AGENDA

1. Roll Call

2. Board Member Participation by Other Means

3. Public Participation

4. Minutes of the January Ad Hoc Rules Committee Meeting (pp. 2-6)

*5. Rules for Initial Review
   a. Part 252 (Driver Education) (Tim Imler) (pp. 7-23)

*6. Rules for Adoption
   a. Part 51 (Dismissal of Tenured Teachers Under Article 24 and Dismissal (pp. 24-27) of Tenured Teachers and Principals Under Article 34) (Darren Reisberg)
   b. Part 226 (Special Education) (Jodi Fleck) (pp. 28-37)
   c. Part 350 (Secular Textbook Loan) (Robert Wolfe, Frank Hanselman) (pp. 38-44)

8. Committee Agenda Planning/Additional Items

9. 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 8:55 a.m. and noted that no members were participating by other means.

3. **APPROVAL OF MINUTES:** Chris Ward moved approval of the minutes of the December 13, 2007, meeting and Dean Clark seconded the motion. It was adopted unanimously and the minutes were approved as presented.

4. **PUBLIC PARTICIPATION**
Chairman Ruiz indicated that a number of individuals had signed up for public participation and clarified the opportunity to testify on more general subjects during the plenary session instead if they so wished. With seven who wished to comment at the Rules Committee’s meeting, it was determined that each would be allocated approximately four minutes.

Steve Pines, Executive Director of the Education Industry Association, spoke on the pending amendments to Part 675, Providers of Supplemental Educational Services. He congratulated the Board’s staff for providing national leadership to improve accountability and the quality of tutoring services for low-income students. He noted that ISBE’s past rulemakings had helped raise program standards and felt the current rulemaking would continue in that vein.

Mr. Pines informed the Board that his organization had raised a number of issues during the public comment and expressed appreciation for the serious consideration that had been given to those points and the changes that had been made in the rules as a result. He gave examples of those changes but noted there remained a small number of outstanding issues that he wished to bring to the Board’s attention. First, he advocated authorization for in-home tutoring using live tutors, stating that this practice was permitted by 48 other states and that provisions could be included in rules to establish appropriate safeguards for students’ safety. He urged the Board to include such provisions in the rules based on best practices and to defer action on the relevant subsection until such language could be developed. He provided copies and outlined the content of written material summarizing research on this topic. He emphasized the benefits of involving parents in the tutoring process and parents’ central role in supporting students’ education.

Mr. Pines went on to discuss the calculation of the billing rate and the relative costs of the first and last hours of service in the context of providers’ opportunity to recover their costs. This was the rationale for his organization’s request for the rules to permit a start-up fee of approximately $200 per student instead of the uniform hourly rate currently required.
Finally, Mr. Pines recommended extending the timetable for the start-up of tutoring services from 30 days to 30 business days after a contract is completed and the list of eligible students is provided by the district. In his view this would ensure adequate planning time and smoother program operation. He concluded by reiterating his compliments to staff for the responses to the comments submitted.

Andrea Brown requested clarification of Mr. Pines’ remarks about 30 business days in terms of whether districts have trouble getting the student lists to providers within that time. That was explained not to be the issue, in that the 30 days in question follow the provision of those lists.

Janet Knupp, Founding President of the Chicago Public Education Foundation, addressed the “master principal” designation being established in Part 25 of the rules. She noted the Foundation’s history of support for national certification of teachers and thanked the Board for its support for this initiative. She went on to stress the importance of principals to students’ success and outlined the Foundation’s efforts to strengthen the principalship in the Chicago Public Schools. She urged the Board to consider the model provided by the master teaching certificate as plans for the master principal designation were finalized, advocating authorization for only a single, independent statewide organization to offer the program for the designation. She stressed the importance of a common body of knowledge and high standards.

Chairman Ruiz asked Ms. Knupp which organization she believed should operate the program, to which she replied that she had no specific one in mind but that it should be a statewide one organized under Section 501(c)(3) of the Internal Revenue Code. Andrea Brown elicited further clarification regarding the comparison between this initiative and certification by the National Board for Professional Teaching Standards, particularly in terms of an independent body.

Jane Sharka of the Illinois School Library Media Association spoke on the subject of a pending amendment to Part 1 of the rules (Public Schools Evaluation, Recognition and Supervision) that would provide more concrete standards for staffing and funding of schools’ programs of library media services and would be coming before the committee for adoption at a later date. She stated that new language was needed because of current ambiguities and pointed to evidence arising from research on the effects of school libraries and school librarians. She noted the existing requirements pertaining to the qualifications of school librarians and the existence of certification programs for the required credential, indicating the contributions trained school librarians can make to students’ academic success. She also stressed the importance of information literacy to businesses and other employers. In view of the persistence of the positive effects of library services, she stated perceiving school libraries as luxuries to be short-sighted.

Ms. Sharka stated that the difficulty schools might experience in funding the kind of improvements inherent in the proposed rule did not change the need for such improvements. She voiced the Association’s strong support for the language of the proposed amendment because it reflected research and best practice.

Georgiann Burch, a long-time educator in library media services currently working at the University of Illinois’ Graduate School of Library Information Science, also addressed the pending amendment to Part 1. She explained that the coursework in the university’s preparation program was on line and that candidates from all areas of the state were able to participate. She reiterated the positive effects of school libraries that are adequately funded and appropriately staffed and pointed to the relationship of these effects to schools’ efforts to meet the requirements of the No Child Left Behind Act. Ms. Burch recounted a short story on the consequences of life without access to libraries to illustrate her point and then urged the Board to consider the consequences of the action it would eventually be taking with regard to this rule.

Lou Ann Jacobs thanked the Board for proposing the changes in the rule on library media services, indicating that she had been a member of the advisory committee that had presented
recommendations on this subject. She stated that it was readily apparent which incoming high
school students had had the benefit of strong library media programs in their elementary years
and noted that it was very difficult to compress 12 years of information literacy into the final four
years of a student’s schooling.

Doug Kenshol, regional manager for Knowledge Learning Corporation, addressed the Board
regarding the amendments to Part 675. He thanked the Board and staff for the thoughtful work
that had occurred to date on the rules for supplemental educational services. He made special
mention of the efforts of Gary Greene.

Mr. Kenshol expressed support for most of the staff recommendations that were before the
Board. However, he wished to raise two points. He differed from the staff’s recommendation in
terms of the potential for a start-up fee, believing such a fee to be in line with federal guidance
regarding the ability of providers to charge their actual costs of services. He also believed such a
policy would ultimately expand choice for parents, in that providers would not be inclined to offer
services in areas where they could not reasonably expect to recoup their expenditures.

The second matter on which Mr. Kenshol commented was the suggestion that ISBE conduct an
audit when districts had not spent sufficient resources on SES (Section 675.175). He disagreed
with the staff’s indication that it would not be practical to determine an expected level of
participation in SES for a given district. He also pointed to a communication from U.S. Secretary
of Education Margaret Spellings identifying a threshold for districts’ spending that was a reaction
to unacceptably low participation in some districts. He believed that districts spending below this
threshold (20 percent of Title I funds) should be required to demonstrate that their outreach
efforts had been adequate before being allowed to use the funds for other purposes. He
concluded by stating that it appeared clear that the U.S. Department of Education expected
states to take a stronger role in ensuring adequate spending for tutoring.

Erika Lindley, representing ED-RED, spoke on the pending amendment to Part 1 regarding library
media services. She noted that it was easy to believe in a positive correlation between high-
quality library media programs in schools and students’ achievement but pointed to issues of
money and feasibility in connection with implementation of the proposed rule. She referred to the
budget discussion of the day before and the state’s bleak financial picture for the coming year.
An unfunded mandate would be a “difficult pill” for districts to swallow under these circumstances.
Ms. Lindley also pointed to the need to hire additional, qualified staff and noted the uncertain
availability of sufficient numbers of trained professionals. Costs associated with computer
equipment, supplies, and materials would also be a factor, and space would be a significant
problem in some cases.

Ms. Lindley concluded by offering ED-RED’s assistance in gathering comprehensive information
about the status and capacity of its member districts in terms of the ability to implement more
intensive requirements related to the library media program.

Ms. Lindley’s remarks concluded the portion of the agenda devoted to public participation,
following which Chairman Ruiz turned the meeting over to General Counsel Darren Reisberg for
a discussion of the rules.

5. RULES FOR INITIAL REVIEW:

PART 60 (The “Grow Your Own” Teacher Education Initiative)
Mr. Reisberg indicated that there were two sets of rules being presented, the first of which was
Part 60. He noted that Division Administrator Linda Jamali was present and available to answer
any questions the Board members might have. He also pointed out that the amendments were
due to recent legislative changes. No questions were raised.
PART 575 (School Technology Program)
Mr. Reisberg identified Division Administrator Marica Cullen and noted that the change was a proactive one being proposed out of experience with implementing the school technology loan program and a desire to assist the participating school districts. Board members had no questions on this amendment.

6. RULES FOR ADOPTION
Mr. Reisberg noted that the Board had already heard discussion of both the sets of rules being presented for adoption.

PART 25 (Certification)
The amendments to Part included a number of components, the most salient of which was the new rule for the “master principal” designation. Linda Tomlinson and Linda Jamali were available to answer any questions on the various aspects of these amendments, which had been presented for initial review in September and were now ready for adoption.

Andrea Brown wished to achieve a clearer understanding regarding the independent organization that had been advocated for operating the master principal program. Linda Tomlinson indicated that, under the rules, multiple entities could apply, but the decision as to how many to approve would rest with the Superintendent. Rules Coordinator Sally Vogl indicated that the proposed rule reflected the statutory language. Therefore the rule did not state what type of entity would operate the program, since that decision would come after the review of applications and the Superintendent’s decision-making process. Discussion followed on the potential independence of organizations that would be interested in implementing this program.

PART 675 (Providers of Supplemental Educational Services)
This set of amendments had also been presented for initial review in September. Division Administrator Randy Niles and staff member Gary Greene were present to answer questions. Vinni Hall reiterated her long-standing concern for the diversion of poor schools’ Title I funds to outside tutoring programs and her desire to see a strong connection between the use of those funds and services to students. She also expressed significant discomfort with in-home tutoring. She noted her appreciation for NCLB’s emphasis on finding innovative options for addressing students’ learning needs but stated her preference for abiding by the staff’s recommendation that in-home tutoring be prohibited.

Andrea Brown noted the difficulty of avoiding bias in favor of governmental units, especially in small districts and rural areas. She was hopeful that trend data would emerge regarding parents’ choices in these areas that would demonstrate the extent of this effect. She would support the rules but wished for ongoing review of the data.

Chairman Ruiz asked staff to address the points raised regarding the start-up cost and the 30-day implementation timeline. Randy Niles reiterated the sense that providers’ start-up costs should be considered part of the cost of doing business and the notion that the approach taken in the rules would be the cleanest. He acknowledged that school districts would have a slight advantage in this respect. Gary Greene commented on the general concept of business risk and noted that calculations of costs should take this into consideration. He also pointed to the permissibility of certain mechanisms providers may use to provide students with incentives to stay in the SES program. He outlined the approach some providers had wanted to take, i.e., attributing the entire cost of the program to the first half of the hours offered and then stating that the remaining hours were being provided free of charge.

As to the providers’ request to lengthen the time allowed for beginning services, it was clarified that this deadline is calculated after districts have provided signed contracts and lists of students so that providers are in a position to finalize their plans. Dr. Greene outlined the larger context for this timeframe, explaining the amounts of time allotted within the rules for the preceding steps in the start-up of the program each year. He noted in particular that providers would already be well
aware of the likelihood that students would need to be served, since in fact they had sought to serve them in the first place.

7. COMMITTEE AGENDA PLANNING/ADDITIONAL ITEMS: Darren Reisberg mentioned the possibility of revisiting Part 305 (School Food Services) at the February meeting and noted that Mark Haller was present to address any questions. Mr. Reisberg reminded the Board of the changes to the nutrition rules that had been made in 2006, including the provision which calls for the initiation of further revisions after review of the School Wellness Task Force’s recent report. The best way to comply with that provision was to have staff come before the Board with some general thoughts about the content of potential additional revisions.

Mr. Haller outlined for the Board the three forums that had been held throughout the state to gather reactions to the recommendations found in the report and the other sources of input that had contributed to the staff’s recommendations. He noted that the current rules pertained only to grades K-8 and indicated that there would be no recommendation to extend requirements beyond those grades. However, it would be recommended that the restrictions on foods to be sold be extended to the entire school campus, whereas the current rules discussed only the food service area. This would mean consistent provisions for the whole premises, as contemplated by the Task Force in its recommendations.

Another important point would be the extension of the standards to cover not only the entire school day but also the 30-minute periods before and after school. Commenters attending the agency’s forums had made this point, and it was consistent with advice from the Institute of Medicine, an independent body working on nutrition issues with the U.S. Department of Agriculture.

Mr. Haller also discussed splitting the standards that now apply from kindergarten through grade 8 into two grade groupings: K-5 and 6-8. This distinction would allow the needs of the older students to receive appropriate attention by giving them additional latitude in choosing a la carte items and consuming additional calories. He noted that several other states had adopted a similar approach.

Implementation of these changes was foreseen for the 2009-10 school year. Mr. Haller indicated that staff believed this timeframe would allow ample time for planning, training, and guidance for schools, as well as for the food industry to make any necessary changes with respect to packaging their products. He also noted that there would be technical updating within Part 305.

Darren Reisberg indicated that specific rule text might be presented for initial review at the February meeting. He also noted that several sets of rules would be due for adoption at that meeting and that amendments to the rules for driver education (Part 252) would be initiated in response to recent legislation.

8. ADJOURNMENT: Chris Ward moved that the meeting be adjourned. Vinni Hall seconded the motion, and the meeting was adjourned at 9:55 a.m.
TO: Illinois State Board of Education

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

Agenda Topic: Action Item: Rules for Initial Review – Amendments to Part 252 (Driver Education)

Materials: Recommended Rules

Staff Contact(s): Tim Imler

Purpose of Agenda Item
The purpose of this agenda item is to present the proposed amendments for initial review.

Expected Outcome(s) of Agenda Item
The Board will be asked to adopt a motion authorizing the solicitation of public comment on proposed amendments to Part 252.

Background Information
This rulemaking, in part, responds to P.A. 95-310, effective January 1, 2008, which made numerous changes both in School Code requirements concerning the provision of driver’s education and in the Illinois Vehicle Code.

Before being brought to the Board for initial review, staff shared the proposed amendments with a randomly selected group of school district superintendents, the Secretary of State’s office (SOS) and the Illinois High School and College Driver Education Association. Staff received responses from SOS, the driver’s education association and one school district, and incorporated several of the commenters’ suggestions into the proposed amendments.

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

Policy Implications:

School Code Changes. P.A. 95-310 eliminated a provision in Section 27-24.3 of the School Code that authorized the State Board of Education to determine the type of practice driving instruction that school districts could provide in lieu of providing up to five hours of behind-the-wheel instruction in a dual control vehicle. The law also eliminated the ability of students to take a proficiency test after completing at least three hours of practice driving. Elimination of these provisions means that all school districts must provide students with six hours of behind-the-wheel instruction in a dual control vehicle on public roadways.

Various sections of Part 252 set forth the types of instruction that could be used in lieu of the required behind-the-wheel instruction; these methods include the use of simulators, practice driving ranges, and multiple-car instruction. It is proposed that those provisions, as well as the subsection dealing with proficiency testing, be eliminated.

Illinois Vehicle Code Changes. Section 6-103 of the Illinois Vehicle Code allows individuals who are at least 15 years old and “enrolled in an approved driver education course” to be issued an instruction permit. Determination of when a student is considered enrolled in driver education has become critical, given that P.A. 95-310 increased from three months to nine months the period of
time that a student must hold an instruction permit before receiving a graduated driver’s license. The sooner a student is considered “enrolled” in an approved program – which some may consider to be as soon as a student registers for the class – the sooner the nine-month clock begins. Providing the permit once a student registers for driver education but before driver education class begins enables the student to drive without benefit of instruction as long as he or she is with a person older than 18 years who meets the requirements of the Vehicle Code.

Up until 1998, Part 252 prohibited driver education instructors from giving students their permits sooner than two weeks before the students began driver education classes. That provision was eliminated from the rules when the graduated driver’s license law was enacted. Since that time, Agency staff – when asked – have advised school districts that the permit should be issued at the time a student begins classroom instruction; however, it was up to the district to determine the appropriate time to issue the permit, assuming the student was otherwise eligible to hold one.

SOS has introduced an emergency rule that defines “enrollment” for the purposes of issuing instruction permits. In order to maintain consistency with SOS’s rules and avoid confusion in the field, the proposed definition in Section 252.10 will incorporate SOS’s definition.

Budget Implications: School districts that employed options other than behind-the-wheel instruction in a dual control vehicle operated on public roadways and those that allowed for proficiency testing have indicated that the costs for their driver’s education programs will increase due to these changes. The increase in costs have prompted some districts to seek waivers to increase the fees they charge students for driver’s education or to be allowed to continue using methods other than behind-the-wheel instruction in a dual control vehicle operated on public roadways to satisfy a portion of the six-hour requirement.

Legislative Action: None.
Communication: None.

Pros and Cons of Various Actions

Moving forward with this rulemaking will align Part 252 with statutory changes relative to the required six hours of behind-the-wheel instruction. Having a definition of “enrolled” in the rules will help to eliminate any confusion about whether students have fulfilled their obligation to hold an instruction permit for nine months before getting a graduated driver’s license. In addition, the definition is consistent with that being proposed by SOS. Without a consistently applied definition, some students may believe that they can begin to meet their permit obligations outside of the formal instructional process.

Superintendent’s Recommendation

I recommend that the following motion be adopted:

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

Driver Education (23 Illinois Administrative Code 252),

Including publication of the proposed amendments in the Illinois Register.

Next Steps

With the Board’s authorization, staff will submit these proposed amendments to the Administrative Code Division for publication in the Illinois Register to elicit public comment. Additional means such as the Superintendent’s Weekly Message and the agency’s website will be used to inform interested parties of the opportunity to submit comments.
STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER g: SPECIAL COURSES OF STUDY

PART 252
DRIVER EDUCATION

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


Section 252.10 Definitions

Approved Driver Education Course” is any driver education course approved by the State Superintendent of Education as meeting at least the minimum requirements of the Driver Education Act [105 ILCS 5/27-23 and 27-24] and the requirements of this Part.

“Behind-The-Wheel Instruction” is that part of the driver education course that consists of individual practice driving with a driver education instructor who meets the requirements of Section 252.40 of this Part and provides learning
experiences for the student as an operator of a dual-control car in traffic on public highways.

"Classroom Instruction" is that part of the driver education course consisting of learning experiences centered in the classroom.

"Combination Laboratory Program" is a type of program in which the multiple-car, driving simulation, and practice driving instruction are combined into one closely correlated program.

"Declaration of Intent" is a student's application for enrollment in a complete driver education course.

"Driver Education Course" as used in this Part consists is any driver education course approved by the State Superintendent as meeting at least the minimum requirements of Section 27-23 of the School Code [105 ILCS 5/27-23], the Driver Education Act [105 ILCS 5/27-24 through 27-24.8] and the requirements of this Part and consists of all those learning experiences provided by a school or school district for the purpose of helping students learn to use motor vehicles safely and efficiently. Driver education courses must include classroom and behind-the-wheel laboratory instruction as a unified course (see Section 252.20(c)(1) of this Part).

"Driving Range" is an off-street driving facility on which a number of cars can be used simultaneously for student driving experience. Road surfaces at least 24 feet wide are required for driving ranges. The areas shall include the following:

- space for development of fundamental skills;
- intersections, curves, and grades; and
- lane markings and signs.

"Driving Simulators" are electromechanical devices designed to represent the driver's compartment of the automobile through which student behavioral responses and manipulative procedures can be practiced and evaluated.

"Driving Simulation Instruction" is a type of laboratory instruction employing several driving simulator units and programmed films to reproduce phenomena likely to occur in actual driving performance. The learners are confronted with...
sensory conditions similar to the actual task and are required to make responses applicable to the task and monitored by the teacher.

"Dual-Control Car" is a motor vehicle that has special safety and instructional equipment in addition to the regular legally prescribed equipment, which (see 625 ILCS 5/Ch. 12). Such equipment shall consist of a second foot brake positioned for use by the instructor, an outside rearview mirror on the right side of the vehicle, and a sign identifying the vehicle as a driver education car (see 625 ILCS 5/6-410 Section 252.20(d) of this Part).

“Eligible student” is a student who meets the conditions of Section 27-23 and 27-24.2 of the School Code [105 ILCS 5/27-23 and 24.2] for enrollment in a driver education course.

“Enrollment” for purposes of an approved driver education course means the period of time beginning 30 days prior to the time a student begins classroom instruction through the conclusion of the driver education course.

"Integrated Program" is a driver education course in which the sequence and time-span of the classroom and laboratory instruction are organized in such a way as to allow for maximum transfer of training.

"Laboratory Instruction" is the part of the driver education course that provides students with practice driving experiences and opportunities for other driving experiences under real or simulated conditions.

"Multiple-Car Instruction" is a type of laboratory instruction that enables one teacher, positioned outside multiple vehicles and using electronic or oral communication, to instruct and supervise several students simultaneously, each of whom is operating a vehicle on an off-street driving range designed specifically for such instruction.

"Observation Time" refers to that time during which a student is riding in the back seat of a dual-control car observing instructions of the teacher and procedures and techniques of the driver who is participating in behind-the-wheel instruction practice driving.

"Practice Driving" is the part of laboratory instruction that provides learning experiences for the student as an operator behind-the-wheel of a dual-control car in traffic on public highways.
Section 252.20 Administration and Procedures

a) Availability of the Course -- Sections 27-23 and 27-24.2 of the School Code [105 ILCS 5/27-23 and 27-24.2] are consistent in that under both Sections the any public school district maintaining offering courses in grades 9 nine through 12 twelve must provide the driver education course for any legal resident of the district between the ages of 15 and 21 years who requests the course, provided such resident is eligible as set forth in Sections 27-23 and 27-24.2 of the School Code. All eligible students who reside in a school district must be provided an equal opportunity to enroll in driver education, and school districts are obligated to make the driver education course available within a reasonable length of time after each individual’s declaration of intent is made. A “reasonable length of time” shall be determined based on the student's individual needs and the school district's ability to meet those needs, provided that the course must be offered within 12 months after the declaration of intent.

1) Public school districts that include high schools must provide the approved driver education course for all eligible students of the district who attend a nonpublic school that does not offer the course.

2) Nonpublic schools may offer an approved driver education course at their own expense. The course must be complete to meet the requirements for certification of students.

3) Public school districts that include high schools must provide the driver education course for all eligible Illinois students, regardless of the district of their residence, who attend a nonpublic school located within that school district's boundaries when application is made by the administrators of the nonpublic school. Such an application shall constitute a declaration of intent by the affected student or students. By April 1, the nonpublic school shall notify the district offering the course of the names and district numbers of the nonresident students desiring to take such a course the next school year. The district offering the course shall notify the district of residence of those students affected by April 15. [105 ILCS 5/27-24.4] (Section 27-24.4 of the School Code)
4) An eligible student may elect to enroll in an approved driver education course at a commercial driver training school at his or her expense.

b) When to Offer the Course -- Any school district that includes one or more high schools offering an approved driver education course must offer both portions of the course during the school day and may offer either or both portions at other times.

1) Enrollment in a driver education course must be closed at the inception of the course, except as provided in subsection (b)(2) of this Section. Another course may be started when enrollment warrants.

2) A student who transfers to a new school after the inception of the driver education course at that school may be allowed to enroll in the course under the following conditions.

   A) The driver education course program in which the student was enrolled at the previous school offered 30 clock hours of classroom instruction and 6 clock hours of behind-the-wheel instruction practice driving.

   B) The length of time the student previously participated in the driver education course (prior to his or her transfer) is sufficient to allow the student to complete the course at the new school within the time during which it is offered.

   C) The new school has received verification, either by mail or in an electronic format, of the student’s previous participation in the driver education course program (i.e., length of time in the course, grade(s) received). The verification shall be placed in the student’s temporary school record as defined in 23 Ill. Adm. Code 375.10 375.75.

3) A high school student may be allowed to commence the classroom instruction part of the driver education course prior to reaching age 15 if the student will be eligible to complete the entire course within 12 months after being allowed to commence classroom instruction. (See Section 27-24.2 of the School Code.)
c) Course Program Organization -- Approved driver education courses must be organized according to the standards established in the Driver Education Act [105 ILCS 5/27-23 through 27-24.8] and this Part.

1) The classroom and the behind-the-wheel laboratory instruction each must be scheduled regularly throughout a period of not less than six complete weeks (four weeks allowable in summer courses program and for schools using block scheduling).

2) Behind-the-wheel Laboratory instruction shall not begin until the student has started classroom instruction; however, a student may be enrolled in both the laboratory and classroom portions of the course program on a concurrent basis.

3) At least one but not more than three student observers must be in the car during behind-the-wheel instruction practice driving on public streets. At least one hour of observation time is required for each hour of behind-the-wheel instruction practice driving.

4) Two hours of multiple car instruction may be provided in lieu of one hour of practice driving in a dual-control car, provided that the driving range shall provide the following elements for learning experiences: basic driving maneuvers; basic problems of traffic flow and conflict; procedural and perceptual decision making. A minimum of two hours must be in a dual-control car under traffic conditions.

5) Four hours of driving simulation instruction may be provided in lieu of one hour of practice driving, with driving simulation being used as a replacement for no more than three clock hours of practice driving. Driving simulation and practice driving must be concurrent or consecutive.

6) Laboratory instruction that employs a combination laboratory program, as defined in Section 252.10 of this Part, may be authorized on an annual basis provided it meets the following standards:

A) two clock hours of multiple car instruction are provided in lieu of each clock hour of practice driving, with such instruction being used as a replacement for no more than four clock hours of practice driving.
B) four clock hours of driving simulation are provided in lieu of each clock hour of practice driving, with driving simulation being used as a replacement for no more than three clock hours of practice driving; and

C) no less than one clock hour of practice driving is provided.

7) School districts may adopt a policy to permit proficiency examinations for the practice driving phase of the driver education course at any time after a student completes 3 hours of practice driving under direct individual instruction [105 ILCS 5/27-24.3]. The instruction provided to students under a policy adopted by the local school board pursuant to this authority must comply with the definition of “Practice Driving” in Section 252.10 of this Part and with subsection (d) of this Section, and the examination given to students after their completion of at least three clock hours of practice driving instruction must:

A) be the same as the examination given at the completion of six hours of practice driving; and

B) include an assessment of each student's ability to make proper decisions in varying levels of traffic and to execute these decisions in a smooth, safe, and efficient manner.

8) Satisfactory driver education course completion denotes that each student has the minimum competencies that meet course objectives and is eligible for the Illinois Graduated Driver's License upon meeting all of the requirements of 625 ILCS 5/6-107.

9) Integrated program course completion dates of both parts must be scheduled to coincide insofar as possible.

d) Dual-Control Cars -- The instructor shall occupy the front passenger seat. The driver education car is to be used for instructional purposes. A school district may not use the driver education car for purposes other than those designated by agreement or contract. Automobiles used for on-street driver education purposes must display a printed sign that measures at least 18 inches in width and nine inches in height. It must not obstruct vision through the rearview mirror or interfere with the operation of safety devices. The lettering, which must be a
minimum of two inches in height, must be black on a school bus yellow background. The instructor shall occupy the front passenger seat.

e) Contracting -- In fulfilling the requirements of the Driver Education Act, a public school district must either offer the course in its own school or must provide the course for its students, and any other legal residents of the school district who request the course, through a joint agreement with another public school district or through the provisions of cooperative school district programs.

1) Schools offering an approved driver education course program shall not contract for the course from any individual or commercial driver training driving school.

2) Inasmuch as commercial driver education schools are not allowed, through the Motor Vehicle Act, to contract with another commercial school, contracting between two or more commercial driver education schools to provide the approved driver education course for youth is also prohibited.

(Source: Amended at 32 Ill. Reg. _____, effective ______________)

Section 252.25 Eligibility of Students

a) Pursuant to Sections 27-23 and 27-24.2 of the School Code, no student shall be permitted to enroll in a driver education course provided by a public school district or a nonpublic school unless he or she has either:

1) received a passing grade in at least eight courses (which may include courses completed in grade 8) during the previous two semesters or, in the case of block scheduling that reduces the number of courses taken per semester, in at least half the courses taken during the previous two semesters; or

2) received a waiver of this requirement, pursuant to Section 27-24.2 of the School Code, from the superintendent of the public school district or the chief administrator of the nonpublic school in which the student is or will be enrolled full time during the semester for which enrollment in driver education is sought. A record of any waiver granted shall be entered into the affected student's temporary student record as defined in 23 Ill. Adm. Code 375.10, or its equivalent in the case of a nonpublic high school.
STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

b) Courses

1) For the purposes of this Section, a "course" means a sequence of instructional activities or unit of schoolwork for which a grade is given and listed in a student's academic transcript.

2) For the purpose of determining eligibility under this Section, any coursework completed by a student during a summer term falling within the 12-month twelve-month period immediately preceding the beginning of the semester for which enrollment in driver education is sought shall be counted towards the eight 8 courses for which passing grades are needed.

c) Waivers

1) If in the sole judgment of the public school district superintendent or nonpublic school chief administrator of the school in which the student is or will be enrolled full time during the semester for which enrollment in driver education is sought, waiver of the requirement set forth in subsection (a)(1) of this Section would be in the best interest of a student who has requested enrollment in driver education, the superintendent or chief school administrator may waive the requirement for that student.

2) A record of any waiver granted pursuant to this subsection (c) shall be entered into the affected student's temporary student record as defined in 23 Ill. Adm. Code 375.75, or its equivalent in the case of a nonpublic high school.

c) Verification of Eligibility

1) Each public school district or nonpublic school offering a driver education course shall be responsible for verifying the eligibility of all students seeking enrollment in such courses.

2) Public school districts and nonpublic schools offering a driver education course shall establish procedures for verifying the eligibility of students enrolled there full time when eligibility is based upon the records created by, or transferred to, such schools. If the public school district or nonpublic school previously attended by a student fails to transfer records in time to permit the student's enrollment in driver education, then
unofficial records or a signed statement from the parent or guardian of the student shall be used to certify eligibility.

3) When a student requests enrollment in a driver education course offered by an entity other than the school district or nonpublic school he or she attends, the school district or nonpublic school offering the course shall be responsible for requesting confirmation of the student's eligibility pursuant to this Section.

A) Confirmation may be obtained either in writing or via electronic means addressed to the official records custodian designated by the school pursuant to Section 4(a) of the Illinois School Student Records Act [105 ILCS 10/4(a)].

B) The response shall indicate only whether or not the student is eligible and shall not indicate what grades a student received or whether the student received a waiver.

C) Failure of a school district or nonpublic school to respond to a request for eligibility verification within 15 calendar days shall be construed as a positive response and the student in question shall be considered eligible for driver education. The requesting school district or nonpublic school shall inform the sending district or nonpublic school, in writing, of the attempts made to verify eligibility and the lack of response. This notification shall indicate that, in the absence of a response, the student is considered to be eligible provided that a signed statement by the student’s parent or guardian is on file. A copy of the notification shall be placed in the student's temporary record.

D) A student enrolled in a home school who wishes to enroll in a driver education course offered by a public school district or nonpublic school shall present, and each such entity shall accept as verification of the student's eligibility, a signed statement stipulating:

i) that the student is enrolled in a home school;

ii) that he or she is eligible pursuant to subsection (a) of this Section; and
ii) that the signature presented is that of the individual who administers the school attended by the student.

(Source: Amended at 32 Ill. Reg. _____, effective _____________)

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

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

1) Reimbursement shall be determined in accordance with the provisions of Sections 27-24.4 and 27-24.5 of the School Code [105 ILCS 5/27-24.4 and 27-24.5]. If the local school board establishes a policy permitting students to take a proficiency examination after at least 3 clock hours of practice driving (see Section 252.20(c)(13) of this Part), and the student(s) successfully complete the examinations, the claim for reimbursement will include this fact. However, reimbursement for students who fail the proficiency examination may be claimed only upon their completion of 6 clock hours of practice driving.

2) The State shall not reimburse any district for any student enrolled in the driver education course who has repeated any part of the course more than once, who did not meet the age requirements of the Act or was otherwise ineligible during the period in which he or she was enrolled in the course (Section 27-24.5 of the School Code), or who did not hold a valid instruction permit during the laboratory instruction, or any district that did not adequately publicize and provide the course in a reasonable time after requested.

3) If the sum appropriated from the driver education fund is insufficient to pay all claims submitted each year, the amount payable to each district shall be proportionately reduced.

4) The school district that is the residence of an eligible pupil who attends a nonpublic school in another district that has furnished the driver education course shall reimburse the district offering the course the
difference between the actual per capita cost of giving the course the previous school year and the amount reimbursed by the State (Section 27-24.4 of the School Code). This arrangement shall also apply in the case of tuition students who receive driver education from the districts where they are enrolled rather than from their respective districts of residence.

3) The district may charge a reasonable fee — not to exceed the amount specified in Section 27-23 of the School Code — to students who participate in a driver education course approved in accordance with this Part. No other fee or portion thereof shall be charged to students and attributed to the driver education course. As used in this Part, "reasonable fee" means a fee calculated by dividing the sum of documented annual district costs for items such as instructional materials (if not included in the district's textbook rental fee), the cost of driver education cars, car maintenance costs, fuel, and insurance by the number of students enrolled or participating in the driver education course. The district’s costs used in this calculation shall not include any portion of the salaries or benefits of school district personnel. For purposes of this calculation, the cost of driver education cars that are purchased by the district shall be amortized over a five-year period, and the cost of leasing cars shall be included in the fee calculation in the year the such costs are incurred.

4) The driver education fee shall be waived with respect to any student who applies pursuant to this subsection and who is eligible for free lunches or breakfasts pursuant to the School Breakfast and Free Lunch Program Act [105 ILCS 125], and with respect to other students in accordance with the district's policy adopted in accordance with Section 1.245 (Waiver of School Fees) of the rules of the State Board of Education (see 23 Ill. Adm. Code 1, Public Schools Evaluation, Recognition and Supervision).

b) Transfer Student – For any transfer student as defined in Section 252.20(b)(2) of this Part, reimbursement shall be claimed only by the school district to which the student has transferred.

c) Cooperative School Programs -- In fulfilling the requirements for reimbursement, a school district must provide an approved driver education course or participate in a special education cooperative or be part of an approved joint school agreement with another public school district.
d) Records -- Daily attendance records shall be kept by the teachers in the manner prescribed in Section 27-24.6 of the School Code and are to be used to certify claims made under the Act.

1) Records in either paper or electronic format must be maintained by the school to substantiate daily lessons, time behind the wheel, observation time, other laboratory experiences and periodic as well as final evaluation of each student. Also recorded shall be the beginning and ending dates of classroom and behind-the-wheel laboratory instruction. Students are to be identified by their instructional permit number, name, address and other personal information.

2) Such records are to be on file in the office of the driver education supervisor, principal, or other manager at the time reimbursement and/or certification is requested.

3) Driver education participation records are to be kept and be readily available for a period of not less than three years.

4) All records are subject to yearly audit by State auditors.

e) Public School District Participation Agreement—Prior approval affirms continuous approval as long as the school continues to maintain standards established in the Driver Education Act and this Part.

(Source: Amended at 32 Ill. Reg. _____, effective _____________)

Section 252.40 Driver Education Personnel Requirements

a) Qualifications of Teachers -- All persons who teach a driver education course—whether reimbursable or nonreimbursable, must meet the applicable standards of this subsection (a).

1) A driver education instructor who teaches in a public school district shall hold a secondary teaching certificate and either have an endorsement for safety and driver education or meet the requirements of 23 Ill. Adm. Code 1.730(q).

2) A driver education instructor who teaches in a nonpublic school is not required to be certified but must hold a baccalaureate degree, or equivalent
as determined by the employing school, and meet the requirements of 23 Ill. Adm. Code 1.730(q).

3) A driver education instructor who teaches in either a public school district or in a nonpublic school must:

A) possess good physical health as determined in accordance with Section 24-5 of the School Code [105 ILCS 5/24-5]; and

B) hold a valid driver’s license in good standing that has been issued by the state in which he or she resides. For the purposes of this subsection (a)(3)(B), a driver’s license issued in Illinois shall not be considered valid and in good standing if it is revoked, suspended, expired or cancelled as described in Sections 6-201 through 6-209 of the Illinois Driver Licensing Law [625 ILCS 5/6-201 through 6-209] or if restrictions have been placed on driving privileges through either a restricted driving permit under Section 6-205 (see 625 ILCS 5/6-205) or judicial driving permit under Section 6-206.1 (see 625 ILCS 5/6-206.1).

4) Additional requirements will not be retroactive as pertaining to those qualified under standards applicable prior to September 1, 1962, so long as they continue to teach driver education in the same district, except in the event the method of instruction has been changed to include simulation and/or multiple-car laboratory instruction. (See 23 Ill. Adm. Code 1.730(q).) The prescribed additional requirements effective July 1, 1969, must be met.

5) When schools have a department chairman or a person designated to supervise the driver education program, this person must be qualified as described in this Section.

b) Invalid Driver’s License – The State Board of Education, using information provided by the Secretary of State, shall on a regular basis provide to school districts and nonpublic schools employing driver education instructors who possess Illinois driver’s licenses a list of driver education instructors who are in possession of an invalid driver’s license as described in subsection (a)(3)(B) of this Section. It shall be the responsibility of the school district or nonpublic school employing an instructor who holds an out-of-state license to ensure that
that license is valid and in good standing (e.g., has not been revoked, suspended, expired, or cancelled or is restricted by the state issuing the license).

1) After receiving the list, or confirmation that an out-of-state license is invalid, the school district or nonpublic school shall inform each of the instructors in writing of the Secretary of State’s determination that he or she is in possession of an invalid license and that he or she has no more than five school days to provide evidence to the school district or nonpublic school disputing the determination.

2) If the initial determination is found to be correct (i.e., the instructor’s license is not valid), then the driver education instructor shall be removed from the driver education program immediately.

3) A driver education instructor who is removed from his or her teaching position due to an invalid license shall not be allowed to teach in a driver education program for three years following the reinstatement of a valid driver’s license.

4) For the purposes of this subsection (b), a driver education instructor shall not be subject to the three-year suspension described in subsection (b)(3) of this Section if:

   A) the invalid license is restored to good standing, and

   B) the reason that the license was invalidated is due to a non-serious violation not related to driving ability or performance (e.g., failure to renew a license, violation of EPA emission standards, failure to pay traffic fines, not possessing a mandatory insurance card).

c) Administrators and teachers of State-approved high school driver education programs shall not acquire an interest in, teach in, or solicit for a commercial driver training education school.

(Source: Amended at 32 Ill. Reg. _____, effective _____________)
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 – Part 51 (Dismissal of Tenured Teachers Under Article 24 and Dismissal of Tenured Teachers and Principals Under Article 34 of the School Code)

Materials: Recommended Rules

Staff Contact(s): Darren Reisberg, General Counsel

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

Expected Outcome(s) of Agenda Item
The Board will be asked to adopt the proposed amendment to Part 51.

Background Information
Public Act 95-510, effective in late August of 2007, amended Section 24A-4 of the School Code and added a new Section 34-85c affecting only the Chicago Public Schools. These provisions permit the school board and the exclusive representative of the district’s teachers to enter into an agreement that will constitute an alternative evaluation plan for teachers in certain, specified schools. Dismissal of affected teachers will also be governed by the terms of that agreement.

The Chicago Board of Education and the Chicago Teachers Union have executed an agreement encompassing the eight “Fresh Start Schools” and have submitted a copy of that agreement to ISBE as required by the law. There is no provision for ISBE’s approval or certification of the agreement. It will be kept on file as all other districts’ evaluation plans are.

The present amendment to Section 51.20 is a technical one, acknowledging that the requirements of Part 51 are not applicable to teachers who are affected by this agreement. It was presented for the Board’s initial review in November of 2007 and subsequently published in the Illinois Register to elicit public comment. None was received, and the version being presented for adoption is identical to that originally considered.

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
Making this change will result in the rule’s technical correctness. Failure to make the change would mean that the rule would not correctly reflect all applicable statutory provisions.

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:

Dismissal of Tenured Teachers Under Article 24 and Dismissal of Tenured Teachers and Principals Under Article 34 of the School Code (23 Illinois Administrative Code 51).

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 amendment 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.
Section 51.20 Applicability of this Part

This Part applies to the dismissal for reason or cause of a tenured teacher (see Section 51.10 of this Part) under Section 24-12 or Section 34-85 of the School Code, other than a teacher for whom alternative procedures are established in an agreement entered into pursuant to Section 34-85c of the School Code [105 ILCS 5/34-85c].
STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENT

(Source: Amended at 32 Ill. Reg. ____ , effective _____________)
TO: Illinois State Board of Education

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

Agenda Topic: Action Item: Rules for Adoption – Part 226 (Special Education)

Materials: Recommended Rules

Staff Contact(s): Jodi Fleck, Division Administrator

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

Expected Outcome of Agenda Item
The Board will be asked to adopt the proposed amendments to Part 226.

Background Information
This rulemaking encompasses three separate technical changes necessitated by recent legislation.

- Section 226.220 (Development, Review, and Revision of the IEP) needs to be amplified with a provision acknowledging some requirements that were added to Section 14-8.02 of the School Code by P.A. 95-257, related to the development of an IEP for a child with a disability on the autism spectrum.

- A timeframe for requesting substitution of a hearing officer needs to be added to Section 226.635 (Appointment, Recusal, and Substitution of Impartial Due Process Hearing Officers), since none is now specified in Section 14-8.02a(f-5) of the School Code as affected by P.A. 94-1100.

- Section 226.690 (Transfer of Parental Rights) needs to incorporate the possibility of a student’s delegation of rights as set forth in new Section 14-6.10 of the School Code (P.A. 95-372).

These amendments were presented for initial review in November of 2007 and subsequently published in the Illinois Register to elicit public comment. Three submissions were received, and the issue that was raised is discussed in the Summary and Analysis of Public Comment attached.

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**
Adoption of these amendments will permit needed corrections and updates to the rules as outlined above. If the amendments are not promulgated, the rules will not correspond to recent statutory changes, and a necessary procedural element will be missing from Section 226.635.

**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:

> Special Education (23 Illinois Administrative Code 226).

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.
Comment
All three individuals who submitted comments on this rule were parents of children with disabilities other than autism but that involved issues similar to those experienced by children with disabilities on the autism spectrum. These commenters were pleased to see the new requirement for consideration of specific, relevant factors as the Individualized education Program (IEP) is being developed for a child whose disability is on the autism spectrum, and each strongly advocated extending the requirement to apply to IEP development for any child who exhibits similar problems. (Under the statute to which this rulemaking responds, seven specific potential needs must be considered: the child’s verbal and nonverbal communication needs, the need to develop social interaction skills, the needs resulting from the child’s unusual responses to sensory experiences and the needs resulting from resistance to environmental change or change in daily routine.)

All the commenters described the needs of individual children whom they knew to be affected by disabilities other than those on the autism spectrum. They believed that the label given to a child’s disabilities should be less important than the child’s needs when an IEP team is formulating the appropriate program and services for the child. Concern was also expressed that limiting the requirement to the autism spectrum might motivate some parents to seek a particular diagnosis as a means of ensuring that their children’s needs would be reviewed in light of this requirement. It was pointed out that there are various conditions that contribute to the same issues and that children experiencing any of these would benefit from consideration of the same list of potential needs. These respondents requested ISBE to require that districts extend the same consideration regardless of children’s “official” diagnosis.

One of the commenters noted that the requirement for consideration of these factors must not already be universal, since it had recently been explicitly enacted (via P.A. 95-257).

Analysis
These comments present a dilemma. On the one hand, we certainly understand these parents’ desire to see requirements put in place that would provide a more formalized structure for addressing their children’s needs and those of other students with similar conditions. On the other hand, the agency has tried to be as consistent as possible in avoiding mandates related to special education that do not originate in federal law or regulation or in Illinois law (with the exception of certain long-standing Illinois-specific aspects that were preserved as part of the comprehensive revisions undertaken in 2006-07). For this reason we are reluctant to begin adding requirements of this kind.

We should also note that a definition of “disability on the autism spectrum” is given in the new statutory language added by P.A. 95-257, and this includes “pervasive developmental disorder not otherwise specified” in addition to other named disorders and syndromes. From our point of view, inclusion of this descriptor means that districts would be well-advised to ensure that the seven enumerated factors are considered in the development of an IEP whenever there is significant doubt about the diagnosis of a developmental disorder. Parents, as members of their children’s respective IEP teams, have an avenue for bringing these factors to the attention of the other members and will, of course, have due process remedies available to them if they believe important needs have been overlooked such that the IEP is inappropriate.
On balance, then, we do not believe it is necessary for Section 226.220(c) to be expanded to cover “children with similar needs”.

**Recommendation**

Section 226.220 should be amended as originally proposed. However, ISBE special education staff should track any complaints that are received relative to this matter so that the rule can be revised in the future if that appears warranted.
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 f: INSTRUCTION FOR SPECIFIC STUDENT POPULATIONS

PART 226
SPECIAL EDUCATION

SUBPART A: GENERAL

Section
226.10 Purpose
226.50 Requirements for a Free Appropriate Public Education (FAPE)
226.60 Charter Schools
226.75 Definitions

SUBPART B: IDENTIFICATION OF ELIGIBLE CHILDREN

Section
226.100 Child Find Responsibility
226.110 Evaluation Procedures
226.120 Reevaluations
226.130 Additional Procedures for Students Suspected of or Having a Specific Learning Disability
226.135 Additional Procedures for Students Suspected of or Having a Cognitive Disability
226.140 Modes of Communication and Cultural Identification
226.150 Evaluation to be Nondiscriminatory
226.160 Determination of Eligibility (Repealed)
226.170 Criteria for Determining the Existence of a Specific Learning Disability (Repealed)
226.180 Independent Educational Evaluation
226.190 Reevaluation (Repealed)

SUBPART C: THE INDIVIDUALIZED EDUCATION PROGRAM (IEP)

Section
226.200 General Requirements
226.210 IEP Team
226.220 Development, Review, and Revision of the IEP
226.230 Content of the IEP
226.240 Determination of Placement  
226.250 Child Aged Three Through Five  
226.260 Child Reaching Age Three  

SUBPART D: PLACEMENT  

Section  
226.300 Continuum of Placement Options  
226.310 Related Services  
226.320 Service to Students Living in Residential Care Facilities  
226.330 Placement by School District in State-Operated or Nonpublic Special Education Facilities  
226.340 Nonpublic Placements by Parents Where FAPE is at Issue  
226.350 Service to Parentally-Placed Private School Students  

SUBPART E: DISCIPLINE  

Section  
226.400 Disciplinary Actions  
226.410 Manifestation Determination Review (Repealed)  
226.420 Appeals (Repealed)  
226.430 Protection for Children Not Yet Eligible for Special Education (Repealed)  
226.440 Referral to and Action by Law Enforcement and Judicial Authorities (Repealed)  

SUBPART F: PROCEDURAL SAFEGUARDS  

Section  
226.500 Language of Notifications  
226.510 Notification of Parents’ Rights  
226.520 Notification of District’s Proposal  
226.530 Parents’ Participation  
226.540 Consent  
226.550 Surrogate Parents  
226.560 Mediation  
226.570 State Complaint Procedures  

SUBPART G: DUE PROCESS  

Section  
226.600 Calculation of Timelines
STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

226.605 Request for Hearing; Basis (Repealed)
226.610 Information to Parents Concerning Right to Hearing
226.615 Procedure for Request
226.620 Denial of Hearing Request (Repealed)
226.625 Rights of the Parties Related to Hearings
226.630 Qualifications, Training, and Service of Impartial Due Process Hearing Officers
226.635 Appointment, Recusal, and Substitution of Impartial Due Process Hearing Officers
226.640 Scheduling the Hearing and Pre-Hearing Conference
226.645 Conducting the Pre-Hearing Conference
226.650 Child’s Status During Due Process Hearing (Repealed)
226.655 Expedited Due Process Hearing
226.660 Powers and Duties of Hearing Officer
226.665 Record of Proceedings
226.670 Decision of Hearing Officer; Clarification
226.675 Monitoring and Enforcement of Decisions; Notice of Ineligibility for Funding
226.680 Reporting of Decisions (Repealed)
226.690 Transfer of Parental Rights

SUBPART H: ADMINISTRATIVE REQUIREMENTS

Section
226.700 General
226.710 Policies and Procedures
226.720 Facilities and Classes
226.730 Class Size for 2009-10 and Beyond
226.731 Class Size Provisions for 2007-08 and 2008-09
226.735 Work Load for Special Educators
226.740 Records; Confidentiality
226.750 Additional Services
226.760 Evaluation of Special Education
226.770 Fiscal Provisions

SUBPART I: PERSONNEL

Section
226.800 Personnel Required to be Qualified
226.810 Special Education Teaching Approval
226.820 Authorization for Assignment
226.830 List of Independent Evaluators
226.840 Qualifications of Evaluators

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


SUBPART C: THE INDIVIDUALIZED EDUCATION PROGRAM (IEP)

Section 226.220 Development, Review, and Revision of the IEP

The development, review, and revision of each child’s IEP shall conform to the requirements of 34 CFR 300.324 and 300.328. The additional requirements of this Section shall also apply.

a) When an IEP has been developed or revised, a notice in accordance with 34 CFR 300.503(b) and (c) shall be provided immediately to the parents, and implementation of the IEP shall occur no later than ten days after the provision of this notice.
b) Either a child’s educational provider or a child’s parent may request an IEP meeting at any time. Within ten days after receipt of such a request, the district shall either agree and notify the parent in accordance with 34 CFR 300.503 or notify the parents in writing of its refusal, including an explanation of the reason no meeting is necessary to ensure the provision of FAPE for the child.

c) The development of an IEP for a child who has a disability on the autism spectrum shall include consideration of the factors specified in Section 14-8.02(b) (1) through (7) of the School Code.

(Source: Amended at 32 Ill. Reg. _____, effective _____________)

SUBPART G: DUE PROCESS

Section 226.635 Appointment, Recusal, and Substitution of Impartial Due Process Hearing Officers

The appointment, recusal, and substitution of due process hearing officers shall conform with the requirements of Section 14-8.02a(f-5) of the School Code [105 ILCS 5/14-8.02a(f-5)]. A request for substitution of the hearing officer, as permitted by that Section, shall be submitted via letter or facsimile to the Due Process Coordinator at the State Board of Education and shall be postmarked or transmitted no later than five days after the party requesting the substitution receives notification from the State Board of the original hearing officer’s appointment.

(Source: Amended at 32 Ill. Reg. _____, effective _____________)

Section 226.690 Transfer of Parental Rights

This Section implements 34 CFR 300.520 and Section 14-6.10 of the School Code [105 ILCS 5/14-6.10].

a) When a student with a disability reaches the age of majority (18 years of age; see 755 ILCS 5/11-1) or becomes an emancipated minor pursuant to the Emancipation of Minors Act [750 ILCS 30] (except for a student with a disability who has been adjudged as a disabled person pursuant to 755 ILCS 5/11a-2 or who has executed a Delegation of Rights that is in effect as provided in Section 14-6.10 of the School Code):
1) The school district shall provide any notice required by this Part to both the individual and the parents, and all other rights accorded to parents under Part B of the Individuals with Disabilities Education Act, the implementing regulations at 34 CFR 300, and this Part shall transfer to the student; and

2) All rights accorded to parents under Part B of the Individuals with Disabilities Education Act, the implementing regulations at 34 CFR 300, and this Part shall transfer to a child who is incarcerated in an adult or juvenile, State, or local correctional institution.

b) Whenever rights are transferred to a student pursuant to this Section, the district shall notify the student and the parents of the transfer of rights.

c) All notices that are required under this Part and 34 CFR 300 shall be provided to the student and the parent after the student reaches the age of majority.

(Source: Amended at 32 Ill. Reg. _____, effective _____________)
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 350 (Secular Textbook Loan)  
Materials: Recommended Rules  
Staff Contact: Frank Hanselman, Fiscal & Procurement Division  

Purpose of Agenda Item  
The purpose of this agenda item is to present the proposed amendments to Part 350 for adoption.

Expected Outcomes of Agenda Item  
The Board will be asked to adopt the proposed amendments to Part 350.

Background Information  
This rulemaking was prompted by the need to revise some existing provisions so that up-to-date means of communication will be permitted as part of procedures discussed in Part 350. It is no longer useful to specify, for example, that the U.S. Mail is the only way in which required notifications can be submitted. These changes will bring the rules into alignment with the agency’s current electronic capabilities.

The other changes included are being made to conform to current style considerations and wording requirements.

These amendments were presented for the Board’s initial review in November of 2007 and subsequently published in the Illinois Register to elicit public comment. None was received, and the version being presented for adoption is identical to that originally considered.

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  
Adopting these amendments will allow flexibility for districts in meeting the procedural requirements related to the acquisition and disposition of textbooks under these rules. If the
changes are not made, staff will need to continue requiring the exchange of paper documents instead of allowing for other alternatives.

**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:

Secular Textbook Loan (23 Illinois Administrative Code 350).

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.
STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER j: TEXTBOOKS AND EQUIPMENT

PART 350
SECULAR TEXTBOOK LOAN

Section
350.10   Definition of Terms
350.15   Acquisition Procedures
350.20   Administrative Practices (Repealed)
350.25   Disposal Procedures
350.30   Fiscal Procedures (Repealed)

AUTHORITY: Implementing and authorized by Section 18-17 of the School Code [105 ILCS 5/18-17].


Section 350.15 Acquisition Procedures

   a) Students shall not be assessed a fee for any textbook or book substitute provided under the Secular Textbook Loan Program.

   b) Eligible applicants shall provide parents with a brief written explanation of the textbook loan program and the process for a parent/guardian or student to request the loan of a secular textbook in a student handbook, newsletter or flyer or by similar means. A parent/guardian or student may request the loan of a secular textbook(s) by submitting an individual request (see Section 18-17 of the School Code). School districts shall develop procedures for taking a request from a parent/guardian or student.
Requested textbooks shall be those that have been adopted for use in the district or school and that are available from those vendors participating in the program. The State Board of Education each fiscal year shall provide on its electronic textbook loan system website the list of participating vendors and the list of secular textbooks that the State Board of Education has identified as eligible under the program.

By the end of November of each year, the State Superintendent Board of Education will identify the grade levels to be funded and calculate the per-pupil allocation. Those school administrators with schools eligible to participate will be notified in writing or electronically as to:

1) the total amount available to their students to be used for the grade levels identified for funding (the per-pupil allocation will be based upon the total amount of funds appropriated for the program and the total statewide public and nonpublic school enrollment in the specific grade levels to be funded, as of the last school day in September of the most recent current school year for which data are available); and

2) the password to be used to access the textbook loan website for the purposes of completing a Request Form.

The request Request Forms shall be completed by the school administrator. Electronic submission of the request Request Form shall certify compliance with Section 18-17 of the School Code and this Part, as well as with Article X, Section 3, of the Illinois Constitution, which provides in pertinent part that no funds may be used to help support or sustain any institution controlled by any church or sectarian denomination.

Each eligible applicant shall submit its completed request Request Form on or before March 15. Eligible applicants will be unable to access the electronic request system Request Form after this deadline.

Each school administrator shall be informed either in writing or electronically via U.S. mail by April 15 as to the specific textbooks that will be purchased.

On a form provided by the State Superintendent Board of Education, the school administrator shall confirm that the quantity and titles of all textbooks received are the same as ordered. Such confirmation shall be mailed or faxed to the State Board.
of Education, using the address or fax number provided on the form, within seven
days after receipt of the textbooks.

i) All textbooks provided through the program shall be listed on an inventory
maintained by the State Board of Education. Each school shall identify (stamp)
the materials received under the program as "Property of the State of Illinois,
School Year ____".

j) Each recipient shall have procedures to assure the return of all textbooks from those
to whom they have been loaned.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 350.25 Disposal Procedures

a) Textbooks received under the Textbook Loan Program may not be disposed of out-
of-state or sold without the prior approval of the State Board of Education (Section
18-17 of the School Code) as provided in subsection (b) or (c) of this Section.

b) Disposal of Textbooks on Loan for Less than Five Years

Textbooks on loan for less than five years that a recipient determines are no longer
needed (e.g., elimination of program, wear, adoption of new textbooks) shall be
disposed of in the following manner:

1) On a form provided by the State Superintendent Board of Education, the
recipient shall submit to the State Superintendent Board a list of textbooks
that are no longer needed, giving the International Standard Book Numbers
(ISBN), quantity, grade level, and titles of the materials. If no ISBN is given
for the materials, then a description must be provided of the materials that are
no longer needed.

2) The State Superintendent Board of Education shall attempt to relocate these
textbooks to other Illinois schools.

A) A list of all textbooks that are no longer needed shall be made
available disseminated to all eligible applicants no later than in
September 30 of each year.
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B) Requests for these textbooks shall be honored on a first-come, first-served basis.

C) Based on this effort, the State Board shall make appropriate notification to the sending and/or receiving schools and shall notify the State Superintendent of the exchange of textbooks purchased through the Illinois Textbook Program all parties in writing.

D) Receiving schools shall be responsible for all transportation arrangements and for all costs incurred in the transportation of the textbooks from the sending school.

3) Textbooks that cannot be relocated by the end of January to another Illinois school pursuant to subsection (b)(2) of this Section may be disposed of pursuant to the exemption from the Illinois Property Control Act that has been granted by the Director of the Department of Central Management Services. Upon request, a copy of the exemption will be provided to recipients that seek to dispose of textbooks pursuant to this subsection (b)(3).

c) Disposal of Textbooks on Loan for Five Years or More

Textbooks on loan for five or more years may be disposed of in such a manner as the school board, nonpublic school or other eligible school determines, including out-of-state disposal or sale, provided that:

1) The school administrator provides written or electronic notification to the State Superintendent Board of Education of the recipient’s intent to dispose of the textbooks. This notification shall:

A) Provide a list of textbooks that are no longer needed, which shall be reported by mail to the State Superintendent Board of Education giving the International Standard Book Numbers (ISBN), quantity, grade level, and titles of the materials. If no ISBN is given for the materials, then a description must be provided of the materials that are no longer needed.

B) Cite the proposed method for disposing of the textbooks.
2) Notification shall be sent to the State Board of Education by certified U.S. mail, return receipt requested.

3) Textbooks shall not be disposed of less than 30 days after notification to the State Board. The date of delivery on the return receipt shall constitute the date of notification. If the State Superintendent Board of Education identifies a disposition that better conserves public resources or better serves the interests of the public, then the State Superintendent Board of Education shall, within 30 days after notification, arrange with the school to dispose of the materials in some alternative manner. If the State Superintendent Board of Education does not arrange for any other such action within 30 days, then the school shall dispose of the books as indicated in the notice to the State Superintendent Board of Education.

(Source: Amended at 32 Ill. Reg. _____, effective _____________)