (highly prepared and effective teachers and school leaders).

Expected Outcome(s) of Agenda Item

The Board will be asked to adopt a motion adopting Part 245.

Background Information

In the FY 2009 state budget, enacted August 6, 2008, the agency received $3 million to fund homeless education programs. This appropriation was being considered at the same time as HB 2210, which would have amended the Education for Homeless Children Act (105 ILCS 45) to establish a competitive grant program to “support school districts throughout this state in facilitating the enrollment, attendance and success of homeless children and youth”. The program was to complement the federal McKinney-Vento Homeless Education Assistance Act (“McKinney-Vento”) by limiting allowable activities under the state grant to those authorized under the federal program. Under the federal program, the agency received approximately $3.2 million in FY 2009.

HB 2210, which would have established the requirements for the grant program, failed to pass out of the General Assembly, however, due to an amendment by the Senate that was procedural in nature rather than substantive to the program. For this reason, the proposed rules incorporate the intent of the bill by focusing the state program on the goals and requirements of
McKinney-Vento. The proposed rules set forth the eligible applicants, proposal procedures and content, and the criteria for review and approval of proposals. It is being recommended that grants be made for a three-year period; funding in subsequent years will be contingent upon a sufficient appropriation and satisfactory progress of the grantee in the preceding grant period. Additionally, allowances are made to establish a statewide technical assistance program in any year when the state appropriation is too small to fund individual programs at a level necessary to be effective and successful.

Once the rulemaking is completed, the proposed rules will replace emergency rules currently in effect. Under those emergency rules, the agency on November 14, 2008, issued a Request for Proposals to fund grant programs for the remainder of FY 2009.

The proposed rules were published September 22, 2008, in the Illinois Register to elicit public comment; eight responses were received. The summary and analysis of the public comment is attached.

**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 rules set forth the agency’s policies and practices for awarding competitive grants under the appropriation for homeless education programs. Having these policies and practices in rules ensures uniformity in the grant-making process and provides eligible applicants an equal opportunity to compete for funding. The Illinois Administrative Procedures Act requires that state agencies set forth their policies in administrative rules. These proposed rules, once promulgated, will enable the agency to be in compliance with the act.

Additionally, changing the proposed rules, based on public comment received, to include regional offices of education (ROE) as eligible applicants may help expand the benefits of the program to homeless students in small and rural districts by allowing them to participate in multi-district proposals operated by the applicant ROE. On the other hand, expanding the eligible applicant pool would create greater competition for limited state funds. The possibility exists that fewer school districts, applying on either an individual basis or with other school districts, would receive awards.

The recommendation to eliminate the section of the proposed rules authorizing use of the homeless education funds for statewide services and activities in those fiscal years when the appropriation for the program is insufficient to fund effective and successful programs recognizes that services and activities are best provided at the local level. At the same time, should funding be greatly reduced, then some grantees may be unable to continue their programs or may experience sharp reductions in the grants awarded.
**Superintendent’s Recommendation**

I recommend that the following motion be adopted:

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

    Education of Homeless Children and Youth State Grant Program (23 Illinois Administrative Code 245),

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

**Next Steps**

Notice of the adopted amendments will be submitted to the Joint Committee on Administrative Rules to initiate JCAR’s review. When that process is complete, the rules will be filed with the Secretary of State and disseminated as appropriate.
Summary and Analysis of Public Comment
23 Ill. Adm. Code 245 (Education of Homeless Children and Youth State Grant Program)

Comment

The agency received seven comments from regional offices of education (ROEs) questioning the failure to include their offices as eligible applicants for the state homeless education program.

The commenters pointed out that the school districts they serve often do not have the personnel or funding to write a grant application nor can they individually meet the terms and conditions of the grant, particularly in the area of evaluating their efforts. This is particularly true for small or rural school districts, they said. The commenters believed that ROEs are better able to serve students more efficiently than individual applicants since those offices can serve as a “shared resource” for school districts.

Analysis

Proposed Section 245.20(a) sets forth the eligible applicants for the state homeless education grant. As indicated in the Executive Summary, the proposed rules limit eligible applicants to school districts in keeping with HB 2210. In addition, various provisions in the School Code authorize public university laboratory schools and charter schools to apply for grants on the same basis as school districts would, so these entities also are included as eligible applicants.

Under the federal homeless education program, however, an ROE is eligible to apply for funds as a local education agency (LEAs). Federal law defines LEAs more broadly to encompass school districts, intermediate service centers of any type (ROEs, suburban Cook ISCs), joint agreements and any entity that has administrative control over elementary and secondary education in the state. While the School Code does allow ROEs to apply for grants that are open to LEAs, the law does not contain a similar provision for ROEs to apply for a grant available only to school districts.

That being said, the reasons provided by the ROEs for their eligibility make a convincing case for an effective way to focus state homeless education funds to underserved school districts. In addition to complementing the federal homeless education program, the proposed rules, through the criteria for the review of proposals, targets funds to those school districts that are unable to provide homeless children and youth with adequate services. The pooling of resources through the ROEs and the relief afforded to participating school districts from the administrative duties of implementing the grant may encourage smaller districts or those in underserved areas to apply for funds. Since grantees will implement the same activities and services authorized under the federal program, many ROEs already are familiar with and have experience in providing the resources needed to assist homeless children and youth to enroll and succeed in school.

It should be noted, however, that ROEs’ inclusion as eligible applicants does not guarantee that applications submitted by those entities will be funded at a greater rate than those proposals submitted by individual school districts, as each proposal will be judged against the criteria set forth in the rules (see Section 245.40).
Recommendation

The following change is recommended in Section 245.20(a):

a) Proposals for grant awards under this Part may be submitted only by public school districts, public university laboratory schools approved by the State Board of Education pursuant to Section 18-8.05(K) of the School Code [105 ILCS 5/18-8.05(K)], and charter schools, and regional offices of education.

The following change is recommended in Section 245.20(b):

b) Each RFP shall state whether joint applications for funds may be submitted by any combination of eligible applicants, as described in subsection (a) of this Section, subject to the conditions stated in subsections (b)(1), (b)(2) and (b)(3) of this Section.

1) If a joint application is submitted, then an administrative agent shall be designated from among the participating eligible applicants or a regional office of education.

Comment

The Law Project of the Chicago Coalition for the Homeless raised several issues related to the criteria for evaluating the quality of the proposals to be funded. In particular, it questioned whether “high-quality” proposals would receive funding, since that was not explicitly stated as a purpose of the rules. Since HB 2210 was the basis of the rulemaking, the coalition believed that the agency failed to take into account all of the criteria outlined in the bill for awarding grants to applicants. The commenter also was troubled that the rules do not specifically mention that the quality of the application would be considered when making grant award decisions.

Along the same lines, the commenter also asked that the rules list as “indicators of need” the optional criteria from HB 2210 for evaluating need. The suggestions from the bill address several factors, such as the potential for the proposed services to help homeless students to enroll, be retained and succeed in school; the applicant’s commitment to homeless education; its adherence to McKinney-Vento; and its efforts to coordinate service delivery with other providers.

Analysis

Before considering the merit of the comments submitted, it is helpful to point out that State Board staff did not have a statutory obligation to structure the rules around the requirements of HB 2210, which did not become law. Rather, staff chose to use the bill as a guide since it stalled only as a result of an amendment that was technical, rather than substantive, in nature.

Additionally, the need of the applicant for assistance and the quality of the proposal are the only criteria in the bill stated as requirements to be used in awarding grants. While the bill provides further specificity about the areas the State Board may choose to consider when evaluating need and quality, it does not mandate that these additional suggestions be incorporated into the criteria the State Board would use, should the bill become law.

The agency’s primary objective in making grant awards under any program is to ensure that the highest quality proposals will be funded with limited state dollars. The criteria used to review
proposals establish the basis upon which both the need for the grant and the quality of proposals are judged. (See Section 245.40, “Proposal Review, Approval and Grant Award.”) Proposals are evaluated using this criteria and rank-ordered, with the highest scoring proposals being recommended for funding. Since providing funds to programs with the highest need and the greatest potential for success are both the intention of the agency and its established practice, stating as much under Section 245.10, “Purpose and Applicability”, would not in any way change the priorities of the state homeless education program as set forth in the rules.

As noted above, staff used the content of the bill as the foundation upon which to build both the specifications applicants are to address in their proposals and proposal review criteria. With the exception of one item, all of the optional criteria listed in the bill have been included in the proposed rules. Placing these items under both application requirements and criteria for review is appropriate and the standard used for competitive grant rules. To also include some of these in a separate section titled “indicators of need” would be redundant and potentially confusing for applicants, which may view the “indicators of need” as additional requirements for funding.

Briefly, the optional criterion for need of HB 2210 not addressed in the proposed rules concerns the applicant’s commitment to education for all homeless students. First, an applicant’s commitment to a project is not an indicator of its need for assistance under the program. Additionally, commitment is demonstrated by the time and effort the applicant has used in assembling its proposal and its assurances that the grant, should it be awarded, be used for services and activities described in the proposal approved for funding by the agency. Further, an applicant’s commitment is not something that can be objectively quantified to determine whether it is demonstrated to a greater or lesser extent than another applicant’s. As such, it would be inappropriate to use “commitment” as a criterion for proposal review.

Recommendation

It is recommended that Section 245.10(a) be changed as follows:

(a) This Part establishes the procedure and criteria for approval by the State Board of Education of high-quality programs to facilitate the enrollment, attendance, and educational achievement of homeless children and youth.

Comment

The Chicago Coalition also asked that the allowable uses of the state homeless grant set forth in Section 245.30 include an explicit statement that the funds may be used to meet the purposes of McKinney-Vento.

Analysis

HB 2210 specifies that the funding for the state homeless education program be used “only for those activities set forth in Section 723(d)” of McKinney-Vento. Section 723(d) states that federal homeless education funds can be used for “activities that carry out the purpose of this subtitle, including the following”; a list of 16 specific activities corresponding to each of the requirements of the act is then provided. While the proposed rules include the language summarized above under narrative description, the specific rule also included the phrase “a list of” as an introduction. Staff agree that the inclusion of that phrase may make it appear that allowable activities are limited to only the 16 specifically listed in McKinney-Vento. Staff is
unable, however, to recommend the inclusion of other services or activities since the commenter did not elaborate on which ones she believed were missing.

Recommendation

It is recommended that Section 242.30(c)(2) be changed as follows:

(c)(2) A list of the activities and services to be provided, which shall be limited to those set forth under Section 723(d) of the McKinney-Vento Homeless Education Assistance Improvements Act of 2001, and how the proposed activities and services will meet the needs of homeless children and youth who will be served by the program;

Comment

Section 245.60 allows the State Superintendent to determine in any fiscal year whether the appropriation for the homeless education program is sufficient to adequately fund continuation grantees and/or new programs. In the years in which the appropriation is insufficient, then the funding would be used to provide similar services and activities on a statewide basis, which would include technical assistance and staff development. The Chicago Coalition asked that that section be removed since it believes that the funds “should be distributed to school districts to better serve homeless students”.

Analysis

Given the uncertainty of future funding and the precarious condition of the state’s revenues, staff believe that this provision would enable the agency to target services in the most effective way when the total appropriation for the homeless program is too small to fund grantees or new programs at a level that is sufficient to implement successful programs. A similar provision is contained in rules governing Gifted Education (Part 227).

Staff agree, however, that services are best provided at the local level where the needs of homeless students can be adequately assessed and met, and so have no objections to removing this provision. If the funding level for homeless education is greatly reduced after FY 2009, then it is likely some grantees may not receive funding for a second fiscal year, while others may experience sharp reductions in the grants awarded.

Recommendation

It is recommended that Section 245.60 be eliminated from the rulemaking.
Section 245.10 Purpose and Applicability

a) This Part establishes the procedure and criteria for approval by the State Board of Education of high-quality programs to facilitate the enrollment, attendance, and educational achievement of homeless children and youth.

b) It is the intention of the Education of Homeless Children and Youth State Grant Program to supplement, but operate independently of, the programs funded under Subtitle B, Title VII of the federal McKinney-Vento Homeless Assistance Act (42 USC 11431 et seq.).

c) Services provided under the grant program shall not replace the regular academic program of the school.

Section 245.20 Eligible Applicants
a) Proposals for grant awards under this Part may be submitted only by public school districts, public university laboratory schools approved by the State Board of Education pursuant to Section 18-8.05(K) of the School Code [105 ILCS 5/18-8.05(K)], charter schools, and regional offices of education.

b) Each RFP shall state whether joint applications for funds may be submitted by any combination of eligible applicants, as described in subsection (a) of this Section, subject to the conditions stated in subsections (b)(1), (b)(2) and (b)(3) of this Section.

1) If a joint application is submitted, then an administrative agent shall be designated from among the participating eligible applicants or a regional office of education.

2) The superintendent from each of the participating school districts and the official authorized to submit a proposal on behalf of any other eligible entity as defined in subsection (a) of this Section shall sign the joint application.

3) An eligible applicant shall only participate in one proposal for a State-funded homeless education program.

Section 245.30 Application Procedures and Content

a) When an appropriation is made for the State-funded homeless education program, the State Superintendent of Education shall issue a Request for Proposals (RFP) specifying the information that applicants shall include in their proposals, informing applicants of any bidders’ conferences, and requiring that proposals be submitted no later than the date specified in the RFP. The RFP shall provide at least 30 calendar days in which to submit proposals.

b) It is the intention of the State Board of Education to approve Education of Homeless Children and Youth State Grant programs for a three-year period. Funding in each subsequent year is subject to a sufficient appropriation for the program and satisfactory progress of the grantee in the previous grant period. (See Section 245.50 of this Part.)

c) Each RFP shall indicate the descriptive information that initial applicants will be required to provide about their proposed programs. For the purposes of this Part,
initial applicants are those that did not receive funding under this Part in the year previous to an application or that are completing the last year in a three-year funding cycle. The proposal description shall include:

1) evidence of the applicant’s need for assistance under this Part, to include the process used to determine the need; demographic and other statistical information; and the barriers to school enrollment, attendance and success faced by homeless children and youth to be served;

2) the activities and services to be provided, which shall be limited to those set forth under Section 723(d) of the McKinney-Vento Homeless Education Assistance Improvements Act of 2001, and how the proposed activities and services will meet the needs of homeless children and youth who will be served by the program;

3) how the applicant will ensure effective coordination with other providers that serve homeless families; and

4) the data to be collected and methods to be used to determine the success of the program in ensuring that homeless children and youth receive the supports and services necessary for them to meet the Illinois State Goals for Learning (see 23 Ill. Adm. Code 1.Appendix D).

d) The RFP shall require completion of a budget summary and payment schedule as well as a budget breakdown, i.e., a detailed explanation of each line item of expenditure.

e) Each RFP shall include such certifications, assurances and program-specific terms of the grant, as the State Board of Education may require, to be signed by the applicant that is a party to the application and submitted with the proposal.

f) Applicants may be requested to clarify various aspects of their proposals. The contents of the approved proposal shall be incorporated into a grant agreement to be signed by the State Superintendent of Education or designee and the superintendent of the school district or, in the case of other eligible applicants, by the authorized official.
a) Proposals submitted for funding to establish a State-funded homeless education program shall be evaluated in accordance with the following criteria.

1) There is sufficient need for the program, as evidenced by the number or proportion of students identified as eligible for program services. Convincing evidence is presented of the applicant’s inability to adequately meet the needs of its homeless children and youth without the additional assistance provided pursuant to this Part. (25 points)

2) The proposed activities and other services to be provided have a strong potential for helping the applicant design and continue programs that enable homeless children and youth to achieve stability and integration within the regular education programs in order to reach the same challenging State content and student performance standards to which all children and youth are held, including preparation for self-sufficiency. The proposed activities and services address effective mechanisms for involving parents or guardians of homeless children and youth in the education of their children. (35 points)

3) The proposal demonstrates that effective coordination with private, non-profit entities, social services agencies and others serving homeless children and youth and their families will occur, as necessary, so that the applicant is able to provide services that are appropriate and comprehensive. (15 points)

4) The proposed evaluation process is designed to assess the effectiveness of the program’s activities and services in relation to the program’s goals and objectives and likely to produce data that can be used to improve the program. (15 points)

5) The proposed budget is consistent with the proposal’s activities and appears to be cost-effective. (10 points)

b) Priority consideration may be given to proposals with specific areas of emphasis, as identified by the State Superintendent of Education in a particular RFP.

c) The State Superintendent of Education shall determine the amount of individual grant awards. The final award amounts shall be based upon:
1) the total amount of funds available for the Education of Homeless Children and Youth State Grant Program; and

2) the resources requested in the top-ranked proposals, as identified pursuant to subsections (a) and (b) of this Section.

Section 245.50 Application Content and Approval for Continuation Programs

The requirements of this Section shall apply to those applicants seeking funding to continue state-funded homeless education programs beyond the initial grant period.

a) In order to continue to operate an Education of Homeless Children and Youth State Grant program, a grantee each year shall submit an application for continuation. The application shall include at least the following:

1) an overview of the program, addressing the activities and services proposed for the renewal period;

2) budget information for the year in which the application is being made; and

3) the certifications, assurances and program-specific terms of the grant referred to in Section 245.30(e) of this Part applicable to the renewal period.

b) An Education of Homeless Children and Youth State Grant program shall be approved for continuation provided that:

1) a need continues to exist for the program, as evidenced by proposed numbers of homeless children and youth to be served whose needs are not currently being met;

2) the activities and services proposed will be effective in facilitating the enrollment, attendance, and educational success of homeless children and youth;

3) the proposed budget is cost-effective, as evidenced by the cost of proposed services in relation to the numbers to be served and the services to be provided; and
4) in the year previous to the continuation application, the applicant complied with the terms and conditions of any grant it received pursuant to this Part.
TO: Illinois State Board of Education
FROM: Christopher A. Koch, Ed.D., State Superintendent of Education
Darren Reisberg, General Counsel

Agenda Topic: Action Item: Rules for Adoption – Repeal of Part 500 (Replacement of Required Rules)

Materials: Recommended Rules
In the interest of conservation, a copy of these rules is available for review on line at www.isbe.net/rules/proposed/default.htm

Staff Contacts: Darren Reisberg

Purpose of Agenda Item
The purpose of this agenda item is to present the proposed repealer for adoption.

Relationship to/Implications for the State Board’s Strategic Plan
This rulemaking is not specifically related to the strategic plan. Part 500 has been made unnecessary by the repeal of all the underlying portions of the statute, and the rulemaking is being done solely to eliminate unnecessary provisions.

Expected Outcome of Agenda Item
The Board will be asked to adopt the repeal of Part 500.

Background Information
As a result of the comprehensive review of ISBE’s rules that was undertaken in 2004 and 2005, eleven sets of rules or portions thereof were identified as describing initiatives for which no funding had been appropriated in several years. Nine Parts and two Subparts were therefore repealed, but an acknowledgment was needed that the underlying statutes were still in effect and that renewed funding under any of them would require the restoration of rules. Part 500 was promulgated to provide that acknowledgment. As part of that rulemaking process, ISBE also agreed, at the request of the Joint Committee on Administrative Rules, to seek the repeal of the obsolete portions of the law.

Action taken during the 2007 and 2008 legislative sessions has resulted in the repeal of all the statutory provisions that required the various sets of rules mentioned in Part 500. Specifically:

- P.A. 94-875 eliminated the requirement for ISBE to approve districts’ staff development plans from Section 2-3.59 of the School Code;
- P.A. 94-1105 repealed Sections 2-3.54 and 2-3.106 of the School Code, which required rules for the mathematics and science loan program and the urban education partnership program, respectively; and
• P.A. 95-793 repealed or amended numerous portions of the School Code to eliminate the language that would require rules, including:
  - Section 1C-2 (professional development block grant),
  - Section 2-3.61 (summer school for remedial education),
  - Section 2-3.65 (comprehensive arts programs),
  - Section 2-3.93 (alcohol and drug education initiative),
  - Section 2-3.94 (scientific literacy),
  - Section 2-3.117 (school technology program grants),
  - Section 2-3.124 (insurance for certificated employees), and
  - Article 13B (alternative learning opportunities programs).

Now that the statute no longer authorizes any of the initiatives that were previously covered by these sets of rules, Part 500 is also no longer necessary and can be repealed.

This rulemaking was presented for initial review at the September Board meeting and subsequently published in the Illinois Register to elicit public comment. None was received. In the interest of conservation, a copy of these rules is not being included in the printed Board packet. However it is available for review on line at www.isbe.net/rules/proposed/default.htm.

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
Repealing these rules may help eliminate any uncertainty in the field about the availability of funding for these various initiatives and will eliminate unnecessary rules. Leaving Part 500 in place would serve no further purpose and might lead to some confusion.

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:

Replacement of Required Rules (23 Illinois Administrative Code 500).

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 repealer 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 the affected entities will be informed through the agency’s web site and other means as appropriate.
TO: Illinois State Board of Education

FROM: Christopher A. Koch, Ed.D., State Superintendent of Education
       Darren Reisberg, General Counsel
       Linda Tomlinson, Assistant Superintendent, School Support Services
       for All Students

Agenda Topic: Action Item: Rules for Adoption – Amendments to Part 525 (Regional Offices of Education and Intermediate Services)

Materials: Summary and Analysis of Public Comment
           Recommended Rules

Staff Contact(s): Patrick Murphy

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 rulemaking is not specifically related to the strategic plan. The rules involved need to be updated to eliminate obsolete cross-references. These amendments represent technical cleanup only.

Expected Outcome(s) of Agenda Item
The Board will be asked to adopt a motion adopting the proposed amendments to Part 525.

Background Information
Beginning with FY 2009, new Part 100 (Requirements for Accounting, Budgeting, Financial Reporting, and Auditing) has taken the place of long-standing Parts 110 (Program Accounting Manual) and 125 (Student Activity Funds and Convenience Accounts). Various sets of ISBE’s rules contain cross-references to Part 110 and need to be updated as time permits.

Part 525 contains cross-references to Part 110, in particular to Section 110.115. The fiscal requirements for regional offices of education provided in Section 110.115, however, were not placed into Part 100. Section 110.115 generally governed how the regional offices maintained their accounts for auditing by the State Board of Education. The agency no longer audits the regional offices, so the requirements for bookkeeping were no longer needed. Therefore, the obsolete cross-references in Part 525 need to be removed from these rules.

Section 110.115(f), however, directly related to activities of the regional offices vis a vis their role as providers of intermediate services under Section 2-3.62 of the School Code. For this reason, the text of the requirements pertinent to intermediate services from Section 110.115(f) replaced the cross-reference to that rule currently in Section 525.160(e). In addition, several other changes have been made to conform the rules to current agency procedures.
The proposed amendments were published September 22, 2008, in the Illinois Register to elicit public comment; seven responses were received. The summary and analysis of the public comment is attached.

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

**Policy Implications:** See above.

**Budget Implications:** None.

**Legislative Action:** None.

**Communication:** See “Next Steps” below.

**Pros and Cons of Various Actions**

Promulgation of these changes will bring Part 525 up to date. Additionally, the requirements set forth in Section 110.115(f) provide some control over the amount that regional offices of education can charge participants for the services they provide. It is not unreasonable for regional offices to consider their actual costs when setting fees to be charged of individuals participating in an activity or availing themselves of a service. For this reason, the rule is not intended to be overly burdensome and represents a nonsubstantive change with which ROEs should be familiar.

If the amendments are not adopted, the result would be the persistence of technical inconsistency among various sets of the agency’s rules. Removing only the cross-reference without placing the Section 110.115(f) restrictions into Part 525 would enable ROEs to use professional development and other training programs authorized under Section 2-3.62 of the School Code as a way in which to raise additional funds to pay for the operations of their offices unrelated to the provision of these intermediate services.

**Superintendent’s Recommendation**

I recommend that the following motion be adopted:

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

> Regional Offices of Education and Intermediate Services (23 Illinois Administrative Code 525),

> 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. In addition, the completed rulemaking will be shared with the Regional Offices of Education via email.
Summary and Analysis of Public Comment
23 Ill. Adm. Code 525 (Regional Offices of Education and Intermediate Services)

Comments

Six of the seven comments received addressed the inclusion of language from Section 110.115(f) at Section 525.160(e) that directed regional offices of education to determine fees for conferences and workshops on a cost-recovery basis and to retain any revenue received over and above the actual cost of the conference or workshop in a special account to be used in the event that registration charges or other fees are insufficient to fund the particular activity.

While acknowledging that the requirement is not new to Part 525, the regional offices of education commented that the requirement is nonetheless overly restrictive and antiquated. The commenters noted that since the original rule was put in place in 1994, the nature of the professional development services provided have evolved from solely conferences and workshops to coaching, “teaming”, and demonstration lessons. As such, several regional superintendents of schools argued that they should be allowed to use any excess revenues raised for other “professional development and school improvement activities”.

Analysis

The intent of the rule at Section 110.115(f) was to provide to regional offices of education the same ability afforded their predecessors (i.e., education service centers) to charge fees for conferences, workshops, materials and other discretionary activities that their offices conduct, and to ensure that funds raised from these fees be used to cover shortfalls or reduce the cost of similar items or expenditures. By making this restriction, the rule guards against ROEs charging more than is necessary to actually provide the service or program.

In carrying over the language from Section 110.115(f) into Part 525, however, the phrase “to reduce the cost of similar items” was not included in the proposal. Since the services ROEs are to provide under Section 2-3.62 of the School Code are focused on professional development, it is reasonable to accept training activities other than conferences and workshops as legitimate uses for excess funds. For clarity, the proposed rule should be amended so that it more closely matches the wording of Section 2-3.62.

Recommendation

It is recommended that the following changes be made in Section 525.160(e):

   e) Registration charges and other fees for conferences/workshops professional development, technical assistance, and other school improvement activities authorized under Section 2-3.62 of the School Code are to be determined on a cost-recovery basis, in accordance with 23 Ill. Adm. Code 110.115(f). Excess funds resulting from registrations and other fees beyond the anticipated cost-recovery basis shall be deposited in an enterprise a separate fund to be used solely to cover costs incurred due to less-than-anticipated registrations or to reduce the cost of similar activities.
Comment

One commenter believed that the proposed changes in Section 525.160(e) will limit the use of excess funds to the year in which those funds were collected. He argued that the rule, as originally set forth in Section 110.115(f), was not so restrictive.

Analysis

There is no provision – either in Part 110 or carried forward into Part 525 – that requires that excess revenue from fees charged for registrations and other activities be spent in the fiscal year in which they were collected.

Recommendation

No change is being recommended in response to this comment.
**TITLE 23: EDUCATION AND CULTURAL RESOURCES**  
**SUBTITLE A: EDUCATION**  
**CHAPTER I: STATE BOARD OF EDUCATION**  
**SUBCHAPTER o: MISCELLANEOUS**

**PART 525**  
REGIONAL OFFICES OF EDUCATION AND INTERMEDIATE SERVICES

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**AUTHORITY:** Implementing and authorized by Sections 2-3.62, 3A-16, and 3A-17 of the School Code [105 ILCS 5/2-3.62, 3A-16, and 3A-17].


**Section 525.130 Annual Application**

Each Regional Office of Education and Chicago Intermediate Service Center shall submit an annual application. The application shall include the following:

a) A letter of transmittal which identifies the Regional Office of Education and, in the case of the Chicago Intermediate Service Center Governing Board, shows that the Board has formally approved a motion granting authority to submit the application.
b) A detailed annual plan for the services to be provided by the Regional Office of Education or Chicago Intermediate Service Center pursuant to Section 525.120 of this Part. This plan shall be aligned with the school improvement planning needs identified through surveys of school districts to be conducted by each Regional Office of Education when formulating the plan. Objectives along with specific activities shall be presented. Activity statements shall include:

1) an indication of each activity that responds to a need identified in the annual needs assessment as specified in Section 525.120(a)(2) of this Part;

2) an indication of when each activity will be implemented and completed;

3) an indication of who (e.g., Regional Office of Education or Intermediate Service Center staff, consultants) will conduct each activity;

4) an indication of what each activity will accomplish; and

5) evaluation criteria by which progress can be measured.

c) Job descriptions for the professional and nonprofessional staff to be employed by the Regional Office of Education or Chicago Intermediate Service Center. If there will be part-time employees, the approximate percentage of time they will be assigned to activities shall be submitted. Resumes shall not be submitted.

d) Services that may be subcontracted are those which the Regional Office of Education or Chicago Intermediate Service Center staff cannot provide.

1) The following information regarding subcontracts in excess of $5,000 shall be provided to the State Board of Education prior to entering into any subcontract:

A) a statement of what is needed and why the staff cannot provide it;

B) name of the subcontractor;

C) the total subcontract amount;
D) a description of the goods and/or services to be distributed or delivered;

E) a detailed budget, including the beginning and ending dates for the proposed subcontract; and

F) a resume(s) if the subcontract includes professional services.

2) The State Superintendent of Education shall approve a subcontract when the evidence presented demonstrates that a need exists which the Regional Office of Education or Chicago Intermediate Service Center staff cannot meet and that the costs represent fair market value for the goods and/or services to be provided.

e) Applications shall contain a budget indicating in detail each item of expenditure for the programs and services to be provided. The proposed budget shall be presented on a form provided by the State Board of Education. Expenditures shall be annually audited by an independent auditor the Auditor General pursuant to Section 2-3.17a of the School Code [105 ILCS 5/2-3.17a] and rules of the Auditor General (Code of Regulations; 74 Ill. Adm. Code 420.320(c)) (23 Ill. Adm. Code 110.115).

f) Applications must be submitted in accordance with directions set forth by the State Superintendent within 45 days after written notice by the State Board of Education. The Regional Office of Education or Chicago Intermediate Service Center shall submit three (3) copies of the application to the State Superintendent, with one copy bearing the original signature of either the Regional Superintendent or Chairperson of the Governing Board, in the case of the Chicago Intermediate Service Center. No FAX copies will be accepted; however, electronic transmission may be allowed as directed by the State Superintendent of Education.

g) Applications shall be reviewed by State Board of Education staff. If an application does not meet the criteria set forth in Section 2-3.62 of the School Code and this Part, then State Board staff shall contact the applicant and request the submission of an amended application.

h) Upon determining that an application is in compliance with Section 2-3.62 of the School Code and this Part, the State Superintendent of Education shall approve
the application and shall notify the Regional Superintendent or, in the case of the Chicago Intermediate Service Center, the Chairperson of the Governing Board and the Administrative Agent, of such approval.

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

Section 525.160 Fiscal Procedures

a) The Regional Superintendent of Schools in each Regional Office of Education and the Administrative Agent for the Chicago Intermediate Service Center shall maintain accurate financial records. The financial records shall be maintained in accordance with 23 Ill. Adm. Code 110 (Program Accounting Manual) as applicable. The State Board of Education and its agents shall have full and complete access at all times during regular business hours to files, records and all other property maintained by the Regional Superintendent of Schools or Administrative Agent for programs and services provided pursuant to Section 525.110 of this Part.

b) All purchases exceeding the amount specified in Section 10-20.21 of the School Code [105 ILCS 5/10-20.21] must be bid in accordance with that Section.

c) The Regional Superintendent of Schools and the Administrative Agent of the Chicago Intermediate Service Center shall maintain an inventory of equipment (using forms to be provided by the State Board of Education) acquired with funds received directly from the State of Illinois.

d) The Regional Superintendent of Schools in each Regional Office of Education and the Governing Board of the Chicago Intermediate Service Center shall establish travel regulations. The travel regulations shall include reimbursement rates, designation of reimbursable items, and other conditions deemed necessary.

e) Registration charges and other fees for conferences/workshops/professional development, technical assistance, and other school improvement activities authorized under Section 2-3.62 of the School Code are to be determined on a cost-recovery basis, in accordance with 23 Ill. Adm. Code 110.115(f). Excess funds resulting from registrations beyond the anticipated cost-recovery basis shall be deposited in a separate fund to be used solely to cover costs incurred due to less-than-anticipated registrations or to reduce the cost of similar activities.
f) A maximum daily rate for consultants shall be established by the Regional Superintendents of Schools and the Governing Board of the Chicago Intermediate Service Center. The maximum daily rate for individual programs cannot exceed the rate the State Board of Education establishes in the annual application.

g) All unexpended or unobligated funds held by the Regional Office of Education or Chicago Intermediate Service Center at the end of each funding period shall be returned within 45 days to the State Board of Education.

gh) The Regional Superintendent, or the Administrative Agent to the Chicago Intermediate Service Center Governing Board, shall provide on a regular basis such fiscal and programmatic information (e.g., expenditures, revenues, contracts, staffing) as is necessary for the Advisory Board or Governing Board to perform its duties.

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